



**CITY COUNCIL AGENDA  
CITY HALL AUDITORIUM, 250 NORTH 5<sup>TH</sup> STREET  
WEDNESDAY, APRIL 16, 2008, 7:00 P.M.**

**Call to Order**

Pledge of Allegiance

**Citizen Comments**

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

1. **Setting a Hearing for the Vacation of a Portion of 28 ½ Road and South Grand Falls Court for the Proposed Ashbury Heights Subdivision, Located at the Southeast Corner of 28 ¼ Road and Grand Falls Drive** [PP-2006-251]

[Attach 1](#)

A request to vacate existing public rights-of-way (portion of 28 ½ Road and South Grand Falls Court) in anticipation of future residential subdivision development. The proposed vacation requests are located at the southeast corner of 28 ½ Road and Grand Falls Drive.

Proposed Ordinance Vacating the Rights-of-Way for South Grand Falls Court and a Portion of 28 ½ Road in the Proposed Ashbury Heights Subdivision

*Action: Introduction of Proposed Ordinance and Set a Hearing for May 7, 2008*

Staff presentation: Scott D. Peterson, Senior Planner

2. **Setting a Hearing on an Ordinance Creating a New Administrative Citation Process for Code Enforcement**

[Attach 2](#)

Code Enforcement Staff is proposing the adoption and use of an administrative citations process as another means of enforcement of City Codes. Specifically, the administrative citations process will be used for violations that affect the

\*\*\* Indicates New Item

<sup>®</sup> Requires Roll Call Vote

livability of neighborhoods and quality of life. The program would impose administrative penalties for certain violations of the Code, in turn decriminalizing the process and resulting in a more efficient and effective resolution of Code violations.

Proposed Ordinance Amending Chapter 2 of the City Code of Ordinances to Include a New Article VI, Adding an Administrative Enforcement Process to Address Violations of the City Code and Amending Chapter 16, Article III, Section 16.60 to Provide that a Notice of Violation Issued Pursuant to Chapter 2, Article VI, shall also Constitute a Notice to Abate a Nuisance and Amending Chapter 16, Article VII, Section 16-141 and Section 16-144 to Revise Definitions and Enforcement of the Stormwater Management Program

*Action: Introduction of a Proposed Ordinance and Set a Hearing for May 7, 2008*

Staff presentation: Kathy Portner, Neighborhood Services Manager  
John Shaver, City Attorney

3. **Setting a Hearing Amending Ordinance No. 4110 to Allow Limited Golf Cart Use in Specified Areas Around Mesa State College** [Attach 3](#)

The Facilities Services Department at Mesa State College (MSC) has submitted a request to City Staff for an ordinance to allow MSC facilities maintenance and management to use golf carts to access certain college campus grounds, buildings and construction projects.

Proposed Ordinance Amending Ordinance No. 4110 to Allow Limited Golf Cart Use Near Mesa State College

*Action: Introduction of a Proposed Ordinance and Set a Hearing for May 7, 2008*

Staff presentation: John Shaver, City Attorney

4. **Setting a Hearing on an Ordinance to Expand the DDA Boundaries** [Attach 4](#)

The DDA recently awarded a grant to the Mesa County Library Board of Trustees. Those funds will be used for a new sign, landscaping and to help complete capital improvements to the main library building façade. The DDA and Board of Trustees agreed that receipt of the grant funds was conditioned upon the inclusion of Mesa County Library District properties into the DDA boundary. Proposed Ordinance Expanding the Boundaries of the Grand Junction, Colorado Downtown Development Authority

*Action: Introduction of a Proposed Ordinance and Set a Hearing for May 7, 2008*

Staff presentation: John Shaver, City Attorney

5. **Contract for Aeration Basin Modifications** [Attach 5](#)

The purpose of the Aeration Basin SCADA project is to conserve energy and improve the secondary treatment process at Persigo. Currently, air is supplied to the aeration basins through the use of two 300 HP blowers. The system upgrade will give Staff the ability to preset a desired oxygen level in the basins, and have the system automatically adjust the blowers to maintain that level. The result will be improved effluent quality and a reduction in electrical energy consumption.

*Action: Authorize the City Manager to Sign a Contract with Glacier Construction in the Amount of \$248,057 for the Aeration Basin Modifications*

Staff presentation: Trent Prall, Engineering Manager

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

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

6. **Public Hearing - Vacation of a Portion of Florida Street, Located at 2858 C ½ Road** [File #PP-2007-087] [Attach 6](#)

A request to vacate an existing unimproved public right-of-way (portion of Florida Street) in anticipation of future residential subdivision development. The proposed vacation request is located at 2858 C ½ Road in Pear Park.

Ordinance No. 4221- An Ordinance Vacating a Portion of the Florida Street Right-of-Way, Located at 2858 C ½ Road

*Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4221*

Staff presentation: Scott D. Peterson, Senior Planner

7. **Hearing on an Appeal of the Planning Commission's Approval of Redlands Place Subdivision Preliminary Plan, Located at 413 South Camp Road** [File #PP-2007-218] [Attach 7](#)

An appeal has been filed regarding the Planning Commission's decision to approve the Redlands Place Subdivision Preliminary Plan, located at 413 South Camp Road. The subdivision consists of 104 single-family lots on 52.2 acres in an R-2 (Residential 2 du/ac) zone district, utilizing the cluster provisions provided in Section 6.7.D.5 of the Zoning and Development Code. This appeal is pursuant to Section 2.18.E of the Zoning and Development Code, which specifies that the City Council is the appellate body of the Planning Commission. According to Section 2.18.E.4.h. no new evidence or testimony may be presented, except City Staff may be asked to interpret materials contained in the record.

*Action: Consider an Appeal of a Planning Commission's Approval of Redlands Place Subdivision Preliminary Plan*

Staff presentation: Lori V. Bowers, Senior Planner

8. **Non-Scheduled Citizens & Visitors**
9. **Other Business**
10. **Adjournment**



**Attach 1**

Setting a Hearing Vacation of a Portion on 28 ½ Rd and S Grand Falls Court for the Proposed Ashbury Heights Subdivision

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
<b>Subject</b>	Vacation of a portion of 28 ½ Road and South Grand Falls Court for the Ashbury Heights Subdivision, Located at the southeast corner of 28 ¼ Road and Grand Falls Drive		
<b>File #</b>	PP-2006-251		
<b>Meeting Day, Date</b>	Wednesday, April 16, 2008		
<b>Placement on the Agenda</b>	<b>Consent</b>	<b>X</b>	<b>Individual</b>
<b>Date Prepared</b>	April 4, 2008		
<b>Author Name &amp; Title</b>	Scott D. Peterson, Senior Planner		
<b>Presenter Name &amp; Title</b>	Scott D. Peterson, Senior Planner		

**Summary:** A request to vacate existing public rights-of-way (portion of 28 ½ Road and South Grand Falls Court) in anticipation of future residential subdivision development. The proposed vacation requests are located at the southeast corner of 28 ½ Road and Grand Falls Drive.

**Budget:** N/A.

**Action Requested/Recommendation:** Introduce the proposed ordinance and set a hearing for May 7, 2008.

**Attachments:**

Background Information / Staff Analysis  
 Site Location Map / Aerial Photo Map  
 Future Land Use Map / Existing City Zoning  
 Vacation Ordinance and Exhibits A, B, C

BACKGROUND INFORMATION					
<b>Location:</b>		Southeast corner of 28 ¼ Road and Grand Falls Drive			
<b>Applicants:</b>		Owners, Ashbury Heights Cache, LLC and Thomas Ralzer			
<b>Existing Land Use:</b>		Vacant land			
<b>Proposed Land Use:</b>		Residential subdivision			
<b>Surrounding Land Use:</b>	<b>North</b>	Single-family attached dwellings and vacant land			
	<b>South</b>	Single-family attached dwellings			
	<b>East</b>	Single-family residential			
	<b>West</b>	Proposed residential development (Ridgewood Heights Subdivision)			
<b>Existing Zoning:</b>		R-8, Residential – 8 units/acre			
<b>Proposed Zoning:</b>		N/A			
<b>Surrounding Zoning:</b>	<b>North</b>	PD, Planned Development			
	<b>South</b>	R-16, Residential – 16 units/acre)			
	<b>East</b>	PD, Planned Development			
	<b>West</b>	R-5, Residential – 5 units/acre			
<b>Growth Plan Designation:</b>		Residential Medium High (8 – 12 DU/Ac.)			
<b>Zoning within density range?</b>		X	Yes		No

**Staff Analysis:**

The applicants are requesting to vacate an existing public right-of-way (portion of 28 ½ Road) located adjacent to the east property line of their proposed subdivision (Ashbury Heights). The applicants are requesting to vacate the “bulb” portion of the right-of-way and incorporate this land area into their proposed subdivision. The “bulb” portion of this right-of-way was necessary at the time of platting of the Falls Subdivision as it provided a turn-around radius on 28 ½ Road. But since 28 ½ Road now connects with Presley Avenue to the south, this turn-around radius is no longer necessary and thus the request to vacate the “bulb” portion of this existing right-of-way.

The second right-of-way vacation request is to vacate the platted, unimproved right-of-way of South Grand Falls Court. This right-of-way was dedicated as part of The Falls, Filing No. Two in 1981 but has never been utilized nor constructed to date. There is an existing sanitary sewer line that is presently located within the cul-de-sac portion of this right-of-way; however this sewer line will be relocated upon the development of the proposed new subdivision.

The vacation of these two (2) rights-of-way vacations would be on the condition of approval and recording of the Final Plat for the Ashbury Heights Subdivision and the rededication of all appropriate new easements, where applicable.

The Planning Commission recommended approval of the proposed rights-of-way vacations at their March 25, 2008 meeting.

**Consistency with the Growth Plan:**

The proposed residential development and rights-of-way vacation requests meet the goals and policies of the Growth Plan and Future Land Use Map. The properties are currently zoned R-8, Residential – 8 units/acre with the Growth Plan Future Land Use Map showing this area as Residential Medium High (8 – 12 DU/Ac.).

**Section 2.11 C. of the Zoning and Development Code:**

Requests to vacate any public right-of-way or easement must conform to all of the following:

- a. The Growth Plan, major street plan and other adopted plans and policies of the City.

Granting the request to vacate South Grand Falls Court and a portion of 28 ½ Road does not conflict with the Growth Plan, major street plan and other adopted plans and policies of the City of Grand Junction.

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

No parcel will be landlocked as a result of these public rights-of-way vacations.

- c. Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property affected by the proposed vacation.

Access will not be restricted.

- d. There shall be no adverse impacts on the health, safety, and/or welfare of the general community and the quality of public facilities and services provided to any parcel of land shall not be reduced (e.g. police/fire protection and utility services).

There will be no adverse impacts to the general community and the quality of public facilities and services provided will not be reduced due to the vacation requests.

- e. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter Six of the Zoning and Development Code.

The provision of adequate public facilities and services will not be inhibited to any property as required in Chapter Six of the Zoning and Development Code. No adverse comments were received from the utility review agencies during the staff review process.

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

Maintenance requirements to the City will not change as a result of the proposed public rights-of-way vacations. Existing utility infrastructures that are located within these platted rights-of-way will be relocated and appropriate easements dedicated with the subdivision development of Ashbury Heights.

#### **FINDINGS OF FACT/CONCLUSIONS AND CONDITION:**

After reviewing the proposed rights-of-way vacation requests application, PP-2006-251 for the vacation of existing public rights-of-way (portion of 28 ½ Road and South Grand Falls Court) in anticipation of future residential subdivision development, the Planning Commission makes the following findings of fact and conclusions:

1. The proposed public rights-of-way vacations are consistent with the Growth Plan.
2. The review criteria in Section 2.11 C. of the Zoning and Development Code have all been met for the requested public rights-of-way vacations – portion of 28 ½ Road and South Grand Falls Court.
3. The vacation of these two (2) rights-of-way vacations would be on the condition of approval and recording of the Final Plat for the

Ashbury Heights  
easements, where

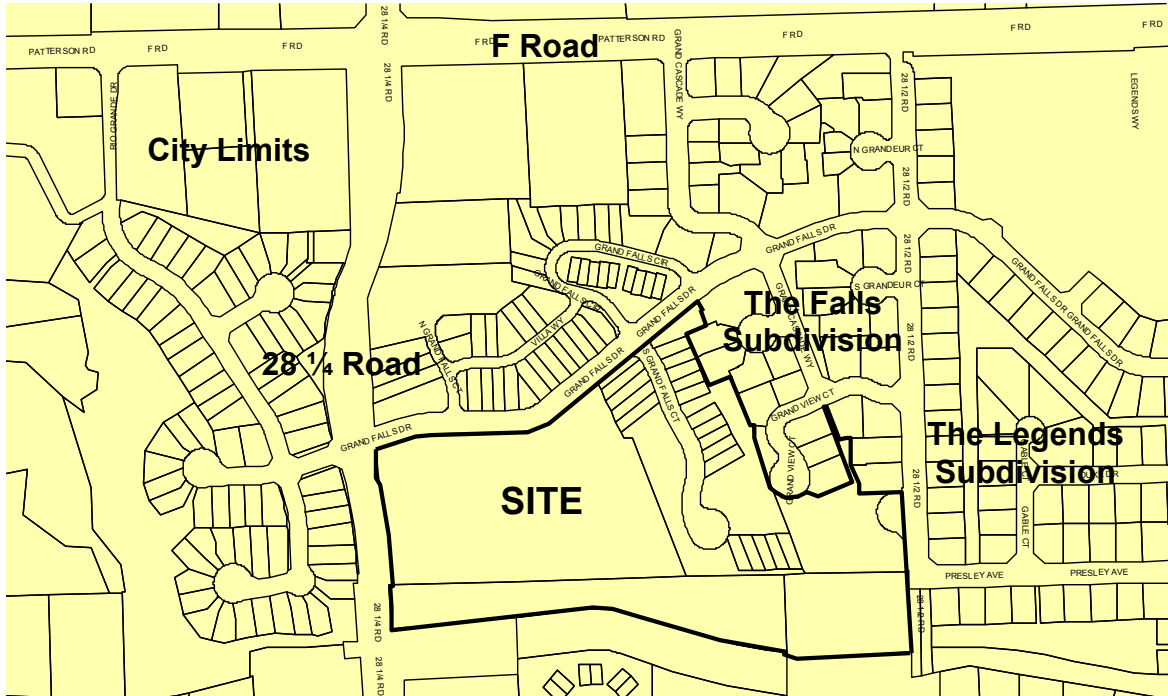
Subdivision and the rededication of all appropriate new  
applicable.

**Action Requested/Recommendation:**

Introduction of the Ordinance and setting a hearing for May 7, 2008 for the vacation of existing public rights-of-way, portion of 28 ½ Road and South Grand Falls Court, located at the southeast corner of 28 ¼ Road and Grand Falls Drive, finding the request consistent with the Growth Plan and Section 2.11 C. of the Zoning and Development Code.

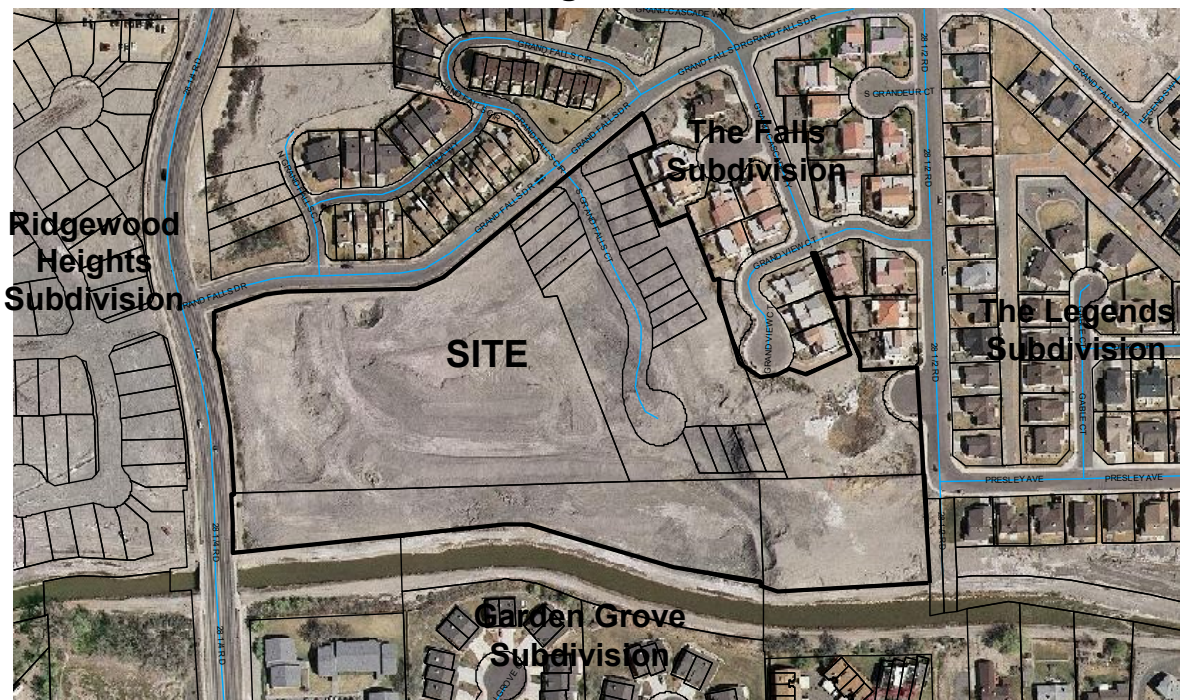
# Site Location Map

Figure 1



# Aerial Photo Map

Figure 2





**CITY OF GRAND JUNCTION**

**ORDINANCE NO.**

**AN ORDINANCE VACATING THE RIGHTS-OF-WAY FOR  
SOUTH GRAND FALLS COURT AND A PORTION OF 28 ½ ROAD IN THE  
PROPOSED ASHBURY HEIGHTS SUBDIVISION**

RECITALS:

A vacation of the dedicated rights-of-way for South Grand Falls Court and a portion of 28 ½ Road has been requested by the adjoining property owners.

The City Council finds that the request is consistent with the Growth Plan, the Grand Valley Circulation Plan and Section 2.11 of the Zoning and Development Code.

The Planning Commission, having heard and considered the requests, found the criteria of the Code to have been met, and recommends that the vacation be approved.

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

The following described dedicated rights-of-way for South Grand Falls Court and a portion of 28 ½ Road are hereby vacated subject to the listed conditions:

1. Applicants shall pay all recording/documentary fees for the Vacation Ordinance, any easement documents and dedication documents.
2. Approval and recording of the Final Plat for the Ashbury Heights Subdivision and the rededication of all appropriate new easements, where applicable.

The following rights-of-way are shown on "Exhibits A, B and C" as part of this vacation of description.

Dedicated rights-of-way to be vacated:

**South Grand Falls Court Right-of-Way Vacation**

A parcel of land being all the right of way for South Grand Falls Court, located in The Falls, Filing No. Two, as shown on plat recorded at Plat Book 12, Pages 370 through 371, of the Mesa County, Colorado public records.

Said parcel contains 0.645 acres more or less, as described.



**A Portion of the 28½ Road Cul-De-Sac Right-of-Way Vacation**

A parcel of land being a forty-eight and a half foot (48.50') radius right-of-way for a portion of the 28½ Road Cul-De-Sac, located in The Falls 2004, as shown on Plat recorded at Book 4100, Pages 120 through 124, Mesa County records and being more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of the Northwest Quarter (NE¼ NW¼) Section 7, Township 1 South, Range 1 East of the Ute Meridian, whence the North Quarter corner of said NE¼ NW¼ Section 7 bears North 00 degrees 10 degrees 02 seconds West, a distance of 1314.13 feet, for a basis of bearings with all bearings contained herein relative thereto; thence North 89 degrees 57 minutes 01 seconds West, a distance of 33.00 feet; thence North 00 degrees 10 degrees 02 seconds West, a distance of 76.00 feet to the POINT OF BEGINNING; thence North 45 degrees 05 minutes 50 seconds West, a distance of 28.29 feet; thence along a curve to the right, having a delta angle of 177 degrees 40 minutes 23 seconds, with a radius of 48.50 feet, an arc length of 150.40 feet, with a chord bearing of North 01 degrees 01 minutes 32 seconds East, with a chord length of 96.98 feet; thence North 89 degrees 51 minutes 10 seconds East, a distance of 17.96 feet; thence South 00 degrees 10 minutes 02 seconds East, a distance of 116.98 feet to the POINT OF BEGINNING.

Said Cul-De-Sac Right-of-Way containing 0.129 Acres of land, as described.

**A Portion of the 28½ Road Cul-De-Sac Right-of-Way Vacation**

A parcel of land being a eighteen foot (18.00') radius right-of-way for a portion of the 28½ Road Cul-De-Sac, located in The Falls 2004, as shown on Plat recorded at Book 4100, Pages 120 through 124, Mesa County records and being more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of the Northwest Quarter (NE¼ NW¼) Section 7, Township 1 South, Range 1 East of the Ute Meridian, whence the North Quarter corner of said NE¼ NW¼ Section 7 bears North 00 degrees 10 degrees 02 seconds West, a distance of 1314.13 feet, for a basis of bearings with all bearings contained herein relative thereto; thence North 89 degrees 57 minutes 01 seconds West, a distance of 33.00 feet; thence North 00 degrees 10 degrees 02 seconds West, a distance of 192.98 feet to the POINT OF BEGINNING; thence South 89 degrees 51 minutes 10 seconds West, a distance of 17.98 feet, to the Southeast corner of Lot 1, Block Five; thence along a non-tangent curve to the left, having a delta angle of 89 degrees 48 minutes 34 seconds, with a radius of 18.00 feet, an arc length

of 28.21 feet, with a chord bearing of North 44 degrees 48 minutes 09 seconds East, with a chord length of 25.41 feet; thence South 00 degrees 10 minutes 02 seconds East, a distance of 17.99 feet to the POINT OF BEGINNING.

Said portion of Cul-De-Sac Right-of-Way containing 0.002 Acres of land, as described.

Introduced for first reading on this \_\_\_\_\_ day of \_\_\_\_\_, 2008

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

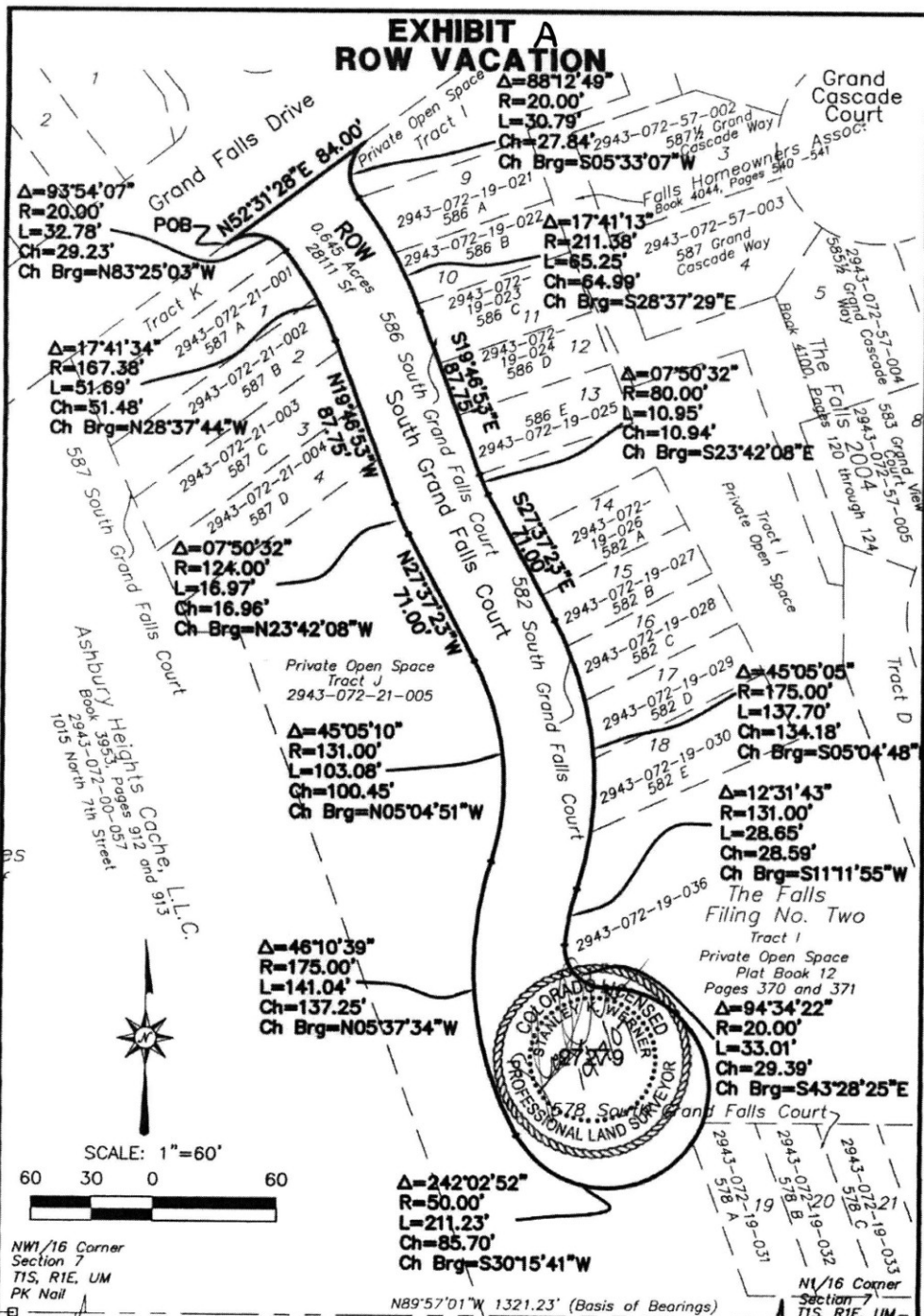
ATTEST:

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

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



# EXHIBIT A ROW VACATION



NW1/16 Corner  
Section 7  
T1S, R1E, UM  
PK Nail

N89°57'01"W 1321.23' (Basis of Bearings)  
South line NE¼ NW¼ Section 7

N1/16 Corner  
Section 7  
T1S, R1E, UM  
PLS 33650

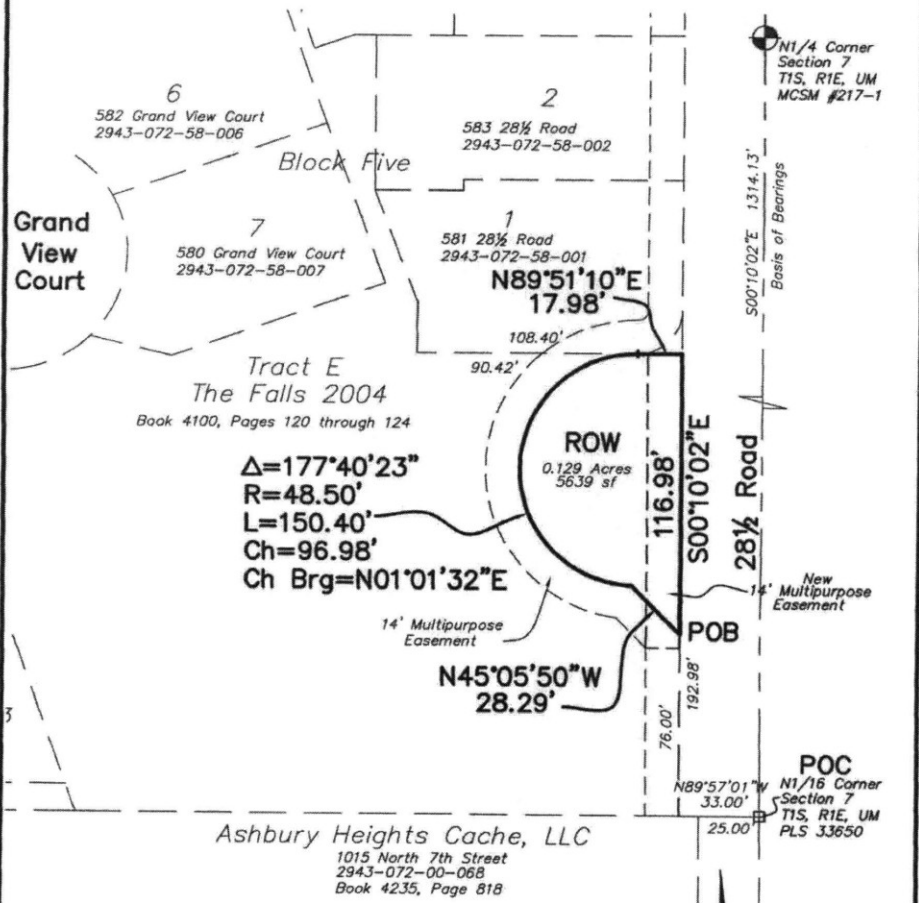
### LEGEND

- ⊙ ALIQUOT SURVEY MARKER AS NOTED
- FOUND REBAR, AS NOTED
- PLS PROFESSIONAL LAND SURVEYOR
- MCSM MESA COUNTY SURVEY MARKER
- A.D. ANNO DOMINI
- POB POINT OF BEGINNING
- POC POINT OF COMMENCING
- No. NUMBER
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- L LENGTH OF ARC
- Ch CHORD DISTANCE OF ARC
- Brg CHORD BEARING OF ARC

Prepared By:  
**High Desert Surveying, LLC**  
1673 Highway 50 Unit C  
Grand Junction, CO 81503  
970-254-8649 Fax 970-241-0481

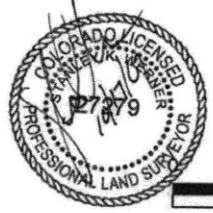
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06-118	Jan, 2007	rah	dlw	1	1

# EXHIBIT B ROW VACATION



**LEGEND**

- ALIQUOT SURVEY MARKER, AS NOTED
- FOUND REBAR, AS NOTED
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- L LENGTH OF ARC
- Ch CHORD DISTANCE OF ARC
- Brg CHORD BEARING OF ARC
- PLS PROFESSIONAL LAND SURVEYOR
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- " INCHES OR SECONDS
- MCSM MESA COUNTY SURVEY MARKER
- POB POINT OF BEGINNING
- POC POINT OF COMMENCING

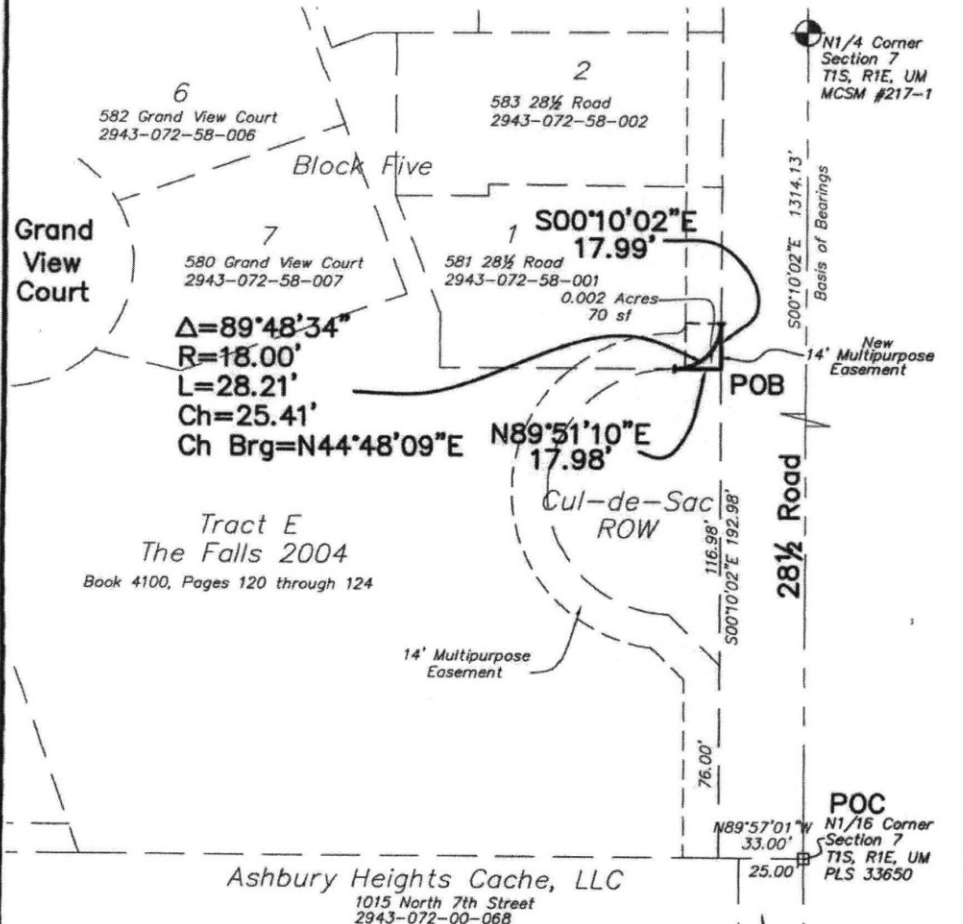


SCALE: 1"=50'  
25 50 100

Prepared By:  
**High Desert Surveying, LLC**  
1673 Highway 50 Unit C  
Grand Junction, CO, 81503  
970-254-8649 Fax 970-241-0481

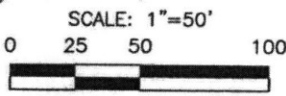
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DATE: Jun, 2007		rlk	slw	1	1

# EXHIBIT C ROW VACATION



**LEGEND**

- ALIQUOT SURVEY MARKER, AS NOTED
- FOUND REBAR, AS NOTED
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- L LENGTH OF ARC
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- Brg CHORD BEARING OF ARC
- PLS PROFESSIONAL LAND SURVEYOR
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- " INCHES OR SECONDS
- MCSM MESA COUNTY SURVEY MARKER
- POB POINT OF BEGINNING
- POC POINT OF COMMENCING



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**High Desert Surveying, LLC**  
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 Grand Junction, CO 81503  
 970-254-8649 Fax 970-241-0481

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DATE: Jan, 2007		rdk	shw		

**Attach 2**

Setting a Hearing on an Ordinance Creating a New Admin Citation Process for Code Enforcement

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
<b>Subject</b>	Code Enforcement Administrative Citation Process		
<b>File #</b>			
<b>Meeting Day, Date</b>	Wednesday, April 16, 2008		
<b>Placement on the Agenda</b>	<b>Consent</b>	<b>X</b>	<b>Individual</b>
<b>Date Prepared</b>	February 14, 2008		
<b>Author Name &amp; Title</b>	Kathy Portner, Neighborhood Services Manager Mary Lynn Kirsch, City Attorney's Office		
<b>Presenter Name &amp; Title</b>	Kathy Portner, Neighborhood Services Manager John Shaver, City Attorney		

**Summary:** Code Enforcement Staff is proposing the adoption and use of an administrative citations process as another means of enforcement of City Codes. Specifically, the administrative citations process will be used for violations that affect the livability of neighborhoods and quality of life. The program would impose administrative penalties for certain violations of the Code, in turn decriminalizing the process and resulting in a more efficient and effective resolution of Code violations.

The proposed Ordinance calls for a fine schedule, to be determined by the City Manager and approved by a City Council Resolution. Fines shall be based upon the City Manager's assessment of the cost to the City and the nature of the violation. The fine schedule shall be approved by Resolution and a proposed Resolution is attached for Council's review.

**Budget:** The program will be administered with existing staff and accordingly, there will be no direct budget impact of the administrative citation process.

**Action Requested/Recommendation:** Introduction of proposed Ordinance and setting a hearing for May 7, 2008.

**Attachments:**

- Proposed Ordinance

**Background Information:**

Certain violations of the City's Code affect the livability of neighborhoods and the quality of life of our citizens. Code Enforcement Staff currently relies on working with violators toward voluntary compliance. If a violation is not remedied a violator receives a summons into Municipal Court. The Judge then decides what fines, if any, are applied. Often this process is time consuming and the violation(s) continues for long periods of time.

Many communities have adopted an administrative citation process that imposes administrative penalties for certain types of violations. An administrative process decriminalizes the violations, which means that rather than writing a summons into court, Code Enforcement Officers would cite a violator with an established fine.

A person served with an Administrative Citation would have the option of appealing the citation to court. Abatement procedures would require notice and an abatement order from the Municipal Court. The City would always have the option of issuing a summons into Municipal Court for flagrant violations/repeat offenders.

The penalties proposed are geared toward achieving compliance with an escalating fine schedule of \$150.00 for the first violation, \$300.00 for the second violation, \$400.00 for the third violation and \$750.00 for the fourth violation or any subsequent violations. The escalating fine schedule would apply to violations on one property within an 18-month timeframe.

Although Administrative Citations are becoming more commonplace in communities, it is relatively new in Colorado. Four cities in Colorado use Administrative Citations. The City of Denver has had a process in place since 2005 and is showing increased success. Fort Collins and Westminster instituted Administrative Citation programs in the past year and are reporting good results.

The City of Wheatridge has a program underway. The Code Enforcement Supervisor reports their efficiency and compliance has significantly increased. Data collected in 2007 shows a steady decrease in the number of administrative citations issued, indicating an increase in compliance after the initial Notice of Violation.

Grand Junction's growth has made obtaining compliance more difficult and we are spending more time looking for absentee owners and tenants unavailable during business hours. In 2007, we had 1,789 Code Enforcement cases, ranging from junk and rubbish to storage of RVs to signs. Out of those cases, 51 summons to Municipal Court were issued. Issuing a Summons is a last resort because it typically delays compliance considerably. The Administrative Citation will be a useful tool to gain compliance sooner and serve as a deterrent to repeat offenders.



Our current steps for Code violations are:

- Voluntary Compliance letter
- Notice of Violation
- Summons into Municipal Court

Proposed steps with the Administrative Citation process:

- Voluntary Compliance letter
- Notice of Violation
- Administrative Citation
- Summons into Municipal Court (if necessary)

**CITY OF GRAND JUNCTION**

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

**AN ORDINANCE AMENDING CHAPTER 2 OF THE CITY CODE OF ORDINANCES TO INCLUDE A NEW ARTICLE VI, ADDING AN ADMINISTRATIVE ENFORCEMENT PROCESS TO ADDRESS VIOLATIONS OF THE CITY CODE**

**AND**

**AMENDING CHAPTER 16, ARTICLE III, SECTION 16.60 TO PROVIDE THAT A NOTICE OF VIOLATION ISSUED PURSUANT TO CHAPTER 2, ARTICLE VI, SHALL ALSO CONSTITUTE A NOTICE TO ABATE A NUISANCE**

**AND**

**AMENDING CHAPTER 16, ARTICLE VII, SECTION 16-141 AND SECTION 16-144 TO REVISE DEFINITIONS AND ENFORCEMENT OF THE STORMWATER MANAGEMENT PROGRAM**

**RECITALS:**

The City Council finds that the violation of certain provisions of the City's Code ("Code") affects the livability of the City's neighborhoods and that residential, commercial and industrial neighborhoods in the City all experience problems with such violations; and

The City Council desires compliance with ordinances that affect the quality of life in the City and expects those who violate those ordinances to bear the cost of enforcement; and

The City Council believes that increased enforcement of these ordinances would benefit all City residents and businesses; and

The City Council finds that there is a need for an alternative method of enforcement for certain specified violations of the Code; and

The City Council further finds that an appropriate method of enforcement for such violations is an administration citation program which imposes administrative penalties for certain violations of the Code; and

The City Council further finds that certain amendments should be made to the Code to accommodate the administrative citation program; and

The City Council therefore does amend Chapter 2 of the Code to include a new Article VI to allow for the administrative enforcement of the Code, amends Section 16-60 of the Code to provide that a notice of violation served pursuant to the administrative enforcement article shall constitute service of a notice to abate, and amends Chapter

16, Article VII, Sections 16-141 and 16-144 to revise definitions and enforcement of the stormwater management program.

New text is shown in ALL CAPS; deletions are shown as ~~strikethroughs~~.

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

**1. Chapter 2 of the Grand Junction Code of Ordinances, is hereby amended by adding a new Article VI, Administrative Enforcement, as follows:**

**ARTICLE VI. ADMINISTRATIVE ENFORCEMENT**

**SEC. 2-80. PURPOSE; SCOPE.**

THE PURPOSE OF THIS ARTICLE IS TO ENCOURAGE PROMPT COMPLIANCE WITH THIS CODE AND PAYMENT OF PENALTIES FOR VIOLATIONS THEREOF. THIS ARTICLE PROVIDES FOR ADMINISTRATIVE PENALTIES THAT MAY BE IMPOSED FOR VIOLATION OF THE FOLLOWING PORTIONS OF THIS CODE: CHAPTER 6, ANIMALS; CHAPTER 16, ENVIRONMENT; CHAPTER 24, OFFENSES; CHAPTER 30, SOLID WASTE; CHAPTER 32, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES; CHAPTER 34, SECTION 34-107 REGARDING YARD SALES; CHAPTER 40, VEGETATION, AND CHAPTER 33, THE ZONING AND DEVELOPMENT CODE (TO INCLUDE THE TEDS AND SWMM MANUALS).

**SEC. 2-81. DEFINITIONS.**

FOR THE PURPOSES OF THIS ARTICLE THE FOLLOWING TERMS SHALL HAVE THE MEANINGS STATED BELOW.

**ADMINISTRATIVE HEARING OFFICER OR AO** MEANS THE PERSON WITH EXCLUSIVE AUTHORITY TO HEAR APPEALS FROM ADMINISTRATIVE CITATIONS ISSUED UNDER THIS ARTICLE. THE AO MAY BE A MUNICIPAL COURT JUDGE.

**APPLICABLE SECTIONS** MEANS THOSE SECTIONS IN THE MUNICIPAL CODE CONTAINED WITHIN THE CHAPTERS STATED IN SECTION 2-80.

**CODE ENFORCEMENT OFFICER OR CEO** SHALL MEAN THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE, PROPERTY INSPECTOR OR ANY OTHER CITY OFFICIAL OR EMPLOYEE CHARGED WITH ENFORCING THE PROVISIONS OF THIS ARTICLE.

**CITY MANAGER** SHALL MEAN THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE.

**MUNICIPAL COURT** MEANS THE MUNICIPAL COURT FOR THE CITY OF GRAND JUNCTION, COLORADO.

**NOTICE OF VIOLATION** MEANS A FORMAL WRITTEN NOTICE DELIVERED, EITHER BY HAND DELIVERY, CERTIFIED MAIL OR POSTED ON THE SUBJECT PROPERTY, TO A PERSON OR ENTITY WHO HAS VIOLATED ANY CODE SECTION(S) REFERENCED IN SECTION 2-80. THE NOTICE SHALL CONTAIN EITHER THE PARCEL NUMBER OR ADDRESS, NAME OR ENTITY TO WHOM THE NOTICE IS BEING DELIVERED, SECTION(S) OF THE CODE ALLEGEDLY BEING VIOLATED, A TIME FRAME IN WHICH TO CORRECT THE VIOLATION AND INFORMATION REGARDING REMEDIES THE CITY MAY TAKE TO ACHIEVE COMPLIANCE.

**RESPONSIBLE PARTY** SHALL MEAN A PERSON OR ENTITY WHO HAS VIOLATED THIS CODE OR, IN THE CASE OF PROPERTY SUBJECT TO AN ADMINISTRATIVE CITATION UNDER THIS ARTICLE, WHO HAS POSSESSION OR CONTROL OF ANY REAL PROPERTY OR PREMISES, WHETHER AS OWNER, OCCUPANT OR TENANT, OR IN THE CASE OF A MOTOR VEHICLE, AS OWNER OR OPERATOR OF THE SAME.

**SEC. 2-82. AUTHORITY.**

(A) ANY RESPONSIBLE PARTY VIOLATING APPLICABLE SECTIONS OF THIS CODE MAY BE ISSUED AN ADMINISTRATIVE CITATION BY A CEO AS PROVIDED IN THIS ARTICLE.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CODE, RESPONSIBLE PARTIES CITED UNDER THE PROVISIONS OF THIS ARTICLE SHALL HAVE ONLY THE APPEAL RIGHTS GRANTED HEREIN.

(C) ADMINISTRATIVE CITATIONS SHALL BE ISSUED ONLY AFTER THE RESPONSIBLE PARTY HAS RECEIVED A NOTICE OF VIOLATION AND HAS BEEN GIVEN TIME TO COMPLY AS STATED IN THE NOTICE OF VIOLATION.

(D) EACH DAY A VIOLATION EXISTS OR CONTINUES SHALL CONSTITUTE A SEPARATE AND DISTINCT OFFENSE FOR WHICH A SEPARATE ADMINISTRATIVE CITATION MAY BE ISSUED; HOWEVER, ONCE AN ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR A VIOLATION OR VIOLATIONS, NO ADDITIONAL ADMINISTRATIVE

CITATION SHALL BE ISSUED FOR THE SAME VIOLATION(S) FOR TEN (10) DAYS OR, IF THE RESPONSIBLE PARTY APPEALS, UNTIL AFTER THE APPEAL HAS BEEN HEARD AND THE RESPONSIBLE PARTY HAS NOT COMPLIED WITH AN ORDER OF THE AO WITHIN TEN (10) DAYS OF ITS ISSUANCE OR SUCH OTHER TIME AS THE AO HAS SPECIFIED.

(E) A FINE ASSESSED BY MEANS OF AN ADMINISTRATIVE CITATION ISSUED BY THE CEO SHALL BE PAYABLE DIRECTLY TO THE CITY, AND IF NOT TIMELY PAID, SHALL BE COLLECTED IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN THIS ARTICLE.

(F) ENFORCEMENT ACTIONS FOR VIOLATIONS OF APPLICABLE CODE SECTIONS ARE INTENDED TO BE ALTERNATIVE IN NATURE. THE CITY MAY PURSUE A CIVIL, CRIMINAL OR ADMINISTRATIVE ACTION, AS DEEMED NECESSARY BY THE CITY, AGAINST A RESPONSIBLE PARTY, BUT ONCE AN ACTION IS COMMENCED ALL REMEDIES MUST BE PURSUED IN THAT VENUE, UNLESS THE CITY CHOOSES TO PURSUE AN ALTERNATIVE ACTION UPON STAYING THE ORIGINAL ACTION. NOTHING IN THIS ARTICLE SHALL PRECLUDE A CEO, IN HIS/HER SOLE DISCRETION, FROM IMMEDIATELY ISSUING A SUMMONS TO COURT AND/OR A CEASE AND DESIST ORDER, FOR ANY ALLEGED VIOLATION.

### **SEC. 2-83. NOTICE OF VIOLATION.**

(A) UPON BECOMING AWARE OF A VIOLATION OF THE CODE, A CEO MAY ISSUE A NOTICE OF VIOLATION TO THE RESPONSIBLE PARTY. THE NOTICE SHALL STATE THE DATE AND LOCATION OF THE VIOLATION, THE APPROXIMATE TIME THE VIOLATION WAS OBSERVED AND IDENTIFYING, WHEN APPLICABLE, THE PROPERTY IN VIOLATION BY ADDRESS, LEGAL DESCRIPTION OR PARCEL NUMBER. THE NOTICE SHALL REFER TO THE APPLICABLE CODE SECTION VIOLATED, DESCRIBE THE VIOLATION AND DESCRIBE THE ACTION REQUIRED TO CORRECT THE VIOLATION. THE NOTICE SHALL REQUIRE THE RESPONSIBLE PARTY TO CORRECT THE VIOLATION WITHIN TEN (10) DAYS, AND SHALL EXPLAIN THE CONSEQUENCES OF FAILURE TO CORRECT SAID VIOLATION(S), INCLUDING THE ISSUANCE OF AN ADMINISTRATIVE CITATION. THE TERMS OF ANY CEASE AND DESIST ORDER SHALL SEPARATELY STATE THE TERMS OF THAT ORDER.

(B) SERVICE OF A NOTICE OF A VIOLATION ON THE RESPONSIBLE PARTY SHALL BE BY ANY OF THE FOLLOWING MEANS:

(1) TO THE RESPONSIBLE PARTY AT THE SITE OF THE VIOLATION(S) OR AT ANY OTHER LOCATION BY PERSONALLY DELIVERING A COPY OF THE NOTICE OF VIOLATION TO THE RESPONSIBLE PARTY; OR

(2) A COPY OF THE NOTICE MAY BE MAILED BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE RESPONSIBLE PARTY AS THE SAME IS REFLECTED IN THE CITY OR COUNTY RECORDS; OR

(3) A COPY OF THE NOTICE OF VIOLATION MAY BE POSTED IN A CONSPICUOUS PLACE ON PREMISES. THE CEO SHALL PHOTOGRAPH THE POSTING WITH A CAMERA SHOWING THE DATE AND TIME OF THE POSTING. THE PHOTOGRAPH SHOWING THE POSTING SHALL BE MAINTAINED BY THE CEO DURING THE PROCEEDING.

**SEC. 2-84. ADMINISTRATIVE CITATION.**

(A) IF THE RESPONSIBLE PARTY HAS FAILED TO CORRECT THE VIOLATION(S) NOTED IN THE NOTICE OF VIOLATION WITHIN THE TIME PROVIDED ON SUCH NOTICE, A CEO MAY ISSUE AN ADMINISTRATIVE CITATION TO THE RESPONSIBLE PARTY ON A FORM APPROVED BY THE CITY ATTORNEY.

(B) THE CEO MAY REQUIRE THAT THE RESPONSIBLE PARTY PROVIDE EVIDENCE OF THE RESPONSIBLE PARTY'S IDENTITY AND RESIDENTIAL AND/OR WORKING ADDRESS.

(C) THE CEO SHALL REASONABLY ATTEMPT TO ISSUE THE ADMINISTRATIVE CITATION TO THE RESPONSIBLE PARTY AT THE SITE OF ANY VIOLATION(S). THE CEO MAY ISSUE THE ADMINISTRATIVE CITATION TO THE RESPONSIBLE PARTY BY THE METHODS DESCRIBED IN SUBSECTION 2-83(B), ABOVE.

(D) THE CEO SHALL ATTEMPT TO OBTAIN THE SIGNATURE OF THE PERSON RECEIVING THE ADMINISTRATIVE CITATION ON THE CITATION. IF THAT PERSON REFUSES OR FAILS TO SIGN THE ADMINISTRATIVE CITATION, THE FAILURE OR

REFUSAL TO SIGN SHALL NOT AFFECT THE VALIDITY OF THE CITATION AND SUBSEQUENT PROCEEDINGS.

(E) NOTICE SHALL BE DEEMED SERVED ON THE EARLIEST OF: (I) THE DATE OF RECEIPT BY THE RESPONSIBLE PARTY, IF PERSONALLY SERVED; (II) THE SECOND DAY AFTER THE MAILING OF THE ADMINISTRATIVE CITATION; OR (III) THE DATE THE ADMINISTRATIVE CITATION WAS POSTED.

**SEC. 2-85. CONTENTS OF ADMINISTRATIVE CITATION.**

(A) THE ADMINISTRATIVE CITATION SHALL STATE THE LOCATION OF THE VIOLATION(S) AND THE DATE AND APPROXIMATE TIME THE VIOLATION(S) WAS OBSERVED. WHERE APPLICABLE, THE ADMINISTRATIVE CITATION SHALL IDENTIFY THE PROPERTY IN VIOLATION BY ADDRESS OR LEGAL DESCRIPTION.

(B) THE ADMINISTRATIVE CITATION SHALL REFER TO THE APPLICABLE CODE SECTION(S) VIOLATED AND DESCRIBE THE VIOLATION(S).

(C) THE ADMINISTRATIVE CITATION SHALL DESCRIBE THE ACTION REQUIRED TO CORRECT THE VIOLATION(S).

(D) THE ADMINISTRATIVE CITATION SHALL: 1) REQUIRE THE RESPONSIBLE PARTY TO CORRECT THE VIOLATION(S) IMMEDIATELY, 2) PROVIDE A DATE FOR REINSPECTION BY THE CEO, AND 3) SHALL EXPLAIN THE CONSEQUENCES OF FAILURE TO CORRECT SAID VIOLATION(S), TO INCLUDE IMMEDIATE ABATEMENT IF NECESSARY TO PROTECT THE PUBLIC'S HEALTH AND/OR SAFETY.

(E) THE ADMINISTRATIVE CITATION SHALL STATE THE AMOUNT OF FINE IMPOSED FOR THE VIOLATION(S).

(F) THE ADMINISTRATIVE CITATION SHALL EXPLAIN HOW THE FINE SHALL BE PAID, THE TIME PERIOD BY WHICH IT SHALL BE PAID AND THE CONSEQUENCES OF FAILURE TO PAY THE FINE.

(G) THE ADMINISTRATIVE CITATION SHALL BRIEFLY STATE THE PROCESS FOR APPEALING THE ADMINISTRATIVE CITATION.

(H) THE ADMINISTRATIVE CITATION SHALL CONTAIN THE SIGNATURE OF THE CEO AND THE SIGNATURE OF THE RESPONSIBLE PARTY IF IT CAN BE OBTAINED.



**SEC. 2-86. APPEAL OF ADMINISTRATIVE CITATION.**

(A) A PERSON SERVED WITH AN ADMINISTRATIVE CITATION MAY FILE A NOTICE OF APPEAL WITHIN FIVE (5) CALENDAR DAYS AFTER THE SERVICE OF THE ADMINISTRATIVE CITATION. STRICT COMPLIANCE WITH THE FIVE (5) DAY NOTICE SHALL BE A JURISDICTIONAL PREREQUISITE TO ANY APPEAL BROUGHT UNDER THIS ARTICLE, AND FAILURE TO COMPLY SHALL BAR ANY APPEAL.

(B) THE NOTICE OF APPEAL SHALL BE MADE IN WRITING AND SHALL BE FILED WITH THE MUNICIPAL COURT IN PERSON, BY FACSIMILE TRANSMISSION OR BY MAIL. REGARDLESS OF THE MANNER OF FILING SUCH APPEAL, THE NOTICE OF APPEAL MUST BE FILED WITH THE MUNICIPAL COURT WITHIN FIVE (5) CALENDAR DAYS FROM THE DATE THE ADMINISTRATIVE CITATION WAS SERVED.

(C) AS SOON AS PRACTICABLE AFTER RECEIVING THE WRITTEN NOTICE OF APPEAL, THE MUNICIPAL COURT SHALL ASSIGN AN AO WHO SHALL SCHEDULE A DATE, TIME AND LOCATION FOR THE HEARING.

(D) WRITTEN NOTICE OF THE DATE, TIME AND LOCATION OF THE HEARING SHALL BE PERSONALLY SERVED UPON OR SENT BY FIRST CLASS MAIL TO THE RESPONSIBLE PARTY AT LEAST TEN (10) CALENDAR DAYS PRIOR TO THE DATE OF THE HEARING. THE HEARING SHALL BE HELD NO MORE THAN TWENTY-ONE (21) DAYS AFTER THE DATE UPON WHICH THE ADMINISTRATIVE CITATION WAS ISSUED.

(E) IN COMPUTING THE DAY A NOTICE OF APPEAL MUST BE FILED OR THE DAY BY WHICH A HEARING MUST BE HELD, THE FIRST DAY IS EXCLUDED AND THE LAST DAY IS INCLUDED. IF THE LAST DAY OF ANY PERIOD IS A SATURDAY, SUNDAY OR LEGAL HOLIDAY, THE PERIOD IS EXTENDED TO THE FIRST DAY THEREAFTER WHICH IS NOT A SATURDAY, SUNDAY OR LEGAL HOLIDAY.

**SEC. 2-87. ADMINISTRATIVE HEARING OFFICERS.**

(A) THE ADMINISTRATIVE HEARING OFFICER MUST BE AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF COLORADO WITH A MINIMUM OF THREE (3) YEARS OF EXPERIENCE.

(B) ANY PERSON DESIGNATED TO SERVE AS AN AO IS SUBJECT TO DISQUALIFICATION FOR BIAS, PREJUDICE, INTEREST OR FOR ANY OTHER REASON FOR WHICH A JUDGE MAY BE DISQUALIFIED IN A COURT OF LAW.

**SEC. 2-88. ADMINISTRATIVE APPEALS.**

(A) ADMINISTRATIVE APPEALS ARE INTENDED TO BE LESS FORMAL; SPECIFICALLY FORMAL RULES OF EVIDENCE AND DISCOVERY DO NOT APPLY. THE PROCEDURE AND FORMAT OF THE ADMINISTRATIVE HEARING SHALL FOLLOW THE PROCEDURES PROVIDED IN THIS SECTION.

(B) THE PARTIES TO AN ADMINISTRATIVE APPEAL SHALL BE THE RESPONSIBLE PARTY AND THE CITY, BY AND THROUGH THE CEO AND CITY ATTORNEY. PARTIES MAY BE REPRESENTED BY LEGAL COUNSEL. EACH PARTY MAY CALL AND QUESTION WITNESSES, CROSS-EXAMINE WITNESSES AND PRESENT EVIDENCE.

(C) THE AO, AT THE REQUEST OF ANY PARTY TO THE HEARING, MAY SUBPOENA WITNESSES, DOCUMENTS AND OTHER EVIDENCE WHERE THE ATTENDANCE OF THE WITNESS OR THE ADMISSION OF EVIDENCE IS DEEMED NECESSARY TO DECIDE THE ISSUES AT THE HEARING. ALL COSTS RELATED TO THE SUBPOENA, INCLUDING WITNESS AND MILEAGE FEES, SHALL BE BORNE BY THE PARTY REQUESTING THE SUBPOENA. THE FORM OF, AND THE PROCESS FOR ISSUING, SUBPOENAS SHALL BE THE SAME AS IN THE MUNICIPAL COURT.

(D) THE AO, AN ATTORNEY FOR THE RESPONSIBLE PARTY, AND/OR THE CITY ATTORNEY SHALL HAVE THE POWER TO CALL AND QUESTION WITNESSES; THE AO SHALL REVIEW AND RULE ON THE RELEVANCY OF DOCUMENTARY OR OTHER TANGIBLE EVIDENCE AND RULE ON EVIDENTIARY QUESTIONS.

(E) THE ONLY ISSUE TO BE DECIDED BY THE AO IS WHETHER THE CEO EXCEEDED HIS/HER AUTHORITY IN ISSUING THE ADMINISTRATIVE CITATION. THE CITY BEARS THE BURDEN OF PROOF TO ESTABLISH THE EXISTENCE OF A VIOLATION OF THE CODE. IN THE CASE OF A NUISANCE ABATEMENT HEARING, THE CITY BEARS THE BURDEN OF PROOF TO ESTABLISH THE EXISTENCE OF A NUISANCE. THE CITY'S MEETING OF THIS BURDEN OF PROOF SHALL CONSTITUTE PRIMA FACIE EVIDENCE

THAT THE CEO DID NOT EXCEED HIS/HER AUTHORITY. THE APPELLANT SHALL HAVE THE BURDEN OF REBUTTING SUCH EVIDENCE.

(F) THE STANDARD OF PROOF REQUIRED IN AN ADMINISTRATIVE APPEAL IS A PREPONDERANCE OF THE EVIDENCE.

(G) COPIES, PHOTOGRAPHS AND PHOTOCOPIES, IF DETERMINED TO BE REASONABLY RELIABLE, MAY BE ADMITTED INTO EVIDENCE OR SUBSTITUTED IN EVIDENCE IN PLACE OF ORIGINAL DOCUMENTS.

(H) HEARINGS SHALL BE RECORDED BY ELECTRONIC MEANS AND TRANSCRIPTS OF SUCH RECORDINGS SHALL BE MADE AT THE EXPENSE OF THE PARTY REQUESTING THE TRANSCRIPT.

(I) WHENEVER IT APPEARS THAT A PETITION IS NOT FILED WITHIN THE TIME PERMITTED BY THE PARTICULAR LAW OR ORDINANCE INVOLVED, OR THAT THE AO FOR SOME OTHER REASON LACKS JURISDICTION, THE CASE MAY BE DISMISSED ON THE MOTION OF ANY PARTY OR ON THE AO'S OWN MOTION.

(J) THE DECISION OF THE AO SHALL BE KNOWN AS AN ADMINISTRATIVE ENFORCEMENT ORDER.

(K) THE AO MAY UPHOLD THE ADMINISTRATIVE CITATION AND ALL PENALTIES OR DISMISS THE ADMINISTRATIVE CITATION AND ALL PENALTIES OR MAY WAIVE OR CONDITIONALLY REDUCE THE PENALTIES ASSESSED BY THE ADMINISTRATIVE CITATION. THE AO MAY ALSO IMPOSE CONDITIONS AND DEADLINES TO CORRECT THE VIOLATIONS OR REQUIRE PAYMENT OF ANY OUTSTANDING PENALTIES.

(L) IN THE EVENT THAT THE AO DOES NOT DISMISS THE ADMINISTRATIVE CITATION, THE AO SHALL ASSESS REASONABLE ADMINISTRATIVE COSTS OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100.00), BUT NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS (\$250.00).

(M) THE ADMINISTRATIVE ENFORCEMENT ORDER SHALL BECOME FINAL ON THE DATE OF MAILING THE ORDER TO THE RESPONSIBLE PARTY. A COPY OF THE ORDER SHALL BE PROVIDED TO THE CITY.

**SEC. 2-89. FAILURE TO OBEY SUBPOENA.**

IT IS UNLAWFUL FOR ANY PERSON TO REFUSE TO OBEY A SUBPOENA ISSUED BY AN AO. FAILURE TO OBEY A SUBPOENA CONSTITUTES CONTEMPT AND MAY BE CRIMINALLY PROSECUTED AND HAVE PENALTIES IMPOSED IN THE SAME MANNER AS VIOLATION OF A MUNICIPAL COURT SUBPOENA.

**SEC. 2-90. FAILURE TO ATTEND ADMINISTRATIVE APPEAL.**

ANY RESPONSIBLE PARTY WHO FAILS TO APPEAR AT THE HEARING IS DEEMED TO WAIVE THE RIGHT TO A HEARING AND THE ADJUDICATION OF THE ISSUES RELATED TO THE HEARING, PROVIDED THAT PROPER NOTICE OF THE HEARING HAS BEEN PROVIDED.

**SEC. 2-91. FAILURE TO COMPLY WITH ADMINISTRATIVE ENFORCEMENT ORDER.**

IT IS UNLAWFUL FOR A RESPONSIBLE PARTY WHO HAS BEEN SERVED WITH A COPY OF THE FINAL ADMINISTRATIVE ENFORCEMENT ORDER TO FAIL TO COMPLY WITH THE ORDER. FAILURE TO COMPLY WITH A FINAL ADMINISTRATIVE ENFORCEMENT ORDER MAY BE CRIMINALLY PROSECUTED AND HAVE PENALTIES IMPOSED.

**SEC. 2-92. PENALTIES ASSESSED.**

(A) THE CITY MANAGER SHALL DEVELOP A FINE SCHEDULE BASED UPON THE CITY MANAGER'S ASSESSMENT OF THE COST TO THE CITY FOR ENFORCING THE PROVISIONS OF THIS ARTICLE. SUCH SCHEDULE SHALL BE APPROVED BY THE CITY COUNCIL. THE SCHEDULE OF FINES SHALL BE GRADUATED IN AMOUNT, WITH THE SMALLEST FINE BEING ASSESSED FOR THE FIRST ADMINISTRATIVE CITATION AND INCREASINGLY LARGER FINES FOR SECOND, THIRD AND SUBSEQUENT ADMINISTRATIVE CITATIONS. NO SINGLE FINE ASSESSED FOR AN ADMINISTRATIVE CITATION SHALL EXCEED ONE THOUSAND DOLLARS (\$1,000.00). THE SCHEDULE OF FINES SHALL BE AMENDED NO MORE THAN ONCE PER YEAR.

(B) PAYMENT OF THE FINE SHALL NOT EXCUSE THE FAILURE TO CORRECT THE VIOLATION(S) NOR SHALL IT BAR FURTHER ENFORCEMENT ACTION BY THE CITY.

(C) ALL FINES ASSESSED SHALL BE PAYABLE TO THE CITY OF GRAND JUNCTION.

**SEC. 2-93. FAILURE TO PAY FINES.**

(A) THE FAILURE OF ANY RESPONSIBLE PARTY TO PAY THE FINES ASSESSED BY AN ADMINISTRATIVE CITATION WITHIN THE TIME SPECIFIED ON THE CITATION OR ADMINISTRATIVE ENFORCEMENT ORDER, IF AN ADMINISTRATIVE HEARING IS HELD, MAY RESULT IN THE IMPOSITION OF A LATE FEE OF FIFTY DOLLARS (\$50.00), A TWENTY PERCENT (20%) CHARGE TO DEFRAY THE COST OF COLLECTION, AND INTEREST AT A RATE OF EIGHT PERCENT (8%) PER ANNUM ON ALL UNPAID AMOUNTS.

(B) IN THE EVENT OF FAILURE TO PAY ALL FINES ASSESSED, THE CITY MANAGER MAY REFER THE MATTER TO THE CITY ATTORNEY FOR COLLECTION.

(C) IN THE CASE OF DELINQUENT CHARGES, ASSESSMENTS OR TAXES, INCLUDING FINES AND THE COSTS OF NUISANCE ABATEMENT, THE CITY MANAGER SHALL, PURSUANT TO C.R.S. § 31-20-105, CERTIFY THE SAME TO THE TREASURER OF MESA COUNTY TO BE COLLECTED AND PAID OVER BY THE TREASURER OF THE COUNTY IN THE SAME MANNER AS TAXES ARE COLLECTED.

(D) AN ACTION OR OTHER PROCESS PROVIDED BY LAW MAY BE MAINTAINED BY THE CITY ATTORNEY TO RECOVER OR COLLECT ANY AMOUNTS, INCLUDING LATE FEES, INTERESTS, AND ADMINISTRATIVE COSTS, OWING UNDER THIS ARTICLE.

**2. Chapter 16, Section 16-60, is also hereby amended as follows:**

**Sec. 16-60. Notice and abatement procedures.**

~~It shall be the duty of the county health department or the City Manager, or his authorized agent, to serve notice upon the owner, occupant, agent or person in possession, charge or control of any lot, building or premises in or upon which any nuisance may be found or who may be the cause or owner of such nuisance, requiring them to abate such nuisance in such manner as he shall prescribe within a reasonable time.~~

~~(1) The notice may be given or served by any officer directed to give or make such notice.~~

~~(2) If the person so notified shall neglect or refuse to comply with the requirements of such an order by abating the nuisance within the time specified such person shall be guilty of a misdemeanor.~~

~~(3) It shall be the duty of the City Manager, his agent or the county health department to proceed at once, upon the expiration of the time specified in such notice, to cause such nuisance to be abated; provided, that whenever the owner, agent or person in possession, charge or control of the premises in or upon which any nuisance may be found is unknown or cannot be found, the City Manager, his agent or the county health department shall proceed to abate such nuisance without notice.~~

~~(4) In either case, the expense of such abatement shall be collected from the person who created, continued or suffered such nuisance to exist.~~

(A) **NOTICE TO ABATE.** UPON THE DISCOVERY OF ANY NUISANCE ON PUBLIC OR PRIVATE PROPERTY IN THE CITY, THE CITY MANAGER MAY, IN THE EXERCISE OF HIS OR HER DISCRETION, NOTIFY THE RESPONSIBLE PARTY IN WRITING, REQUIRING THE RESPONSIBLE PARTY TO REMOVE AND ABATE FROM THE PROPERTY THE THING OR THINGS THEREIN DESCRIBED AS A NUISANCE. SERVICE OF A NOTICE OF VIOLATION BY A CEO PURSUANT TO SECTION 2-83 OF THIS CODE SHALL BE CONSIDERED SERVICE OF A NOTICE TO ABATE AND THE CITY MAY BEGIN THE ABATEMENT PROCESS WITH THE APPLICATION FOR ABATEMENT ORDER. FOR ANY NUISANCE WHICH DOES NOT THREATEN IMMINENT DANGER OF DAMAGE OR INJURY, AND FOR WHICH A DISCRETIONARY NOTICE TO ABATE HAS BEEN ISSUED, THE REASONABLE TIME FOR ABATEMENT SHALL NOT EXCEED SEVEN (7) DAYS UNLESS IT APPEARS FROM THE FACTS AND CIRCUMSTANCES THAT COMPLIANCE COULD NOT REASONABLY BE MADE WITHIN SEVEN (7) DAYS OR THAT A GOOD FAITH ATTEMPT AT COMPLIANCE IS BEING MADE.

*SERVICE OF NOTICE.* IF WRITTEN NOTICE TO ABATE IS GIVEN, IT SHALL BE SERVED BY:

(1) PERSONALLY DELIVERING A COPY OF THE NOTICE TO THE RESPONSIBLE PARTY DESCRIBED IN THE NOTICE IF THE RESPONSIBLE PARTY ALSO RESIDES AT THE PROPERTY; OR

(2) MAILING A COPY OF THE NOTICE BY FIRST CLASS OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE

RESPONSIBLE PARTY AS REFLECTED IN THE CITY AND/OR COUNTY REAL ESTATE OR OTHER RECORDS; OR

(3). POSTING A COPY OF THE NOTICE IN A CONSPICUOUS PLACE AT THE PREMISES.

(B) *ABATEMENT ORDER*: UPON THE EXPIRATION OF THE PERIOD OF NOTICE, OR AT ANY TIME THEREAFTER, IF THE NUISANCE HAS NOT BEEN ABATED ON THE PROPERTY DESCRIBED IN SUCH NOTICE, THE CITY MAY APPLY TO THE MUNICIPAL COURT FOR AN ABATEMENT ORDER, AS FOLLOWS:

(1) THE APPLICATION SHALL BE ACCOMPANIED BY AN AFFIDAVIT AFFIRMING THAT THE CITY HAS COMPLIED WITH THE NOTICE REQUIREMENTS OF SUBSECTION (A) AND THAT THE OWNER HAS FAILED TO ABATE THE IDENTIFIED NUISANCE UPON THE PROPERTY.

(2) THE CITY SHALL GIVE NOTICE TO THE RESPONSIBLE PARTY OF ITS APPLICATION FOR THE ABATEMENT OF ORDER IN THE SAME MANNER AS PROVIDED ABOVE FOR SERVICE OF THE ORIGINAL NOTICE.

(3) THE NOTICE OF APPLICATION FOR AN ABATEMENT ORDER SHALL INCLUDE A COPY OF THE CITY'S APPLICATION AND ITS AFFIDAVIT IN SUPPORT THEREOF, AS WELL AS THE TIME, DATE, AND PLACE AT WHICH THE CITY WILL APPEAR BEFORE THE MUNICIPAL COURT TO REQUEST ENTRY OF THE ABATEMENT ORDER.

(4) AT THE STATED TIME, DATE, AND PLACE, THE MUNICIPAL COURT JUDGE SHALL REVIEW THE APPLICATION FOR ADMINISTRATIVE ABATEMENT ORDER, THE AFFIDAVIT, ANY STATEMENT OF THE CITY IN SUPPORT THEREOF, AS WELL AS ANY STATEMENT AND EVIDENCE PRESENTED BY THE RESPONSIBLE PARTY, IF PRESENT.

(5) THEREAFTER, THE MUNICIPAL COURT IS AUTHORIZED TO ENTER AN ORDER PERMITTING THE CITY TO ENTER UPON SUCH PROPERTY, ABATE THE SAME AND RECOVER ITS COSTS.

(C) *ABATEMENT WITHOUT NOTICE OR COURT ORDER.* ANY NUISANCE LOCATED OR FOUND IN OR UPON ANY STREET, AVENUE, ALLEY, PUBLIC SIDEWALK, HIGHWAY, PUBLIC RIGHT-OF-WAY, PUBLIC GROUNDS, PARK, RECREATION FACILITY, OR PUBLIC PROPERTY IN THE CITY MAY BE ABATED WITHOUT NOTICE.

**3. Chapter 16, Article III, new Sections 16-61 to 16-65 are added as follows:**

**SEC. 16-61. EMERGENCY ABATEMENT.**

IF IN THE JUDGMENT OF THE CEO A NUISANCE IS A CAUSE OF IMMINENT DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE, ANY SUCH NUISANCE MAY BE SUMMARILY ABATED BY THE CITY, AND COSTS OF ABATEMENT SHALL BE CHARGED AND RECOVERED AS PROVIDED BY SECTION 16-63.

**SEC. 16-62. VIOLATIONS AND PENALTY.**

(A) ANY PERSON VIOLATING ANY PROVISION OF THIS ARTICLE SHALL BE SUBJECT TO THE PENALTIES SET FORTH IN SECTION 2-92 OF THIS CODE; PROVIDED, HOWEVER THAT NOTHING CONTAINED IN THIS SECTION OR SECTION 2-92 SHALL IMPAIR THE ABILITY OF THE CITY TO ENFORCE THE OTHER REMEDIAL PROVISIONS PROVIDED IN THIS ARTICLE.

(B) ANY RESPONSIBLE PARTY VIOLATING ANY PROVISION OF THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE SUBJECT TO FINES SET FORTH IN ACCORDANCE WITH SECTION 2-92 OF THIS CODE.

(C) IN LEVYING AND IMPOSING FINES UPON CONVICTION OF ANY OF THE VIOLATION(S) SPECIFIED IN THE CODE, THE COURT SHALL HAVE NO AUTHORITY TO REDUCE OR SUSPEND ALL OR ANY PORTION OF THE FINES, IT BEING THE EXPRESSED INTENT OF THE CITY COUNCIL THAT THE FINES SPECIFIED IN THE FINE SCHEDULE BE STRICTLY ADHERED TO.

(D) AS A PORTION OF ANY JUDGMENT, FINE OR ASSESSMENT LEVIED UPON CONVICTION OF A VIOLATION OF THIS CODE, THE COURT SHALL ORDER THAT THE VIOLATION BE ABATED WITHIN A TIME ESTABLISHED BY THE COURT, BUT IN NO EVENT TO EXCEED THIRTY (30) DAYS FROM THE DATE OF CONVICTION. FAILURE TO ABATE WITHIN THE TIME SO ORDERED MAY CONSTITUTE CONTEMPT OF COURT, AND



SHALL BE PUNISHABLE AS SUCH. THE ORDER SHALL ALSO PROVIDE THAT, IN THE EVENT THE DEFENDANT HAS NOT ABATED THE NUISANCE WITHIN THIRTY (30) DAYS AFTER THE COURT ORDER, THE CITY OR ITS AGENTS ARE AUTHORIZED TO DO SO.

(E) IN ADDITION TO ANY FINES LEVIED HEREUNDER, THE COURT SHALL IMPOSE, AS A PORTION OF THE COSTS ASSESSED AGAINST A CONVICTED RESPONSIBLE PARTY, ANY COSTS INCURRED BY THE CITY IN PROSECUTING, ENFORCING AND ABATING THE NUISANCE.

(F) EACH DAY DURING WHICH ANY RESPONSIBLE PARTY COMMITS, OR ALLOWS TO REMAIN UNABATED, ANY OF THE ACTIONS SPECIFIED AS UNLAWFUL IN THIS CODE SHALL CONSTITUTE A SEPARATE OFFENSE. MULTIPLE VIOLATIONS OF THIS CODE MAY BE INCLUDED ON A SINGLE NOTICE TO ABATE OR A SINGLE SUMMONS AND COMPLAINT.

#### **SEC. 16-63. RECOVERY OF EXPENSE OF ABATEMENT.**

(A) THE ACTUAL COSTS OF ABATEMENT, PLUS FIFTEEN PERCENT (15%) OF SUCH ABATEMENT COSTS FOR INSPECTION, A MINIMUM FEE ASSESSMENT OF ONE HUNDRED DOLLARS (\$100.00) AND OTHER INCIDENTAL COSTS OF ABATEMENT SHALL BE ASSESSED UPON THE LOT, LOTS OR TRACTS OF LAND UPON WHICH SUCH NUISANCE IS ABATED.

(B) SUCH COSTS SHALL BE PAID TO THE CITY WITHIN THIRTY (30) DAYS AFTER THE CITY HAS MAILED NOTICE OF THE ASSESSMENT BY CERTIFIED MAIL TO THE OWNER OF THE PROPERTY; PROVIDED, HOWEVER, THAT IF THE PROPERTY IS OCCUPIED BY SOMEONE OTHER THAN THE OWNER, THE CITY TREASURER SHALL MAIL SUCH NOTICE OF ASSESSMENT BY CERTIFIED MAIL, TO BOTH THE OCCUPANT AND THE OWNER. SERVICE SHALL BE COMPLETE UPON DEPOSITING THE NOTICE WITHIN THE UNITED STATES POSTAL SERVICE, POSTAGE PREPAID FOR CERTIFIED MAIL. EVERY SUCH ASSESSMENT SHALL BE A LIEN IN THE SEVERAL AMOUNTS ASSESSED AGAINST SUCH LOT, LOTS OR TRACT OF LAND UNTIL PAID.

(C) FAILURE TO PAY SUCH ASSESSMENT WITHIN SUCH PERIOD OF THIRTY (30) DAYS SHALL CAUSE SUCH ASSESSMENT TO BECOME A LIEN AGAINST SUCH LOT, BLOCK OR PARCEL OF LAND AND SHALL HAVE PRIORITY OVER ALL LIENS, EXCEPT

GENERAL TAXES AND PRIOR SPECIAL ASSESSMENTS, AND THE SAME MAY BE CERTIFIED AT ANY TIME AFTER SUCH FAILURE TO SO PAY THE SAME, BY THE CITY TO THE COUNTY TREASURER TO BE PLACED UPON THE TAX LIST FOR THE CURRENT YEAR AND TO BE COLLECTED IN THE SAME MANNER AS OTHER TAXES ARE COLLECTED, WITH FIFTEEN PERCENT (15%) PENALTY TO DEFRAY THE COST OF COLLECTION.

**SEC. 16.64. OTHER REMEDIES.**

THE REMEDIES SET FORTH HEREIN ARE CUMULATIVE. THE INITIATION OF ANY ACTION OR THE IMPOSITION OF ANY PENALTY SHALL NOT PRECLUDE THE CITY FROM INSTITUTING ANY OTHER PROCEEDING TO REQUIRE COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER AND WITH ANY ADMINISTRATIVE ORDERS AND DETERMINATIONS MADE HEREUNDER. NO PROVISION HEREIN SHALL BE CONSTRUED TO LIMIT THE RIGHT OF ANY PERSON TO BRING A PRIVATE ACTION TO ABATE A PRIVATE NUISANCE.

**4. Enumeration of nuisances, formerly Section 16-61, is hereby renumbered as Section 16-65. This section has no other changes and reads as previously written.**

**5. Sections 16-62--16-80, Reserved, are now renumbered as Sections 16-66--16-80, Reserved.**

**6. Chapter 16, Article VII, Sections 16-141 is revised as follows:**

Sec. 16-141. 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:

*Notice of Violation* (NOV) means a FORMAL written notice DELIVERED, EITHER BY HAND DELIVERY, CERTIFIED MAIL OR POSTED ON THE SUBJECT PROPERTY, TO A PERSON OR ENTITY WHO HAS VIOLATED ANY CODE OF THE GRAND JUNCTION CODE ORDINANCES. THE NOTICE SHALL CONTAIN THE PARCEL NUMBER OR ADDRESS, NAME OR ENTITY TO WHOM THE NOTICE IS BEING DELIVERED, SECTION(S) OF THE CODE BEING VIOLATED, TIME FRAME IN WHICH TO CORRECT THE VIOLATION AND INFORMATION REGARDING REMEDIES THE CITY MAY TAKE TO ACHIEVE COMPLIANCE. AN NOV MAY ALSO BE REFERRED TO AS A “COMPLIANCE ADVISORY”.

**7. Chapter 16, Article VII, Section 16-144 (B), ENFORCEMENT is revised as follows:**

(B) Whenever the City finds that any person has violated any portion of this Article, the City Manager shall serve a COMPLIANCE ADVISORY OR a Notice of Violation (NOV) ~~a written notice stating the nature of the violation.~~ Within the time specified after the date of such notice the person shall submit to the City Manager evidence of the satisfactory correction of the violation.

**8. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Grand Junction, that it is promulgated for the health, safety and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

**9. Effective Date.** This Ordinance shall take effect on \_\_\_\_\_, 2008, as permitted by the Charter.

Introduced on first reading on the \_\_\_\_ day of \_\_\_\_\_, 2008.

PASSED and ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2008.

Attest:

\_\_\_\_\_  
Stephanie Tuin, City Clerk

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

**Attach 3**

Setting a Hearing Amending Ordinance No. 4110 to Allow Limited Golf Cart Use in Specified Areas Around Mesa State College

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
<b>Subject</b>	Allow Limited Golf Cart use in Specified Areas around Mesa State College		
<b>File #</b>			
<b>Meeting Day, Date</b>	Wednesday, April 16, 2008		
<b>Placement on the Agenda</b>	<b>Consent</b>	<b>X</b>	<b>Individual</b>
<b>Date Prepared</b>	April 8, 2008		
<b>Author Name &amp; Title</b>	Mary Lynn Kirsch, City Attorney's Office		
<b>Presenter Name &amp; Title</b>	John Shaver, City Attorney		

**Summary:** The Facilities Services Department at Mesa State College (MSC) has submitted a request to City staff for an ordinance to allow MSC facilities maintenance and management to use golf carts to access certain college campus grounds, buildings and construction projects.

**Budget:** There is no budget impact.

**Action Requested/Recommendation:** Introduction of proposed Ordinance and setting a hearing for May 7, 2008.

**Attachments:** Proposed Ordinance

**Background Information:** Expansion of the existing Mesa State Campus has required the MSC Facilities Services Department to relocate their service center from the main part of campus to a new location on the east side of 12<sup>th</sup> Street. MSC Facilities Services Department needs to lawfully be able to use their maintenance carts on specific streets around Mesa State College.

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

**AN ORDINANCE AMENDING ORDINANCE NO. 4110  
TO ALLOW LIMITED GOLF CART USE NEAR MESA STATE COLLEGE**

**RECITALS:**

On August 15, 2007, the City of Grand Junction adopted the 2003 Model Traffic Code for Colorado through Ordinance No. 4110. That Ordinance also repealed Chapter 36 and adopted a new Chapter 36 of the Code of Ordinances.

Section 36-2 of Chapter 36 of the Code of Ordinances contains Amendments and Deletions to the Model Traffic Code and Section 238 of the Model Traffic Code, as amended by Ordinance No. 4110, allows for limited golf cart use in certain areas of the City.

This Ordinance is intended to revise Chapter 36 of the Code of Ordinances concerning golf cart usage.

The Facilities Services Department at Mesa State College (MSC) has submitted a request to City staff for consideration of an ordinance to allow MSC facilities maintenance and management to use golf carts to access certain college campus grounds, buildings and construction projects. Expansion of the existing campus has required the Facilities Services Department at Mesa State College to relocate their service center from the main part of campus to a new location on the east side of 12<sup>th</sup> Street. By amending Chapter 36-2 of the Code of Ordinances to add specific parameters for limited on-street golf cart use around Mesa State College, the MSC Facilities Services Department will be able to lawfully use carts on specific streets.

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

Chapter 36, Section 36-2 of the Code of Ordinances, as adopted by Ordinance No. 4110, is hereby amended to read as follows. (Additions are shown in underline; deletions are shown by ~~strikethrough~~.)

## **Section 36-2. Amendments and Deletions.**

The Model Traffic Code adopted in section 36-1 is hereby amended as follows:

**Part 12**, inclusive, is deleted.

**Section 103 (2)(c)** is added to read:

On no portion of any state highway or connecting link within the city shall any person violate any of the provisions of this Code, or any of the laws amending the same, or any of the rules or regulations issued pursuant thereto.

**Section 109.5** is amended to read:

(1) (Deleted)

(2) No person shall operate a neighborhood electric vehicle on a limited access highway.

**Section 238** is added to read:

(a) Definition. For the purposes of this section, “golf cart” means a four-wheel, pneumatic tired vehicle powered by a gasoline or battery driven motor that is designed for use as a transport device on a golf course, or as a means of transportation for Mesa State College authorized personnel, within Mesa State College boundaries, as defined in paragraph (b) below.

(b) A golf cart may be driven upon streets under the jurisdiction of the City, excluding country roads, state or federal highways, in ~~two~~ the following designated areas:

(1) the area bounded on the west by 26 Road, on the east by 28 Road, on the south by Patterson Road, and on the north by H Road. Golf carts may be driven on 26 Road, 28 Road, and H Road, but are not permitted on Patterson Road or Horizon Drive (however, crossing Horizon Drive at an intersection is permitted); and

(2) the area beginning at the intersection of Shadow Lake Road and Mariposa Road (but excluding Mariposa Road) along Ridges Boulevard to the west, continuing along West Ridges Boulevards and inclusive of all streets within the Redlands Mesa Planned Development; and

(3) the area bounded on the west by Cannell Avenue, on the east by 13<sup>th</sup> Street, on the south by North Avenue and on the north by Orchard Avenue.

(c) (1) No person shall operate a golf cart on any public street in the city:

- a. Unless within the boundaries set forth in subsection (b) of this section;
- b. Unless the golf cart is equipped at a minimum with:
  - 1. A state approved slow triangle mounted on the rear of the cart;
  - 2. A rearview mirror;
  - 3. An audible warning device;
  - 4. Turn signals;
  - 5. Both headlights and tail lights;
  - 6. A steering wheel;
  - 7. A foot-controlled accelerator; and
  - 8. A foot brake;
- c. Except during the time from one-half hour before sunrise to one-half hour after sunset; however, in the designated area around Mesa State College, authorized MSC personnel may operate golf carts on a 24-hour basis.
- d. Unless in a direct route from the operator's residence to a golf course, or from a golf course to the operator's residence; unless the golf cart operator is an authorized MSC facilities employee driving within the designated boundaries specified in Section 238 (b)(3).
- e. Unless such person possesses, on the person of the operator, a valid State of Colorado driver's license.
- f. In a way or at a speed which impedes the normal flow of traffic; the operator has the affirmative duty to observe traffic behind and around him. If the golf cart is traveling at a speed which is more than five miles per hour below the applicable speed limit, the operator of a golf cart shall pull over to the right side of the road at the first safe opportunity and allow vehicles to pass the golf cart.
- g. While under the influence of, or impaired by, alcohol; nor shall any person operate a golf cart while under the influence of any drug. The definition of, and proof of, intoxication or impairment shall be as set forth in C.R.S. § 42-4-1202. The operator of a golf cart who is arrested for operating a golf cart while under the influence of or impaired by alcohol or drugs shall submit to chemical testing as set forth in C.R.S. title 42. Failure to submit to a test as required shall result in the immediate revocation of the permit issued to an operator.
- h. Without first obtaining a permit from the city police department, which permit shall be attached to the golf cart at all times that such cart being operated upon a city right-of-way.



- i. Unless such person has, on his person, proof of recreational vehicle or similar insurance that is current and provides coverage for injury to persons and property.
- (2) The operator of a golf cart on public streets shall comply with the provisions of the Model Traffic Code as adopted by the city.
- (3) Nothing in this section authorizes the operation of a golf cart on rights-of-way under the jurisdiction of the county. It is the duty of each operator of a golf cart to ascertain whether a right-of-way is within the city limits.
- (d) The police chief, after having determined that the golf cart and the operator are in compliance with requirements of this section, shall issue a permit. Such permits shall be valid for three years from the date of issuance unless revoked for just cause. Fees for the permit shall be as established by resolution of the City Council. The City Council may alter such fees by resolution.
- (e) Police officers are authorized to stop a golf cart which is being operated on a City right-of-way, without probable cause or other reason, at any time, to verify that the operator has a valid permit and to inspect for required safety equipment.
- (f) The City Council shall, by resolution, establish the minimum requirements of required insurance for operation of golf carts on city rights-of-way.

**ALL OTHER PROVISIONS OF CHAPTER 36 SHALL REMAIN IN FULL FORCE AND EFFECT.**

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

Attest:

\_\_\_\_\_  
Stephanie Tuin  
City Clerk

**Attach 4**

Setting a Hearing on an Ordinance to Expand DDA Boundaries

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
<b>Subject</b>	Expanding the Downtown Development Authority (DDA) boundaries by adding the Mesa County Library District properties		
<b>File #</b>			
<b>Meeting Day, Date</b>	Wednesday, April 16, 2008		
<b>Placement on the Agenda</b>	<b>Consent</b>	<input checked="" type="checkbox"/>	<b>Individual</b>
<b>Date Prepared</b>	April 8, 2008		
<b>Author Name &amp; Title</b>	Mary Lynn Kirsch, City Attorney's Office		
<b>Presenter Name &amp; Title</b>	John Shaver, City Attorney		

**Summary:** The DDA recently awarded a grant to the Mesa County Library Board of Trustees. Those funds will be used for a new sign, landscaping and to help complete capital improvements to the main library building façade. The DDA and Board of Trustees agreed that receipt of the grant funds was conditioned upon the inclusion of Mesa County Library District properties into the DDA boundary.

**Budget:** There is no budget impact.

**Action Requested/Recommendation:** Introduction of proposed Ordinance

**Attachments:**

- **Letter – Mesa County Libraries Board of Trustees**
- **Proposed Ordinance**

**Background Information:** See Summary



**Mesa County  
LIBRARIES**

Dream it. Discover it. Do it.

February 29, 2008

Harold Staf  
Downtown Development Authority  
248 S. 4th Street  
Grand Junction, CO 81501

RE: Acceptance of DDA Funds

Dear Harold,

On behalf of the Mesa County Library Board of Trustees I would like to thank both you and the DDA Board for your response to Eve Tallman's request and the subsequent grant by the Board of funds in the amount of \$34,000. These funds will be used for a new monumentstyle sign, landscaping and to complete much needed improvements to the library facade.

The Board of Trustees understands that receipt of the DDA funds is conditioned upon the inclusion of the following Mesa County Library District properties into the DDA District boundaries:

502 Grand Avenue – Parcel #2945-142-41-992  
530 Grand Avenue – Parcel #2945-142-41-991  
550 Grand Avenue – Parcel #2945-142-41-990  
502 Ouray Avenue – Parcel #2945-142-32-991  
536 Ouray Avenue – Parcel #2945-142-32-993  
443 N. 6<sup>th</sup> Street – Parcel #2945-142-41-993

The Board has agreed to add this property to the District.

We look forward to working with you on this inclusion process, as well as our upcoming capital improvement project.

Sincerely,

Linda Davidson  
President, Mesa County Library Board of Trustees

530 Grand Avenue . P.O. Box 20000-5019 . Grand Junction, CO 81502-5019  
CENTRAL LIBRARY . 970.243.4443 . Fax 970.243.4744 . [www.mcpld.org](http://www.mcpld.org)

Clifton Branch 970.434.6936 • Collbran Branch 970.487.3545 • DeBeque Branch 970.283.8625

Fruita Branch 970.858.7703 • Gateway Branch 970.931.2428 • Orchard Mesa Branch 970.243.0181 • Palisade Branch 970.464.7557

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

**AN ORDINANCE EXPANDING THE BOUNDARIES OF THE GRAND JUNCTION,  
COLORADO DOWNTOWN DEVELOPMENT AUTHORITY**

**RECITALS:**

The Grand Junction, Colorado, Downtown Development Authority (“Authority” or “DDA”) adopted a Plan of Development (“Plan”) establishing the boundaries of the Authority. The Plan and the boundaries of the DDA were initially approved by the Grand Junction City Council on December 16, 1981.

Since that time individual property and business owners, pursuant to §31-25-822, 12A C.R.S. and Article X of the Authority’s Plan of Development, have petitioned for inclusion within the boundaries of the Authority.

The DDA Board recently awarded a grant to the Mesa County Library Board of Trustees to be used for capital improvements to the main library property. In exchange, the Board of Trustees agreed that receipt of the funds was conditioned upon the inclusion of Mesa County Library District properties into the Authority’s boundaries.

The DDA Board requests Council’s approval to expand the Authority’s boundary to include the Mesa County Library District properties within the Plan’s area in accordance with state law, the Plan of Development and other applicable law, rules or regulations.

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

The following properties of the Mesa County Library District be included within the DDA boundaries:

- 502 Grand Avenue – Parcel #2945-142-41-992
- 530 Grand Avenue – Parcel #2945-142-41-991
- 550 Grand Avenue – Parcel #2945-142-41-990
- 502 Ouray Avenue – Parcel #2945-142-32-991
- 443 N. 6<sup>th</sup> Street – Parcel #2945-142-41-993

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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President of the Council

Attest:

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Stephanie Tuin  
City Clerk

**Attach 5**

Contract for Aeration Basin Modifications

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
<b>Subject</b>	Aeration Basin Modifications		
<b>File #</b>			
<b>Meeting Day, Date</b>	Wednesday, April 16, 2008		
<b>Placement on the Agenda</b>	<b>Consent</b>	<b>X</b>	<b>Individual</b>
<b>Date Prepared</b>	April 7, 2008		
<b>Author Name &amp; Title</b>	Bret Guillory, Utility Engineer		
<b>Presenter Name &amp; Title</b>	Trent Prall, Engineering Manager		

**Summary:** The purpose of the Aeration Basin SCADA project is to conserve energy and improve the secondary treatment process at Persigo. Currently, air is supplied to the aeration basins through the use of two 300 HP blowers. The system upgrade will give staff the ability to preset a desired oxygen level in the basins, and have the system automatically adjust the blowers to maintain that level. The result will be improved effluent quality and a reduction in electrical energy consumption.

**Budget:** Persigo has budgeted \$1.5 Million in 2008 Fund 904 – Plant Backbone Improvements, and anticipates carrying forward \$197,401 providing total available funds of \$1,697,401 in 2008. There are adequate funds available in Fund 904 for this project.

**Action Requested/Recommendation:** Authorize the City Manager to Sign a Contract with Glacier Construction in the amount of \$248,057 for Aeration Basin Modifications.

**Attachments:** none

**Background Information:** A formal solicitation was issued, advertised in The Daily Sentinel, and sent to a source list of contractors including plan rooms. Two companies submitted responses in the following amounts:

Glacier Construction Co, Inc. Englewood, Colorado	\$248,057.00
EC Electric, Grand Junction, Colorado	\$338,030.00

The purpose of the Aeration Basin Supervisory Control and Data Acquisition (SCADA) project is to conserve energy and improve the secondary treatment process at Persigo. SCADA systems collect data from various sensors and, based on that data, adjust mechanical devices (such as blowers) to perform more efficiently. Currently, air is supplied to the aeration basins through the use of two 300 HP blowers. The system upgrade will give staff the ability to preset a desired oxygen level in the basins, and have the system automatically adjust the blowers to maintain that level. The result will be improved effluent quality and a reduction in electrical energy consumption.

The project provides for installation of a (SCADA) system, including, labor and materials to automate the operation of the aeration basin building process. The contractor will be required to purchase and install sensors, valves, temperature probes, controllers, etc while maintaining plant operation at all times.

Glacier was deemed the most responsive and responsible bidder and is the recommendation for award. SCADA refers to a system that collects data from various sensors

**Attach 6**

Public Hearing – Vacation of a Portion of Florida Street, Located at 2858 C ½ Road

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
<b>Subject</b>	Vacation of a portion of Florida Street – Located at 2858 C ½ Road		
<b>File #</b>	PP-2007-087		
<b>Meeting Day, Date</b>	Wednesday, April 16, 2008		
<b>Placement on the Agenda</b>	<b>Consent</b>		<b>Individual</b> X
<b>Date Prepared</b>	April 4, 2008		
<b>Author Name &amp; Title</b>	Scott D. Peterson, Senior Planner		
<b>Presenter Name &amp; Title</b>	Scott D. Peterson, Senior Planner		

**Summary:** A request to vacate an existing unimproved public right-of-way (portion of Florida Street) in anticipation of future residential subdivision development. The proposed vacation request is located at 2858 C ½ Road in Pear Park.

**Budget:** N/A.

**Action Requested/Recommendation:** Hold a Public Hearing and consider final passage of the Ordinance.

**Attachments:**

1. Background Information / Staff Analysis
2. Site Location Map / Aerial Photo Map
3. Future Land Use Map / Existing City and County Zoning
4. Vacation Ordinance and Exhibit A



BACKGROUND INFORMATION				
<b>Location:</b>		2858 C ½ Road		
<b>Applicants:</b>		Owners, Robert W. Jones and John E. Jones Representative, Robert W. Jones II, Vortex Engineering Inc.		
<b>Existing Land Use:</b>		Single family home		
<b>Proposed Land Use:</b>		Residential Subdivision		
<b>Surrounding Land Use:</b>	<b>North</b>	Single-family residential		
	<b>South</b>	Single-family residential		
	<b>East</b>	Vacant land		
	<b>West</b>	Single-family residential		
<b>Existing Zoning:</b>		R-4, Residential – 4 units/acre		
<b>Proposed Zoning:</b>		N/A		
<b>Surrounding Zoning:</b>	<b>North</b>	R-4, Residential – 4 units/acre		
	<b>South</b>	RSF-R, Residential Single Family – Rural (County)		
	<b>East</b>	RSF-R, Residential Single Family – Rural (County)		
	<b>West</b>	R-4, Residential – 4 units/acre		
<b>Growth Plan Designation:</b>		Residential Medium Low (2 – 4 DU/Ac.)		
<b>Zoning within density range?</b>		X	Yes	No

**Staff Analysis:**

The applicants, Robert W. Jones and John E. Jones, are requesting to vacate an existing unimproved public right-of-way (portion of Florida Street (C ¾ Road)). The right-of-way is located along the north property line of the proposed subdivision. This right-of-way was dedicated in 1895 as part of the Bevier Subdivision and has never been utilized nor constructed. There are no existing utilities located within this platted right-of-way. At the time of Final Plan recording for the proposed Shadow Mountain Estates subdivision, the applicants will rededicate that portion of Florida Street to be in its correct alignment with the White Willows Subdivision to the west.

The Planning Commission recommended approval of the proposed right-of-way vacation at their March 11, 2008 meeting.

**Consistency with the Growth Plan:**

The proposed residential development and right-of-way vacation request meets the goals and policies of the Growth Plan and Future Land Use Map. The property is currently zoned R-4, Residential – 4 units/acre with the Growth Plan Future Land Use Map showing this area as Residential Medium Low (2 – 4 Du/Ac.).

**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:

- g. The Growth Plan, major street plan and other adopted plans and policies of the City.

Granting the request to vacate the existing unimproved public right-of-way does not conflict with the Growth Plan, Pear Park Neighborhood Plan, major street plan and other adopted plans and policies of the City of Grand Junction. No Utility Easements are required to be dedicated as the present right-of-way does not contain any utilities.

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

No parcel will be landlocked as a result of this public right-of-way vacation.

- i. Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property affected by the proposed vacation.

Access will not be restricted.

- j. There shall be no adverse impacts on the health, safety, and/or welfare of the general community and the quality of public facilities and services provided to any parcel of land shall not be reduced (e.g. police/fire protection and utility services).

There will be no adverse impacts to the general community and the quality of public facilities and services provided will not be reduced due to the vacation request.

- k. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter Six of the Zoning and Development Code.

The provision of adequate public facilities and services will not be inhibited to any property as required in Chapter Six of the Zoning and Development Code as the existing public right-of-way will be rededicated to its proper location within the subdivision upon the filing and recording of the Shadow Mountain Estates subdivision. No adverse comments were received from the utility review agencies during the staff review process.

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

Maintenance requirements to the City will not change as a result of the proposed public right-of-way vacation as there were no utilities identified within the existing right-of-way.

#### **Findings of Fact/Conclusions:**

After reviewing the proposed right-of-way vacation request application, PP-2007-087 for the vacation of an unimproved public right-of-way (portion of Florida Street), the Planning Commission makes the following findings of fact and conclusions:

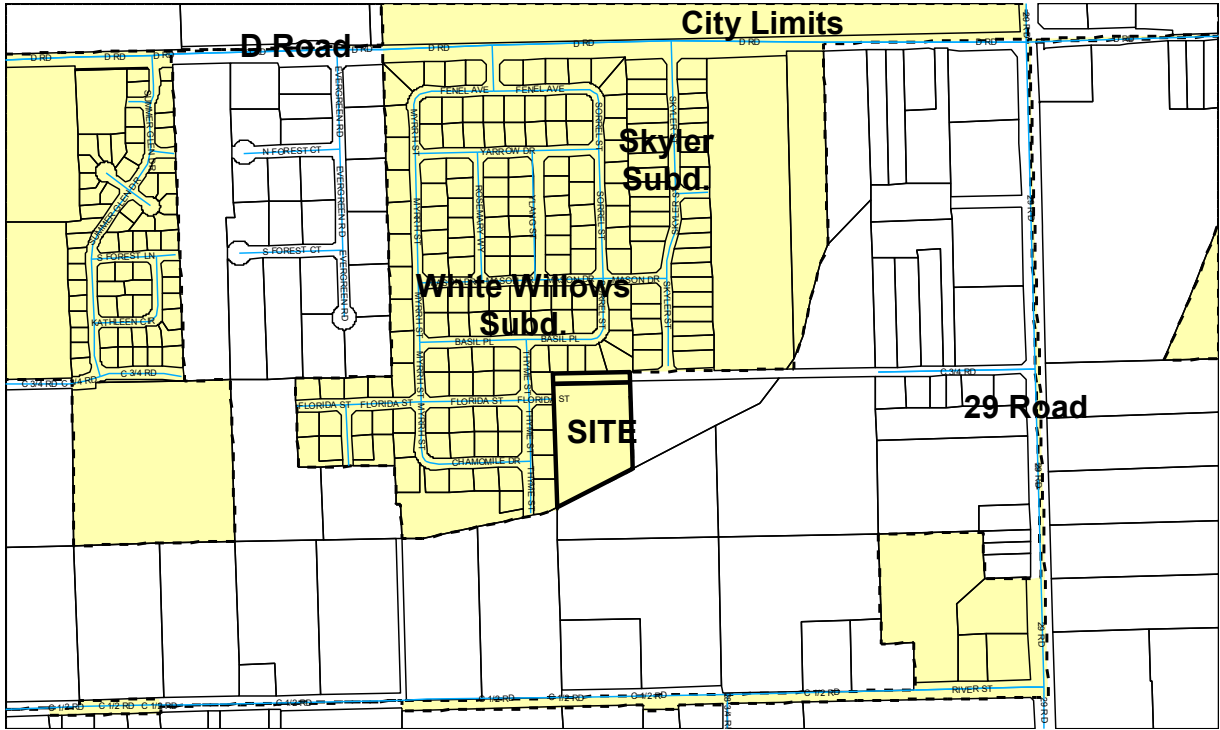
3. The proposed public right-of-way vacation is consistent with the Growth Plan and Pear Park Neighborhood Plan.
4. The review criteria in Section 2.11 C. of the Zoning and Development Code have all been met for the requested public right-of-way vacation – portion of Florida Street.

#### **Planning Commission Recommendation:**

The Planning Commission recommended that the City Council approve the Ordinance for the vacation of an unimproved public right-of-way, portion of Florida Street, located at 2858 C ½ Road, finding the request consistent with the Growth Plan, Pear Park Neighborhood Plan and Section 2.11 C. of the Zoning and Development Code.

# Site Location Map

Figure 1



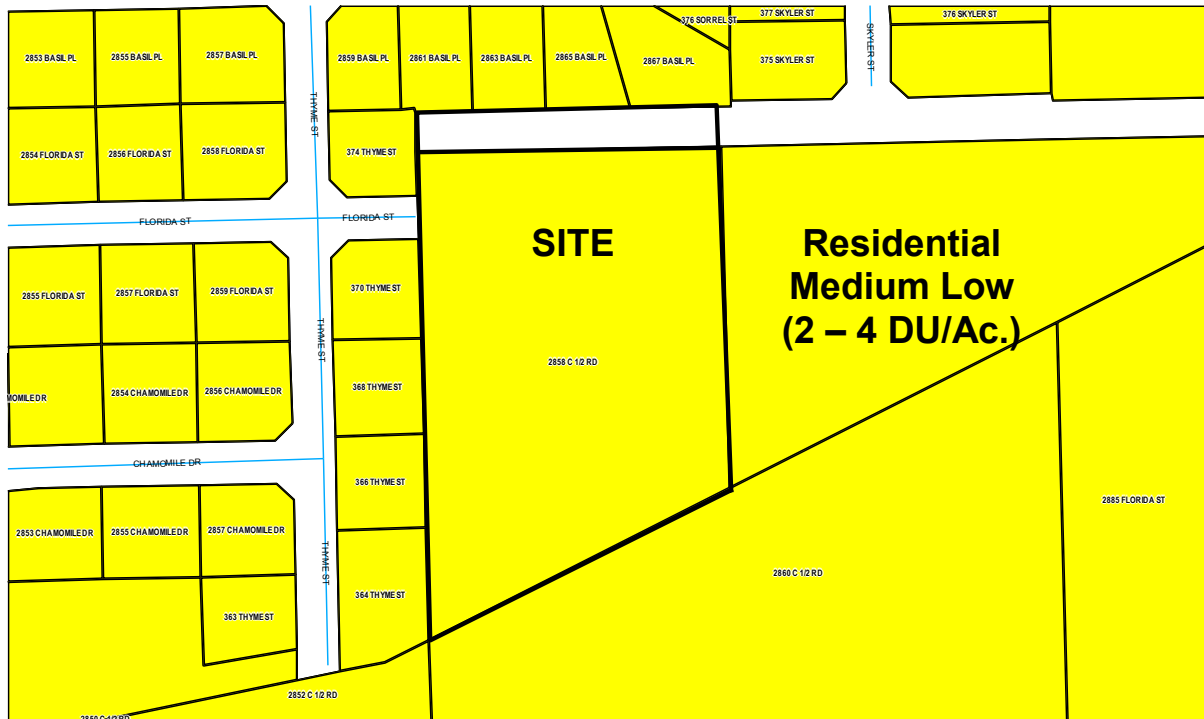
# Aerial Photo Map

Figure 2



# Future Land Use Map

Figure 3



# Existing City and County Zoning

Figure 4



NOTE: Mesa County is currently in the process of updating their zoning map. Please contact Mesa County directly to determine parcels and the zoning thereof."

**CITY OF GRAND JUNCTION**

**ORDINANCE NO.**

**AN ORDINANCE VACATING A PORTION OF THE  
FLORIDA STREET RIGHT-OF-WAY  
LOCATED AT 2858 C ½ ROAD**

**RECITALS:**

A vacation of the dedicated right-of-way has been requested by the adjoining property owners.

The City Council finds that the request is consistent with the Growth Plan, the Grand Valley Circulation 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 Code to have been met, and recommends that the vacation be approved.

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

The following described dedicated right-of-way for a portion of Florida Street is hereby vacated:

The following right-of-way is shown on "Exhibit A" as part of this vacation of description.

Dedicated right-of-way to be vacated:

A strip of land to be vacated, situate in the SW ¼ NE ¼ of Section 19, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, Mesa County, Colorado, being described as follows:

Commencing at the C-N 1/16 corner of said Section 19, the basis of bearing being S89°32'29"E to the NE 1/16 corner of said Section 19; thence S89°32'29"E a distance of 661.95 feet to the point of beginning; thence S89°32'29"E a distance of 316.15 feet; thence S00°04'03"E a distance of 40.00 feet; thence N89°32'29"W a distance of 316.22 feet; thence N00°01'49"E a distance of 40.00 feet to the point of beginning.

Said strip contains 0.29 acres more or less.

Introduced for first reading on this 2<sup>nd</sup> day of April, 2008

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008

ATTEST:

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

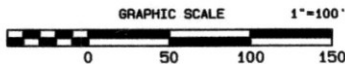
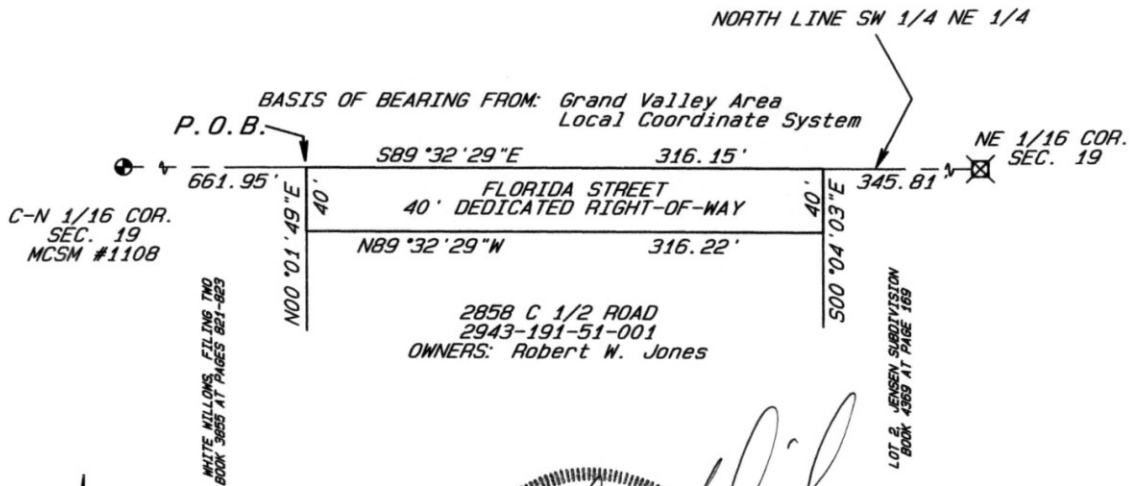
\_\_\_\_\_  
City Clerk

# EXHIBIT A

## RIGHT-OF-WAY VACATION DESCRIPTION (FLORIDA STREET)

A strip of land to be vacated, situate in the SW 1/4 NE 1/4 of Section 19, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, Mesa County, Colorado, being described as follows:

Commencing at the C-N 1/16 corner of said Section 19, the basis of bearing being S89°32'29"E to the NE 1/16 corner of said Section 19;  
 thence S89°32'29"E a distance of 661.95 feet to the point of beginning;  
 thence S89°32'29"E a distance of 316.15 feet;  
 thence S00°04'03"E a distance of 40.00 feet;  
 thence N89°32'29"W a distance of 316.22 feet;  
 thence N00°01'49"E a distance of 40.00 feet to the point of beginning.  
 Said strip contains 0.29 acres more or less.



MCSM = MESA COUNTY SURVEY MARKER  
 P.O.B. = POINT OF BEGINNING

*Michael W. Driscoll*  
 COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR  
 20677  
 10-31-07

D H SURVEYS, INC.  
 970-245-8749  
 JOB #129-06-07



**Attach 7**

Hearing on an Appeal of the Planning Commission's Approval of Redlands Place Subdivision Preliminary Plan, Located at 413 South Camp Road

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
<b>Subject</b>	Appeal of the Planning Commission's decision regarding the approval of Redlands Place Subdivision		
<b>File #</b>	PP-2007-218		
<b>Meeting Day, Date</b>	Wednesday, April 16, 2008		
<b>Placement on the Agenda</b>	<b>Consent</b>	<input type="checkbox"/>	<b>Individual</b> <input checked="" type="checkbox"/>
<b>Date Prepared</b>	April 8, 2008		
<b>Author Name &amp; Title</b>	Lori V. Bowers, Senior Planner		
<b>Presenter Name &amp; Title</b>	Lori V. Bowers, Senior Planner		

**Summary:**

An appeal has been filed regarding the Planning Commission's decision to approve the Redlands Place Subdivision Preliminary Plan, located at 413 South Camp Road. The subdivision consists of 104 single-family lots on 52.2 acres in an R-2 (Residential 2 du/ac) zone district, utilizing the cluster provisions provided in Section 6.7.D.5 of the Zoning and Development Code. This appeal is pursuant to Section 2.18.E of the Zoning and Development Code, which specifies that the City Council is the appellate body of the Planning Commission. According to Section 2.18.E.4.h. no new evidence or testimony may be presented, except City staff may be asked to interpret materials contained in the record.

**Budget:** N/A

**Action Requested/Recommendation:**

Determination on the appeal

**Attachments:**

Planning Commission Staff Report of March 11, 2008

Minutes of the Planning Commission meeting of March 11, 2008  
Appeal letter  
Applicant's response to appeal

**Background Information:**

Please see the following and the attached staff report.

**Background Information:**

On March 11, 2008 a Public Hearing was held by the City of Grand Junction's Planning Commission for review of the Redlands Place Subdivision. Reviewing the contents of the written staff report; a presentation by Greg Moberg, Development Services Supervisor; a presentation by the developer's representative; and public testimony taken during the Public Hearing, the Planning Commission approved the Preliminary Plan by a majority vote of five to two.

On March 20, 2008, an appeal of the Planning Commission's decision was filed with the Planning Department. This appeal is in accordance with Section 2.18.E.1 of the Zoning and Development Code. If the City Council would grant the appeal, the following approval criteria needs to be found:

- (1) The decision maker may have acted in a manner inconsistent with the provisions of this Code or other applicable local, state or federal law; or
- (2) The decision maker may have made erroneous findings of fact based on the evidence and testimony on the record; or
- (3) The decision maker may have failed to fully consider mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance; or
- (4) The decision-maker may have acted arbitrarily, acted capriciously, and/or abused its discretion; or
- (5) In addition to one (1) or more of the above findings, the appellate body shall find the appellant was present at the hearing during which the original decision was made or was otherwise on the official record concerning the development application.

AGENDA TOPIC: Redlands Place Subdivision; PP-2007-218.

ACTION REQUESTED: Preliminary Subdivision Plan Approval

<b>BACKGROUND INFORMATION</b>					
Location:		413 South Camp Road			
Applicants:		Owner, Sutton Family Trust; Representative, River City Consultants, Inc.			
Existing Land Use:		Agricultural			
Proposed Land Use:		Single-family residential			
<b>Surrounding Land Use:</b>	North	Residential - (County) Monument Meadows			
	South	Residential - Canyon View Subdivision			
	East	S Camp Road / Trails West Subdivision			
	West	Riley Property – (County) S.F. residence - 69.7 ac			
Existing Zoning:		R-2 (Residential 2 du/ac)			
Proposed Zoning:		N/A			
<b>Surrounding Zoning:</b>	North	County PD			
	South	PD (Planned Development 2 du/ac)			
	East	R-4 (Residential 4 du/ac)			
	West	County RSF-2			
Growth Plan Designation:		Residential Low ½ to 2 acres per dwelling unit			
Zoning within density range?		X	Yes		No

PROJECT DESCRIPTION: A request for Preliminary Subdivision Plan approval for the Redlands Place Subdivision consisting of 104 single-family lots on 52.2 acres in an R-2 (Residential 2 du/ac) zone district.

RECOMMENDATION: Approval, with conditions of the Redlands Place Subdivision Preliminary Plan.

## ANALYSIS:

### 1. Background:

The subject property is located in the Redlands at 413 South Camp Road and consists of two parcels of land totaling 52.2 acres. The property was annexed into the City as the Sutton Annexation in July, 2007. Upon annexation it was zoned R-2 (Residential, 2 units per acre). The property is located on the west side of South Camp Road, just north of the Canyon View Subdivision and south of Monument Meadows Subdivision, which is not within the City limits. Directly east, across South Camp Road is Trails West Subdivision.

Because the property is over 50 acres in size, a Site Analysis was required. The Analysis determined that approximately 10.73 acres of land contained a natural drainage way and wildlife area known as Lime Kiln Gulch. This area accounts for just over 20 percent of the total acreage, making the property eligible for application of the clustering provisions of the Zoning and Development Code. (Section 6.7.D.5.) The clustering provisions allow development of property with geological, environmental or topographical constraints in a manner that benefits the community and allows maximal use of the property while respecting and preserving the natural features and beauty of the land and wildlife.

The proposed Redlands Place Subdivision is unique, however, in the regard that all of the land designated for protection is located in one spot, at the far western portion of the property. Typically, projects that utilize the clustering provisions have protected areas dispersed across the entire property.

### Density:

Density is calculated by dividing the total number of units by the total acreage of the site. The overall density of the proposed Redlands Place Subdivision is 1.9 dwelling units per acre, meeting the Growth Plan and the zoning designation of R-2. Therefore no density bonus is requested.

### Access:

The Plan shows access from South Camp Road via Mescalero Street which aligns with Mescalero Street in the Trails West Subdivision. Another connection is shown at Granite Falls Way in the Canyon View Subdivision to the south. There are numerous internal streets within the subdivision providing access to individual lots.

### Road Design:

All streets within the subdivision are public and are classified as standard urban residential streets with 44 feet of right-of-way. That includes twenty-eight feet of asphalt, and six and a half feet of mountable curb, gutter and sidewalk on both sides of the street.

#### Open Space/Park:

The open space area is divided into five tracts of land totaling 12.836 acres of land or just over twenty-four percent of the entire property. The largest tract is along the western boundary of the property which contains Lime Kiln Gulch and possible wetlands. In accordance with Section 6.7.F.3, the open space will be integrated with school, parks, and other open spaces or public property in or near the subdivision or on neighborhood property. Pedestrian trails may be required in the future to access the School District property to the west. The applicant is willing to make provision for future public access, in the event that the City adopts an amendment to the Urban Trails Map so that the HOA would then be required to grant a public access easement, for non-mechanized (including bicycles) public use if the easement burdening this open space is connected to other public access and such other connections provide for continuous public access northerly to South Broadway and/or to the National Monument and/or other portions of a City urban trails system. This should be determined with the Final Plat submittal. Also an easement dedicating right-of-way to the Riley property to the west is proposed, crossing the open space area.

As for parks in the area, Wingate Park is located south of the property adjacent to Wingate Elementary.

#### Lot Layout:

There are 104 single-family residential lots proposed. Engineered foundations will be required on all of the lots. All lots have a 14-foot multi-purpose easement across the front of them. Some lots are encumbered with a 10-foot drainage easement across the back or along the side lot line. Tract C will also contain a 20-foot utility easement for sanitary sewer. All lots are larger than the minimum allowed under the clustering provisions as further discussed below.

#### Landscaping:

Landscaping will be required in the tracts that abut South Camp Road and also serve as an entry feature to the subdivision.

#### Phasing Plan:

No phasing of the project is planned.

#### Criteria:

##### 2. Section 2.8.B.2 of the Zoning and Development Code:

A preliminary subdivision plan can only be approved when it is in compliance with the purpose portion of Section 2.8 and with all of the following criteria:

- a. The Growth Plan, Grand Valley Circulation Plan, Urban Trails Plan and other adopted plans.

The requested zone at the time of annexation to the R-2 district was consistent with the Growth Plan density of Residential Low ½ - 2 acres per dwelling unit. The overall density of the proposed subdivision is 1.9 dwelling units per acre. The existing County zoning at the time of annexation was RSF-2 which also implemented the Residential Low designation. The proposed zone was and still is compatible with the neighborhood, conforms to and furthers the goals and policies of the Growth Plan and is compliant with the Future Land Use Map.

The Grand Valley Circulation Plan does not show any planned streets within this subdivision, but provides interconnectivity with the neighborhood to the south, Canyon View. The connection at Granite Falls Way was planned with the Canyon View Subdivision and funds were collected to help ensure the crossing of the canal. South Camp Road is designated as a Major Collector and provides the main access point to the subdivision on Mescalero Avenue, which is directly across from Mescalero Avenue in the Trails West Subdivision.

Neighbors to the south have expressed concerns about construction traffic through their neighborhood. To mitigate this concern, the Developer and the City have agreed that access to Granite Falls Way, via Standing Rock Drive will be controlled during construction, and that construction traffic will not be allowed to use Standing Rock Drive to access the Redlands Place site. Once all of the streets within Redlands Place are constructed, City field inspectors can request construction traffic from individual home builders access off of South Camp Road and not use Standing Rock, but access will not be blocked once all of the streets are constructed.

A street stub to the Riley property was discussed late in the review process. It has been determined that dedicated right-of-way extending from the cul-de-sac of Sutton Court to the edge of the Riley property will be provided. This will be dedicated but not constructed by the developer of Redlands Place. It is provided for future access and connection to the Riley property in the event the Riley property re-develops.

The proposed plan shows a future canal path along the Redlands Canal, in compliance with the Urban Trails Master Plan. The Redlands Area Plan shows this area to develop consistent with the Growth Plan and Future Land Use Map for this area. The Redlands Area Plan encourages the area south of Highway 340 to have reduced requirements for street lighting and other public space lighting, allowing the lighting to be low level and spaced to provide the minimum light necessary to meet safety needs. A TEDS exception has been granted to meet this goal and policy.

b. The Subdivision standards of Chapter 6.

Section 6.1 – Site Analysis Requirement: The site analysis shows significant topographical constraints, chiefly in the western portion of the property. The Army

Corps of Engineers has not responded regarding delineation for jurisdictional wetlands. Staff recommends imposing a condition of approval to address this issue, rather than holding up approval for a response from the Corps. The recommended condition is that the Army Corps of Engineers issue its approval agreeing with the Redlands Place jurisdictional wetlands delineation. If the Corps does not agree, the Preliminary Plan will require revision.

No geologic hazards were identified. A Transaction Screen Process was performed on the property to address an under ground storage tank that was removed by the property owner. No concerns were revealed in this process.

Section 6.7.D.5 – Cluster Developments: In any residential zone district where clustering is permitted, the Director may approve lots that are smaller and arranged differently than otherwise allowed under the Zoning and Development Code. Twenty percent of the gross acreage must be held in open space for the minimum lot size to be reduced. The Bulk requirements for clustered lots are those of the zone which have the closest lot sizes. In an R-2 zoning district the minimum lot size is 17,000 square feet. The clustering provision allows for subdivisions holding 20% open space to have a minimum lot size of 11,900 square feet. This is 5,100 square feet smaller than what is required without the clustering provision. The applicant is proposing Lots in the range of 12,028 square feet to 15,279 square feet. The required setbacks are those of the R-4 zoning designation.

All Open Space will be owned and maintained by the Redlands Place Home Owners Association. It is understood that pedestrian connectivity across the open space area may be required to access the proposed school site to the west. This was discussed above under the Open Space/Park heading.

Other pedestrian trails are proposed within the subdivision. A 10-foot detached walk along the eastern portion of the site will connect to the existing pedestrian path along South Camp Road that connects to the elementary school to the south. This path will also run along the Redlands Canal in a separate tract.

c. The Zoning standards contained in Chapter 3.

Section 3.6.B.2 Maximum Residential Density. Maximum residential density means the number calculated by dividing the total number of dwelling units or residential lots, by the gross acreage expressed in square feet or acres of the development property. Gross land area includes the entire parcel or property at the time a Development Application is filed. The “gross residential Density” is calculated the same as maximum residential density. Redlands Place Subdivision consists of 104 lots; divided by 52.2 acres equals 1.992 dwelling units per acre, therefore under 2.0 which is the maximum number of dwelling units allowed in an R-2 zoning district. The setbacks required by the Code are that of the R-4 zoning district.

- d. Other standards and requirements of this Code and all other City policies and regulations.

It is recognized that there are existing regional drainage problems associated with the South Camp corridor. This plan recognizes the possible need for a storm drain easement, if necessary, along the northern property line.

- e. Adequate public facilities and services will be available concurrent with the subdivision.

The project is or can be adequately serviced by all public utilities including sewer, water and irrigation.

- f. The project will have little or no adverse or negative impacts upon the natural or social environment.

There appears to be no negative or adverse impacts to the natural or social environment due to this proposed subdivision. Great consideration has been given to Lime Kiln Gulch, the natural drainage/wildlife corridor that borders the property on the west. It is intended to preserve this area in its natural state to the greatest extent possible by clustering the lots to the east.

- g. Compatibility with existing and proposed development on adjacent properties.

Compatibility is obtained by residential uses being adjacent to residential uses. Compatibility does not mean "the same as". The lots range in size from 12,000 square feet to over 15,000 square feet and are for detached single-family residential homes, therefore meeting the compatibility requirement.

- h. Adjacent agricultural property and land uses will not be harmed.

This appears to be the last large agricultural property along this section of South Camp Road. No land uses should be harmed by this residential subdivision.

- i. Is neither piecemeal development nor premature development of agricultural land or other unique areas.

It is neither piecemeal nor premature. Development is existing and occurring in the immediate and surrounding areas.

- j. There is adequate land to dedicate for provision of public services.



Easements for utilities have been shown and are provided with the plans and should be adequate for the utility providers. An existing irrigation easement will be abandoned and the pipes will be relocated to the east.

- k. This project will not cause an undue burden on the City for maintenance or improvement of land and/or facilities.

The Home Owners Association will be responsible for the maintenance of any common facilities. No other undue burdens on the City have been identified.

#### FINDINGS OF FACT/CONCLUSIONS/CONDITIONS:

After reviewing the Redlands Place Subdivision application, file number PP-2007-218, for preliminary subdivision plan approval, I make the following findings of fact and conclusions:

1. The proposed preliminary subdivision plan is consistent with the Growth Plan.
2. The preliminary subdivision plan is consistent with the purpose of Section 2.8 and meets the review criteria in Section 2.8.B.2 of the Zoning and Development Code.
3. The preliminary plan is consistent with the Redlands Area Plan.
4. If the Army Corps of Engineers determines jurisdictional wetlands to be present in areas of proposed development, the Preliminary Subdivision Plan will be required to be revised accordingly. Minor amendments to the Plan will be reviewed and approved, conditionally approved or denied by the director in accordance with Section 2.3.B.12.b of the Zoning and Development Code. Any changes other than minor amendments will require a new review by the Planning Commission in accordance with Section 2.8 of the Zoning and Development Code.
5. Determination at the time of Final Plat for pedestrian easements that may need to be provided to access adjacent open space or to obtain access to the proposed future school site to the west.

#### STAFF RECOMMENDATION:

I recommend that the Planning Commission approve the proposed preliminary subdivision plan, PP-2007-218 with the findings, conclusions and conditions as listed above.

RECOMMENDED PLANNING COMMISSION MOTION:

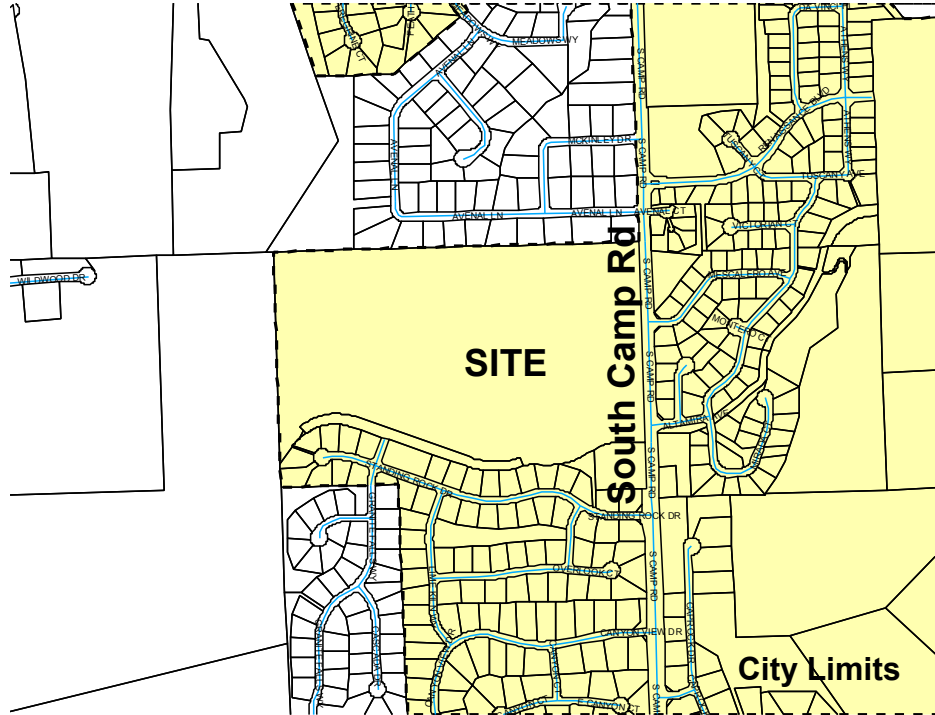
Mr. Chairman, I move that we approve the Preliminary Subdivision Plan for Redlands Place Subdivision, file number PP-2007-218, with the findings, conclusions and conditions as listed in the staff report.

Attachments:

Site Location Map / Aerial Photo Map  
Future Land Use Map / Existing City & County Zoning Map  
Preliminary Subdivision Plan  
Neighborhood concerns (17 pages)

# Site Location Map

413 South Camp



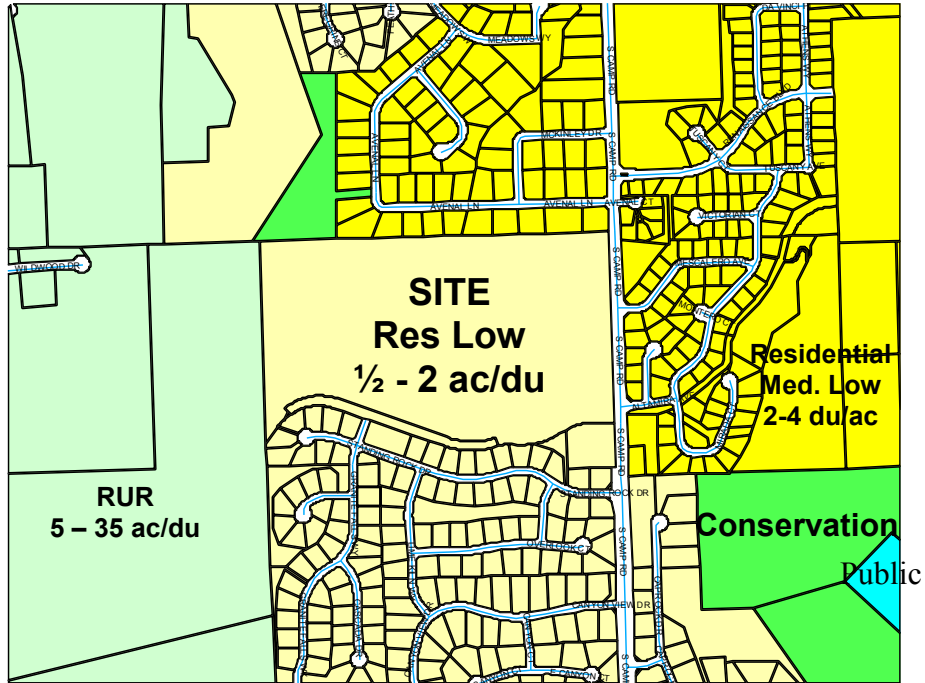
# Aerial Photo Map

413 South Camp



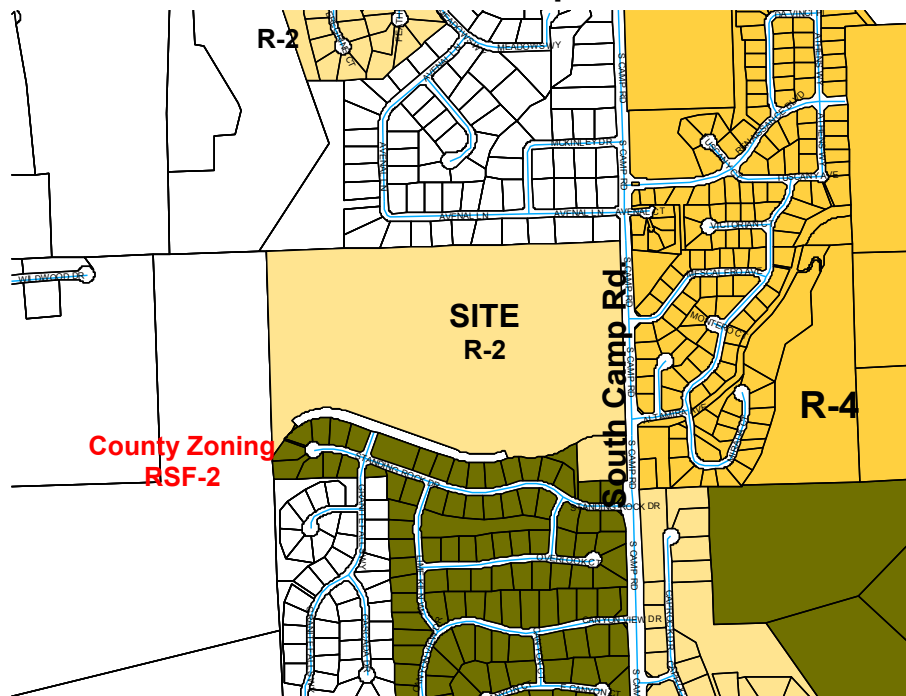
# Future Land Use Map

413 South Camp



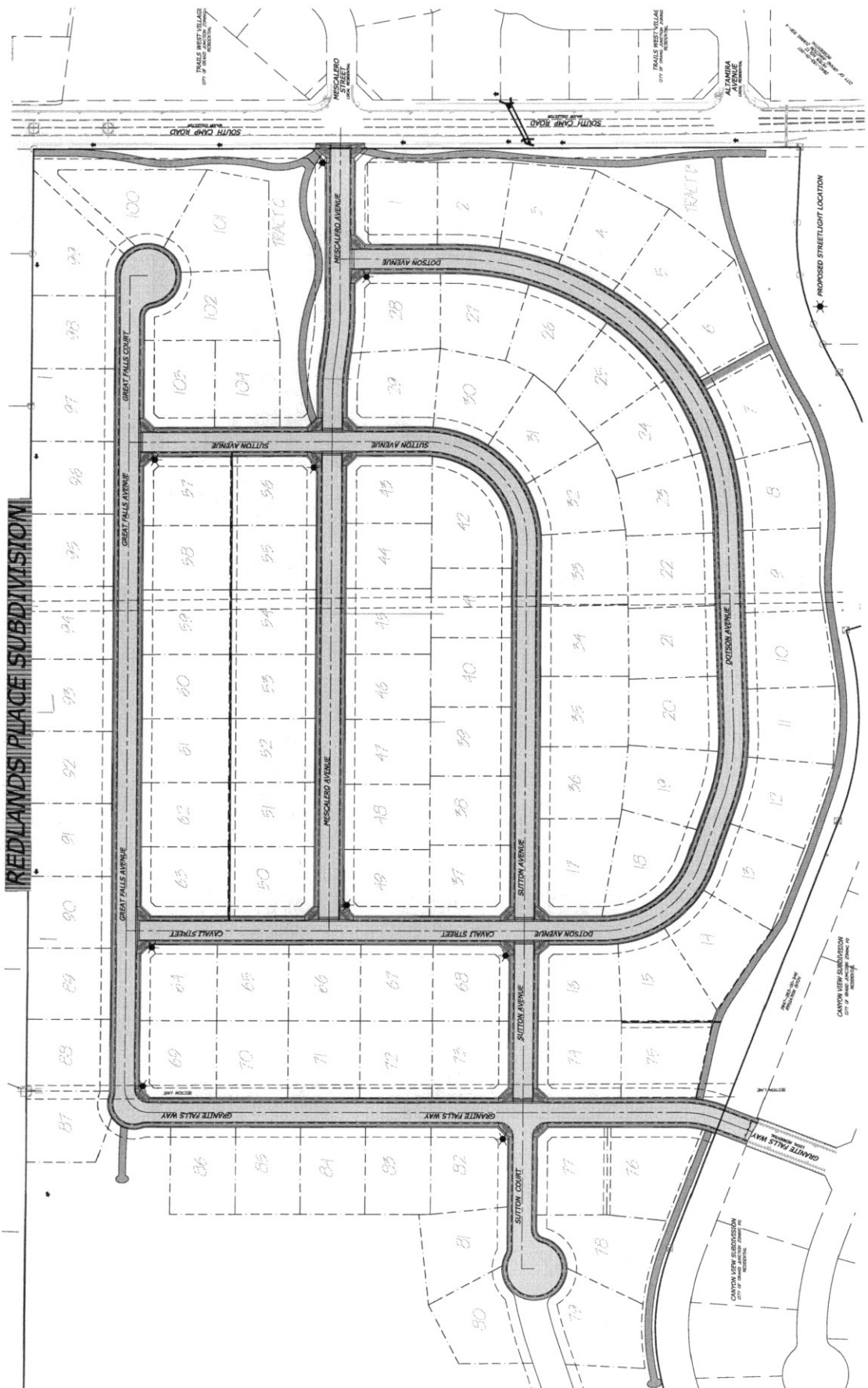
# Existing City and County Zoning Map

413 South Camp Rd.



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."

# REDLANDS PLACE SUBDIVISION



Redlands Place Subdivision  
Growth Petition

Council Members,

The following petition is for voicing our neighborhoods (Canyon Vista) concerns regarding the growth plan for Redlands Place Subdivision. The following people stand united on these issues in agreement and would like the City of Grand Junction to take steps to ensure the growth plan of this area is done with care and objectivity for the surrounding homeowners and the environment. We feel the following requests are fair and just and will still provide the developers and City of Grand Junction with opportunity, progress, and prosperity. All citizens listed below agree to the following ideas and requests.

- Propose modification of the current zoning of “RFS-2 W/20% Cluster Provisions” to exclude “20% Cluster Provisions”. This will decrease the density of Redlands Place to better accommodate the surrounding area. In conjunction we feel the 7 foot side setbacks are very minimal and will obstruct the natural beauty of the surrounding area. Canyon Vista has 15ft side setbacks that provide an open spacious environment.
- **Redlands Place will have 2 main entrances off of South Camp road. Standing Rock Drive will be a 3<sup>rd</sup> interconnecting entrance.**
- **The street stub (Granite Falls Way) connecting Canyon Vista to Redlands Place via Standing Rock Drive will be opened when 80% of the homes have finished construction or 3 years after the first home has been completed which ever better suites the City of Grand Junction. This will direct large construction trucks to enter off of South Camp instead of going through the Canyon Vista Subdivision.**
- **All construction traffic must enter Redlands Place via 2 entrances off of South Camp Road excluding Standing Rock Drive.**
- In order to preserve the natural beauty of the Colorado National Monument we suggest the City of Grand Junction recommend Redlands Place observes the same night time light pollution policy as the Canyon Vista neighborhood excluding street lights.
- The traffic study from 2003 states that 633 vehicles travel Standing Rock Drive on a daily bases. We feel this number will be drastically increased if there are not two major entrances off of South Camp Road.

We hope you will consider these requests to make Redlands Place a great neighborhood that will compliment to the surrounding area.

Sincerely



Ben Johnson  
Homeowner Canyon Vista Subdivision 2183 Standing Rock Drive  
C/O Canyon Vista Homeowners listed in this petition





Address	Owner (Print)	Signature	Date
2145 Vista Cascada Court	Vacant - Foreclosure		
2144 Vista Cascada Court	MB Deering	MB Deering	5/10/07
2143 Vista Cascada Court			
2142 Vista Cascada Court			
390 Cascada Drive	Stephen & Terry Balfe	Terry B Balfe	5/6/07
388 Cascada Drive			
386 Cascada Drive	Conflict of interest blocks for City		
385 Cascada Drive			
384 Cascada Drive	Kathy Novotny	Kathy Novotny	5-6-07
383 Cascada Drive	GAR Roberts	GAR Roberts	5-6-07
382 Cascada Drive			
381 Cascada Drive	Jewel Anderson	Jewel Anderson	5-6-07
380 Cascada Drive	NEIL V COTTRELL	Neil V Cottrell	5/6/07
379 Cascada Drive	Pat & Lon Herrick	Lon Herrick	5/6/07
378 Cascada Drive			
376 Cascada Drive	Gary Hutchings	Gary Hutchings	5/6/07
398 Granite Falls Way			
387 Granite Falls Way	Daniel Mulvey	Daniel Mulvey	5/10/07
396 Granite Falls Way	RALPH GERBONE	Ralph Gerbone	5/10/07
395 Granite Falls Way	Keneth W. Carter	Keneth W. Carter	5/10/07
394 Granite Falls Way	MATTHEW R. COLEMAN	Matthew R. Coleman	5/10/07
393 Granite Falls Way			
392 Granite Falls Way			
391 Granite Falls Way	Vacant		
389 Granite Falls Way	KEN WASHBURN	Ken Washburn	5/5/07
397 Granite Falls Way			
385 Granite Falls Way	BECKY RIPPER	Becky Ripper	5-10-07
384 Granite Falls Way			
382 Granite Falls Way	Vacant - Homeowner Del. of State		
381 Granite Falls Way	Cathie Zarunso	Cathie Zarunso	5-07-07



391 LIME KILN WAY John Coffey J Coffey 5-4-07

Address	Owner (Print)	Signature	Date
395 Lime Kiln Way	JAMES BURCH	James Burch	5-4-07
395 Lime Kiln Way	Janice Burch	Janice Burch	5-4-07
387 Lime Kiln Way	Sharon Karp WILLIAM KARP	Sharon Karp William Karp	5-5-07
383 Lime Kiln Way	GARY P. WITHERS	Gary P. Withers	5/3/07
382 Lime Kiln Way	Charles E Spatt Diana L Spatt	Charles E Spatt Diana L Spatt	5/3/07
379 Lime Kiln Way	NOT HOME		
375 Lime Kiln Way	Robert Bennett	Robert Bennett	4/30/07
382 Talus Lane	NOT HOME		
391 Talus Lane	Lynne Lindsay	Lynne Lindsay	5-6-07
2198 Overlook Court	BRAD PORTER Amber Porter	Brad Porter Amber Porter	5/3/07 5/3/07
2197 Overlook Court	Brook Hart Elizabeth Hart	Brook Hart Elizabeth Hart	5/3/07 5/3/07
2196 Overlook Court	Alex Jennings Sharon Jennings	Alex Jennings Sharon Jennings	5/3/07 5-3-07
2195 Overlook Court	John Wagner	John Wagner	5-3-07
2194 Overlook Court	David Shales	David Shales	5/3/07
2193 Overlook Court	NOT HOME		
2191 Overlook Road	Luis Schumacher	Luis Schumacher	5-3-07
2189 Overlook Road	NOT HOME		
2188 Overlook Road	JERRY MILLER	Jerry Miller	5/3/07
2187 Overlook Road	Charlotte Meisner	Charlotte Meisner	5-3-07
2186 Overlook Road	M. Woods	M. Woods	5-03-07
2185 Overlook Road	TICKI BLAYLOCK	TICKI BLAYLOCK	5-3-07
2184 Overlook Road	Kalandra Morgan	Kalandra Morgan	
2183 Overlook Road	JERRY SELBY	Jerry Selby	5/3/07
2182 Overlook Road	FREDERICK + JANE SMOCK	Fred Smock Jane Smock	5-3-07
2180 Overlook Road	Bobby Houseman	Bobby Houseman	5/3/07
2179 Overlook Road	JAMES M. DEBEZRY	James M DeBezy	5/3/07
2150 Vista Cascada Court	NOT HOME		
2148 Vista Cascada Court	Joan Fox	Joan Fox	5-6-07
2147 Vista Cascada Court	KERRY MORGAN GERMANS	Kerry Morgan Germans	5-6-07
2146 Vista Cascada Court	OPEN LOT		
389 TALUS	NOT HOME		
388 TALUS	Louis Brown	Louis Brown	5-3-07
390 TALUS	Ellen Walters	Ellen Walters	5/3/07



Canyon Vista Homeowners  
Petition Signatures  
April 2007

Address	Owner (Print)	Signature	Date
2198 Standing Rock Drive	D. Lynn D. BRYANT	D. Lynn	5/5/07
2196 Standing Rock Drive	John T. Davis	John T. Davis	5/5/07
2194 Standing Rock Drive	Leona J Wingard Norman S Wingard	Leona J Wingard Norman S Wingard	5-5-07 5-5-07
2195 Standing Rock Drive	NOT HOME		
2197 Standing Rock Drive	William C. Bever	William C. Bever	5-6-07
2192 Standing Rock Drive			
2190 Standing Rock Drive	Nel Zolinski	Nel Zolinski	5/6/07
2188 Standing Rock Drive	Robison, Lynn	Robison, Lynn	
2187 Standing Rock Drive	Marge Keely	Marge Keely	5/6/07
2185 Standing Rock Drive			
2184 Standing Rock Drive	Jim DeLino	Jim DeLino	5/5/07
2183 Standing Rock Drive	BEN JOHNSON	BEN JOHNSON	4/25/07
2182 Standing Rock Drive			
2181 Standing Rock Drive	Sue Baker	Sue Baker	5/5/07
2180 Standing Rock Drive			
2179 Standing Rock Drive	Ron Peterson Kathy Peterson	Ron Peterson Kathy Peterson	5-5-07 5-5-07
2178 Standing Rock Drive			
2175 Standing Rock Drive	RICHARD S. NELSON JEAN B NELSON	Richard S. Nelson Jean B. Nelson	5/6/07
2172 Standing Rock Court	Angela Allen Sally Allen	Angela Allen Sally Allen	5/6/07
2171 Standing Rock Court	NOT HOME		
2170 Standing Rock Court	John Connie Ellenberger	John Connie Ellenberger	
2169 Standing Rock Court	NOT HOME		
2168 Standing Rock Court	NOT HOME		
2167 Standing Rock Court	NOT HOME		
2166 Standing Rock Court	JUDY BAUMAN	Judy Bauman	5/5/07
2165 Standing Rock Court	Ford Keely	Ford Keely	
2163 Standing Rock Court	Ann Chamberlain	Ann Chamberlain	5/5/07
2186 STANDING ROCK DR	CLINT SULLIVAN	Clint Sullivan	5-6-07







October 17, 2007

**REDLANDS PLACE SUBDIVISION  
(The Sutton Property, west side of South Camp Road)**

**ON BEHALF OF CANYON VISTA<sup>1</sup> RESIDENTS:**

**GENERAL ISSUES**

The zoning for the lands of this area was decided in public discussions leading up to the Future Land Use Plan. Involved at the time were citizens, developers, and government. The conclusion of that process was to designate this area as Residential Low (1/2 – 2 dwelling units per acre – see Future Land Use Map) due to, among other things, proximity to the Colorado National Monument . The Sutton property was designated as R-2 unanimously by the Planning Commission on June 12, 2007. The Code in 3.1 Purpose states the importance of conserving and enhancing economic, social and aesthetic values, protecting and maintaining the integrity and character of established neighborhoods, and preventing traffic congestion. Squeezing more lots on the land that is actually developable results in a density that is incompatible with existing fully developed neighborhoods to the north and south along South Camp Road and with the Future Land Use Plan. Unsightly walls of houses packed together blocking Monument and Bookcliff views along with increased traffic and its associated problems will potentially lower values on adjacent properties. Certainly the impact of this development as proposed makes this area a less livable one.

We do not believe the proposed open space set aside justifies the greater lot density of the cluster provisions or bonus density provisions required under 6. 7 D. 5. c. and other sections of the Code.

The developers have published for public viewing their proposal for developing the Sutton property. They intend their proposal to be viewed by any interested person by using 2 new bill boards that have been erected along South Camp Road. On those public bill boards there is no obvious change in their proposal from that initially given to the city. We believe the developers have no intention of making any changes in response to the concerns of nearby city residents. At the 2 neighborhood meetings residents had many issues about this development including density, the extension of Granite Falls Way, only one access from South Camp Road, and no provision of a pedestrian pathway along south Camp Road. The response of the developers was to increase the density from 99 lots they presented to us to 104 lots in what was given to the City, to tell us that there is no requirement for them to provide any pedestrian pathway along South Camp Road, and that they had looked at a second access to South Camp Road but dropped it.

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<sup>1</sup> Canyon View Filings VII, VIII, IX, Vista del Canon





## **SPECIFIC ISSUES WITH THE ZONING AND DEVELOPMENT CODE**

The following are specific issues of concern with the published development intended to be carried out on the Sutton property. The concerns are designated as: Appears to violate, or Appears not to conform with specific provisions of the Code as we City residents understand the plain reading of the Code to mean.

### **Section 6.7 Subdivision Standards (Page 43)**

#### **6.7 B. Intent**

- **2. Appears to violate. The main open space is not integrated but is located on a nearly completely isolated strip of land with very limited access or opportunity for public viewing.**
- **3. Appears to violate. This proposal sharply increases density compared to the neighborhoods immediately to the south and north. All lots abutting the south of property are over 1/3 acre (14,520 sq ft). All lots abutting the north of property range from .407-.771 acres (17,729 – 33,628 sq ft). For Redlands Place, only 10 lots are over 1/3 acre (14,520 sf) and 46% are under 13,000sf. To the south, the expensive, small sized lots with 7 ft side yard set backs will encourage 2 story homes thus presenting a line of building walls overwhelming any separation that otherwise might have been provided by the Redlands irrigation ditch along the south of the Sutton property. To the north a similar building wall will block views of the Monument for that existing neighborhood. We are unaware of any significant mitigation of this change in density provided by the developers.**

#### **6.7 D. 5. Cluster Developments (Page 46)**

- **b. Appears to violate. Approval is optional. These lots are not arranged differently. The street grid proposed by the developer is just an ordinary suburban street grid crunched down to allow for more lots. There is nothing clustering about it. A cluster is a bunch or group of something held close together such as a close grouping of houses surrounded by open space, the normal understanding of what a cluster development would look like.**
- **c. Appears not to conform. Conforming to the bonus provisions of Section 3.6.C. is required if the density is to be increased over that of R-2, the zoning for the Sutton property. (The applicable section is 3.6 B. 10 starting on Page 49.) Table 3.6 must be used. The section of the Table dealing with Open Space Dedication states flatly that it applies to all provisions of the Code. It further restricts the use of Density Bonus if the open space being considered is severely constrained. The developer has set aside land at the far end of the development blocked for most of its length by a line of houses. It is bordered on all other sides by private land. This land is not useable by the developers as it is partly steeply sloping, below sewer grade, partly occupied by**



spring fed wetlands and is partly occupied by a combined large drainage/irrigation pond. It is also mostly in the outwash of the Lime Kiln stream coming out of the Colorado National Monument Ute Canyon. The Open Space Dedication section of the Table further stipulates the Density bonus is based on “the units that would have been permitted on the land to be dedicated”. However, some or all of the large block of land being used by the developers to justify higher density is not land that can be built on. So most or all of this land should be excluded from any consideration under 6.7 D. 5. c. It can't be used to build on so why do the developers get a lot of credit for setting it aside?

- h. Open space design. The command term ‘shall’ is used and is mandatory. (See 1.6 C. Rules of Construction.)
- h.(2) Appears to violate. h. (3) Appears not to conform. Section 5. h. has requirements for open space design such as linkage to existing and planned public open spaces and maximized access by the cluster development residents. As pointed out above, the open space is mostly blocked by a line of houses with only a small access area in the far northwest corner of the development. The open space is also surrounded by private lands and cannot serve as access to any public lands. Also, the provision of sidewalks or pedestrian paths along South Camp Road have become more necessary as population and traffic increases. The published proposed development does not appear to satisfy any of these concerns.
- i. Appears not to conform. Optional but may be required to satisfy some of the concerns immediately above concerning connectivity.
- j. (1) Appears to violate. (2) Appears to violate. Perimeter landscaped buffering along rights-of-way is mandatory. If the cluster development has the same zoning as adjacent property (Sutton and our Canyon Vista neighborhood are both R-2), the developers may be required to buffer the developed portion of the cluster from adjoining development. This development pushes the lots as close as possible to surrounding developments so what the neighboring residents will see is nothing more than a typical higher density suburban development in the form of walls of houses. We have been unable to find if the developer intends to provide the landscaped buffering along rights-of-way or along adjoining developments. This is required as part of any preliminary subdivision plan approval.

**6.7 F. Location and Use of Open and Undeveloped Space. (Page 51)**

- 1. Appears not to conform. The command term ‘shall’ is used and is mandatory. Gives authority to the Director to set aside whatever open space is necessary to protect various natural features.
- 2. Location. Appears to violate. The command term ‘shall’ is used and is mandatory. The principal open space proposed does not provide or enhance a community focus and the recreational opportunities are not obvious. The open space is not distributed in a manner to buffer or provide a visual transition between the



higher density of the proposal and the developed neighborhoods to the north and south. It is not easily accessible and does not provide scenic vistas except for a limited number of residents who purchase the adjoining strip of lots. The proposed open space has the principal use of providing for the location of the combined drainage/irrigation pond.

- **4. Public Access and Visibility. Appears not to conform. 5. Isolated Areas Discouraged. Appears not to conform.** These sections say that open spaces in each subdivision should be open, accessible, and visible to all residents of the subdivision, and to the public using public streets. The Section also discourages isolated areas. It says open space should not be located in isolated areas or corners of the subdivision. The principal block of land the developers are using to increase the density of development is isolated along the back of the property and mostly blocked from view or access by a row of private lots. The developers deserve no praise or reward for setting aside land they can't use anyway but still do it in a manner that highly restricts whatever beneficial impact it could have had.

## **OTHER CONCERNS**

### **Colorado National Monument**

In a more general way, we see this development as harmful to the integrity of the Colorado National Monument, a local natural treasure that is also a source of tourist income for many City residents. As urban development approaches the Monument, rather than bring dense urban sprawl right up to the property border of the Monument, a more environmentally sensitive approach would be to encourage a decline in development intensity thereby blending in a more natural way with the empty lands of the Monument. The City has opportunity to do this going forward but a de facto rezone to R-4 contrary to the Future Land Use Plan will tend to predict what future developers will expect from the City as the other large blocks of land to the west of South Camp Road open up for development.

### **Traffic Flow**

See Handout.

October 17, 2007

**TRAFFIC FLOW REDLANDS PLACE SUBDIVISION**

The City engineer and a "limited" study by the developers indicate only about 10 residents in the new subdivision would use Standing Rock Drive for ingress and egress.

We respectfully disagree because of the layout of the streets in the proposed Redlands Place Subdivision.

The one entrance from South Camp Road does not directly extend the entire length of the property. Only 16 of 104 homes are directly situated on the main road entering/exiting to South Camp Road. All the other homes have to take side roads to get to the main road. The back road on the west side of the development is completely disconnected from the main road. It is a straight road going from the north to the south of the property with the easiest exit to South Camp via Standing Rock Drive. There are approximately 18-20 residents that would use Standing Rock Drive as their major egress and ingress to South Camp Road. Furthermore, the road is a "straight-shoot speedway".

According to the city engineer, the formula is 10 trips per day per household and ideally no more than 1000 trips per road. Standing Rock Drive at present is the main road to South Camp Drive for most of the 97 homes in Canyon View Filings VII, VIII, IX, Vista del Canyon. Also, some residents from Canyon View Filing VI use Standing Rock Drive via Lime Kiln and Granite Falls.

We would request that the city require 2 entrances/exits to South Camp Road for this large development, with one street going the entire length of the property, instead of placing the burden of increased traffic on the residents of Standing Rock Drive.

**January 2, 2008**

**To: Lori Bowers, Senior Planner**

**Cc: Laurie Kadrach, City Manager**

**Cc: Tim Moore, Public Works & Planning Director**

We have read the response of the developers to the City of Grand Junction review comments regarding the Redlands Place purposed subdivision on the Sutton Property off of South Camp Road. The following are our continuing questions and concerns.

**Density**

The number of building lots still remains at 104. We discussed this issue with the developers and we were told there was no room for compromise.

According to the code, a cluster development may be calculated the same way that bonus density is calculated (Ch 6.7.D.5c.) The Redlands Place subdivision has 12 acres of open space. Table 3.6 Density Bonus Provisions states: "for each whole acre in excess of one (1) acre dedicated for Open Space, a Density bonus equal to one-half of the units that would have been permitted on the land to be dedicated may be granted. To calculate the number of permitted units, all provisions of this code: severely constrained lands, such as those with wetlands, steep slopes or surface waters, would likely be permitted few, if any, units. Dedication of such lands would result in a small bonus."

Since Redlands Place is dedicating 12 acres of open space, at maximum it should receive 5 ½-6 extra building units to be developed on the remaining 42 acres zoned at R-2, resulting in 90 instead of 104 homes. We understand that the City's agenda is "higher density". 90 homes on 42 acres in Redlands Place plus the 155 homes being built on 139 acres in the Red Rocks Valley subdivision to the east of Redlands Place off of South Camp Road should justify the "higher density" agenda of the city and stay within the present codes of the city.

The developers have stated in their remarks, "If an agricultural area is to be preserved, it is unlikely that it can include trails, active recreation facilities, or become the focal point of the neighborhood. The agricultural qualities are first and foremost, and very likely to limit if not negate the other uses stated in Section 6.7.d. In the case of wildlife habitat, its seclusion and limited access, adjacent location to other wildlife habitat, and lack of active recreation facilities, increase its value for its use as wildlife habitat. The single use of wildlife habitat in fact increases its value toward the preservation goal."

First and foremost, the agricultural portion of this land will no longer exist when developed.

The open space being dedicated is a wildlife habitat, and according to the developers should not be easily accessed to the public. Cluster development principles are based on smaller, differently arranged housing areas within a development with open space design maximizing access and use by residents of the cluster development. (Chapter 6.7.5.h 2). The plan at present does not represent the criteria for cluster development.

**Access**

In the Response to the City by the developers dated December 10, 2007, it states that "The access to Granite Falls Way is agreed to be closed until the roads and infrastructure is complete. The applicant does not anticipate keeping the connection closed during home construction, which may be over several years."

At a meeting with Laurie Kadrach and Tim Moore on August 28, 2007, we were assured that construction traffic would not be allowed to use Standing Rock Drive. Laurie stated it is a policy of the city not to disturb

established neighborhoods and their residential streets with construction traffic of new developments. We understand that the connection will probably be made during the development process, but that a semi-permanent barrier which can be removed for emergency vehicles could be put in place until building construction is significantly finished. Regardless, the city should require the developers and builders to access Redlands Place directly from South Camp Road and not access the development through established neighborhoods.

At a meeting with the developers we suggested extending the road from South Camp the entire length of the development to ease traffic issues on Standing Rock Drive. The developers stated the city wouldn't allow a straight street the length of the property due to traffic calming issues. We suggested curving the street in strategic places to calm traffic. The developers were unwilling to change the layout of the lots.

To date, the city and the developers have not designated any concrete ways to alleviate increased traffic concerns of residents living on Standing Rock Drive. In the response comments the developers stated: "We intend to initiate discussions with City Traffic to see if traffic calming (including but not limited to stop signs) can be implemented on Standing Rock Drive within Canyon View Subdivision to the south to address existing conditions." (quote from page one, under City of Grand Junction Requirements, #2). When will this be required? We would like to be part of that process.

### **Side Setbacks**

Due to the granting of cluster density allocated lots, the setbacks for Redlands Place now become the R-4 setbacks, side 7 feet, instead of the 15 foot side setback for R-2. We voiced our concerns to the developers about this issue. In the comments to the city, second page, number 7 it states "alternating setbacks have been proposed where possible to deviate from the standard 7 foot. Specifically, how many lots will have the R-2 side setbacks and where are they located?"

### **Covenants/Building Envelopes**

At what point in the process do the developers have to provide building envelopes and covenants? Does this occur before or after the Planning Commission hearing?

### **Response to developers**

We would like to read the comments made to the developers by the city before they are sent to them. Please let us know when they are ready for viewing.

Respectfully submitted,

Canyon Vista HOA Task Force

Contact information: Betty Brown 255-6587 or [betlou@bresnan.net](mailto:betlou@bresnan.net)  
Toni Strand 263-0363 or [HAS1014@bresnan.net](mailto:HAS1014@bresnan.net)



## **Redlands Place Subdivision**

**(Sutton Property, west side of South Camp Road)**

**Presentation Tuesday, August 28, 2007, to Laurie Kadrach, City  
Manager, and Tim Moore, Public Works and Planning Director  
by Representatives of the Canyon Vista Homeowners Association**

August 28, 2007

**Redlands Place Subdivision (Sutton Property, west side of South Camp Road)**

**For the Canyon Vista<sup>1</sup> Residents:**

**We believe this proposed subdivision should not be passed by the City beyond its current step without some basic Code questions being answered.**

**We do not believe the lot layout of this development is what the Code intended for its cluster requirements designation.**

**We do not believe the open space set aside being proposed to justify the greater lot density of the cluster provisions or bonus density provisions of the Code meet the basic requirements of the Code.**

**We believe this is an effort by the developers to try and use the cluster provisions of the Code to obtain R4 zoning without having to go through the rezoning process. The result will be a development that is incompatible with surrounding neighborhoods.**

**Zoning and Development Code**

**Section 6.7 Subdivision Standards D. 5. Cluster Developments**

**Question – how does this proposal meet the requirements of this section?**

- **The development lot density and building setbacks are a sharp change from the bordering neighborhoods to the north and to the south and southeast along South Camp Road. It is out of character and not compatible with these neighborhoods. Even the older Avenal Street area to the north, although zoned R-4, all their lots meet the R-2 provisions. The development across South Camp to the east is R-4 but we understand that designation was granted by the County prior to annexation and was retained by the City. The lot sizes and building setbacks are very different for R-2 versus R-4. Minimum lot size of 17,000 sq ft versus 8,000. Setbacks are: Front 25 versus 20 ft; side 15 versus 7 ft; back 30 versus 25 ft. The 7 foot sideyard setbacks are especially problematic in imposing visually the higher density on neighboring developments. (See Lot Distribution sheet.)**
- **Section 6.7 D. 5. allows the Director to approve lots that are smaller and arranged differently. The street grid proposed by the developer is just an ordinary suburban street grid scrunched down to allow for more lots. There is nothing clustering about it.**

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<sup>1</sup> Canyon View Filings VII, VIII, IX, Vista del Canon

- Section 6.7 also stipulates that the density allowed is to be controlled by the bonus provisions of Table 3.6. That Table reduces the bonus allowed for open space lands that are severely constrained. The developer has set aside land at the far end of the development blocked for most of its length by a line of houses. It is bordered on all other sides by private land. This land is not useable by the developers as it is partly steeply sloping, is below sewer grade, partly occupied by spring fed wetlands and has a large drainage/irrigation pond. It is also mostly in the outwash plain of the Lime Kiln stream coming out of the Colorado National Monument Ute Canyon. It can't be used to build on so why do the developers get a lot of credit for setting it aside?
- Section 5. h. has additional requirements for open space design such as linkage to existing and planned public open spaces and maximized access by the cluster development residents. As pointed out above, the open space is mostly blocked by a line of houses with only a small access area in the far northwest corner of the development. The open space is also surrounded by private lands and cannot serve as access to any public lands. *Monument Meadows } Connect to Sutton  
Peregrine Estates*
- Section 5. j. requires perimeter landscaped buffering along rights-of-way and may be required to buffer the developed portion of the cluster from adjoining development. This development pushes the lots as close as possible to surrounding developments so what the neighboring residents will see is nothing more than a typical higher density suburban development in the form of walls of houses. We have been unable to find if the developer intends to provide the landscaped buffering along rights-of-way or along adjoining developments.
- Section 6.7 F. Location and Use of Open and Undeveloped Space. This Section requires open space to create or enhance, among other things, community focal points, landscaped buffers or visual transitions between different types or intensities of land use, scenic vistas. This section also says that open spaces in each subdivision should be open, accessible, and visible to all residents of the subdivision, and to the public using public streets. The Section also discourages isolated areas. It says open space should not be located in isolated areas or corners of the subdivision, in peripheral strips along the borders of right-of-way or along the borders of the subdivision. We believe the block of land the developers are using to increase the density of development does not sufficiently meet the requirements of this Section. (Show how the Canyon View open spaces serve as an example for this Section.)

### Growth Plan

The Growth Plan map shows this area as Residential Low Density with ½ - 2 acres per dwelling unit. It is not Residential Medium Low Density with 2 – 4 dwelling units per acre. Cluster provisions are allowed but density is subject to the density bonus provisions of the Code and shall also conform to the minimum and maximum densities identified in the Growth Plan. Section 3.3 D. We don't see how this is met by the proposed development.



### Colorado National Monument

In a more general way, we see this development as harmful to the integrity of the Colorado National Monument, a local natural treasure that is also a source of tourist income for many City residents. As urban development approaches the Monument, rather than bring dense urban sprawl right up to the property border of the Monument, a more environmentally sensitive approach would be to encourage a decline in development intensity thereby blending in a more natural way with the empty lands of the Monument. The City has opportunity to do this going forward but a defacto rezone to R-4 will tend to predict what future developers will expect from the City as the other large blocks of land to the west of South Camp Road open up for development.

### Zoning and Development Code

#### Section 3.2 Dimensional Standards.

- Concerning lot area measurement, lot width, and setbacks, we don't know if the developers are using the abutting tract provisions of this section to reduce requirements. We have said much above on this issue of open land. However, if the abutting tract provisions are being used, then the development plan should include to what extent this is being done. Minimum lot size or minimum setbacks (not both) may be reduced by the Director on lots abutting tracts to the extent the abutting tract provides for a portion of the minimum lot size or a portion of the setback. Maintenance of the tracts must be provided for in Covenants, Conditions and Restrictions or other binding agreement as approved by the City. Note: The property is bordered on the south by the Redlands Water irrigation canal and maintenance road and is posted for no trespassing. We assume this does not qualify for the above since the home owners have no control over how Redlands Water uses their easement. Also, there is an issue of who owns the property along the canal. Redlands Water has written the developers that Redlands owns the canal property where Granite Falls crosses the canal so for at least part of the canal lands the abutting provisions should not be used as this is private land and not subject to the maintenance requirement above.

## **COMMENTS ON REDLANDS PLACE SUBDIVISION PROPOSAL**

**The plan to develop Redlands Place Subdivision in no way resembles the picture or description on clustered lots in Exhibit 9.3, Chapter 9 (definitions), page 21 of the Zoning and Development Code.**

**DEFINITION OF OPEN SPACE FROM ZONING AND DEVELOPMENT CODE: Land within a development designed for and perpetually limited to the common use or enjoyment of the residents or occupants of the development and/or the public.**

**Reasons why virtually all of the land proposed as open space does not meet the Zoning and Development criteria for bonus density or cluster housing:**

- 6F5 It is located in isolated areas, in peripheral strips, and in unconnected patterns.**
- 6F4a It is not open, accessible, and visible to all residents of the subdivision, and, to the public using public streets, trails, and open spaces.**
- 3B3a Practically all the proposed area is isolated at the back of the property and visible only to those in the back row of homes. The space is not amenable to use for recreational activities.**
- 6D5h It is not linked to existing and planned public open spaces, constructed areas, or trails.**

**It does not maximize access and use by residents of the cluster development.**

**It is not conducive to providing trails, paths, and walkways to recreation areas and other public facilities.**

- 6F3 It is not integrated with schools, parks, and other open spaces or public property in or near the subdivision or on neighborhood property.**

**Description of the land proposed for open space: The elevation is very low compared to the surrounding areas; therefore it collects water and it is wet much of the time. There is a creek directly to the west of it. In the event of unusually heavy and prolonged precipitation it will be collecting water from all directions.**

**Submitted by Jane Linden, 387 Cascada Drive**

## **Attachment A**

### **PP-2007-218, Verbatim Minutes for Redlands Place Preliminary Subdivision Plan**

COMMISSIONER COLE: The item for consideration tonight for a public hearing is a preliminary subdivision plan for the Redland...Redlands Place Subdivision. It's a request approval of a preliminary subdivision plan to develop 104 single family lots on 52.2 acres in an R-2 Residential 2 dwelling units per acre zone district. Is staff going to make the presentation first? Okay, Greg, go ahead.

MR. MOBERG: Thank you, Mr. Chairman, members of the Planning Commission. Greg Moberg, Planning Public Works and Planning Department. I am presenting this project tonight for Lori Bowers who is the project manager for the case so I hope that you give me a little patience here as I...as I go through this.

Redlands Place Subdivision is a request for a preliminary subdivision plan. The subject property is located in the Redlands and is addressed as 413 South Camp Road which totals approximately 52.2 acres. The property was annexed to the City through the Sutton Annexation in July of 2007. Upon that annexation the property was zoned R-2. Currently the site is being utilized as single family residential and agriculture. The surrounding land uses to the north is the Monument Meadows Subdivision, it's Residential. To the south is the Canyon View Subdivisions. Those are also Residential. To the east you have the Trails West Subdivision and to the west is a property that has a single family residence and is approximately 69 acres in size. The surrounding...or the Future Land Use Map, excuse me, of that property shows to the...to the north we have Conservation. We also have Residential Medium Low and Residential Medium Low to the east. To the south is Residential Low and to the west is Rural which is one unit per 5 to 35 acres. The surrounding...excuse me, the surrounding zoning to the north is RSF-2. To the south is RSF-4. We have a PD zone – Planned Development – to the south and R-4 to the east.

The slide that's before you right now is the proposed subdivision of the property. The density on this site is currently at 1.99 or 2 units per acre. They are not requesting and something that we'll talk about as I go through the staff report but they are not requesting a bonus density on this property. It is zoned R-2 and R-2 does allow up to 2 units per acre.

Access is from South Camp Road. This is the access to the east, South Camp Road running north and south. This would be the access, the main entrance to the property. There is also another access to the south from a proposed Granite Falls Way and that goes into the Canyon View Subdivision. The road designs are classified as urban residential streets and are designed and will be built as such.

Open space for the property totals approximately 12.8 acres. This includes an open space area that we'll talk about in terms of the clustering provision to the northwest. We also have open space along the canal and also into the tract as you can see right here. There's also some open space located in the drive or into the entrance to the development.

The developer has also proposed pedestrian trails. As you can see in this dark gray area that are located on the east side of the property and on the south side of the property, also on the south along the canal. This helps access the open space that 's on the west side of the property. There's a little spur if you will...

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Access is from South Camp Road. This is the access to the east, South Camp Road running north and south. This would be the access, the main entrance to the property. There is also another access to the south from a proposed Granite Falls Way and that goes into the Canyon View Subdivision. The road designs are classified as urban residential streets and are designed and will be built as such.



Open space for the property totals approximately 12.8 acres. This includes an open space area that we'll talk about in terms of the clustering provision to the northwest. We also have open space along the canal and also into the tract as you can see right here. There's also some open space located in the drive or into the entrance to the development.

The developer has also proposed pedestrian trails. As you can see in this dark gray area that are located on the east side of the property and on the south side of the property, also on the south along the canal. This helps access the open space that's on the west side of the property. There's a little spur if you will...

CHAIRMAN COLE: Excuse me, Greg, I think your map is...is not in there correctly. I think...I think your south side is on the right side of the map there.

COMMISSIONER PITTS: South is at the bottom.

CHAIRMAN COLE: Okay, okay.

COMMISSIONER PITTS: That road runs north and south.

CHAIRMAN COLE: Well this...okay.

MR. MOBERG: It could be. As I've said I'm not the project manager. Let's see. So there is an access to the open space area to the west. We also have trails along South Camp Road and a trail that will run along the entrance into the property. Currently the applicant is not proposing any phasing of the project.

The neighbors to the south have expressed concerns about construction traffic through the neighborhood. To mitigate this concern the developer and the City have agreed upon access to Granite Falls Way via Standing Rock Drive to be controlled during construction and that construction traffic will not be allowed to use Standing Rock Drive to access Redlands...the Redlands Place property. Once all the streets within the Redlands Place Subdivision are constructed, city field inspectors can request that construction traffic for individual homes access the South Camp Road and not use the Standing Rock...Standing Rock Drive. But access will not be blocked once these streets are constructed. So we are trying to accommodate the property owners to the south at least in terms of construction traffic of the infrastructure for the development. There is a concern that the Army Corps of Engineers has not responded regarding the delineation of the jurisdictional wetlands. Staff has recommended imposing a condition of approval to address this issue rather than hold up the approval for response by the Corps. The recommended condition is that the Army Corps of Engineers issue its approval agreeing with the Redlands Place jurisdictional wetlands delineation. If the Corps does not agree the Preliminary Plan will have to be revised and depending on the amount of that revision it may be just administrative. However, if it's to a degree that we feel that it needs to come back before planning commission, it certainly will. Relative to the clustering, this property is using the clustering provisions of section 6.7(D)(5) and that is a provision within our code that allows for development to cluster development if you will, cluster the lots and either get a bonus density out of it or use smaller lot sizes bulk standards. The clustering provision, and I'll read this out for you...for your edification and the audience. In any residential zone district where clustering is permitted, the director may approve lots that are smaller and arranged

differently than otherwise allowed under the zoning and development code. Twenty percent of the gross acreage must be held in open space for the minimum lot size to be reduced.

The bulk requirements for clustering lots are those of the zone which have the closest lot sizes. In the R-2 zone district, the minimum lot size is 17,000 square feet. The clustering provision allows for subdivisions holding 20 percent open space to have a minimum lot size of 11,900 square feet. This is 5,000...this is 5,100 square feet smaller than what is required without the clustering provision. The applicant is proposing lots in the range of 12,000 square feet to 15,000 square feet. The required setbacks would be those for the R zone...the R-4 zoning district.

What the applicant has done is applied for through using this clustering provision they have shown approximately 20 percent open space that's located again in this western north...it's the west but mostly in the northwest area. There is a wetlands through this area that this open space will be protecting and preserving. The applicant is using that to allow them to be able to use bulk standards not to decrease the lot sizes nor are they going to increase the density. The density is still 2 units per acre. What they're asking for is that they use the bulk standards of R-4 which would allow some lots to have smaller widths than what is normally allowed in the R-2 zone and also some of the setbacks would be reduced also. So that is the request that the applicant has come forward and staff has recommended approval in terms of using that...that provision.

After reviewing the Redlands Place Subdivision application, and this is file number PP-2007-218, for the preliminary subdivision plan approval, I make the following findings of facts and conclusions. The proposed preliminary subdivision plan is consistent with the Growth Plan. The preliminary subdivision plan is consistent with the purpose of section 2.8 and meets the review criteria in section 2.8(B)(2) of the Zoning and Development Code. Number 3 – the planning...the preliminary plan is consistent with the Redlands Area Plan and we have two conditions that we would like to place on this approval.

The first one that the Army Corps of Engineers determines that jurisdictional wetlands to be present in areas of proposed development, the preliminary subdivision plan will be required to be revised accordingly. Minor amendments to this plan will be reviewed and approved. Conditional...conditionally approved or denied by the director in accordance with section 2.3(B)(12)(b) of the Zoning and Development Code. Any changes other than minor amendments will require new review by the planning commission in accordance with section 2.8 of the Zoning and Development Code.

And finally determination at the time of final plat for pedestrian easements that may need to be provided to access adjacent open space or obtain access to proposed future school site to the west. So we're still looking at that and that may be required as they come through with the final plat.

That concludes my presentation. I'd be more than happy to answer any questions at this time.

CHAIRMAN COLE: Any questions?

COMMISSIONER PITTS: Yes, I have a question. Greg, until the...at this point as I understand you haven't heard from the Corps of Engineers as far as the wetlands are concerned?

MR. MOBERG: They have not responded to our...

COMMISSIONER PITTS: Well aren't we premature in even presenting it then?

MR. MOBERG: It's staff's opinion that we believe that the delineation that the applicant has used on this is not premature and more than likely may take a minor amendment but that they have pretty much stayed out of any wetlands...any wetlands area. So at this point in time we don't think it's premature, no.

COMMISSIONER PITTS: Okay, so what is being dedicated in order to get the 20 percent bonus or the 20 percent is actually wetlands area, possibly the Corps of Engineers (inaudible) as unbuildable so that gives the provision that they can build more houses?

MR. MOBERG: That if they wanted to apply for that but they are not applying for any bonus density in this case – no.

COMMISSIONER PITTS: But they are using the open space?

MR. MOBERG: They are using the open space to allow them to do...to use the R-4 bulk standards, yes.

COMMISSIONER PITTS: Okay. So they're using unbuildable ground to build more houses? That's the bottom line.

MR. MOBERG: They are and the provision...the provision within the clustering...within that part of the code it requires that that open space be used to preserve areas such as this. There is a provision in the code but that doesn't have to do with this provision of clustering that does...requires that the City not hold or use unbuildable property in terms of being able to do bonus density. This is...that doesn't have anything to do with what they're asking for here. They are allowed to use this property or use that open space as part of their clustering.

COMMISSIONER PITTS: But that open space is unbuildable ground.

MR. MOBERG: The unbuildable open space, exactly.

COMMISSIONER PITTS: That's what I wanted to know. Thank you.

CHAIRMAN COLE: Any further questions? Okay, thank you.

UNIDENTIFIED SPEAKER: May I speak?

CHAIRMAN COLE: Not until we open it to the public. Okay, is the applicant present?

MR. ROBERTS: My name is Craig Roberts, project representative for the Sutton Family Trust who is the applicant for this project from Ciavonne, Roberts and Associates, landscape architects here in Grand Junction. The consultant team is assembled by the developer and the Sutton Family Trust as River City Consultants Professional Engineers; Doug Theis who is the project manager; Mark Kinney who is here tonight as a professional engineer to explain some of the drainage considerations; traffic engineering was done by Turn Key, Skip Hudson. We did a minor study to see what the effect would be on the adjacent neighborhood. The environmental engineering was done by (inaudible) Science, Jim Armstrong and Don Reeder. The developer is Best Buy Homes, Bailey Dodson and Richard Cavalli who are both here tonight.

CHAIRMAN COLE: Could I ask that the cell phones be turned off, please?

UNIDENTIFIED SPEAKER: Could the speaker talk a little louder also, please?

MR. ROBERTS: Sure...and Ciavonne, Roberts and Associates for the planning and landscape architects. And Greg Moberg did a very fine job of going through most of this so I'll just zip through these slides. There's the Sutton property with the surrounding adjacent developments. And we are looking for a preliminary plan approval for the 104 single family lots on 52 acres. We were annexed in the city as of last July with the R-2 zoning with the 2 dwelling units per acre which allows 104 units and the lot size between 12,000 and 18,000 square feet.

The Sutton property has been farmed since 1954 by Bob Sutton and his family who in fact farmed quite a bit of this area in the time. The west portion as Greg described is the Lime Kiln Gulch area that not of which all of is wetlands. There is a portion of it that is wetlands and as we know wetlands can be mitigated. We see the highway department do it all the time through a program called wetlands banking so you can buy wetlands in other parts and actually develop wetlands areas. It takes a bit to go through it for a permit with the Army Corps but it is possible.

CHAIRMAN COLE: You're not doing that with this?

MR. ROBERTS: No, in fact when you go through the cluster provision we'll read that we are asked and encouraged to preserve those wetlands. That...we did have two neighborhood meetings. The first which was required for the annexation in March of 2007. We went...we showed a plan that had 99 lots. Hearing the neighbors' concerns mainly was the connections to Canyon View and they were requesting different trail connections and those kinds of things. By the time we...we submitted the preliminary plan this was the preliminary plan that was submitted and modified in order to meet some of those neighbors' concerns.

We did then met with a group of the neighbors' representatives in November of this year. It should have been the plan containing 104 lots after we had done some additional research on the drainage considerations that we're going to be pretty healthy in there, the effect on the development which Mark Kinney will explain in a moment. We did talk about setbacks, different access options as well as the trail connections that we're going to require. But this is the type of neighborhood we're looking at...at having which is typical in this area. You can see the views to the Monument are spectacular and mostly above the development. We are not impeding views by this development. Mark...Mark Kinney will speak to some of the drainage concerns.

MR. KINNEY: Good evening, board members and citizens. I'm Mark Kinney. I work for River City Consultants. I'm a P.E. in the State of Colorado. I have a bachelor's and masters in civil engineering and I've been doing civil engineering for about 10 years. This property historically drained in two ways. The property itself was split just about down the middle. The...sorry about that – the western side going to Lime Kiln Gulch, the historic drainage going to Goat Wash. There is offsite flow that gets conveyed through this property and historically that came down the South Camp Road alignment and went down Goat Wash. Over time there's been some poor decisions made during development which have led to obstructions within the historical drainage pathway. The slide here we're looking at, the first picture which is on the left, is looking south on South Camp. To the right on the picture is Canyon View.

You can see this large, large nice swale that was constructed to convey the hundred year storm down South Camp Road during the construction of Canyon View. When I turn around and face north that all empties into this 15 inch corrugated metal culvert underneath South Camp Road just to the south of the Sutton property. This has created a historical flooding at 379 South Camp Road and also on Mr. Sutton's property.

Underneath South Camp itself this flow is then conveyed underneath South Camp Road by a box culvert. This box culvert has about 50 percent of the capacity necessary to carry the hundred year flood. You also look in the picture on the right you'll see that the invert of the box culvert and the invert of the house that you can see on the picture on the right that there's some conflict if this ever got to a hundred year conveyance situation.

And further downstream you go over time the more impedance that's been placed on historical drainage. You know, this is in Trails West Subdivision just on the other side of the road. I didn't go through the calculations but I can guarantee that has much less than 50 percent conveyance capacity which has caused, you know, basically that field that's there now to be a regional detention facility. And at the urging of the city's engineers, you know, they have requested that this...these flows that cause flooding downstream be conveyed to Lime Kiln Gulch where they will not pose any problem. This has placed quite a burden on Mr. Sutton and on the developers but we've agreed to those terms and we have taken care of the drainage issues both downstream of the subject property and on the subject property by putting a proposed swale along the southern end of the property. When that flow comes down South Camp and hits that small...the first choker which is a 15 inch corrugated metal pipe it will overspill into the irrigation canal. It'll then spill out of the irrigation canal, be picked up by the swale and carried down Lime Kiln Gulch versus the historical conveyance areas. So we have hopefully alleviated some downstream flooding issues with our proposed design.

Anybody have any drainage questions at this time?

CHAIRMAN COLE: Any questions concerning the drainage?

COMMISSIONER LOWREY: So it comes down South Camp and then this yellow line that runs east to west that's kind of curvy, is that...?

MR. KINNEY: Yep.

COMMISSIONER LOWREY: Is that where...is that right...and that's how it gets to Lime Kiln Gulch?

MR. KINNEY: Correct. Nuisance flows, so just regular small storm flows will continue underneath South Camp Road but they will be very minor flows. We'll put a flow control device so that the majority of the flow is directed to Lime Kiln Gulch.

COMMISSIONER LOWREY: Okay.

MR. KINNEY: Thank you.

MR. ROBERTS: Site access and traffic. I think Greg covered this pretty well with the connection to Granite Falls Way which was constructed in the phase 7 of Canyon View Subdivision and then the alignment with Mescalero to the east. Those will be the connections to the outside. We do have a right-of-way to be dedicated to the Riley property. That hopefully can be abandoned if that never does take place. That has

come up in the last three weeks the proposed development there which would take a single home on that 65 acres and because it has Estate zoning would go to 5 homes total. So the volume isn't that great. It's just a tough...tough way to get there. Urban trails. As Greg pointed out and went through have allowed the connections. We wanted to minimize the amount of access into the wildlife area in order to preserve those wildlife qualities that give it its value. There were some irrigation supply issues. We've got...we had two existing irrigation ditches that went to the south and supplied Monument Meadows Subdivision with their irrigation water. We've been working with them and come to an agreement with piping the west line where it presently exists which coincides with the extension of Granite Falls Way and then we are going to move the head gate and pipe the...the ditch that basically bisects the property at the east property line and then down to its...its present irrigation source so they don't have to change their pumping or anything of that sort.

The cluster provisions specifically state in the opening line that they are to preserve environmentally sensitive areas, open space and agricultural land so cluster development is encouraged. So that's the provision we are using in order to use the R-4 dimensional standards and by dedicating 20 percent of the gross acreage, and we've gone to 24 percent, we are hopefully going to be able to utilize this portion of the code. What this does is allows the setbacks to go to 20 foot in the front, 7 foot in the side and 25 foot in the rear and also go to 11,900 square foot minimum lot size. The lots are 12 to generally 15,000. There are a couple that are larger than that.

The neighbors did express their concern about having the homes feel like they're so close together. So we agreed that on all of the lots that aren't on either a cul-de-sac where they're pie shaped or on a corner where you only have a single side yard setback anyway that we'd expand that to a 15 foot side yard setback so we'd end up with 20 feet between the homes. So there's a little more breathing room in there.

As far as developing in the wetlands areas, the wetlands mapping shows that we still have acreage down there that could be developed and as I've stated before wetlands can be developed. It's just a fairly arduous process to go through.

So that's our presentation and if you have any questions, I'm more than available.

COMMISSIONER PITTS: I have a question – how many lots will be under 12,000 square feet?

MR. ROBERTS: There are none under 12,000.

COMMISSIONER PITTS: There are none?

MR. ROBERTS: None. Most of the lots those adjacent to Canyon View are at about 13,500 and most of the lots in Canyon View are about 15,000. There are some smaller and there are some larger.

COMMISSIONER PITTS: I thought I just saw 11,900 – what was that?

MR. ROBERTS: That's the minimum lot size allowed by the cluster zoning provision.

COMMISSIONER DIBBLE: It's mentioned in the report that the lots are larger than the minimum allowed under the clustering provisions. Are they larger than the R-2 standards?

MR. ROBERTS: No.

COMMISSIONER DIBBLE: And if they are, how much larger are they than approximately most of them?

MR. ROBERTS: They aren't. They are 17,000 square foot, would be an R-2 standard.

COMMISSIONER DIBBLE: Okay, so...

MR. ROBERTS: ...of which neither Canyon View nor this...

CHAIRMAN COLE: ...meets the standard for R-2, even though they have a clustering provision in effect?

COMMISSIONER LOWREY: No, they don't meet the R-2...they're smaller than the R-2 by a few thousand square feet or so per lot.

MR. ROBERTS: So with the clustering provision with 20 percent open space you're allowed a minimum lot size of 11,900 square feet and so we've gone within a range from 12,000 square feet up to basically 16,000, 15,000, 16,000 square feet. So there's a range of those lots. Those that are adjacent to Canyon View are about 13,500. Many of those on the interior are about 12,000 square feet or so.

COMMISSIONER DIBBLE: So you've exceeded the clustering provision requirement?

MR. ROBERTS: Right. And there is a...and maybe Greg can help me out with this but there is semblance of a formula that says that you can take the percentage of open space and determine what that minimum lot size is. So if you exceed 20 percent you're actually allowed an even smaller lot size. And I couldn't figure that formula out for nothing. So if you can explain that to me then we can say that because we're at 24 percent, and by my calculations actually at 26 percent open space, we should actually be allowed an even smaller lot size but that's not our intention.

CHAIRMAN COLE: Any further questions? Okay, thank you. We'll now open it to the public and first we'll ask those that are in favor of this request to come forward and give your testimony and then after that is over we'll ask those who are opposed to this project to...to come forward and give testimony.

As I've already said if you've written a letter, it is in the file. That's already been considered and will be considered in the final decision of this commission when we make our ruling on it. If someone else has spoken already and said what essentially what you were going to say, we'd ask that you just say I agree with the previous speaker and we can move on. So...so we'll first open it to those who are in favor of the project if you would come forward and...and give your testimony.

UNIDENTIFIED SPEAKER: I'm not in favor of it or against it right now. I just have a couple questions about the north side of that development.

CHAIRMAN COLE: Okay, ask your questions and then we'll get the answers a little later.

UNIDENTIFIED SPEAKER: Okay. On the north side of the development, I'm with the Monument Meadows...

CHAIRMAN COLE: Give me your name and address.

MR. SILVA: My name is Henry Silva. I live on 2183 Avenol Lane. I'm on the north side of the property there. We would like to know what the setback and if there's going to be a drainage ditch between our property and their property. We have talked about the changing of the water line...the water line going to our property and so far we've

come to kind of an agreement there. We just need an approval of the whole thing so we know what to do with the rest of it so we can sign off on it.

CHAIRMAN COLE: Okay. We'll get...I think there is a sign up sheet there for you to sign your name to if you would so we can keep track of who's testified. We'll get you an answer to those in...in just a little while.

Anyone else who would like to speak in favor of this project? Seeing none then, we'll ask those who would like to speak in opposition to the project. As...as we have said already, there is a sign up sheet. We'd ask that you sign it. When you come up, give your name and address and then give us...give us your testimony and we would ask that you be as brief as possible to give the testimony. So we'll open it up to those who are in opposition to this project.

MS. KEELEY: Again, I'm not for or against it. I'm trying to get more information. My name is Marge Keeley and I live in Canyon Vista. If the wetlands are the 20 percent open space, I assumed that open space is for the residents to use and yet we're trying to preserve the wetlands for wildlife. So what open space is going to be available to the residents other than these small trails around the perimeter?

CHAIRMAN COLE: We'll get you that answer later when the applicant comes back.

MS. KEELEY: Okay, and again I guess Bill questioned, if the wetlands is unbuildable, how can you say, you know, that's open space? To me you either should just say it's 40, you know, 40 acres is available, but whatever.

The other question I have is how will the limited access to construction vehicles be enforced on Granite Falls so that we're not getting a lot of construction traffic through our neighborhood? The road will be open. Is there going to be a barrier? Is there going to be a little policeman standing there? Or, you know, what will be the plan? So that's another question. Okay?

Let's see, the other question I have is regarding the drainage. Some of the drainage will go into the Lime Kiln Gulch which is at the, I guess at the west of the property, where does that end up? Where does the...I walk along there and I don't see an obvious place where things are going to drain. So where does the Lime Kiln Gulch drain? Will that be able to handle, you know, a big onslaught of water? Let's see, I think those were my main questions. Thank you.

CHAIRMAN COLE: Okay, thank you. Someone else?

MS. STRAND: My name is Toni Strand and I live in Canyon Vista development on Standing Rock Drive. First of all I want to say that we started out with this process with you when you approved the annexation for this property for R-2 and the request for approval of the card that we got in the mail this week is to develop 104 single family lots on 52.2 acres in an R-2 zone district. In reality this development has become 104 lots on approximately 42 acres using the cluster development guidelines. With these guidelines the setbacks now are 7 feet side setbacks. The frontage is smaller. This is quite incompatible and against code 3 dot 1 which states that development should enhance the economic, social and aesthetic values, protecting and maintaining the integrity and character of established neighborhoods.

Squeezing 104 lots on the land that is actually developable is incompatible with existing, fully developed neighborhoods to the north and the south along South Camp



Road. All lots abutting the south are over one-third of an acre and most of those are one-half of an acre. All lots abutting the north range from point 4 to point 7 7 1 acres. The undeveloped land has only 10 to 11 lots over one-third of an acre. The cluster development, 6 dot 7, D dot 5 provides for a different configuration making the area having open space around the inner lots. These lots are not arranged differently. The street grid proposed by the developer is just an ordinary suburban street grid scrunched down to allow for more lots. There is nothing clustering about it in the clustering sense.

The normal understanding of a cluster development is a close grouping of houses surrounded by open space. In 6 dot 7 B 5 C, it says that this must conform to the bonus provisions of section 3 dot 6 C and that is required if the bonus is to be increased over that of R-2 which they are attempting to do. That's even these lots seem to be used at all in this development. The table dealing with open space dedication states flatly that it applies to all provisions of the code which further restricts the use of density bonus.

If the open space being considered is severely constrained and if the developer has set aside land at the far end of the development, blocked from most of its length by a line of houses so that nobody can even see it in the inner development, this whole area to the back which would be to the west is a block of this whole large lots are so the large houses so all the houses pretty much to the east don't even see this open space.

These are all cluster development provisions.

Section 5 dot H says requirements for open space design such as linkage to existing and planned open spaces and maximized access by the cluster development residents.

This does not give maximum access to the open space. As pointed out above, the open space is mostly blocked by a line of houses with only a small access. We would like you to think very carefully about this development. We feel we have gone through the process. We have even met with the developers. We have told them our concerns.

We feel that if in fact they are allowed 104 lots they should be required to keep the setbacks...the same setbacks as the south and the north. Thank you.

CHAIRMAN COLE: Did you sign the sign up? Thank you.

MS. STRAND: Excuse me. I do have one other question. Are we going to talk about the new road that has been put on the plan tonight – going to the Rile property? That was not even discussed here so I'm wondering...

CHAIRMAN COLE: We'll get that answer in just a minute.

MS. STRAND: That is something new that's been put into the plan.

COMMISSIONER PITTS: Would you point that on the...

CHAIRMAN COLE: That's going across the open space there at the...on the left side of your screen there. I think they addressed it a minute ago but we'll get...we'll get further clarification on it.

MS. STRAND: Okay. Thank you.

MS. McDONALD BROWN: I'm Betty McDonald Brown and I also live on Standing Rock in the...in Canyon Vista Subdivision. Toni has very ably covered the points about why we don't believe that this should be given cluster housing density. That it should not...that it does not qualify for the cluster housing provisions. I would say this that

the...the code has the force of law for the citizens of Grand Junction. It almost looks to me like it's actionable to not have the force of law when it comes to the planning commission allowing something which looks so different from what the map in the code shows as a cluster housing provision. And surely a law and this has the force of law for those of us who live in Grand Junction. Surely the law should apply to all fairly on this and that is one thing I wanted to say. I'm the person who put the letter in your mailboxes and I won't cover that again.

I don't...I would like to say that I do not think that that should be lower income housing but I do believe that we are overbuilding for these high expensive homes. That's not necessarily so much a problem for the...for the developer who is not going to be stuck with it but it certainly is a problem for the planning commission. If we can't maintain costs...if we can't have people that have the purchasing power to get \$400,000 and up homes in this area, and we don't have the manufacturing base for high tech salaries, we will have homes we aren't...the people aren't going to be able to afford. Dr. Dibble, I believe at a planning commission I believe it was him that I was at earlier had said to some people who were objecting to another subdivision that the people who live there and were not probably carrying their weight tax-wise that having empty homes that are very expensive is not going to help us with our taxes either. Those were the points that I would like to make in addition to what Toni had to say and I thank you for your time and attention.

CHAIRMAN COLE: Thank you. Anyone else would like to come forward? Seeing none, we will close the public hearing part of this and allow the applicant to come back up and perhaps answer some of the questions that have...have been raised.

MR. KINNEY: Mark Kinney with River City Consultants again. I can try and answer these people's questions on drainage issues. I believe the water line you're talking about is the irrigation line?

UNIDENTIFIED SPEAKER: The irrigation line, yes.

MR. KINNEY: The irrigation line is being designed...

CHAIRMAN COLE: Speak to the planning commission would you, please?

MR. KINNEY: I'm sorry. It was his question. I'm sorry. The irrigation line is being designed by a professional engineer. It is not me; however, we are actually increasing the quality of that irrigation line. Currently it runs through a ditch in the middle of the property and that will be piped now so it will actually be under pressure and have a hydraulic head and they should actually get more flow and it should be easier for them to utilize that irrigation water. So that's where that stands and we are working with them on that design to make sure they're happy with that.

Now in regards to drainage flowing to the north and asking if there was going to be a ditch along the northern property line, I believe all those lots are type A lots which drain to the street. In the event that some of them are not type A lots we would certainly have a backyard drain system in there which would prevent storm water from crossing onto adjacent properties.

All right, in reference to...I'm sorry, I don't remember the ma'am's name...asked about Lime Kiln Gulch. We are now diverting the flow. The Lime Kiln Gulch and Goat Wash both drain to the Colorado River so we're changing the point of discharge but we're not

changing the body of water that we're discharging to. We will get an increase in Lime Kiln Gulch of 4 c.f.s. That's 4 c.f.s. over 2,223 c.f.s. which works out to 0.1...

CHAIRMAN COLE: Would you explain c.f.s.?

MR. KINNEY: Cubic feet per second.

CHAIRMAN COLE: Okay.

MR. KINNEY: Sorry. It's about 450 gallons a minute equals 1 c.f.s. which is about 0.18 percent increase in peak flow, essentially none. So this diversion of flow should not cause any downstream havoc in Lime Kiln Gulch. Any further questions or clarification?

CHAIRMAN COLE: Does the Commission have any further questions for the engineer?

MR. KINNEY: Okay, thank you.

CHAIRMAN COLE: Mr. Roberts, do you have anything to add? That doesn't look like Mr. Roberts.

MS. BURTIS: I hope not. I am Janice Burtis and I am a realtor with ReMax 4000 and I have taken approximately 41 reservations on the proposed 104 lots. The 41 reservations are on the most expensive lots ranging in price from 250,000 a lot to 350,000 a lot. The lower priced lots are the ones that have not been reserved yet and I see no problem with the people buying those lots building very nice houses on them. Any questions?

COMMISSIONER WALL: That's just for the land?

MS. BURTIS: Just for the land, yes, sir. There is a high demand for those precious lots. Any other questions?

CHAIRMAN COLE: Yeah, how come so high?

MS. BURTIS: Because the demand is so great.

MR. ROBERTS: In response to Mr. Silva's question, the setbacks adjacent to that property are at 25 feet, those rear yard setbacks and we do propose a perimeter fence which I believe is going to be required one way or another. We have also talked, excuse me, talked about perimeter fencing along South Camp Road and they have expressed concern about that quality. We are looking at a columned fence not just a standard dog-eared cedar fence.

As far as the cluster provisions, again, once again the opening statement...these are cluster provisions. This isn't clustered housing, and they're two different things. There also is no bonus density. We are maintaining the R-2 density but if we provide a 20 percent open space, we are then encouraged by the code itself to preserve environmentally sensitive areas. These wetland areas are environmentally sensitive. So I think they qualify very well.

The access by the residents, we wanted to limit that access because part of that quality – the wetland and the wildlife – is that connection. These...these...this area, this Lime Kiln Gulch area actually connects to Monument Meadows' open space of which they have fairly limited access and also connects down to Peregrine Estates' open space. So we maintain a wildlife corridor through there which I believe to be very important and part of that is not encouraging extensive use by residents.

The access during construction I believe they're just going to leave the present barricade across Granite Falls Way until the infrastructure is entirely constructed.

There's not going to be a policeman out there. It's just going to be a physical barrier will be in place. I have to question the calculations on the lot size in Canyon View. I should know. I laid it out. I laid out Canyon View 1 through 8, Canyon Rim 1 through 3. They are not half acre lots in Canyon View. They are a third acre lots.

UNIDENTIFIED SPEAKER: Excuse me, I...

CHAIRMAN COLE: Ma'am, ma'am, you had your chance here. Let's go ahead.

MR. ROBERTS: You said half acre. You said half acre lots. There isn't a half acre lot in there, okay. The cluster is a cluster provision and it's not the cluster housing. The open space is clearly shown in the code as being solid blocks. To maintain those wildlife qualities we need to maintain that type of a solid block. The linkages have been shown. We are showing path linkages throughout the property as well as linkages into two portions of that open space – your wildlife space. And working through the calculations, luckily Dan Wilson was there to decipher the code and give me the magic formula but it works out to where the minimum lot size should actually be 10,880 feet so we're well beyond that with our 24 percent open space. Any further questions?

COMMISSIONER PITTS: Yes, there was a, back to that previous picture of the area where it shows...this road that goes across the wetlands area, what is...

MR. ROBERTS: About three weeks ago, Bill, the...the owner of the Riley property, Ray Riley, finally piped up after standing in the back of the room at two neighborhood meetings and not saying anything and indicated that he would like access through the Redlands Place Subdivision. Having been involved in Canyon View and Canyon Vista before and running battles with Mr. Riley on providing access, he was uncooperative and those two previous submittals and so the access wasn't extended to his property because he wouldn't allow storm water detention to take place to get to Lime Kiln Gulch and forced retention and didn't want the access that we tried to provide through Vista del Canyon Subdivision. So we brought it up with him, didn't hear anything until about three weeks later. Now he's talking about possibly developing. He's got an issue with getting sewer access because the sewer access actually has to go south through the property that the school district just purchased for the high school or junior high or whatever they're looking for and so it's very, very preliminary. They're not sure whether they're going to develop so we agreed to provide the right-of-way and then he would provide the ...the physical construction if a road actually was extended. It's going to be access to 5 total lots.

COMMISSIONER DIBBLE: So this is a dedication of a right-of-way rather than the actual construction of one?

MR. ROBERTS: Right. We hope to agree that by final we would maybe know one way or another whether it's going to happen or not and possibly include the ability to abandon that right-of-way and rededicate that back to the homeowners' association for the open space. Another consideration was the ability or in fact Greg brought it up about being able to look at access to the south so that the connection could be made back to the school site by trails that would wind their way down through the open space. And I believe that the standard provision for open space is it is accessible by public. So if anything special has to be added to it we're certainly more than inclined to agree.

COMMISSIONER WALL: I'm going to reference one more question that Mr. Pitts had asked earlier. So on the acreage that's dedicated open space, assuming that all permits were gotten and this is...and you wanted to build on it, how much of that can be built on?

MR. ROBERTS: I've done a bunch of development up at Redlands Mesa, I don't think there's anything that anybody that doesn't want to can't build on. I mean it is truly amazing to me what people will pay for a ground that has access to views and what they'll do to develop it. I mean from foundations to pumping or sewer systems - all that sort of thing. It just takes money. So when it comes right down to it, at 300, \$400,000 a lot, you could put a lot into the infrastructure in order to access that.

COMMISSIONER LOWREY: What about transfers like, I think you alluded to that earlier that you can...these wetlands can be transferred for other wetlands so that this can all be built on.

MR. ROBERTS: It's very common to do wetlands banking. The Department of Highways does it all the time because they put a highway...you know widen the road in Plateau Creek. It's almost unavoidable to not destroy wetlands and so people have actually dedicated portions of their ground to artificially build wetlands or expand existing wetlands. Down by Delta...as you come into Delta up on the south side, there's a lot of wetlands banking going on down there, there's wetlands banks up by Colbran. So it's all possible.

CHAIRMAN COLE: Any further questions? Okay, just...just one quick one I have is the Suttons apparently own all of that property back to where that property line is to my left here?

MR. ROBERTS: Right.

CHAIRMAN COLE: So all of that property is theirs now to...and that's what they're asking about is this entire piece of property?

MR. ROBERTS: Exactly.

CHAIRMAN COLE: Thank you.

COMMISSIONER LOWREY: I have a question I think for staff regarding the clustering provision. Someone eluded that clustering had to be groups of homes surrounded by open space and then maybe another group surrounded by open space so can we get clarification on what the clustering code says and what it means.

MS. COX: Certainly. Lisa Cox, Planning Manager, and I can attempt to take a stab at it. I'm sure Jamie can contribute as well. The zoning and development standards provide the... an illustration of an example of clustering in chapter 9; however, it's simply an illustration. The way our zoning code is written it says that you will preserve and protect environmentally sensitive lands such as the wetlands but it does not dictate how that will happen. And so there is no requirement that homes be clustered in such a manner that they are surrounded by open space. In fact the director...the directive is simply to preserve and protect the environmentally sensitive lands. So this particular design actually meets the design standard of our code in preserving and protecting those wetlands areas.

COMMISSIONER LOWREY: Okay, thank you.

MR. ROBERTS: I have one last statement we'd like Rhonda Sutton to make.

MS. SUTTON: Hi, my name's Rhonda Sutton. I'm here on behalf of Bob Sutton tonight. He's home with a head cold. He wanted to be here in person but was unable to make it. He told me a little history of the farm and wanted me to share it with you. He purchased it in 1954 and at that time there were only 6 families on South Camp Road and all of them were farms and about 80 percent of that entire valley was orchards and he used to farm the bulk of it. South Camp Road was a dead end at that point. It ran south to Buffalo Drive and it was a dead end.

He's watched all of these developments around him grow over the last few years. There were 12 properties around him that have been developed now and there's only 2 remaining that have not been yet developed. So he's surrounded on three sides by developments and Mr. Sutton is in favor of this. He says it's an ideal infill location for this project with the natural open space on the west side. He highly encourages the development and the last statement he made to me today was that his aching bones are tired of farming. He wants to retire. Maybe do some fishing. Thank you.

MR. ROBERTS: The last series of slides you can see that when Mr. Sutton bought this property just as Rhonda stated, your agricultural ground. Mr. Sutton's still there. In 1994, he's got one adjacent development – 1994. So that's 14 years ago; 1997 – he's got Trails West developing to the east of him. Canyon Views 1, 2 and 3; 2002 – he finally has neighbors abutting all the way around him. He's surrounded. He's the last piece of agricultural ground there and it's time to get out.

CHAIRMAN COLE: Okay, with that we'll bring it back to the...to the commission and allow the commission to make any statements that they would like to make. Who would like to start?

COMMISSIONER PITTS: Well, Mr. Chairman, being shy, since nobody's jumped in in front of me, I'll go first. Realizing that permissions or grantings have been previously made perhaps on utilizing unbuildable ground for clustering provisions and overall densities. My grandma used to say two wrongs don't make a right. But I'm going to the position that I don't really like using unbuildable ground or dedicated ground as an excuse, if you will, for density. I'm not opposed to a subdivision. I guess my opposition is 110 lots or whatever I think that's the count, anyway some number of lots by using that...that ground as part of the...as part of the acreage for the zoning. It's the planning department's job to meet with all of the rules and the provisions of the code. It's not our position to do that and...but to do what our opinion is for stable and substantial subdivision or growth in the valley and consequently as this project is presented I cannot support it. Not the way it's presented. Thank you.

CHAIRMAN COLE: Someone else?

COMMISSIONER PUTNAM: The question of using "unbuildable" land to support clustering is something that number one is part of the code and was not put there by us.

It was put there by the city council. We see this all the time. It happens more often at other places on the Redlands where the unbuildable land is because of steep outcroppings of sandstone. But we have used the same...same principle with some of that land with very steep slopes being used to justify clustering on the flatter land. I think this is an admirable infill project and should be approved.

COMMISSIONER LOWREY: I agree with Mr. Putnam.

COMMISSONER DIBBLE: I think this is an area in transition. From the picture that's on the screen right now it's obvious that it is being built out. It's being built out at R-2 and R-4; 2 is the least intrusive perhaps. But it does meet the code on all requirements in my opinion. It does feature the clustering provision. I think the clustering provision as Mr. Putnam has pointed out is nothing new. We have used this before under like circumstances where there has been unbuildable land and it does not preclude it. In fact I think it encourages that so that we don't try to build on slopes that are steeper than 30. The street layout looks well thought out. I think a neighborhood environment this fits right in with the ones that are already there. So I would be in favor of supporting it.

CHAIRMAN COLE: Anyone else?

COMMISSIONER PAVELKA-ZARKESH: I concur. I'll keep it simple.

CHAIRMAN COLE: Okay. You want to comment, Reggie?

COMMISSONER WALL: You know I'll wait. My coin is still in the air. The only issue I have really is...it's the cluster provisions. I've had this issue all through there. I think it's great if we...if we provide land for open space and it was usable land but I agree that any amount of money you...you can make something buildable. It doesn't necessarily make it right but any amount of money you can make it buildable but that would be everywhere. So there's a reason why we're not building in that spot because the amount of money it costs...I don't know. I'm not the one making those decisions but all through there I've been against the clustering provisions in through this area because I don't think it makes sense. I think it's a nice project but again I don't agree with the clustering provision to...to make those lots smaller. I think if it's an R-2 it's an R-2. So I would have to...I would say no to the project.

COMMISSIONER PUTNAM: But it's not ours to...to agree with or disagree with. This is what our governing body has established.

COMMISSONER WALL: Well, the way I interpret it, when I read the manuals it says dedicated open space that the property owner has given and provided for open space. So to me in a sense some of that has got to mean the property was given...the property that was given was buildable land.

COMMISSIONER PAVELKA-ZARKESH: It doesn't say buildable.

COMMISSIONER WALL: And it doesn't say non-buildable.

COMMISSIONER DIBBLE: It says dedicated.

COMMISSIONER WALL: If you want to argue the play on words, let's argue the plan on words but...

CHAIRMAN COLE: I think that this does...the project does meet the requirements. I was out there and looked at the property and seen what...what the layout was. I think it...that it fits nicely with the...with what's there. As far as the access to the open space I noted there is also from Canyon Vista Estates there's a trail...trail access to what is being provided here as open space. I think that there will be public access. I'm sure we don't want automobiles or anything like that going down there and disturbing wildlife, et cetera and so as far as access to the open space, walkable access is there in my opinion. It does meet all the requirements of the code and that's what I think that we need to go by. And so I would be in favor of...of the project.

Anyone else have any further comments? Okay, we are ready for a motion?

COMMISSIONER PUTNAM: Mr. Chairman, I move we approve the Preliminary Subdivision Plan for Redlands Place Subdivision, file number PP-2007-218, with the findings, conclusions and conditions listed in the staff report.

COMMISSIONER DIBBLE: Second.

CHAIRMAN COLE: Okay. We have a motion and a second. Let's go with a roll call. Mr. Pitts?

COMMISSIONER PITTS: No.

CHAIRMAN COLE: Lynn?

COMMISSIONER PAVELKA-ZARKESH: Yes.

CHAIRMAN COLE: Dr. Dibble?

COMMISSIONER DIBBLE: Yes.

CHAIRMAN COLE: Myself is a yes.

COMMISSIONER PUTNAM: Yes.

COMMISSIONER LOWREY: Yes.

COMMISSIONER WALL: No.

CHAIRMAN COLE: Okay, motion carries – 5 yes, 2 no, and that is all that we have here this evening. Is there any further business to come before the Planning Commission?

COMMISSIONER LOWREY: Yeah, I want to say one thing. I noticed that reporter Mike Wiggins won an award for writing. I can't remember what the article was about but he won an award the other week. I saw it in the paper and so I'd just like to congratulate him. Thanks.

CHAIRMAN COLE: Congratulations, Mike.

UNIDENTIFIED SPEAKER: I was told there was an opportunity for public input at the end of the meetings.

CHAIRMAN COLE: Okay.

UNIDENTIFIED SPEAKER: Okay.

CHAIRMAN COLE: What is your name and...

MR. STOUTER: I'm sorry, Randy Stouter, 303 East Dakota Drive. I used to live back...back up to the Sutton property and I talked with Bob Sutton over the fence line a few times. A humorous story I guess about that a couple years probably – 4 or 5 years ago now – he asked me how my air conditioner...how I liked my air conditioning and I said I thought it was great. He said he's been contemplating getting some air conditioning on his place for a number of years and his wife had been pushing him to...in that direction. I don't know if he ever got it or not but he worked that property long and hard and certainly he has, you know, an opportunity here to...to make that pay off and I think that's great.

I apologize I didn't get here in time to speak about the development but I think Commissioner Wall and Pitts I feel the same way about the cluster criteria of the code and the planned PD provisions of the code are regularly used by developers and I think Commissioner Putnam said it you guys have been approving developments increasing the density because of lands are undevelopable. And that doesn't make sense to me either. I think that's a problem with the code that the staff ought to look at it and the



council ought to look at. Because it does end up taking what could have been an R-2 very compatible development and becoming very divisive of the community...pissing a lot of people off when it should have just been the same lot sizes. Canyon Vista is a beautiful development. I was sad to leave there and my kids still like it better than where we live now. It had wonderful trails and usable open spaces. It is responsibly developed. It was a good subdivision and it's too bad that that's people in that subdivision their property has to be devalued because I believe it actually will be by 7 foot side setbacks. So I think that's a shame but just for the basic cluster provisions, I think you guys ought to ask your staff...

CHAIRMAN COLE: You're talking to the wrong body. You need to talk to city council. Because that's...

MR. STOUTER: Yeah but you...

CHAIRMAN COLE: They're the ones...they're the ones that have...have set this up and done that. They're the ones that make the rules that we have to go by and so...so we can suggest to them but as far as changing it, we don't have that...that authority.

MR. STOUTER: Right. I understand that and I appreciate that.

CHAIRMAN COLE: We have to go by what they have set out.

MR. STOUTER: But you guys are their main land use and development advisory board and...and I think it's important that if you see these conflicts coming up meeting after meeting and see that aggravating citizens. It did out on H and 26½ Road. That extra 60 units was a big point of contention with a lot of those folks I understand too. But if it keeps coming up time and time again, I think if you would talk to staff and ask them to talk to council and say why can't we deal with this, you know, because staff's trying to just implement the code too. And, you know, it's debatable whether they meet these cluster criteria because of where the open space, et cetera, and usability. But anyway, I think that's an issue that if you guys see it as a...a problem that's pissing people off, you have a responsibility to your citizens, to your council and your staff to say let's change it and I think you ought to. Thank you.

CHAIRMAN COLE: Thank you. Okay.

COMMISSIONER PITTS: I've got just a comment I'd like to make.

CHAIRMAN COLE: Alright.

COMMISSIONER PITTS: And that is relative to what the city approves and what we approve. If we go by the code that's approved by the city, there's no reason to have a public meeting. Our position in the book that I read when I was handed...when I became a planning commissioner was to approve what I feel fits. Whether it meets the code or not is the department's responsibility. It's not my responsibility. And I just want to make that point. That if you all have read the same code book that I did when I came as planning commissioner, it doesn't say that we follow the rules of the city. It's our position to make our decision based on what we feel is right.

CHAIRMAN COLE: We determine whether we feel that is right or not. I agree with you.

COMMISSIONER LOWREY: No, I disagree. Look, we're not here to make the law and just decide that whether when an application comes before us we can't just do what we feel like. Because if we could then you might as well not have a code. We do have to

follow the code and...just like...because we act in a judicial role, a role like a judge. We just can't make laws and stuff. We have to follow the law.

Now I think reasons that things do come before us and where we have discretion is...is sometimes the code is subject to interpretation and whether a particular application fits within the code there is room for flexibility and discretion. But that doesn't mean that we can just say we can do what we feel like doing. That...that's not true at all. If we can do what we feel like doing, then you don't have any codes or laws and then we just...we're not a nation of laws. And I think it's very important that we are...that we do have codes and laws so that...so that people have people have expectations and we have predictability and we can plan for a community and it's not just what we feel like doing. So...so I would take...take a lot of umbrage at that and...and, yes, we have some discretion within the code and the code provides for that but it's not just what we feel like doing. There's a whole lot of difference.

CHAIRMAN COLE: Okay. Thank you. With that, we're adjourned.

PP-2007-218

March 20, 2008

City of Grand Junction City Council

**RECEIVED**

MAR 20 2008

**COMMUNITY DEVELOPMENT  
DEPT.**

Dear Sir or Madam,

This is a formal appeal request that the action of the Planning Commission for the City of Grand Junction, CO be reviewed by the City Council for adherence to the City of Grand Junction Zoning and Development Code ("Code") relative to the action taken to approve the Redlands Place Subdivision. The Planning Commission took this action on March 11, 2008 during the Planning Commission meeting.

This appeal for review is based on the following elements of the Code;

1. The cluster provision allowing increased density is based on the 20% of land which is non-buildable. Based on this non-buildable land donation, the Planning Commission granted cluster housing provisions. Consequently, the majority of housing nears R-4 density. This appears to be a violation of the Code.
2. The second area of disagreement is the granting a cluster provision to the potential subdivision, is that the proposed subdivision does not appear to adhere to the Code describing cluster housing.

I attended the March 11, 2008 meeting and , with others, spoke to these points without success. My name will be in the minutes of the meeting.

Sincerely,



Betty J. Mc Donald-Brown  
(970) 255-6587

388 Talus Lane  
Grand Junction, CO  
81503