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

WEDNESDAY, JANUARY 21, 2009, 7:00 P.M.

Call to Order

Pledge of Allegiance
Invocation – Pastor Paul McGinnett, Central Orchard Mesa
Community Church

*****Council Comments**

*****City Manager's Report**

Citizen Comments

***** CONSENT CALENDAR ***®**

1. Minutes of Previous Meetings

[Attach 1](#)

*Action: Approve the Minutes of the January 5, 2009 and the January 7, 2009
Regular Meeting and the Minutes of the January 5, 2009 Special Session*

**2. Setting a Hearing Regarding the Regulation and Licensing of Massage
Parlors**

[Attach 2](#)

In an ongoing effort to monitor and police community nuisance and criminal activities, the Grand Junction Police Department and the City Attorney have become aware of some growth in criminal activities related to massage parlor

*** Indicates New Item

® Requires Roll Call Vote

REVISED

establishments. City Staff believes that it would be in the best interests of the community if City Council would consider a new City ordinance to regulate and license massage parlors. Those establishments can be a front for criminal activity. With licensing as proposed, law enforcement will have greater opportunity to monitor businesses before problems arise.

Proposed Ordinance Regulating and Licensing Massage Parlors

Action: Introduction of a Proposed Ordinance and Set a Hearing for February 4, 2009

Staff presentation: John Shaver, City Attorney

3. **Lease Agreement with MBC Grand Broadcasting Inc.** [Attach 3](#)

The City owns real property near Whitewater, Colorado which is currently being leased by MBC Grand Broadcasting, Inc. for radio broadcast transmission. The City and the current tenant wish to update their current Lease Agreement and renew the lease for subsequent terms.

Resolution No. 08-09—A Resolution Authorizing and Ratifying a New Lease Agreement between the City of Grand Junction and MBC Grand Broadcasting, Inc.

®Action: Adopt Resolution No. 08-09

Staff presentation: John Shaver, City Attorney

4. **Energy and Mineral Impact Grant for Planning Software Upgrade** [Attach 4](#)

A request to accept an Energy and Mineral Impact Grant, in the amount of \$200,000, as partial funding for the purchase of Planning Project Submittal and Management Software.

Action: Accept the Grant and Authorize the City Manager to Sign the Grant Contract for the Purchase of Planning Project Submittal and Management Software in the Amount of \$200,000

Staff presentation: Tim Moore, Public Works and Planning Director

5. **Amendment No. 3 of Engineering Services Contract with Jacobs Carter Burgess for the 29 Road and I-70B Interchange** [Attach 5](#)

This amendment is a supplement to the original final design contract for the 29 Road and I-70B Interchange Project. During the course of the final design effort, there have been a number of additions to the project scope that necessitate this supplement. The additions to the scope include surveying, final design and right-of-way acquisitions for sections of Melody Lane and D ½ Road not previously included in the project scope.

Action: Authorize the City Manager to Amend the Engineering Services Contract for the 29 Road and I-70B Interchange Project with Jacobs Carter Burgess for a Total Fee of \$2,592,510.00, Thereby Increasing the Contract by \$352,198

Staff presentation: Tim Moore, Public Works and Planning Director

6. **Intent to Create Alley Improvement District 2009, Phase B** [Attach 6](#)

A successful petition has been submitted requesting a Local Improvement District be created to reconstruct the alley that is east/west from 11th to 12th, between Hill Avenue and Teller Avenue.

Resolution No. 09-09—A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create within Said City Alley Improvement District No. ST-09, Phase B and Authorizing the City Engineer to Prepare Details and Specifications for the Same

®Action: Adopt Resolution No. 09-09

Staff presentation: Tim Moore, Public Works and Planning Director

7. **Setting a Hearing on the DeRush Mini Storage Rezone, Located at 2179 H Road** [File #RZ-2008-319] [Attach 7](#)

Request to rezone 4.60 acres located at 2179 H Road, from C-2 (General Commercial) to I-1 (Light Industrial) zone district.

Proposed Ordinance Rezoning the DeRush Mini Storage Unit Property from C-2 (General Commercial) to I-1 (Light Industrial), Located at 2179 H Road

Action: Introduction of a Proposed Ordinance and Set a Hearing for February 4, 2009

Staff presentation: Justin T. Kopfman, Associate Planner

8. **Setting a Hearing on Zoning the Colorado Army National Guard Campus Annexation, Located at 2800 Riverside Parkway** [File #ANX-2008-344]

[Attach 8](#)

Request to zone 57.95 acres, Colorado Army National Guard Campus Annexation located at 2800 Riverside Parkway, CSR (Community Services and Recreation).

Proposed Ordinance Zoning the Colorado Army National Guard Campus Annexation to CSR (Community Services and Recreation), Located at 2800 Riverside Parkway

Action: Introduction of a Proposed Ordinance and Set a Hearing for February 2, 2009

Staff presentation: Michelle Hoshide, Associate Planner

9. **Rename Saccomanno Drive to Seeber Drive and Sentinel Way to Saccomanno Road** [File #MSC-2009-005]

[Attach 9](#)

The request originated from Leitner-Poma of America, Inc. to change the street names in the Bookcliff Tech Park Subdivision. The applicant is the first tenant in this subdivision and the company felt the name of their adjacent right-of-way should honor the Owner of the Company.

Resolution No. 10-09—A Resolution Renaming Saccomanno Drive to Seeber Drive and Sentinel Way to Saccomanno Road

®Action: Adopt Resolution No. 10-09

Staff presentation: Ronnie Edwards, Associate Planner

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

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

10. **Public Hearing - Night Hawk Drive Right-of-Way Annexation, Located Approximately at 30 and B Roads** [File #ANX-2008-301] [Attach 10](#)

Request to annex 1.45 acres, located approximately 660 feet west of 30 Road, adjoining B Road on the north and extending southerly approximately 2,060 feet. The Night Hawk Drive Annexation consists entirely of right-of-way.

a. Accepting Petition

Resolution No. 11-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Night Hawk Drive Annexation, Located at Approximately 660 feet West of 30 Road and Adjoining B Road on the North and Extending Southerly for Approximately 2,060 Feet is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4318—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Night Hawk Drive Annexation, Approximately 1.45 Acres, Located Approximately 660 feet West of 30 Road and Adjoining B Road on the North and Extending Southerly for Approximately 2,060 Feet

®Action: Adopt Resolution No. 11-09 and Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4318

Staff presentation: Ivy Williams, Development Services Supervisor

11. **Public Hearing - Riverside Parkway and Overpass Annexation, Located at 29 Road and North Avenue and at 29 Road and I-70 B** [File #ANX-2008-307] [Attach 11](#)

Request to annex approximately 15.0 acres, located at five locations on Riverside Parkway, a portion of 29 Road adjoining North Avenue on the north and extending southerly to I-70 Business Loop and a portion of I-70 Business Loop beginning at 29 Road northeasterly approximately 2,400 feet. The Riverside Parkway and Overpass Annexation consists only of right-of-way.

a. Accepting Petition

Resolution No. 12-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Riverside Parkway and Overpass Annexation, Approximately 15.0 Acres, Located at Five Sections of Riverside Parkway Right-of-Way, 29 Road From 29 Road Southerly to I-70 Business Loop and I-70 Business Loop from 29 Road Northeasterly, Approximately 2,400 feet is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4319—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Riverside Parkway and Overpass Annexation, Approximately 15.0 Acres, Located at Five Sections of Riverside Parkway Right-of-Way, 29 Road From 29 Road Southerly to I-70 Business Loop and I-70 Business Loop from 29 Road Northeasterly, Approximately 2,400 feet

®Action: Adopt Resolution No. 12-09 and Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4319

Staff presentation: Ivy Williams, Development Services Supervisor

12. **Public Hearing – Growth Plan Amendment, Outline Development Plan and Rezone for St. Mary’s Rose Hill Hospitality House Expansion, Located at 609 26 ½ Road** [File #RZ-2008-227] [Attach 12](#)

A request for approval for a Growth Plan Amendment from Residential Medium (4 – 8 du/ac) to Commercial and also a request for approval to zone property located at 609 26 ½ Road known as St. Mary’s Rose Hill Hospitality House to PD (Planned Development) with a default zone of B-1, (Neighborhood Business) by approval of the Outline Development Plan.

Resolution No. 13-09—A Resolution Amending the Growth Plan of the City of Grand Junction to Designate Approximately 0.80 +/- Acres Located at 609 26 ½ Road Known as the St. Mary’s Rose Hill Hospitality House Expansion from Residential Medium (4-9 DU/AC.) to Commercial

Ordinance No. 4320—An Ordinance Rezoning Property Located at 609 26 ½ Road known as St. Mary’s Rose Hill Hospitality House to PD (Planned Development) by Amending Ordinance No. 3992 to Include this Property

®Action: Hold a Public Hearing and Consider Adoption of Resolution No. 13-09 and Consider Final Passage and Final Publication of Ordinance No. 4320

Staff presentation: Scott D. Peterson, Senior Planner

13. **Appeal of the Planning Commission's Decision Regarding a Conditional Use Permit for a Bar/Nightclub** [File #CUP-2008-158] [Attach 13](#)

An appeal has been filed regarding the Planning Commission's decision to deny a Conditional Use Permit for a Bar/Nightclub, located at 2256 and 2258 Colex Drive. The project sits on 1 lot in an I-1 (Light Industrial) zone district. (The project will include leased parking spaces from the lot immediately to the north.) 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: Review Appeal Criteria Along with the Record; Decide on the Appeal

Staff presentation: Senta L. Costello, Senior Planner

14. **Public Hearing - Amending the Municipal Code Regarding Minors in Possession of Alcohol and Marijuana** [Attach 14](#)

Amendments are being proposed to define and clarify sentencing parameters for repeat Minor in Possession (MIP) offenders. Changes to the Ordinance will help enforce compliance with the City Ordinances governing minors in possession of alcohol and marijuana.

Ordinance No. 4321—An Ordinance Amending Ordinance No. 3852, Which Establishes Section 24-22 of the Code of Ordinances and Prohibits the Purchase, Possession or Consumption of Alcohol by Minors and Also Amending Ordinance No. 3853, which Establishes Section 24-23 of the Code of Ordinances and Prohibits the Purchase, Possession or Consumption of Marijuana by Minors

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4321

Staff presentation: John Shaver, City Attorney

15. **Non-Scheduled Citizens & Visitors**
16. **Other Business**
17. **Adjournment**

Attach 1

Minutes of Previous Meeting

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

January 5, 2009

The City Council of the City of Grand Junction convened into regular session on the 5th day of January 2009 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Doug Thomason, Linda Romer Todd, and Council President Gregg Palmer. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Gregg Palmer called the meeting to order. Councilmember Hill led in the Pledge of Allegiance followed by an invocation by Pastor Paul Williams from Freedom House Ministries.

Proclamation

Proclaiming January, 2009 as “National Mentoring Month” in the City of Grand Junction

Proclaiming January 19, 2009 as “Martin Luther King, Jr. Day” in the City of Grand Junction

Appointments

Councilmember Beckstein moved to reappoint Bill Sisson and Laurie Kadrich to the Grand Junction Colorado State Leasing Authority to terms expiring January, 2012. Councilmember Hill seconded the motion. Motion carried.

Councilmember Todd moved to reappoint Jim Widdows and Dennis King to the Riverview Technology Corporation for an additional one year term until February 2010, making an exception to the RTC By-Laws regarding term limitations. Councilmember Coons seconded the motion. Motion carried.

Council Comments

There were none.

City Manager’s Report

City Manager Laurie Kadrich took the opportunity to inform the community about how the City is operating to be more efficient and effective. The following day, City

Manager Kadrich is holding two State of the City addresses to City employees at Lincoln Park Barn.

Secondly, regarding the budget, the City Manager has asked the Staff to delay implementation of the 2009 budget regarding contracts and filling new positions for the first quarter as the revenue stream is uncertain and the economy may worsen the first quarter of 2009. No emergency response services will be affected. Department Heads have asked that some expenditures be put off until the economic affect can be determined.

Councilmember Hill asked for clarifications that capital construction that creates jobs in the community are not being postponed but rather just non-essential operating expenses. Ms. Kadrich replied that some new capital projects may not be bid out right away but the ongoing projects such as the Big Pipe Project and the 29 Road Project are going forward.

The public was invited to send comments or questions directly to City Manager Kadrich.

Citizen Comments

Earle Mullen, 702 Tranquil Trial, addressed the City Council about proclaiming February 12, 2009 as Charles Darwin Science Day in the City of Grand Junction, recognizing the biologist Charles Darwin's 200th birthday. He then read the proposed proclamation.

Mr. Mullen added that President Lincoln's 200th birthday would also be on February 12, 2009 and suggested the Council might consider combining the two.

CONSENT CALENDAR

Councilmember Todd read the Consent Calendar and then moved to approve the Consent Calendar items #1 through #5. Councilmember Hill seconded the motion. Motion carried by roll call vote.

1. Minutes of Previous Meetings

Action: Approve the Minutes of the December 15, 2008 and the December 17, 2008, Regular Meeting and the Minutes of the December 15, 2008 Special Session

2. 2009 Meeting Schedule and Posting of Notices

State Law requires an annual designation of the City's official location for the posting of meeting notices. The City's Code of Ordinances, Sec. 2-26,

requires the meeting schedule and the procedure for calling special meetings be determined annually by resolution.

Resolution No. 01-09—A Resolution of the City of Grand Junction Designating the Location for the Posting of the Notice of Meetings, Establishing the City Council Meeting Schedule, and Establishing the Procedure for Calling of Special Meetings for the City Council

Action: Adopt Resolution No. 01-09

3. **Conduct of the Regular Municipal Election on April 7, 2009**

The City has adopted the Municipal Election Code. In order to conduct the election by mail ballot, the Council must authorize it pursuant to 1-7.5-104 C.R.S. and the City Clerk must submit a Written Plan outlining the details and responsibilities to the Secretary of State. It is recommended that the City again contract with Mesa County to conduct this election by mail ballot. They have the equipment on site and are able to prepare, mail out and process the ballots more efficiently than the City.

Resolution No. 02-09—A Resolution Authorizing a Mail Ballot Election in the City of Grand Junction Regular Municipal Election on April 7, 2009, Authorizing the City Clerk to Sign the Intergovernmental Agreement with Mesa County Clerk and Recorder and Approving the Written Plan for the Conduct of a Mail Ballot Election

Action: Adopt Resolution No. 02-09

4. **Setting a Hearing on Amending the Municipal Code Regarding Minors in Possession of Alcohol and Marijuana**

Amendments are being proposed to define and clarify sentencing parameters for repeat Minor in Possession (MIP) offenders. Changes to the Ordinance will help enforce compliance with the City Ordinances governing minors in possession of alcohol and marijuana.

Proposed Ordinance Amending Ordinance No. 3852, Which Establishes Section 24-22 of the Code of Ordinances and Prohibits the Purchase, Possession or Consumption of Alcohol by Minors and Also Amending Ordinance No. 3853, which Establishes Section 24-23 of the Code of Ordinances and Prohibits the Purchase, Possession or Consumption of Marijuana by Minors

Action: Introduction of Proposed Ordinance and Set a Hearing for January 21, 2009

5. **Acquisition of Property and Assets of Fruitvale Sanitation District**

The Fruitvale Sanitation District has petitioned the District Court for dissolution of the District. The City and the District have agreed to transfer and convey all of the District's sewer collection lines and valves, pump stations and accompanying apparatus to the City. The sanitary sewer services provided by the District will be assumed by the City in accordance with the Plan of Dissolution jointly prepared by the District and the City and filed with the District Court.

Resolution No. 03-09—A Resolution Authorizing the Acquisition of Property and Assets of the Fruitvale Sanitation District

Action: Adopt Resolution No. 03-09

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Executive Session

Councilmember Doody moved to return to executive session to discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under Section 402(4)(a) of the Open Meetings Law and Council will not return to open session. Councilmember Thomason seconded the motion. Motion carried.

Adjournment

The meeting adjourned to a reconvened executive session at 7:26 p.m. in the Administration Conference Room.

Stephanie Tuin, MMC
City Clerk

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

January 7, 2009

The City Council of the City of Grand Junction convened into regular session on the 7th day of January 2009 at 7:04 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Doug Thomason, Linda Romer Todd, and Council President Gregg Palmer. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Palmer called the meeting to order. Councilmember Doody led in the Pledge of Allegiance.

Report on Volunteer Board Openings

City Clerk Stephanie Tuin gave a report on Volunteer Board Openings. She advised Council that there is a lack of applicants for two of the volunteer boards that have been advertised, which are the Downtown Development Authority and the Planning Commission /Zoning Board of Appeals.

The Downtown Development Authority is a seven member board which also serves as the Downtown Grand Junction Business Improvement District. There is currently one opening. One new application has been received, and there are two on file. Ms. Tuin stated that one must own property in the DDA, own a business, or live within the DDA boundaries to apply for this particular board.

The Planning Commission/Zoning Board of Appeals currently has two alternate openings, one application has been received. This board reviews the appeals and other applications for variances to the Zoning and Development Code. As an alternate to the Planning Commission they also review development applications. Applicants for this board must be City residents.

Both of these boards are four year terms. Existing members will serve on the board until the open positions are filled. Anyone interested in these particular boards can contact City Clerk Stephanie Tuin. The City Clerk would like to have all applications by January 19, 2009 but will keep the positions open until there are enough applicants. City Clerk Tuin encouraged anyone who is interested and eligible to apply.

Citizen Comments

There were none.

CONSENT CALENDAR

Councilmember Beckstein read the Consent Calendar and then moved to approve items #1 through #5. Councilmember Thomason seconded the motion. Motion carried by roll call vote with Councilmember Coons recusing herself from voting on item #2.

1. **Highway 50 Access Control Plan IGA**

Request to enter into an intergovernmental agreement with Colorado Department of Transportation and Mesa County for an Access Control Plan for Highway 50 from the Colorado River to Highway 141 in Whitewater.

Resolution No. 04-09—A Resolution an Intergovernmental Agreement between the City of Grand, Mesa County and the Colorado Department of Transportation (CDOT) Regarding US-50 Access Control Plan

Action: Adopt Resolution No. 04-09

2. **Setting a Hearing for the Outline Development Plan and Rezone for St. Mary's Rose Hill Hospitality House Expansion, Located at 609 26 ½ Road** [File #RZ-2008-227]

A request for approval to zone property located at 609 26 ½ Road known as St. Mary's Rose Hill Hospitality House to PD (Planned Development) with a default zone of B-1, (Neighborhood Business) by approval of the Outline Development Plan.

Proposed Ordinance Rezoning Property Located at 609 26 ½ Road known as St. Mary's Rose Hill Hospitality House to PD (Planned Development) by Amending Ordinance No. 3992 to Include this Property

Action: Introduction of a Proposed Ordinance and Set a Hearing for January 21, 2009

3. **Setting a Hearing on the Kapushion Annexation No. 1, 2, and 3, Located at 860 21 Road** [File #ANX-2008-305]

Request to annex 35.12 acres, located at 860 21 Road. The Kapushion Annexation consists of one parcel. No road right-of-way is included in this annexation area. This is a three part serial annexation.

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

Resolution No. 05-09—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Kapushion Annexation No. 1, 2, and 3, Located at 860 21 Road

Action: Adopt Resolution No. 05-09

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Kapushion Annexation No. 1, Approximately 0.89 Acres, Located at 860 21 Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Kapushion Annexation No. 2, Approximately 16.67 Acres, Located at 860 21 Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Kapushion Annexation No. 3, Approximately 17.56 Acres, Located at 860 21 Road

Action: Introduction of Proposed Ordinances and Set a Hearing for March 4, 2009

4. **Setting a Hearing for the Northwest GJ Annexation, No. 1 and 2, Located East of 860 21 Road** [File # ANX-2008-305]

Request to annex 65.61 acres, located east of 860 21 Road, along 21 ½ Road. The Northwest GJ Annexation consists of two parcels including 6,200.87 square feet of 21 ½ Road Right-of-Way.

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

Resolution No. 06-09—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Northwest GJ Annexation No. 1 and 2, Located East 860 21 Road, along 21 ½ Road

Action: Adopt Resolution No. 06-09

b. Setting a Hearing on Proposed Ordinances

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Northwest GJ Annexation No. 1, Approximately 45.52 Acres, Located East of 860 21 Road, Along 21 ½ Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Northwest GJ Annexation No. 2, Approximately 20.09 Acres, Located East of 860 21 Road, Along 21 ½ Road

Action: Introduction of Proposed Ordinances and Set a Hearing for March 4, 2009

5. **Setting a Hearing on the Appeal of the Planning Commission's Decision Regarding a Conditional Use Permit for a Bar/Nightclub** [File #CUP-2008-158]

An appeal has been filed regarding the Planning Commission's decision to deny a Conditional Use Permit for a Bar/Nightclub, located at 2256 and 2258 Colex Drive. The project sits on 1 lot in an I-1 (Light Industrial) zone district. (The project will include leased parking spaces from the lot immediately to the north.) 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: Set a Hearing for January 21, 2009

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing to Create Alley Improvement District 2009, Phase A

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

- East/West Alley from 3rd to 4th, between Glenwood Avenue and Kennedy Avenue
- East/West Alley from 9th to 10th, between Main Street and Rood Avenue
- East/West T Alley from 17th to 18th, between North Avenue and Glenwood Avenue

The public hearing was opened at 7:13 p.m.

Councilmember Coons disclosed that her husband is an owner in one of the businesses on one of the alleys being considered. In discussions with the City

Attorney it was determined that there was no conflict of interest. No one disagreed.

Tim Moore, Public Works and Planning Director, presented this item. He described the project which includes three alleys and noted that once the project is bid out, if there are funds remaining, they will bid out a fourth alley for improvement. Public Works and Planning Director Moore detailed the cost share allocations between the property owners and the City.

Council President Palmer inquired about the percentages of the City funding versus property owners. Mr. Moore said generally the split is 75% City to 25% property owner. That is due to a recent adjustment that specified the City's allocation by percentage rather than by amount. Previously with a flat rate and increased costs, the City's allocation had increased. Using percentages, the City's cost share will stay by percentage regardless of costs increasing or decreasing.

Councilmember Hill agreed noting that costs could be less with the economic conditions, but the City's percentage will stay the same.

Council President Palmer asked about how the projects are scheduled. Mr. Moore indicated it is "first come first serve" based on petitions submitted. There is a waiting list.

There were no public comments.

The public hearing closed at 7:19 p.m.

Resolution No. 07-09—A Resolution Creating and Establishing Alley Improvement District No. ST-09, Phase A within the Corporate Limits of the City of Grand Junction, Colorado, Authorizing the Reconstruction of Certain Alleys, Adopting Details, Plans and Specifications for the Paving Thereon and Providing for the Payment Thereof

Councilmember Todd moved to adopt Resolution No. 07-09. Councilmember Thomason seconded the motion. Motion carried by roll call vote.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting was adjourned at 7:20 p.m.

Stephanie Tuin, MMC
City Clerk

GRAND JUNCTION CITY COUNCIL

SPECIAL SESSION MINUTES

JANUARY 5, 2009

The City Council of the City of Grand Junction, Colorado met in Special Session on Monday, January 5, 2009 at 4:30 p.m. in the Administration Conference Room, 2nd Floor, City Hall, 250 N. 5th Street. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Doug Thomason, Linda Romer Todd and President of the Council Gregg Palmer. Also present were City Manager Laurie Kadrach, Deputy City Manager Rich Englehart, and City Attorney John Shaver.

Council President Palmer called the meeting to order.

Councilmember Coons moved to go into Executive Session to discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under section 402(4)(a) of the Open Meetings Law Relative to City Council Employees Specifically the City Manager and will not be returning to open session. Councilmember Thomason seconded the motion. City Attorney Shaver pointed out they will adjourn into open session. Councilmember Coons amended her motion that they will be adjourning to open session. Councilmember Thomason seconded the amendment. The amended motion carried.

The City Council convened into executive session at 4:40 p.m.

Stephanie Tuin, MMC
City Clerk

Attach 2

Setting a Hearing Regarding the Regulation and Licensing of Massage Parlors

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Regulate and license massage parlor establishments		
File #			
Meeting Day, Date	Wednesday, January 21, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 9, 2009		
Author Name & Title	Mary Lynn Kirsch, City Attorney's Office		
Presenter Name & Title	John Shaver, City Attorney		

Summary: In an ongoing effort to monitor and police community nuisance and criminal activities, the Grand Junction Police Department and the City Attorney have become aware of some growth in criminal activities related to massage parlor establishments. City Staff believes that it would be in the best interests of the community if City Council would consider a new City ordinance to regulate and license massage parlors. Those establishments can be a front for criminal activity. With licensing as proposed, law enforcement will have greater opportunity to monitor businesses before problems arise.

Budget: There is no direct budget impact from adoption of the Ordinance. Increased enforcement will have a cost that is unknown at this time. The Grand Junction Police Department, City Clerk and City Attorney will be responsible for enforcement.

Action Requested/Recommendation: Introduction of proposed Ordinance and set a hearing for February 4, 2009.

Attachments: Proposed Ordinance

Background Information: Grand Junction Police Officers are aware of increased criminal activities associated with massage parlor establishments. As there is a general community expectation that the City be alert and responsive to criminal activities of this kind, it is the recommendation of staff that a new ordinance be adopted that regulates and provides licensing and oversight authority for these types of establishments.

ORDINANCE NO. _____

AN ORDINANCE REGULATING AND LICENSING MASSAGE PARLORS

RECITALS:

The number of massage businesses in Grand Junction has increased. With that growth there has been increased concern about criminal conduct and nuisance activity related to massage parlor establishments. The efforts of the Grand Junction Police Department to police and monitor these activities have been ongoing but there is a need for more direct involvement with licensing and enforcement. This would be accomplished by adopting a new ordinance specifically regulating and licensing massage parlor establishments.

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

A new Article VII be added to Chapter 10 of the Grand Junction Code of Ordinances regarding businesses. The Ordinance establishes regulations and licensing requirements for massage parlor establishments. The new Article VII shall read as follows:

Chapter 10 BUSINESSES

ARTICLE VII. MASSAGE PARLORS

Sec. 10-200. Purpose.

This chapter is enacted for the purpose of promoting the health, safety and welfare of the citizens of the City by regulating and licensing massage parlors.

Sec. 10-220. Definitions.

As used in this chapter, unless the context otherwise requires, the following words and terms shall be defined as follows:

“*License*” means a grant to a licensee to operate a massage parlor.

“*Licensed Premises*” means the premises specified in an approved application for a license under this chapter which are owned or in the possession of the licensee and within which such licensee is authorized to carry on the practice of massage.

“*Licensing Authority*” or “*Authority*” means the massage parlor licensing authority of the City.

“*Location*” means a particular parcel of land that may be identified by an address or by other descriptive means.

“*Massage*” means a method of treating the body of another for medical, remedial or hygienic purposes, including but not limited to rubbing, stroking, kneading or tapping with the hand or an instrument or both.

“*Massage Parlor*” means an establishment providing massage, but it does not include training rooms of public or private schools accredited by the state board of education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams or licensed health care facilities. A facility that is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor.

“*Massage Therapist*”. For purposes of this subsection, “massage therapist” has the meaning set forth in C.R.S. §12-35.5-103. For purposes of this subsection, a massage therapy school may include an equivalency program approved by the state educational board or division charged with the responsibility of approving private occupational schools.

“*Person*” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization or the manager, lessee, agent, servant, officer or employee of any of them.

“*Premises*” means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous thereto.

Sec. 10-230. Licensing authority established.

(a) There is established a massage parlor licensing authority, which shall have and is vested with the authority to grant or refuse licenses for massage parlors based upon the criteria set forth herein, and state law to conduct investigations and to suspend or revoke such licenses for cause in the manner provided by this Code.

(b) Hereinafter, the massage parlor Licensing Authority shall be the persons that comprise the Grand Junction Liquor and Fermented Malt beverage Licensing Authority (to wit a designated hearing officer, the City Attorney or his/her designee and the City Clerk or her/his designee). The qualifications and appointment of members to fill vacancies and removal of members by the City Council shall be in the manner provided by Charter and this Code.

(c) The Authority shall meet as needed. The hearing officer shall preside over all hearings and proceedings of the Authority.

(d) The City Clerk shall receive all applications for licenses and shall issue all licenses granted by the Authority, upon receipt of all fees as are required by this chapter. All public notices required by this chapter shall be accomplished by the City Clerk.

(e) The Code Enforcement Officer for the affected area shall also be the massage parlor inspector, who shall perform routine periodic inspections of the licensed premises and such other duties as the massage parlor Licensing Authority may reasonably direct. Public notice by posting of signs required by this chapter shall be accomplished by the Code Enforcement Officer.

Sec. 10-240. Licensed required – Display.

(a) It is unlawful for any person to operate a massage parlor within this city

unless such person shall have first obtained a massage parlor license from the City.

(b) Such license shall be prominently displayed at all times upon the premises for which the license was issued.

Sec. 10-250. Application fee.

Each applicant, whether an individual, partnership or corporation, shall pay an application fee as determined by City Council in accordance with its annual fee resolution at the time of filing an application. Such application fee shall be nonrefundable.

Sec. 10-260. License application.

(a) Applications for a License under the provisions of this Chapter shall be on forms prepared and furnished by the City Clerk which shall set forth such information as the Licensing Authority requires to enable the Authority to determine whether a license should be granted. Each individual applicant, partner of a partnership, officer, director and holder of over ten percent of the corporate stock of the corporate applicant and all managers shall be named in each application form and each of them shall be photographed and fingerprinted by the Grand Junction Police Department. Each individual applicant, partnership and corporate applicant shall also furnish evidence from the Public Works and Planning Department that the proposed establishment meets the requirements of the City zoning ordinance, proof of the applicant's right to possession of the premises, complete plans and specifications for the premises, a financial questionnaire, a background investigation report and consent to release financial information and any other information necessary to complete the investigation of the applicant. Each corporate applicant shall furnish evidence that it is in good standing under the laws of the State of Colorado or in the case of a foreign corporation, evidence that the corporation is currently authorized to do business in the State of Colorado.

(b) The City Clerk shall not accept any application that is not complete in every detail. If an omission or error is discovered by the City Clerk, the application shall be rejected and returned to the applicant for completion or correction without further action by the City Clerk or the Licensing Authority. All fees shall be returned with the application. For purposes of this chapter, the date the City Clerk accepts an application which is complete in every detail shall be the filing date.

(c) Upon receipt of a complete application for a license to operate a massage parlor, the City Clerk shall set the boundaries of the neighborhood to be considered pursuant to Section 10-290 (b) of this chapter in determining whether or not to grant said license.

Sec. 10-270. Public Notice – Posting and Publication.

(a) Upon receipt of a complete application, except an application for renewal or for transfer of ownership, the Licensing Authority shall schedule a public hearing upon the application not less than thirty days after the filing date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the municipality in which the premises are located.

(b) Notice given by posting shall include a sign of suitable material, stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners and, if the applicant is a corporation, association or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary and manager.

(c) Notice given by publication shall contain the same information as that required for notice signs.

(d) If the building in which the massage parlor is to be operated is in existence at the time of the application, any sign posted as required in subsections (a) and (b) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(e) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and cross-examine witnesses. As used in this chapter, "party in interest" includes the applicant, a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration.

(f) The Licensing Authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

Sec. 10-280. Investigation.

(a) When a complete application has been accepted for filing, the required individuals have been fingerprinted and photographed, and the license fee has been paid, the City Clerk shall transmit the application to the Grand Junction Police Department for investigation of the background and financial interest of each individual applicant, each partner holding over ten percent interest of a partnership, each officer, director and holder of over ten percent of the stock of a corporation of a proposed massage parlor establishment. The Police Department shall also investigate the source of funds for the business. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated.

(b) The investigation conducted by the Grand Junction Police Department shall be sufficient to verify the accuracy of all the information submitted as part of the application. The Grand Junction Police Department shall make a recommendation to the Licensing Authority to approve or deny the license based on its investigation. In investigating the qualifications of any applicant, licensee, or employee or agent of the licensee or applicant, the Licensing Authority may have access to criminal history record information furnished by criminal justice agencies subject to any restrictions imposed by such agencies. In the event the Licensing Authority takes into consideration information concerning the applicant's criminal history records, the Licensing Authority shall also

consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his/her application for a license.

As used in this subsection (b), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(c) No application for a massage parlor license at a particular location by or on behalf of the same person shall be received or acted upon concerning a location for which, within two years preceding, the local Licensing Authority has refused to approve a license on the grounds, in whole or in part, that the license(s) already granted for the particular locality were adequate for the reasonable requirements of the neighborhood and the desires of the inhabitants at the time of such refusal.

Sec. 10-290. Results of Investigation – Decision of Authority – Change of Financial Interest.

(a) Not less than ten days prior to the date of the hearing, the City shall make known the findings based upon its investigation, in writing, the applicant and other interested parties. The Licensing Authority has authority to refuse to issue any license, subject to judicial review.

(b) Before entering any decision approving or denying the application, the Licensing Authority shall consider, except where this chapter specifically provides otherwise, the facts and evidence produced as a result of the investigation, including the reasonable requirements of the neighborhood for the license for which application has been made, the desires of the inhabitants, the number, type and availability of other massage parlors located in or near the neighborhood under consideration, and any other pertinent matters affecting qualifications of the applicant for the conduct of the business proposed.

(c) Any decision of the Licensing Authority approving or denying an application shall be in writing stating the reasons therefor and shall be made within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application.

(d) No license shall be issued by the Licensing Authority after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the provisions of this chapter, and then only after inspection of the premises has been made by the Licensing Authority to determine that the applicant has complied with the plans and specifications submitted upon application. If the building has not been constructed or placed in operation within one year after approval of the license application or construction of the building has not commenced within one year after such approval, the Licensing Authority, in its discretion, may revoke or elect not to renew the license.

(e) Any change in the partners holding over ten percent in interest of a partnership or in the officers, directors or holders of over ten percent of the stock of a corporate licensee holding a massage parlor license shall result in termination of the license of the partnership or corporation, unless such licensee within thirty days after such change, files a written notice of such change with the City Clerk on forms provided by the City Clerk, together with the required fees, fingerprints and photographs. The Grand Junction Police Department shall thereafter conduct an investigation and make a recommendation as set out in Section 10-280.

(f) Each license issued under this chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he holds. A separate license shall be issued for each specific business or business entity and each geographical location.

Sec. 10-300. Renewals.

Application for the renewal of an existing license shall be made to the Licensing Authority not less than forty-five days prior to the date of expiration. The Licensing Authority may cause a hearing on the application or renewal to be held. No such renewal hearing shall be held by the Licensing Authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The Licensing Authority, in its discretion, may revoke or elect not to renew a license if it determines that the licensed premises have been inactive for at least three months. The Licensing Authority may also refuse to renew any license for good cause, subject to judicial review.

Sec. 10-310. Transfer of ownership.

(a) Application shall be made to the Licensing Authority prior to any transfer of ownership on forms prepared and furnished by the Licensing Authority. In determining whether to permit a transfer of ownership, the Licensing Authority shall consider the requirements of Section 10-260. The Licensing Authority may cause a hearing on the application for transfer of ownership to be held. No such hearing shall be held by the Licensing Authority until the notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and written notice of the hearing has been provided the applicant at least ten days prior to the hearing.

(b) When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license.

Sec. 10-320. Location of Massage Parlors.

(a) It is unlawful to operate or cause to be operated a massage parlor which is in violation of the Grand Junction zoning ordinance.

(b) It is unlawful to operate or cause to be operated a massage parlor within one thousand feet of:

- (1) A church;

- (2) A school or child care facility, as defined in the Grand Junction Zoning Code;
- (3) A public park;
- (4) A boundary of any residential district;
- (5) The property line of a lot devoted to residential use.

(c) It is unlawful to cause or permit the operation of a massage parlor within one thousand feet of another massage parlor or an adult business as defined in the Grand Junction Zoning and Development Code.

(d) It is unlawful to cause or permit the operation or maintenance of more than one massage parlor in the same building, structure or portion thereof.

(e) For the purposes of subsections (b) and (c) above, the distance between any two massage parlors shall be measured in a straight line, without regard to intervening structures or objects, from the closest point of the property line of such use to the closest exterior wall of the structure in which the massage parlor is located.

(f) Any massage parlor lawfully operating on the effective date of this chapter that is in violation of subsections (b) through (e) of this section shall be allowed to continue operating for an amortization period of six (6) months. Six (6) months after this ordinance becomes effective, all massage parlors must comply with subsections (b) through (e) of this section and all other provisions of this chapter.

(g) A massage parlor lawfully operating is not rendered a nonconforming use by the subsequent location of a church, a school or child care facility, as defined in the Grand Junction Zoning and Development Code, public park, residential district, a residential lot, or adult business within one thousand feet of the massage parlor; however, if the massage parlor ceases operation for a period of one hundred eighty (180) days or more, regardless of any intent to resume operation, it may not recommence operation in that location.

(h) No changes of location for a licensed massage parlor shall be allowed.

Sec. 10-340. Identity cards.

(a) Every applicant, licensee, agent or employee of said applicant or licensee who administers massages shall, prior to commencing work in or upon the licensed premises, obtain an identity card from the City Clerk and shall carry said identity card at all times while in or upon the licensed premises.

(b) The identity card shall include the location of the massage parlor, the name, signature and photograph of the individual. A fee of fifty (\$50) dollars shall be charged for each card, said fee to be collected by the City Clerk and used to defray the expenses of providing such identity cards. A separate identity card shall be required for each person for each place of employment.

(c) Each applicant for an identity card shall be photographed and fingerprinted by the Grand Junction Police Department and must submit an application form, background investigation report, a copy of a valid picture driver's license or other form of acceptable picture identification, and the required identity card and investigation fees to the City Clerk.

Upon receipt of a properly completed application form, acceptable form of identification and fee, the City Clerk shall transmit the application to the Grand Junction Police Department for investigation of the applicant's background. The City Clerk shall reject any application that is not complete in every detail.

(d) Within forty-five (45) days after filing of a properly completed application for an identity card, the City Clerk will either issue the requested identity card or notify the applicant that the Police Department has recommended denial of the identity card. The Police Department may request a reasonable extension of time from the City Clerk if such extension of time is necessary in order to complete its investigation. Notice of denial of an identity card setting out the grounds for denial shall be sent by certified mail to the applicant at the address provided by the applicant. The grounds for denial shall be those set out in this section and Section 10- 350 herein. In the event of a denial, an applicant shall have the right to a hearing before the Licensing Authority as set for in Section 10-350.

(e) Should any identity card be lost, stolen or otherwise missing, the person to whom the identity card was issued shall report the missing card to the City Clerk within forty-eight (48) hours of discovery that the identity card is missing. Replacement identity cards shall be issued within five (5) business days of receipt of an application for a replacement identity card. The fee for a replacement card shall be ten (\$10) dollars.

Sec. 10-350. Suspension – Revocation - Denial of Identification Card - Hearings.

(a) The Licensing Authority may suspend or revoke any license granted pursuant to this chapter upon a finding of the following:

- (1) That repeated disturbances of the public peace involving patrons, agents or employees, or the licensee of the establishment have occurred within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds within the neighborhood of the licensed establishment;
- (2) That the licensee or any agents or employees thereof are illegally offering for sale or illegally allowing to be sold or consumed upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed Premises, narcotics or dangerous drugs, fermented malt beverages, or malt, vinous or spirituous beverages;
- (3) That the licensee or any agents or employees thereof permitted patrons to engage in public displays of indecency prohibited by law or permitted patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution with the licensed establishment or upon any parking areas, sidewalks, access ways or grounds immediately adjacent to the licensed establishment, when the licensee or agent or employee knew or should have known such displays or acts were taking place;
- (4) That the licensee made a false statement or gave false information in connection with an application for or renewal of a massage parlor license;
- (5) That the licensee violated or permitted a violation of any provisions of

this chapter.

(b) Nothing in this chapter shall prohibit the City from taking any other enforcement action provided for by the Grand Junction Municipal Code, the laws of the state or of the United States.

(c) A licensee shall be entitled to a hearing before the Licensing Authority if the City Attorney files a written complaint with the Licensing Authority seeking to suspend or revoke a license.

- (1)** When there is probable cause to believe that a licensee has committed or has allowed to be committed acts which are grounds for suspension or revocation under this chapter, the City Attorney may file a written complaint with the Licensing Authority setting forth the circumstances of such acts.
- (2)** The Licensing Authority shall provide a copy of the complaint to the licensee, together with notice to appear before the Licensing Authority or his designee for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.
- (3)** At the hearing referred to above, the Licensing Authority shall hear and consider relevant evidence from any witness. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in aggravation of the offense shall also be permitted. The Licensing Authority shall make findings of fact from the evidence as to whether a violation has occurred. If the Licensing Authority determines that a violation did occur, it shall issue an order within thirty (30) days after the hearing suspending or revoking the licensee's license based on its findings of fact. No suspension shall be for a period longer than six (6) months. A copy of the findings and order shall be mailed to or served on the Licensee at the address on the license.
- (4)** The order of the Licensing Authority made pursuant to subsection (c)(3) above shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to appeal said order in a timely manner shall constitute a waiver of any right a licensee may otherwise have to contest the suspension or revocation of his or her license.
- (5) a.** The Licensing Authority has the power to administer oaths and issue subpoenas to require the presence of persons and production of papers, books and records necessary for the determination of any hearing which the Licensing Authority conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Licensing Authority.

b. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the state. Upon failure of any witness to comply with such subpoena, the City Attorney shall petition any judge of the Municipal Court of the city, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court.

(d) The City Attorney may act on behalf of the City during hearings before the Licensing Authority.

(e) All hearings held before the Licensing Authority under this chapter shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Clerk, and shall pay all costs of preparing such record.

Sec. 10-360. Persons prohibited as licensees.

No license provided by this chapter shall be issued to or held by:

(a) Any corporation, any of whose officers, directors or stockholders holding more than ten percent of the stock thereof are not of good moral character;

(b) Any partnership, association or company, any of whose officers, or any of whose members holding more than ten percent interest therein, are not of good moral character;

(c) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the Licensing Authority;

(d) Any sheriff, deputy sheriff, police officer or prosecuting officer or any of the Licensing Authority's inspectors or employees;

(e) Any person unless he or she is, with respect to his or her character, record and reputation, satisfactory to the Licensing Authority.

Sec. 10-370. Unlawful acts.

(a) It is unlawful for any person:

(1) to operate a massage parlor anywhere within the City without holding a valid Grand Junction massage parlor license;

(2) to work in or upon the licensed premises of a massage parlor administering massages without obtaining and displaying a valid identity card pursuant to Sec. 10- 340 of this chapter;

(3) to be in or upon the premises of a massage parlor or to obtain the services provided in a massage parlor by misrepresentation of age or by any other method in any place where massage is practiced when such

person is under eighteen (18) years of age, unless such person is accompanied by his or her parent or legal guardian, or has a physician's prescription for such massage services;

- (4) to allow the sale, giving or procuring of any massage services to any person under the age of eighteen (18) years, unless such person is accompanied by his or her parent or legal guardian, or has a physician's prescription for such massage services;
- (5) to employ any person under the age of eighteen (18) years in a massage parlor; however, if any person who is not eighteen (18) years of age exhibits a fraudulent proof of age that he or she is eighteen (18) years of age or older, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this chapter for violation of subsection (a)(3) through (5) of this section, unless the person inspecting such proof of age knew or should have known that it was fraudulent;
- (6) to fail to display at all times in a prominent place on the licensed premises a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter a minimum of one-half inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR HAS A PHYSICIAN'S PRESCRIPTION FOR SUCH MASSAGE SERVICES.

IT IS ILLEGAL FOR ANY PERSON TO ALLOW A PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR HAS A PHYSICIAN'S PRESCRIPTION FOR SUCH MASSAGE SERVICES.

FINES OR IMPRISONMENTS MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS UNDER THE GRAND JUNCTION MUNICIPAL CODE AND ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES.

- (7) to permit any narcotics or dangerous drugs on the licenses premises;
- (8) to permit any fermented malt beverages or malt, vinous or spirituous liquors on the licensed premises;
- (9) to administer a massage or permit any massage to be administered to a patron whose genitals, anus or female breasts are exposed during the massage treatment; and no patron of a massage parlor shall knowingly

expose his or her genitals, anus or female breasts during a massage;

(10) to intentionally touch or permit any other person to touch the genitals, anus or female breasts of any other person while on the licensed premises;

(11) to engage in, encourage, or request, or to permit any person to engage in, encourage, or request acts of masturbation while on the licensed premises;

(12) to interfere with or refuse to permit any inspection of the licensed premises by the Grand Junction Police Department or agent of the City.

(b) No massage parlor shall be open for business between the hours of twelve (12) midnight and six (6) a.m.

Sec. 10-380. Penalty.

(a) Any person violating any provision of this chapter shall be punished pursuant to Chapter 1.16 of the Grand Junction Municipal Code.

(b) The penalties provided in this section shall not be affected by the penalties provided in any other section of this chapter but shall be construed to be an addition to any other penalties.

Sec. 10-390. Employee apparel.

All employees of the establishment shall wear clothing that covers the pubic area, perineum, buttocks, cleft of the buttocks and entire chest to four (4) inches below the collar bone and legs not exposed more than six (6) inches above the knees. No transparent clothing shall be permitted.

Sec. 10-400. Right of entry.

The application for a massage parlor license shall constitute consent of the licensee and his or her agents or employees to permit the Grand Junction Police Department or any other agent of the City to conduct routine inspections of any licensed massage parlor during the hours the establishment is conducting business and at other times during which activity on the premises is in evidence.

Sec. 10-410. Exemptions.

The following classes of persons and establishments are exempted from this ordinance:

(a) Physicians, osteopaths, physical therapists, chiropodists, chiropractors or podiatrists licensed or registered to practice in this state while performing such services in the practice of their respective professions;

(b) Registered nurses and licensed practical nurses that are licensed to practice in this state while performing such services in their usual nursing duties;

(c) Barbers and cosmetologists duly licensed under the laws of this state in the course of practice of their usual and ordinary licensed vocation and profession, as defined in C.R.S. § 12-8-101, et seq.;

(d) Hospitals, clinics, nursing and convalescent homes and other similar institutions dedicated to medical or nursing practices licensed under the laws of this state where massage and baths may be given;

(e) Massage practiced in an institution of learning established for such instruction under C.R.S., Title 12, Article 59;

(f) Training rooms of public and private schools accredited by the State Board of Education or approved by the State Board for Community Colleges and Occupational Education, and training rooms of recognized professional or amateur athletic teams;

(g) Health care facilities licensed by the State of Colorado and not specified in this chapter;

(h) Massage therapists as defined in Section 10-220 of this chapter.

Sec. 10-420. Severability.

If any paragraph or subparagraph of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not invalidate the remainder of this chapter and, to this end, the provisions of this chapter are declared to be severable.

Sec. 10-430. Prostitution prohibited.

(a) Any person who performs, offers or agrees to perform any act of sexual intercourse, anal intercourse, cunnilingus, fellatio or masturbation with any person not his or her spouse in exchange for money or other thing of value commits prostitution.

(b) Any person, while giving a massage or while appearing nude or semi-nude, who permits or encourages another person not his or her spouse to masturbate in exchange for money or other thing of value commits prostitution.

Sec. 10-440. Soliciting for prostitution.

Any person who does any of the following commits soliciting for prostitution:

(a) Solicits another for the purpose of prostitution;

(b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution;

(c) By word, gesture or action, endeavors or arranges to further the practice of prostitution or to obtain the services of a prostitute; or

(d) Directs another to a place knowing such direction is for the purposes of prostitution.

Sec. 10-450. Pandering.

Any person who for money or other thing of value knowingly arranges or offers to arrange a situation in which a person may practice prostitution commits pandering.

Sec. 10-460. Keeping a place of prostitution.

Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits keeping a place of prostitution:

(a) Knowingly grants or permits the use of such place for the purpose of prostitution; or

(b) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

Sec. 10-470. Patronizing a prostitute.

(a) Any person who offers or agrees to pay money or other thing of value to a person not his or her spouse in exchange for the performance of an act of sexual intercourse commits patronizing a prostitute.

(b) Any person who enters or remains in a place of prostitution, with intent to engage in an act of sexual intercourse with a person not his or her spouse, in exchange for the payment of money or other thing of value, commits patronizing a prostitute.

Sec. 10-480. Prostitute making display.

Any person who by word, gesture or action, endeavors to further the practice of prostitution in any public place or within public view commits prostitute making display.

Sec. 10-490. Confiscation of monies used in prostitution offenses.

In addition to any fines, costs or other penalty that the court may impose, a conviction, plea of guilty, no contest or entry of a deferred judgment or sentence to a violation of this chapter shall result in forfeiture to the seizure fund of the Grand Junction Police Department of any monies used in the commission of a violation of this chapter.

Sec. 10-500. Additional Definitions.

For the purposes of this chapter, the words and phrases used herein, unless the context otherwise indicates, shall have the following meaning:

“*Anal intercourse*” means sexual contact between human beings of the genital organs of one and the anus of another.

“*Cunnilingus*” means any act of oral stimulation of the vulva or clitoris.

“*Fellatio*” means any act of oral stimulation of the penis.

“*Masturbation*” means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

“*Nude*” means the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

“*Semi-nude*” means a state of dress in which clothing covers no more than the genitals, public region or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

“*Sexual intercourse*” means real or simulated intercourse, whether genital-genital, anal-genital, anal intercourse, cunnilingus or fellatio, between human beings of the opposite or same sex or with an artificial device.

ALL OTHER PROVISIONS OF CHAPTER 10 SHALL REMAIN IN FULL FORCE AND EFFECT.

PASSED for first reading and authorized the publication in pamphlet form by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

PASSED AND ADOPTED on second reading and authorized the publication in pamphlet form by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

President of the Council

Attest:

Stephanie Tuin
City Clerk

Attach 3

Lease Agreement with MBC Grand Broadcasting Inc.

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Ratify Lease Agreement with MBC Grand Broadcasting, Inc.		
Meeting Day, Date	Wednesday, January 21, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 12, 2009		
Author Name & Title	Mary Lynn Kirsch, Paralegal		
Presenter Name & Title	John Shaver, City Attorney		

Summary: The City owns real property near Whitewater, Colorado which is currently being leased by MBC Grand Broadcasting, Inc. for radio broadcast transmission. The City and the current tenant wish to update their current Lease Agreement and renew the lease for subsequent terms.

Action Requested/Recommendation: Ratify the City Manager's signature and approve the Lease Agreement and Resolution.

Attachments: Resolution
Lease Agreement

Background Information: The current Lease Agreement began in January 1998 and was to expire in 2017; however, the parties agreed to update and simplify the document for 2009 and subsequent terms. A new Lease Agreement has been negotiated and agreed to by both parties. The Lease must be ratified by City Council in order for the Agreement to be binding.

Staff recommends approval of the Lease. The general terms of the Lease are:

- 1) Term. Basic term is ten (10) years; subsequent ten (10) year extension terms may be granted by the City if Tenant complies with all terms of the Lease.
- 2) Lease Payment. First Basic Term = \$1,730.85; Lease payments for an Extension Term = \$1,903.93. Subsequent terms shall be negotiated between the parties.

RESOLUTION NO. _____ -09

**A Resolution Authorizing and Ratifying a new Lease Agreement between
the City of Grand Junction and MBC Grand Broadcasting, Inc.**

Recitals:

The City is the owner of certain real property in the County of Mesa, State of Colorado, located near Whitewater, Colorado. MBC Grand Broadcasting, Inc. ("Tenant") currently leases the property and desires to continue said lease arrangement.

The City is also desirous of continuing the lease arrangement. Both parties met and discussed the current terms of the Lease Agreement and agreed that the terms were confusing and cumbersome.

A new Lease Agreement which has been simplified and updated has been negotiated and agreed to by both parties. The City has agreed to lease the Property to Tenant and Tenant has agreed to lease the Property from the City, pursuant to the terms, covenants and conditions of this Lease.

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

The City Manager is hereby authorized, on behalf of the City and as the act of the City, to execute and enter into the attached Lease Agreement with MBC Grand Broadcasting, Inc.

PASSED AND APPROVED this _____ of January, 2009.

Gregg Palmer
President of the Council

ATTEST:

Stephanie Tuin
City Clerk

LEASE AGREEMENT

THIS Lease Agreement ("**Lease**") is made and entered into as of this ____ day of _____, 2008, by and between **the City of Grand Junction**, a Colorado home rule municipality, 250 N. 5th Street, Grand Junction, CO, 81501("Landlord" or "City") and **MBC Grand Broadcasting, Inc.**, a Pennsylvania business corporation, with an address of 300 East Rock Road, Allentown, Pennsylvania 18103 ("Tenant").

Recitals

A. The City is the owner of certain real property in the County of Mesa, State of Colorado, as described on **Exhibit A**, attached hereto and incorporated herein by reference. Said real property, together with the access road for ingress, egress and utilities purposes described on said **Exhibit A**, are hereinafter collectively referred to as "the Property".

B. The Property has been used, leased and occupied without cessation since 1968 by various entities as a 50 KW radio broadcast transmitting site. Tenant presently owns and operates the radio broadcast transmitting facilities (collectively, "Tenant's Property") located on, along, over and upon the Property and desires to lease the Property from the City for the sole purposes of operating, maintaining and repairing Tenant's Property and related appurtenances.

C. The City has agreed to lease the Property to Tenant and Tenant has agreed to lease the Property from the City, pursuant to the terms, covenants and conditions of this Lease.

NOW, THEREFORE, in consideration of the recitals above and the terms, covenants, conditions and restrictions contained herein, the parties agree as follows:

1. **Grant of Lease.** The City hereby leases the Property to Tenant and Tenant hereby accepts and leases the Property from the City, for the term stated in Section 3 and subject to each and every other term, covenant, condition and restriction stated in this Lease.
2. **Reservations from Lease.** The City retains and reserves unto itself:
 - a. all oil, gas, coal and other minerals and mineral rights underlying and/or appurtenant to the Property;
 - b. all water and water rights, ditches and ditch rights, appurtenant to and/or connected with the Property, including, but not limited to, any water and/or water rights which may have been previously used on or in connection with the Property, for whatever purposes;
 - c. all rights to grant, sell, bargain and convey ownership interest(s) in and to the Property, or any division thereof, to any other party, including the conveyance of easements: and

d. the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for any conveyance in lieu of condemnation. Tenant hereby assigns and transfers to the City any claim it may have to compensation for damages as a result of any condemnation, except for compensation for damages of Tenant's Property actually so taken.

The City may exercise its rights with respect to the property interests so reserved so long as the exercise of those rights does not unreasonably interfere with Tenant's use and quiet enjoyment of the Property for the purposes set forth in this Lease.

3. **Term of Lease.** The term of this Lease shall be for a period of ten (10) years (the "Basic Term"), commencing on January 1, 2009 (the "Commencement Date") and continuing through December 31, 2019, on which date this Lease shall expire unless this Lease is extended pursuant to the provisions of Section 4 or unless this Lease is otherwise terminated as herein provided. The term "Lease Year" shall mean a period of twelve (12) successive calendar months following each anniversary of the Commencement Date.
4. **Option to Extend Lease.** If Tenant performs as required pursuant to this Lease, the City hereby gives and grants to Tenant an option to extend this Lease for four (4) additional ten (10) year period(s) (each, an "Extension Term")(the Basic Term and any Extension Term are sometimes hereinafter referred to collectively as the "Term"). If this Lease is extended for an Extension Term, the Extension Term shall be upon the same terms and conditions of this Lease or upon other terms and conditions which may hereafter be negotiated between the parties. In order to exercise Tenant's option for an Extension Term, Tenant shall give written notice to the City of Tenant's desire and intention to exercise Tenant's option to extend not less than ninety (90) days prior to the expiration of the Basic Term or the then existing Extension Term, as appropriate.
5. **Lease Amount.** Tenant agrees to pay to the City, at the address of the City as set forth in Section 16.2 or at such other address as the City may from time to time designate in writing, an annual Lease payment for the use of the Property as set forth herein.
 - 5.1 The annual Lease payment for the Basic Term shall be in the amount of One Thousand Seven Hundred Thirty and 85/100 Dollars (\$1,730.85). The annual Lease payment for the first Extension Term, if applicable, shall be in the amount of One Thousand Nine Hundred Three and 93/100 Dollars (\$1,903.93). Lease payments for any subsequent Extension Terms shall be negotiated between the parties at that time.
 - 5.2 All Lease payments shall be due and payable on or before January 1 of each Lease Year without demand by the City. In the event Lease payments are not received on or before January 10 of each Lease Year, Tenant agrees to pay a late charge of \$100.00 for each week (not to exceed a total amount of \$200.00) following January 1 of each Lease Year, which late charge shall be added to the amount of Lease payment due. This Lease, at the option of the City, shall automatically terminate,

and the City may immediately retake possession of the Property, if the specified Lease payments are not received by the City on or before January 30 of each Lease Year.

6. Use and Condition of Property.

- 6.1** During the Basic Term and any [Extension](#) Term of this Lease, Tenant agrees to use the Property solely for the purpose of installing, constructing, operating and maintaining radio broadcast transmission facilities and appurtenances related thereto. Tenant's use and occupancy of the Property shall be subject to the rules, rulings and regulations of any governmental authority [having jurisdiction over Tenant or the Property](#), either now in effect or hereinafter enacted, including, but not limited to, the Federal Communications Commission ("FCC"), the State of Colorado and the County of Mesa. Tenant shall not use or permit the Property to be used for any other purpose or in any manner contrary to the laws, ordinances or regulations of any [such governmental authority](#).
- 6.2** Prior to [the](#) installation or construction of additional facilities and/or improvements upon the Property, Tenant shall obtain the City's written approval of all plans for additional facilities and/or improvements to be constructed upon the Property by Tenant, which approval shall not be unreasonably withheld, [conditioned or delayed. Such additional facilities and/or improvements shall become part of Tenant's Property](#). It is the City's desire that the Property and the improvements to be installed thereon by Tenant will be reasonably compatible with the landscape of the City's adjacent property. To this end, Tenant agrees to comply with all reasonable requirements with the City may impose on Tenant, including, but not limited to, colorings and aesthetics for equipment and facilities (except as required by the FCC or the FAA), transmitters, landscape improvements, building materials and fencing materials. If, for whatever reason, the City does not approve of Tenant's plans, Tenant may terminate this Lease. In such event, Tenant shall [restore the Property to a condition which is comparable with or better than that which existed prior to entry upon the Property by the Tenant](#).
- 6.3** Tenant shall not commit nor permit waste, damage or injury to the Property.
- 6.4** Tenant's use of the access road is non-exclusive. The City shall have the joint right to use said access road and the City may further authorize third parties to use said access road.
- 6.5** [Subject to Section 6.6. below](#), Tenant shall maintain and repair all aspects of the Property at Tenant's sole cost and expenses, including but not limited to, fences, access roads, security devices, the appearance and structural integrity of any improvements and landscaping, in good order, good appearance, condition and repair and in a clean, sanitary, orderly and safe condition. [Subject to Force Majeure Events \(as defined in Section 19 below\)](#), [if](#) Tenant refuses or neglects to commence repairs or perform maintenance work on the Property required under the terms hereof to be

performed or paid for by the Tenant within thirty (30) days after written demand by the City or any other governmental authority, or fails to complete such repairs or perform such maintenance within a reasonable time thereafter, the City may enter upon the Property and make such repairs or perform such maintenance without liability to the Tenant's operations by reasons thereof, and if the City makes such repairs or performs such maintenance, Tenant shall pay to the City, on demand, as additional rent, the cost thereof with interest at the rate of fifteen percent (15%) per annum from the date of payment by the City for such repairs or maintenance work until paid in full by the Tenant. Any repairs made or maintenance performed by Tenant or the City, subject to Force Majeure Events, shall be completed expeditiously.

The City shall not be obligated nor required to repair damages to any portion or aspect of the Property, nor to provide access, even if such damages are caused by or result from operations occurring on adjacent lands leased by the City to other tenants, unless such damages are caused by the City and not covered by insurance maintained by Tenant.

- 6.6** Tenant has inspected the Property and accepts the Property in its present condition. Tenant agrees that the condition of the Property is sufficient for the purposes of the Tenant. If the Property deteriorates or is damaged due to fire, flood, or other casualty not caused by the City, to the extent where it is no longer functional for the purposes of the Tenant, the City shall have no obligation to repair the Property nor to otherwise make the Property usable or occupiable; damages shall be at the Tenant's own risk, provided, however, that in the event the Property is damaged or deteriorates to the extent where it is no longer functional for the purposes of the Tenant, the Tenant may, at its option, terminate this Lease by giving notice to the City that this Lease is to be terminated. Termination shall be effective thirty (30) days following the date of the notice of termination and the parties shall have only those duties to each other under this Lease that expressly continue; provided, however, the City shall refund to the Tenant that portion of the Lease payment prorated as of the date of termination.
- 6.7** The City makes no representations or warranties regarding any hazardous, toxic or regulated substances on, under or about the Property, except to the extent that the City states that it has not deposited or cause to be deposited on, under or about the Property any hazardous, toxic or regulated substances.
- 7. Additional Fees and Charges.** In addition to making Lease payments, Tenant shall arrange and pay for, when due:
- 7.1** all costs and expenses, including but not limited to, deposits, user fees, interest and penalties, for utilities furnished to the Property, including but not limited to, all electricity, natural gas, water, sewer, cable and telephone services, trash and recyclables disposal;

- 7.2 all general real property and personal property taxes and all special assessments of any kind levied against the Property during the Term.
8. **Insurance.** Tenant shall purchase and at all times maintain in effect commercial general liability which will protect the City, its officers, employees and agents from liability in the event of loss of life, personal injury or property damage, suffered by any person or persons on, about or using the Property, including Tenant and employees, agents, licensees and guests of Tenant. Such insurance policy shall have terms and amounts approved by the Risk Manager of the City. Such insurance shall not be cancellable without thirty (30) days prior written notice to the City and shall be written for at least a minimum of One Million Dollars (\$1,000,000.00), combined single limit. The certificate of insurance must be deposited with the City and must designate "the City of Grand Junction, its officers, employees and agents" as additional insureds. If a policy approved by the Risk Manager of the City is not at all times in full force and effect, this Lease shall automatically terminate.
9. **Limited Liability of the City for Damage.**
- 9.1 The City's liability for damage or injury claims to persons or property, including Tenant's Property, from any cause relating to the occupancy and use of the Property by Tenant, including those arising out of damages or losses occurring on areas adjacent to the Property or easements used for the benefit of the Property during the Term, or for any injury or damage to any property of Tenant from any cause, shall be limited to the monetary limitations, rights, immunities and protections provided by the Colorado Governmental Immunity Act, 24-1-101 et seq., as from time to time amended, or otherwise available.
- 9.2 The City shall not be liable to Tenant for any damages or any loss of profits or loss of opportunities claimed by Tenant or for interruption of Tenant's business or operations resulting from fire, the elements, casualty of any kind or the temporary closure of any public highway providing access to and from the Property.
10. **Pledges.** Tenant shall not pledge or attempt to pledge or grant or attempt to grant as collateral or security its interest in any of the Property, without the express written consent of the City first being obtained, which consent shall not be unreasonably withheld, conditioned or delayed.
11. **Hazardous Substances.**
- 11.1 The term "Hazardous Substances", as used in this Lease, shall mean any substance which is:
- a. defined as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law enacted by any federal, state and local governmental agency or other governmental authority;

- b. a petroleum hydrocarbon, including but not limited to, crude oil or any fraction thereof, hazardous, toxic or reproductive toxicant;
- c. regulated pursuant to any law;
- d. any pesticide or herbicide regulated under state or federal law.

The term "Environmental Law", as used in this Lease, shall mean each and every federal, state and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each and every federal, state and local governmental agency or other governmental authority, applicable to Tenant or the Property and pertaining to the protection of human health and safety of the environment, either now in force or hereafter enacted.

11.2 Tenant shall not cause or permit to occur by Tenant and/or Tenant's agents, guests, invitees, contractors, licensees or employees:

- a. any violation of any Environmental Law on, under or about the Property or arising from Tenant's use and occupancy of the Property, including but not limited to, air, soil and groundwater conditions; or
- b. the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substance on, under or about the Property, or the transportation to or from the Property of any Hazardous Substance, in violation of any Environmental Law, either now in force or hereinafter enacted.

12. Environmental Clean-Up.

12.1 The following provisions shall be applicable to Tenant and to Tenant's agents, guests, invitees, contractors, licensees and employees with respect to the Property:

- a. Tenant shall, at Tenant's sole cost and expense, comply with all Environmental Laws and laws regulating the use, generation, storage, transportation or disposal of Hazardous Substances;
- b. Tenant shall, at Tenant's sole cost and expense, make all submissions to provide all information required by and/or comply with all requirements of all governmental authorities ("the Authorities") under Environmental Laws and other applicable laws.
- c. Should any Authority or the City demand that a clean-up be prepared and that a clean-up be undertaken because of any deposit, spill, discharge or other release of Hazardous Substances by Tenant on, under or about the Property, Tenant shall, at Tenant's sole cost and expense, prepare and submit the required plan(s) and all related bonds and other financial assurances, and Tenant shall carry out all such clean-up plan(s) in compliance with

the Authorities and all Environmental Laws and other applicable laws.

- d. Tenant shall promptly provide all information regarding the use, generation, storage, transportation or disposal of Hazardous Substances requested by any Authority. If Tenant fails to fulfill any duty imposed hereunder within a reasonable time, the City may do so on Tenant's behalf and in such case, Tenant shall cooperate with the City in the preparation of all documents the City or any Authority deems necessary or appropriate to determine the applicability of Environmental Laws to the Property and Tenant's use thereof, and for compliance therewith, and Tenant shall execute all documents promptly upon the City's request. No such action by the City and no attempt made by the City to mitigate damages under any Environmental Law or other applicable law shall constitute a waiver of any of Tenant's obligations hereunder.
- e. Tenant's obligations and liabilities hereunder shall survive the expiration or termination of this Lease.

12.2 Tenant shall indemnify, defend and hold the City, its officers, employees and agents harmless from all fines, suits, procedures, claims and actions of every kind, and all costs associated therewith (including the costs and fees of attorneys, consultants and experts) arising out of or in any way connected with any deposit, spill, discharge or other release of Hazardous Substances on or from the Property and the violation of any Environmental Law and other applicable law by Tenant and/or Tenant's agents, guests, invitees, contractors, licensees and employees that occur with respect to the Property during the Term, or from Tenant's failure to provide all information, make all submissions, and take all actions required by all Authorities under the Environmental Laws and other applicable laws. Tenant's obligations and liabilities hereunder shall survive the expiration or termination of this Lease.

12.3 To the extent authorized by law, the City shall indemnify, defend and hold the Tenant harmless from all fines, suits, procedures, claims and actions of every kind, and all costs associated therewith (including the costs and fees of attorneys, consultants and experts) arising out of or in any way connected with any deposit, spill, discharge or other release of Hazardous Substances on or from the Property and the violation of any Environmental Law and other applicable law by the City. The City's obligations and liabilities hereunder shall survive the expiration or termination of this Lease.

13. Default, Sublet, Termination, Assignment.

13.1 Should Tenant:

- a. default in the performance of its agreements or obligations herein and any such default continue for a period of ninety (90) days after written notice thereof is given by the City to Tenant; or
- b. abandon or vacate the Property; or
- c. be declared bankrupt, insolvent, make a general assignment for the benefit of creditors, or if a receiver is appointed, for all or substantially all of Tenant's assets;

the City, at the City's option, may cancel and annul this Lease at once and enter and take possession of the Property immediately without any previous notice of intention to reenter, and such reentry shall not operate as a waiver or satisfaction in whole or in part of any claim or demand arising out of or connected with any breach or violation by Tenant of any covenant or agreement to be performed by Tenant. Upon reentry, the City may remove the Tenant's Property and personnel of Tenant and store Tenant's Property in a warehouse or at a place selected by the City, at the expense of Tenant and without liability to the City. Any such reentry shall not work as forfeiture of nor shall it terminate the rent(s) to be paid or the covenants and agreements to be performed by Tenant for the full term of this Lease; and upon such reentry, the City may thereafter lease or sublease the Property for such rent as the City may reasonably obtain, crediting Tenant with the rent obtained after deducting the costs reasonably incurred in such reentry, leasing or subleasing, including the costs of necessary repairs, alterations and modifications to the Property. Nothing herein shall prejudice or be to the exclusion or any other rights or remedies which the City may have against Tenant, including but not limited to, the right of the City to obtain injunctive relief based on the irreparable harm caused to the City's reversionary rights.

13.2 Except as otherwise provided for (automatic and immediate termination), if Tenant is in default in the performance of any term or condition of this Lease, the City may, at its option, terminate this Lease upon giving ninety (90) days written notice. If the Tenant fails within any such ninety (90) day period to remedy each and every default specified in the City's notice, this Lease shall terminate. If Tenant remedies such default, Tenant shall not thereafter have the right of ninety (90) days (to remedy) with respect to a similar subsequent default, but rather, Tenant's rights shall, with respect to a subsequent similar default, terminate upon the giving of notice by the City.

13.3 Tenant shall not assign or sublease the Property, or any right or privilege connected therewith, or allow any other person, except officers, employees and agents of Tenant, to occupy the Property or any part thereof without first obtaining the written consent of the City, which consent must be approved and ratified by the City Council of the City, which consent shall not be unreasonably withheld, conditioned or delayed. In the event of an assignment of this Lease or sublease, Tenant shall not be released from its obligations and duties under this Lease and

this Lease shall remain in full force and effect. Any consent by the City shall not be a consent to a subsequent assignment, sublease or occupation by any other party. Any unauthorized assignment, sublease or permission to occupy by Tenant shall be void and shall, at the option of the City, provide reasonable cause for the City to terminate this Lease. The interest of Tenant in this Lease is not assignable by operation of law without the formal approval and ratification by the City Council of the City. Notwithstanding anything in this Section to the contrary, Tenant shall have the right, without the City's consent, to assign this Lease or sublet the Property or portions thereof to any entity that is controlled by Tenant, is under common control with Tenant or which controls Tenant. Upon written consent from the City, which consent shall not be unreasonably withheld or delayed, Tenant may lease space on the tower and in the transmitter building for the receiving and/or transmitting of radio, television, cable, microwave and cellular signals.

13.4 This Lease is not intended to and shall in no way preclude the City from actively marketing the Property for sale or exchange, whether through the efforts of the City, a real estate broker or any other person, nor shall this Lease prevent the City from selling, exchanging or conveying the Property to any other party; provided, however, that in the event any such sale, exchange or conveyance is made during the term of this Lease, such sale, exchange or conveyance shall be made subject to Tenant's leasehold interest in the Property. In the event of the voluntary or involuntary transfer of the City's interest in the Property, Tenant will attorn to the transferee of, or successor to, the City's interest in the Property, and recognize such transferee or successor as Landlord under this Lease if such transferee agrees to assume and perform the City's obligations under this Lease that accrue from and after the date of the transfer.

14. Fees or Commissions. The parties to this Lease warrant that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. The City and Tenant agree to defend, indemnify and hold the other harmless from any claim for real estate brokerage commissions or finder's fees asserted by any other party claiming to be entitled to brokerage commissions or finder's fees arising out of this Lease.

15. Notices.

15.1 All notices to be given with respect to this Lease shall be writing delivered either by United States mail or Express mail, postage prepaid, or by facsimile transmission, personally by hand or courier service, as follows:

To the City: City of Grand Junction
Attn: John Shaver, City Attorney
250 N. 5th Street
Grand Junction, CO 81501-2668
Fax: 970-244-1456

To Tenant: KNZZ Radio
c/o Jim Terlouw, Station Manager
1360 E. Sherwood Drive
Grand Junction, CO 81501-7575

All notices shall be deemed given:

- a. if sent by mail, when deposited in the mail;
- b. if delivered by hand or courier service, when delivered; or
- c. if transmitted by facsimile, when transmitted.

The parties may, by notice as provided above, designate a different address to which notice shall be given.

- 15.2** All Lease payments paid by Tenant to the City shall be delivered by mail or by personal delivery to:

City of Grand Junction Finance Department
Accounts Receivable Department
250 North 5th Street
Grand Junction, CO 81501-2668

All rental payments deposited by Tenant shall be clearly marked "MBC Grand Broadcasting Lease."

- 16. Not a Partnership.** It is expressly agreed between the parties that this Lease is one of lease and not of partnership and that the City shall not be or become responsible for any debts contracted or incurred by Tenant. Tenant shall save, indemnify and hold the City, its officers, employees and agents harmless against all liability and loss, and against all claims or actions based upon or arising out of any claim, lien, damage or injury (including death), to persons or property caused by Tenant or sustained in connection with Tenant's performance of the terms and conditions of this Lease or the conditions created thereby, or based upon any violation by Tenant, any statute, ordinance, code or regulation, either now in force or hereafter enacted, and the defense of any such claims or actions, including the costs and fees of attorneys, consultants and experts. Tenant shall also save, indemnify and hold the City, its officers, employees and agents harmless from and against all liability and loss in connection with, and shall assume full responsibility for the payment of, all federal, state and local taxes, fees or contributions imposed or required under unemployment insurance, social security and income tax laws with respect to employees engaged by Tenant.

17. Enforcement, Partial Invalidity, Governing Law.

- 17.1** In the event either party files any action to enforce any agreement contained in this Lease, or for breach of any covenant or condition herein contained, the party prevailing shall be entitled to receive, by judgment of the court from the other party, reasonable attorney's fees, plus the costs or fees of any experts, incurred in such action.
- 17.2** The invalidity of any portion of this Lease shall not affect the validity of any other provision contained herein. In the event any provision of this Lease is held to be invalid, the remaining provisions shall be deemed in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provisions.

17.3 This Lease shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any action to enforce any covenant or agreement contained in this Lease shall be in Mesa County, Colorado.

18. **Surrender, Holding Over.** Tenant shall, upon the expiration or termination of this Lease, surrender the Property to the City in good order, condition and state of repair, reasonable wear and use excepted. Upon the expiration or termination of this Lease, Tenant shall remove within thirty (30) days after the last day of the Lease Term, any or all of Tenant's Property, as Tenant elects in a notice to the City. Upon the removal of any of Tenant's Property, Tenant shall restore and re-seed that part of the Property disturbed by such removal as soon as possible. It is agreed that the thirty (30) day period for the removal of Tenant's Property shall be extended by any period that the Property is inaccessible for such purpose due to snow, adverse weather conditions, fire and other matters beyond Tenant's reasonable control (each, a "Force Majeure Event"). In the event Tenant fails to vacate and surrender the Property as provided in this Section, Tenant agrees that Tenant shall pay to the City the sum of \$50.00 per day for each and every day thereafter until Tenant has effectively vacated and surrendered the Property. The parties agree that it would be difficult to establish the actual damages to the City in the event Tenant fails to vacate and surrender the Property upon the expiration or termination of this Lease and that said \$50.00 daily fee is an appropriate liquidated damages amount.
19. **Total Agreement; Applicable to Successors.** This Lease contains the entire agreement between the parties and, except for automatic expiration or termination, cannot be changed or modified except by a written instrument subsequently executed by the parties hereto. This Lease and the terms and conditions hereof apply to and are binding upon the successors and authorized assigns of both parties.
20. **Counterparts.** This Lease may be signed in one or more counterparts, each of which will be deemed a duplicate original.

IN WITNESS WHEREOF, the parties have each executed this Lease dated the day and year first above written.

LANDLORD:

CITY OF GRAND JUNCTION, a Colorado
Home rule municipality,

Laurie M. Kadrich, City Manager

ATTEST:

TENANT:

MBC Grand Broadcasting, Inc., a
Pennsylvania business corporation

By:

Name:
Title:

ATTEST:

By: _____

By:

Date: _____

Date:

EXHIBIT A

Description of the Property:

Lot 3 in Section 30, Township 2 South, Range 2 East of the Ute Meridian, County of Mesa, State of Colorado.

Description of the access road for ingress, egress and utility purposes:

A twenty-five (25) foot wide tract or parcel of land, being 12.5 feet on each side of the following described center line:

Beginning at a point on the South boundary line of Lot 2 in Section 30, Township 2 South, Range 2 East of the Ute Meridian, County of Mesa, State of Colorado, from whence the Southeast Corner of said Lot 2 bears East a distance of 180.0 feet;

Thence running Northeasterly to a point on the East boundary line of said Lot 2 from whence the Southeast Corner of said Lot 2 bears South a distance of 1260.0 feet, said point being the Point of Terminus of said center line.

Attach 4

Energy and Mineral Impact Grant for Planning Software Upgrade

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Energy and Mineral Impact Grant for Planning Software Upgrade		
File #			
Meeting Day, Date	Monday, January 19, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 12, 2009		
Author Name & Title	Kathy Portner, Neighborhood Services Manager		
Presenter Name & Title	Tim Moore, Public Works and Planning Director		

Summary: A request to accept an Energy and Mineral Impact Grant, in the amount of \$200,000, as partial funding for the purchase of Planning Project Submittal and Management Software.

Budget: Total project cost is estimated at \$660,000. The City's match of \$460,000 is budgeted.

Action Requested/Recommendation: Accept the Grant and Authorize the City Manager to Sign the Grant Contract for the Purchase of Planning Project Submittal and Management Software in the Amount of \$200,000

Attachments: None

Background Information: The City applied for and received an Energy and Mineral Impact Grant from the Department of Local Affairs for the purchase of Planning Processing and Tracking Software to replace the existing development project tracking software (Impact AP) with a state-of-the-art system to increase efficiencies, improve monitoring abilities, allow for electronic permit and plan submission and improve customer service.

The updated system will benefit a wide range of users by allowing internet interaction to initiate and purchase a variety of permits, submit complaints and view code enforcement cases and planning projects as they move through the process. The software will maximize internal efficiency by minimizing hand-written permits/notices, eliminating redundancy and duplication of tasks,

providing a central repository for all planning related documents and files and providing immediate availability of statistical information that is current to the latest entry.

Attach 5

Amendment No. 3 of Engineering Services Contract with Jacobs Carter Burgess for the 29 Road and 1-70 B Interchange

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Amendment No. 3 of Engineering Services Contract with Jacobs Carter Burgess (formerly Carter & Burgess) for the 29 Road & I-70B Interchange		
File #			
Meeting Day, Date	Wednesday, January 21, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 9, 2009		
Author Name & Title	D. Paul Jagim, Project Engineer		
Presenter Name & Title	Tim Moore, Public Works and Planning Director		

Summary: This amendment is a supplement to the original final design contract for the 29 Road and I-70B Interchange Project. During the course of the final design effort, there have been a number of additions to the project scope that necessitate this supplement. The additions to the scope include surveying, final design, and right-of-way acquisitions for sections of Melody Lane and D ½ Road not previously included in the project scope.

Budget: The 29 Road & I-70B Interchange Project is being jointly funded by the City and Mesa County. The City funds are budgeted under Fund 201 for Program Years 2009 and 2010. There are sufficient funds in the 2009 project budget to complete this engineering services contract.

	City of Grand Junction Share of Project Budget	Total Project Budget including City and County Funds
Overall Project Budget (Fund 201-F0028)	\$ 14,000,000	\$ 28,000,000
Previous Project Costs		
Preliminary Engineering/1601 Process (2005/2006)	\$ 479,129	\$ 958,258
Final Design (2007/2008)	\$ 694,518	\$ 1,389,036
Estimated Project Costs		
<i>Amendment #3 of Engineering Services Contract with Jacobs Carter Burgess(formerly Carter & Burgess)</i>	\$ 176,099	\$ 352,198
Right-of-Way & Easement Acquisition	\$ 1,800,000	\$ 3,600,000
Construction Engineering Services	\$ 450,000	\$ 900,000
City & County Administration	\$250,000	\$ 500,000
Street Lighting & Utility Undergrounding	\$ 150,000	\$ 300,000
Construction (including PH 1 Irrigation Construction Contract)	\$ 10,000,000	\$ 20,000,000
Total Previous and Estimated Project Costs	\$ 13,999,746	\$ 27,999,492

Action Requested/Recommendation: Authorize the City Manager to amend the engineering services contract for the **29 Road & I-70B Interchange Project** with **Jacobs Carter Burgess** for a total fee of \$2,592,510.00, thereby increasing the contract by **\$352,198**.

Attachments: None

Background Information: The 29 Rd and I-70B Interchange Project is a key component of the transportation network which will complete a critical link for 29 Road over the Union Pacific Railroad tracks. The project is currently estimated at \$28 million of which the City and the County are splitting the cost evenly.

The original contract for engineering services with Carter & Burgess was entered into on January 24, 2005. The original contract, along with Amendment No. 1 (dated August 4, 2005), included the work necessary to complete the preliminary engineering, environmental assessment, and the Colorado Department of Transportation's 1601 Interchange approval process for the 29 Road connection at I-70B. The contract was revised on May 17, 2007 by Amendment No. 2, which added final design services to the scope of work. During the course of the final design effort there have been a number of changes to the project scope that necessitate this supplement.

The most significant change was the addition of final design services for a new alignment of D ½ Road, just east of 29 Road. This new alignment was developed to accommodate the development plans for the Mesa College property located north of Riverside Parkway (D Road) and west of 29 Road. The new alignment of D ½ Road will result in an intersection with 29 Road approximately 500 feet south of the existing D ½ and 29 Road intersection. At this revised location, the intersection can serve as the future access for the

proposed development, effectively eliminating the need for a future additional intersection between D and D ½. Consolidating these intersections and maximizing the distance between signalized intersections has significant benefits to the traffic capacity of 29 Road. A second addition to the final design scope of work was the inclusion of Melody Lane improvements between the frontage road and Teller Avenue. A third addition to the scope of work was for the Hilltop Health Services and Western Implement properties at 2897 and 2909 North Avenue. As a condition of the property acquisitions required from the Hilltop and Western Implement properties, the City agreed to help the property owners process a subdivision plat through the City's development process.

These three additions to the final design scope of work resulted in additional roadway design, design of an additional crossing of the Mesa County Irrigation Ditch, revision to the design of retaining walls, additional field surveys, revision to the irrigation and drainage system designs, redesign of the traffic signal plans for the 29 Road and D ½ Road intersection, and the preparation of additional plats, legal descriptions, and property corner monumentation. In addition, the right-of-way acquisition effort was significantly increased. The original scope of work assumed 45 property ownerships, three partial residential relocations, one partial business relocation, and one personal property move. The additions to the scope have increased the total number of parcels to 68, and added one residential relocation and 24 personal property moves.

Attach 6

Intent to Create Alley Improvement District 2009, Phase B

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Creating Alley Improvement District 2009, Phase B		
File #			
Meeting Day, Date	Wednesday, January 21, 2008		
Placement on the Agenda	Consent	x	Individual
Date Prepared	January 8, 2008		
Author Name & Title	Michael Grizenko, Real Estate Technician		
Presenter Name & Title	Tim Moore, Public Works and Planning Director		

Summary: A successful petition has been submitted requesting a Local Improvement District be created to reconstruct the alley that is east/west from 11th to 12th, between Hill Avenue and Teller Avenue.

Budget:

Alley	Footage	Cost	Assessments	Net to City	% paid by property owner
Alley ID 2009, Phase A	2923.8	\$ 281,325	\$ 86,885	\$ 203,379	31%
E/W 11th-12th, Hill to Teller	907.2	\$ 79,200	\$ 34,690	\$ 44,510	44%
Totals	3831	\$ 360,525	\$ 121,575	\$ 247,889	34%
2009 Alley Budget		\$ 400,000			
Estimated cost to construct 2009 Phase A		\$ 360,525			
Estimated Balance		\$ 39,475			

Action Requested/Recommendation: Review and adopt the proposed Resolution and set a hearing for March 4, 2009.

Attachments:

1. Summary Sheets
2. Maps
3. Proposed Resolution
4. Notice

Background Information: People's Ordinance No. 33 authorizes the City Council to create improvement districts and levy assessments when requested by a majority of the owners of the property to be assessed. Council may also establish assessment rates by resolution. Assessment rates for alleys are based on percentages of total assessable costs the City will contribute for three property uses: 85% per abutting foot for residential single-family uses, 75% per abutting foot for residential multi-family uses, and 50% per abutting foot for non-residential uses. A summary of the process that follows submittal of the petition is provided below.

Items preceded by a √ indicate steps already taken with this Improvement District and the item preceded by a ► indicates the step being taken with the current Council action.

1. ► City Council passes a Resolution declaring its intent to create an improvement district. The Resolution acknowledges receipt of the petition and gives notice of a public hearing.
2. Council conducts a public hearing and passes a Resolution creating the Improvement District. The public hearing is for questions regarding validity of the submitted petitions.
3. Council awards the construction contract.
4. Construction.
5. After construction is complete, the project engineer prepares a Statement of Completion identifying all costs associated with the Improvement District.
6. Council passes a Resolution approving and accepting the improvements, gives notice of a public hearing concerning a proposed Assessing Ordinance, and conducts a first reading of a proposed Assessing Ordinance.
7. Council conducts a public hearing and second reading of the proposed Assessing Ordinance. The public hearing is for questions about the assessments.
8. The adopted Ordinance is published for three consecutive days.
9. The property owners have 30 days from final publication to pay their assessment in full. Assessments not paid in full will be amortized over a ten-year period. Amortized assessments may be paid in full at anytime during the ten-year period.

**PROPOSED ALLEY IMPROVEMENT DISTRICT
11TH STREET TO 12TH STREET
HILL AVENUE TO TELLER AVENUE**



CITY OF GRAND JUNCTION, CO

RESOLUTION NO. _____

**A RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL
OF THE CITY OF GRAND JUNCTION, COLORADO, TO CREATE
WITHIN SAID CITY ALLEY IMPROVEMENT DISTRICT NO. ST- 09, PHASE B
AND AUTHORIZING THE CITY ENGINEER TO PREPARE
DETAILS AND SPECIFICATIONS FOR THE SAME**

WHEREAS, a majority of the property owners to be assessed have petitioned the City Council, under the provisions of Chapter 28 of the City of Grand Junction Code of Ordinances, as amended, and People's Ordinance No. 33, that an Alley Improvement District be created for the construction of improvements as follows:

Location of Improvements:

- East/West Alley from 11th to 12th, between Hill Avenue and Teller Avenue

Type of Improvements - To include base course material under a mat of Concrete Pavement and construction or reconstruction of concrete approaches as deemed necessary by the City Engineer; and

WHEREAS, the City Council deems it advisable to take the necessary preliminary proceedings for the creation of a Local Improvement District.

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

1. That the District of lands to be assessed is described as follows:

Lots 1 through 34, inclusive, Block 23, City of Grand Junction;
All in the City of Grand Junction, and Mesa County, Colorado.

2. That the assessment levied against the respective properties will be as follows per each linear foot directly abutting the alley right-of-way:

Properties located within any zone other than residential and properties which are used and occupied for any purpose other than residential shall be assessed 50 percent of the assessable cost per abutting foot; provided, however, that existing multi-family uses within a non-residential zone shall be assessed at the multi-family rate of 25 percent of the assessable cost per abutting foot;

Properties located in a residential multi-family zone shall be assessed at the residential multi-family rate of 25 percent of the assessable cost per abutting foot.

Properties located in a single-family residential zone shall be assessed at 15 percent of the assessable cost per abutting foot.

Properties having alley frontage on more than one side shall be assessed the applicable assessment rate for the frontage on the longest side only.

If the use of any property changes, or if a property is rezoned any time prior to the assessment hearing, the assessment shall reflect that change.

The total amount of assessable footage for properties receiving the single-family residential rate is estimated to be 50 feet and the total amount of assessable footage for properties receiving the multi-family residential rate is estimated to be 62.5 feet; and the total amount of assessable footage receiving the non-residential rate is 794.7 feet.

3. That the assessments to be levied against the properties in said District to pay the cost of such improvements shall be due and payable, without demand, within thirty (30) days after the ordinance assessing such costs becomes final, and, if paid during this period, the amount added for costs of collection and other incidentals shall be deducted; provided, however, that failure by any owner(s) to pay the whole assessment within said thirty (30) day period shall be conclusively considered as an election on the part of said owner(s) to pay the assessment, together with an additional six percent (6%) one-time charge for cost of collection and other incidentals, as required by the Mesa County Treasurer's office, which shall be added to the principal payable in ten (10) annual installments, the first of which shall be payable at the time the next installment of general taxes, by the laws of the State of Colorado, is payable, and each annual installment shall be paid on or before the same date each year thereafter, along with simple interest which has accrued at the rate of 8 percent per annum on the unpaid principal, payable annually.

4. That the City Engineer is hereby authorized and directed to prepare full details, plans and specifications for such paving; and a map of the district depicting the real property to be assessed from which the amount of assessment to be levied against each individual property may be readily ascertained, all as required by Ordinance No. 178, as amended, City of Grand Junction, Colorado.

5. That Notice of Intention to Create said Alley Improvement District No. ST-09, Phase B, and of a hearing thereon, shall be given by advertisement in one issue of The Daily Sentinel, a newspaper of general circulation published in said City, which Notice shall be in substantially the form set forth in the attached "**NOTICE**".

NOTICE

OF INTENTION TO CREATE ALLEY IMPROVEMENT DISTRICT NO. ST-09, PHASE B, IN THE CITY OF GRAND JUNCTION, COLORADO, AND OF A HEARING THEREON

PUBLIC NOTICE IS HEREBY GIVEN, pursuant to the request of a majority of the affected property owners, to the owners of real estate in the district hereinafter described and to all persons generally interested that the City Council of the City of Grand Junction, Colorado, intends to create Alley Improvement District No. ST-09, Phase B, in said City for the purpose of reconstructing and paving certain alleys to serve the property hereinafter described which lands are to be assessed with the cost of the improvements, to wit:

Lots 1 through 34, inclusive, Block 23, City of Grand Junction;
All in the City of Grand Junction, and Mesa County, Colorado.

Location of Improvements:

- East/West Alley from 11th to 12th, between Hill Avenue and Teller Avenue

Type of Improvements: To include base course material under a mat of Concrete Pavement and construction or reconstruction of concrete approaches as deemed necessary by the City Engineer.

The assessment levied against the respective properties will be as follows per each linear foot directly abutting the alley right-of-way:

Properties located within any zone other than residential and properties which are used and occupied for any purpose other than residential shall be assessed 50 percent of the assessable cost per abutting foot; provided, however, that existing multi-family uses within a non-residential zone shall be assessed at the multi-family rate of 25 percent of the assessable cost per abutting foot;

Properties located in a residential multi-family zone shall be assessed at the residential multi-family rate of 25 percent of the assessable cost per abutting foot.

Properties located in a single-family residential zone shall be assessed at 15 percent of the assessable cost per abutting foot.

Properties having alley frontage on more than one side shall be assessed the applicable assessment rate for the frontage on the longest side only.

If the use of any property changes, or if a property is rezoned any time prior to the assessment hearing, the assessment shall reflect that change.

The total amount of assessable footage for properties receiving the single-family residential rate is estimated to be 50 feet and the total amount of assessable

footage for properties receiving the multi-family residential rate is estimated to be 62.5 feet; and the total amount of assessable footage receiving the non-residential rate is 794.7 feet.

To the total assessable cost of \$34,689.76 to be borne by the property owners, there shall be, as required by the Mesa County Treasurer's Office, added six (6) percent for costs of collection and incidentals. The said assessment shall be due and payable, without demand, within thirty (30) days after the ordinance assessing such cost shall have become final, and if paid during such period, the amount added for costs of collection and incidentals shall be deducted; provided however, that failure by any owner(s) to pay the whole assessment within said thirty (30) day period shall be conclusively considered as an election on the part of said owner(s) to pay the assessment, together with an additional six percent (6%) one-time charge for cost of collection and other incidentals, as required by the Mesa County Treasurer's Office, which shall be added to the principal payable in ten (10) annual installments which shall become due upon the same date upon which general taxes, or the first installment thereof, are by the laws of the State of Colorado, made payable. Simple interest at the rate of eight (8) percent per annum shall be charged on unpaid installments.

On March 4, 2009, at the hour of 7:00 o'clock P.M. in the City Council Chambers in City Hall located at 250 North 5th Street in said City, the Council will consider testimony that may be made for or against the proposed improvements by the owners of any real estate to be assessed, or by any person interested.

A map of the district, from which the share of the total cost to be assessed upon each parcel of real estate in the district may be readily ascertained, and all proceedings of the Council, are on file and can be seen and examined by any person interested therein in the office of the City Clerk during business hours, at any time prior to said hearing.

Dated at Grand Junction, Colorado, this _____ day of _____, 2009.

**BY ORDER OF THE CITY COUNCIL
CITY OF GRAND JUNCTION, COLORADO**

By: _____
City Clerk

PASSED and **ADOPTED** this ____ day of _____, 2009.

President of the Council

Attest:

City Clerk

Attach 7

Setting a Hearing on the DeRush Mini Storage Rezone, Located at 2179 H Road

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	DeRush Mini Storage Rezone – Located at 2179 H Road		
File #	RZ-2008-319		
Meeting Day, Date	Wednesday, January 21, 2009		
Placement on the Agenda	Consent	<input checked="" type="checkbox"/>	Individual
Date Prepared	January 8, 2009		
Author Name & Title	Justin T. Kopfman, Associate Planner		
Presenter Name & Title	Justin T. Kopfman, Associate Planner		

Summary: Request to rezone 4.60 acres located at 2179 H Road, from C-2 (General Commercial) to I-1 (Light Industrial) zone district.

Budget: N/A

Action Requested/Recommendation: Introduction of a Proposed Ordinance and Set a Hearing for February 4, 2008.

Attachments:

1. Site Location Map / Aerial Photo Map
2. Future Land Use Map / Existing City and County Zoning Map
3. Proposed Ordinance

Background Information: See attached report.

BACKGROUND INFORMATION				
Location:		2179 H Road		
Applicants:		Owner: Gary DeRush Representative: LANDesign Consulting – Clint Green		
Existing Land Use:		Storage Units		
Proposed Land Use:		Storage Units		
Surrounding Land Use:	North	Vacant		
	South	Office/Warehouse		
	East	Outdoor Storage		
	West	Single Family		
Existing Zoning:		C-2 (General Commercial)		
Proposed Zoning:		I-1 (Light Industrial)		
Surrounding Zoning:	North	I-1 (Light Industrial)		
	South	I-1 (Light Industrial)		
	East	C-2 (General Commercial)		
	West	I-1 (Light Industrial)		
Growth Plan Designation:		Commercial Industrial		
Zoning within density range?		X	Yes	No

Staff Analysis:

1. Background

The 2179 H Road property was annexed as part of the Persigo Annexation No. 2 and zoned as a C-2 property in 2004. The property underwent the Patterson Simple Subdivision No. 2 in 2006. The owner submitted a major site plan in 2006 to develop an initial phase of storage units, then proposed expansion with another major site plan for more storage units in 2008. The expansion of the facility was approved by the City.

2. Section 2.6.A of the Zoning and Development Code

Zone requests must meet all of the following criteria for approval:

1. The existing zoning was in error at the time of adoption; or

Response: The existing C-2 zone district supports the existing and proposed use and was not in error at the time of adoption.

2. There has been a change of character in the neighborhood due to installation of public facilities, other zone changes, new growth/growth trends, deterioration, development transitions, etc.;

Response: The H Road corridor has been experiencing continuous development over the last several years. This development and recent zone changes that have occurred north of H Road changed the character of the neighborhood.

3. The proposed rezone is compatible with the neighborhood, conforms to and furthers the goals and policies of the Growth Plan and other adopted plans and policies, the requirements of this Code, and other City regulations;

Response: The H Road corridor has been experiencing continuous development over the last several years. This development and recent zone changes that have occurred north of H Road changed the character of the neighborhood.

Goal 1: To achieve a balance of open space, agricultural, residential and non-residential land use opportunities that reflects the residents' respect for the natural environment, the integrity of the community's neighborhoods, the economic needs of the residents and business owners, the rights of private property owners and the needs of the urbanizing community as a whole.

Policy 1.1: The City and County will use the future land use categories listed and described in Exhibit V.2 (Future Land Use Categories, Page 15) to designate appropriate land uses within the Joint Planning Area identified in Exhibit V.1 (Joint Planning Area, Pages 3-4). City and County actions on land use proposals within the Joint Planning Area will be consistent with the plan.

Policy 1.3: The City and County will use Exhibit V.3 (Future Land Use Map, Pages 17-18) in conjunction with the other policies of this plan to guide zoning and development decisions.

- City and County decisions about the type and intensity of land uses will be consistent with the Future Land Use Map and Plan policies.

Policy 1.7: The City and County will use zoning to establish the appropriate scale, type, location and intensity for development. Development

standards should ensure that proposed residential and non-residential development is compatible with the planned development of adjacent property

Goal 5: To ensure that urban growth and development make efficient use of investments in streets, utilities and other public facilities.

Policy 5.2: The City and County will encourage development that uses existing facilities and is compatible with existing development.

4. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of development allowed by the proposed zoning;

Response: Adequate facilities and services are existing. There is a 12" Ute Water line in H Road and an 8" sewer line, which runs through the 2179 H Road property. Staff concludes that the impacts of any I-1zone use can be handled by existing infrastructure.

5. The supply of comparably zoned land in the surrounding area is inadequate to accommodate the community's needs; and

Response: There is a high demand for light industrial facilities (which support the energy and other area industry) and the surrounding area includes insufficient I-1 land to meet community needs.

6. The community will benefit from the proposed zone.

Response: Development of the site with an I-1use will benefit this area with higher intensity, multiple industry related services and office uses. It also benefits the community by implementing the intent of the H Road Area Plan.

Alternatives: In addition to the zoning that the petitioner has requested, the following zone districts would also be consistent with the Growth Plan designation for the subject property.

- a. C-2 (General Commercial)
- b. I-O (Industrial Office)

If the City Council chooses to approve one of the alternative zone designations, specific alternative findings must be made as to why the City Council is approving an alternative zone designation.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the DeRush Storage Unit Rezone, RZ-2008-319, a request to rezone the property from C-2 to I-1, the following findings of fact and conclusions have been determined:

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

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommended approval of the requested rezone to the City Council on January 13, 2009, finding the requested rezone from C-2 (General Commercial) to I-1 (Light Industrial) zone district, to be consistent with the goals and policies of the Growth Plan and Section 2.6.A of the zoning and Development Code.

SITE LOCATION MAP

Figure 1



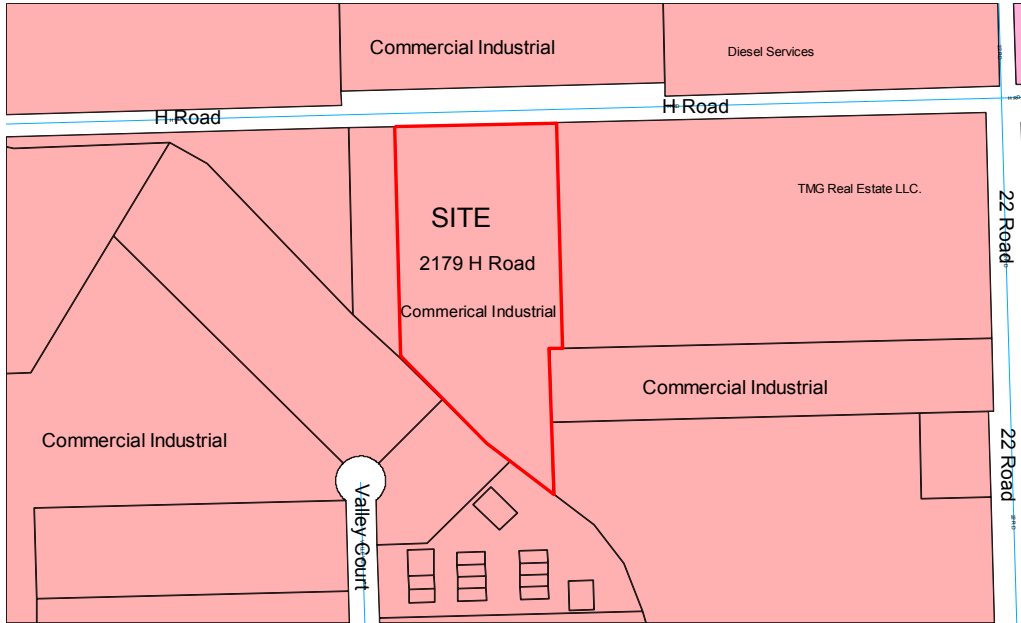
AERIAL PHOTO MAP

Figure 2



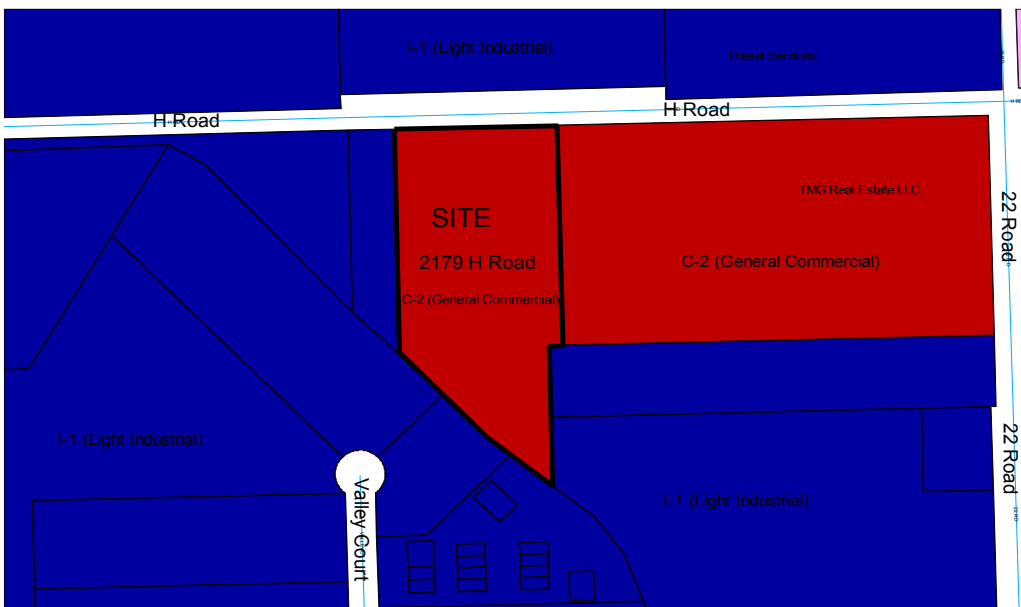
FUTURE LAND USE MAP

Figure 3



EXISTING CITY ZONING MAP

Figure 4



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE REZONING DERUSH MINI STORAGE UNIT PROPERTY
FROM C-2 (GENERAL COMMERCIAL) TO
I-1 (LIGHT INDUSTRIAL)**

LOCATED AT 2179 H ROAD

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of rezoning DeRush Mini Storage Unit property from C-2 (General Commercial) to the I-1 (Light Industrial) zone district for the following reasons:

The zone district meets the recommended land use category as shown on the Future Land Use map of the Growth Plan, Commercial Industrial, and the Growth Plan's goals and policies and/or is generally compatible with appropriate land uses located in the surrounding area.

After the public notice and public hearing before the Grand Junction City Council, City Council finds that the I-1 zone district to be established.

The Planning Commission and City Council find that the I-1 zoning is in conformance with the stated criteria of Section 2.6 of the Grand Junction Zoning and Development Code.

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

The following property shall be rezoned I-1 (Light Industrial).

Parcel 1, Patterson Simple Subdivision No. 2

Introduced on first reading this ___ day of _____, 2009 and ordered published.

Adopted on second reading this _____ day of _____, 2009.

ATTEST:

City Clerk

Mayor

Attach 8

Setting a Hearing on Zoning the Colorado Army National Guard Campus Annexation, Located at 2800 Riverside Parkway

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Zoning Colorado Army National Guard Campus Annexation -Located at 2800 Riverside Parkway		
File #	ANX-2008-344		
Meeting Day, Date	January 21, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 7, 2009		
Author Name & Title	Michelle Hoshide, Associate Planner		
Presenter Name & Title	Michelle Hoshide, Associate Planner		

Summary: Request to zone 57.95 acres, Colorado Army National Guard Campus Annexation located at 2800 Riverside Parkway, CSR (Community Services and Recreation).

Budget: N/A

Action Requested/Recommendation: Introduce a proposed Ordinance and set a public hearing for February 2, 2009.

Attachments:

1. Staff report/Background information
2. Annexation / Site Location Map / Aerial Photo Map
3. Future Land Use Map / Existing City and County Zoning Map
4. Resolution Referring Petition
5. Annexation Ordinance

Background Information: See attached Staff Report/Background Information

STAFF REPORT / BACKGROUND INFORMATION				
Location:		2800 Riverside Parkway Road		
Applicants: < Prop owner, developer, representative>		Owners: State of Colorado, Department of Human Services and Department of Military and Veterans Affairs Representative: Domenick Scarimbolo		
Existing Land Use:		National Guard Armory and Military Cemetery		
Proposed Land Use:		National Guard Armory and Military Cemetery		
Surrounding Land Use:	North	Industrial		
	South	Residential Single Family Rural		
	East	Agriculture, Vacant, CSU Facility		
	West	Industrial		
Existing Zoning:		PUD (Planned Unit Development)		
Proposed Zoning:		CSR (Community Services and Recreation)		
Surrounding Zoning:	North	I-1(Light Industrial)		
	South	County RSF-R (Single Family Residential Rural), County RSF-2 (Single Family Residential 2 du/ac), R-8 (Residential 8 du/ac)		
	East	PD (Planned Development)		
	West	I-1 (Light Industrial), County PUD (Planned Unit Development)		
Growth Plan Designation:		Public		
Zoning within density range?	X	Yes		No

Staff Analysis:

Zone of Annexation: The requested zone of annexation to the CSR (Community Services and Recreation) district is consistent with the Growth Plan zoning of Public. The existing County zoning is PUD (Planned Unit Development). Section 2.14 of the Zoning and Development Code states that the zoning of an annexation area shall be consistent with either the Growth Plan or the existing County zoning.

In order for the zoning to occur, the following questions must be answered and a finding of consistency with the Zoning and Development Code must be made per Section 2.6.A.3 and 4 as follows:

- The proposed zone is compatible with the neighborhood, conforms to and furthers the goals and policies of the Growth Plan and other adopted plans and policies, the requirements of this Code, and other City regulations.

Response: The proposed CSR (Community Services and Recreation) zoning district is consistent with the Growth Plan. The Future Growth plan designation is Public for this property.

- Adequate public facilities and services are available or will be made available concurrent with the projected impacts of development allowed by the proposed zoning;

Response: Adequate public facilities and services are available to accommodate the CSR (Community Services and Recreation) zone district. An 8" Ute water line and a 15" Central Grand Valley Sanitary sewer line are located within the Riverside Parkway.

Alternatives: In addition to the zoning that the petitioner has requested, the following zone districts would also be consistent with the Growth Plan designation for the subject property.

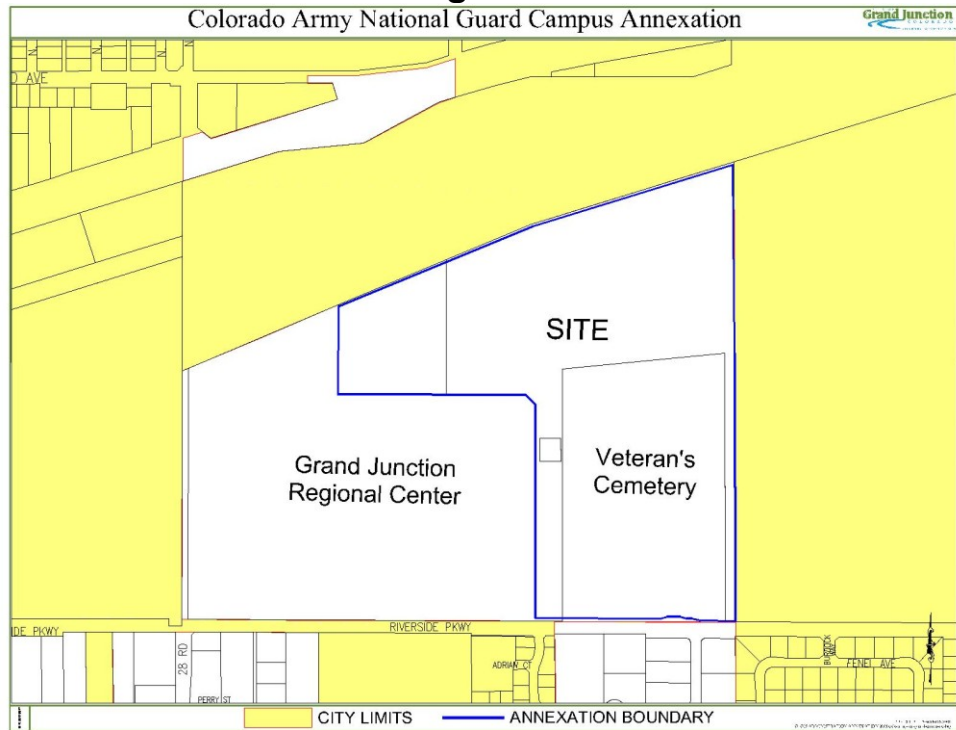
- a. none

If the City Council chooses to recommend one of the alternative zone designations, specific alternative findings must be made.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommended approval of the requested zone of annexation to the City Council on January 13, 2009, finding the zoning to the CSR (Community Services and Recreation) district to be consistent with the Growth Plan and Sections 2.6 and 2.14 of the Zoning and Development Code.

Annexation/ Site Location Map

Figure 1



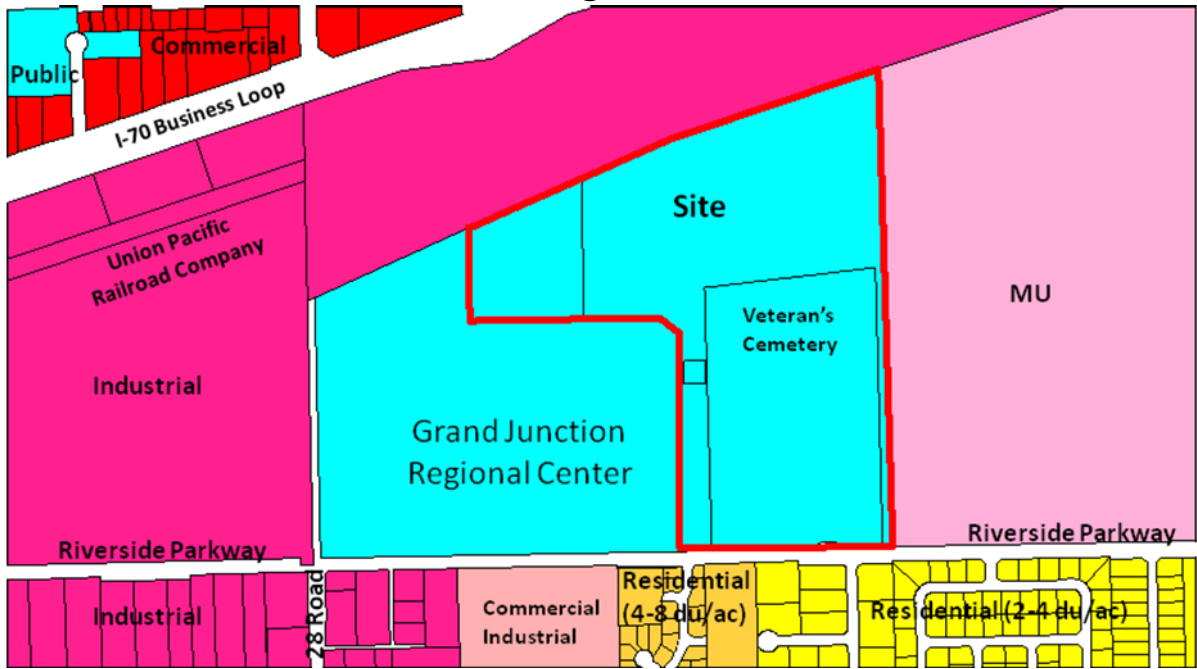
Aerial Photo Map

Figure 2



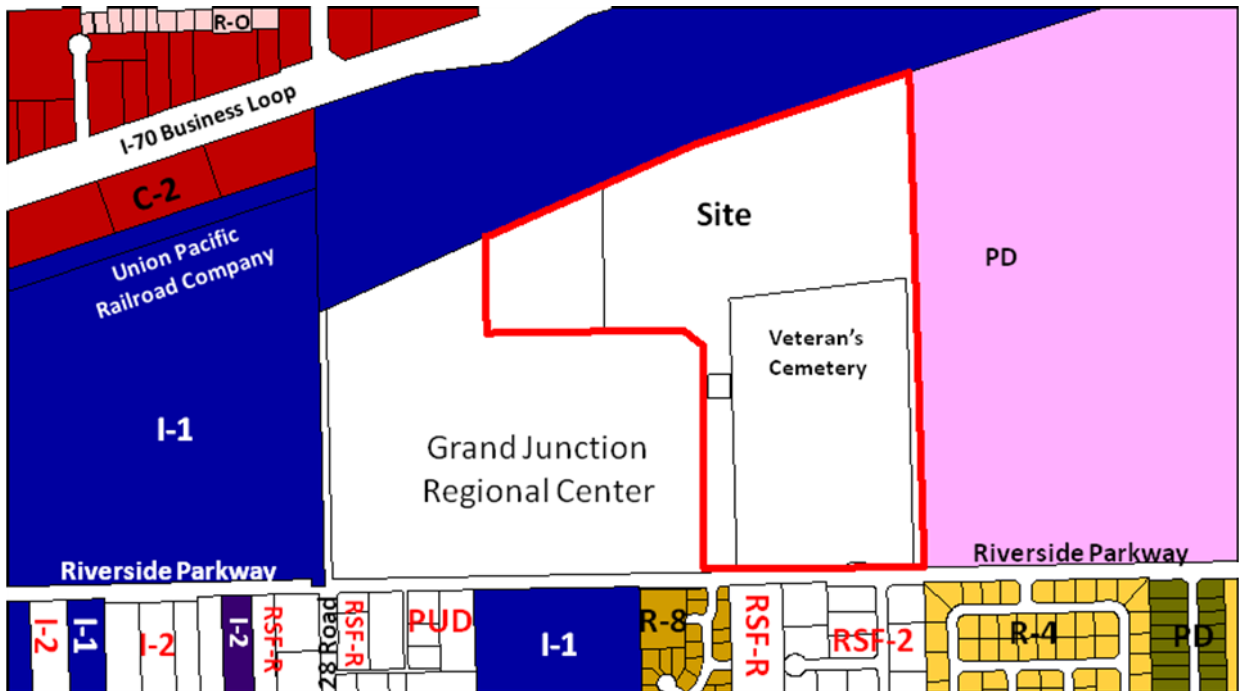
Future Land Use Map

Figure 3



Existing City and County Zoning

Figure 4



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE COLORADO ARMY NATIONAL GUARD
CAMPUS ANNEXATION TO CSR (COMMUNITY SERVICES AND
RECREATION)**

LOCATED AT 2800 RIVERSIDE PARKWAY

Recitals:

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of zoning the Colorado Army National Guard Campus Annexation to the CSR (Community Services and Recreation) zone district finding that it conforms with the recommended land use category as shown on the future land use map of the Growth Plan and the Growth Plan's goals and policies and is generally compatible with land uses located in the surrounding area. The zone district meets the criteria found in Section 2.6 of the Zoning and Development Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the CSR (Community Services and Recreation) zone district is in conformance with the stated criteria of Section 2.6 of the Grand Junction Zoning and Development Code.

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

The following property be zoned CSR (Community Services and Recreation)

COLORADO ARMY NATIONAL GUARD CAMPUS ANNEXATION

A certain parcel of land located in the Southwest Quarter (SW 1/4) of Section 18, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Southeast corner of the SE 1/4 SW 1/4 of said Section 18 and assuming the East line of the SE 1/4 SW 1/4 of said Section 18 to bear S00°06'42"E with all bearings contained herein relative thereto; thence N00°06'42"W a distance of 35.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18 to the Northeast corner of Riverside Parkway Annexation No. 5, said point also being the Point of Beginning; thence along the Northerly line of said Riverside Parkway Annexation No. 5 the following seven (7) courses: (1)

N89°39'17"W a distance of 166.49 feet; (2) N78°20'43"W a distance of 40.79 feet; (3) N89°39'17"W a distance of 27.38 feet; (4) N70°21'54"W a distance of 31.78 feet; (5) N89°39'17"W a distance of 63.23 feet; (6) S71°00'15"E a distance of 31.70 feet; (7) N89°39'17 "W a distance of 602.50 feet; thence N00°03'11"E a distance of 1026.59 feet; thence N44°39'53"W a distance of 62.57 feet; thence N89°39'53"W a distance of 898.98 feet; thence N00°20'07"E a distance of 420.99 feet to a point on the Southerly line of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction; thence N67°38'39"E a distance of 1010.16 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1; thence N73°01'18"E a distance of 999.11 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1 to a point on the West line of Mesa State Annexation, Ordinance No. 4081, City of Grand Junction, said point also being on the East line of the NE 1/4 SW 1/4 of said Section 18; thence S00°25 '24"E a distance of 903.46 feet along the West line of said Mesa State Annexation, said line also being the East line of the NE 1/4 SW 1/4 of said Section 18 to the Northeast corner of the SE 1/4 SW 1/4 of said Section 18; thence S00°06'42"E a distance of 1283.65 feet along the West line of said Mesa State Annexation, said line also being the East line of the SE 1/4 SW 1/4 of said Section 18 to the Point of Beginning.

Said parcel contains 57.95 acres (2,524,320.23 sq. ft.), more or less, as described.

INTRODUCED on first reading the ____ day of _____, 2008 and ordered published.

ADOPTED on second reading the ____ day of _____, 2008.

ATTEST:

President of the Council

City Clerk

Attach 9

Rename Saccomanno Drive to Seeber Drive and Sentinel Way to Saccomanno Road

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Rename Saccomanno Drive to Seeber Drive and Sentinel Way to Saccomanno Road		
File #	MSC-2009-005		
Meeting Day, Date	January 21, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 7, 2008		
Author Name & Title	Ronnie Edwards, Associate Planner		
Presenter Name & Title	Ronnie Edwards, Associate Planner		

Summary: The request originated from Leitner-Poma of America, Inc. to change the street names in the Bookcliff Tech Park Subdivision. The applicant is the first tenant in this subdivision and the company felt the name of their adjacent right-of-way should honor the Owner of the Company.

Budget: N/A

Action Requested/Recommendation: Adopt Resolution.

Attachments:

1. Staff Report
2. Site Location Map/Aerial Photo Map
3. Future Land Use Map/Existing City Zoning Map
4. Signed Letter
5. Subdivision Plan
6. Resolution

Background Information: Please see attached Staff report

BACKGROUND INFORMATION			
Location:	Northeast Corner of H Road and 27 1/4 Road		
Applicant:	Leitner-Poma of America, Inc.		
Existing Land Use:	Office/Manufacturing Facility & Outdoor Storage		
Proposed Land Use:	Office/Manufacturing Facility & Outdoor Storage		
Surrounding Land Use:	North	Vacant	
	South	Vacant	
	East	Residential Single Family	
	West	Residential Single Family	
Existing Zoning:	I-O (Industrial/Office Park)		
Proposed Zoning:	I-O (Industrial/Office Park)		
Surrounding Zoning:	North	PAD (Planned Airport Development)	
	South	I-O (Industrial/Office Park)	
	East	I-O (Industrial/Office Park)	
	West	R-1 (Residential, 1 du/ac)	
Growth Plan Designation:	Commercial/Industrial		
Zoning within density range?	N/A	Yes	No

Project Analysis:

1. **Background:**

The request originated from Leitner-Poma of America, Inc. to change the street names in the Bookcliff Tech Park Subdivision. The applicant is the first tenant in this subdivision and the company felt the name of their adjacent right-of-way should honor the Owner of the Company. The Preliminary Subdivision Plan was approved by Planning Commission on September 26, 2006 and the Final Plat was recorded April 5, 2007. All affected property owners within the subdivision have expressed agreement that the proposed request is appropriate. (See attached letter with signatures of affected property owners)

Section 6.2.B.3.6 of the Zoning and Development Code states a street naming system shall be maintained to facilitate the provisions of necessary public services and provide more efficient movement of traffic. For consistency, this system shall be adhered to on all newly platted, dedicated, or named streets and roads. Existing streets and roads not conforming or inconsistent to the addressing system shall be made conforming as the opportunity occurs.

The proposed name changes will not impact adjacent land uses or neighborhood stability or character.

The proposal is in conformance with the goals and policies of the Growth Plan and requirements of the Zoning and Development Code.

STAFF RECOMMENDATION:

I recommend that the City Council approve the resolution renaming Saccomanno Drive to Seeber Drive and Sentinel Way to Saccomanno Road.

LEITNER POMA

LEITNER-POMA of AMERICA, INC.

Tim Moore
Director of Planning & Development
City of Grand Junction
250 N 5th St
Grand Junction, CO 81501


January 2, 2009

Dear Tim,


We would like to change the street name running East and West, currently Saccomanno Drive to Seebur Drive. We would also like to change the street name running North and South from Sentinel Way to Saccomanno Road. We have received verbal permission from both IDJ and The Daily Sentinel to change these street names. Would you please proceed with the process to change these names? Let us know if you will need any further information.

Best Regards,


Samuel E Haupt
CFO

Lot 1: 
The Daily Sentinel

Lot 2/3/4:
IDJ


ROB VICKERY
PRES.
IDJ

276 SACCOMANNO DRIVE, BLDG A • GRAND JUNCTION, CO 81506 • (970) 241-5023 • FAX: 970-241-5025
EASTERN OFFICE: 201 ROUTE 100 • STEELES CREEK, NJ 07068 • (908) 426-1100 • FAX: 908-426-1101

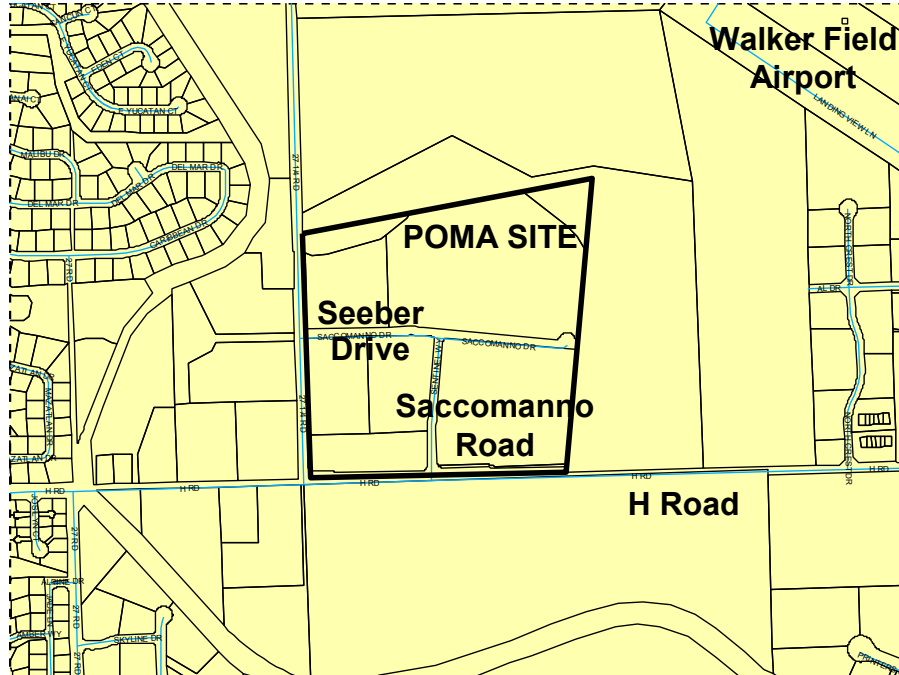
Jan 7 2009 14:22 P.02

Fax: 970-241-5025

POMA

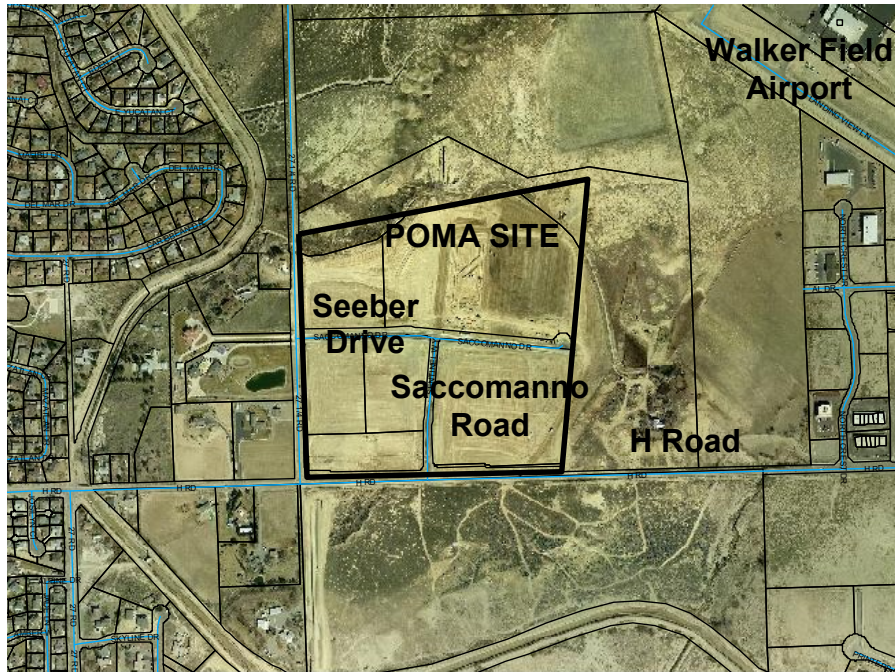
Site Location Map

Figure 1



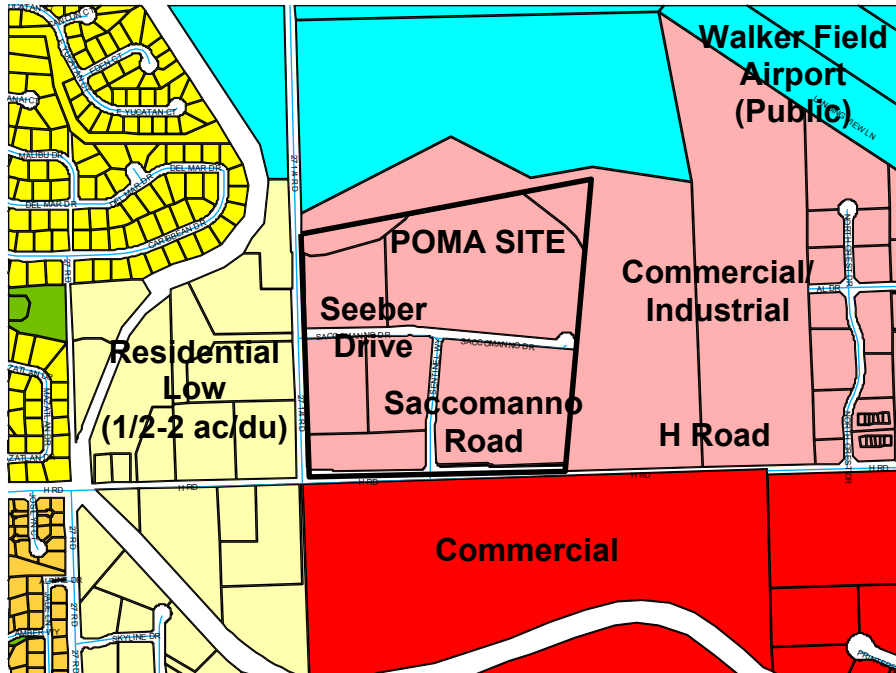
Aerial Photo Map

Figure 2



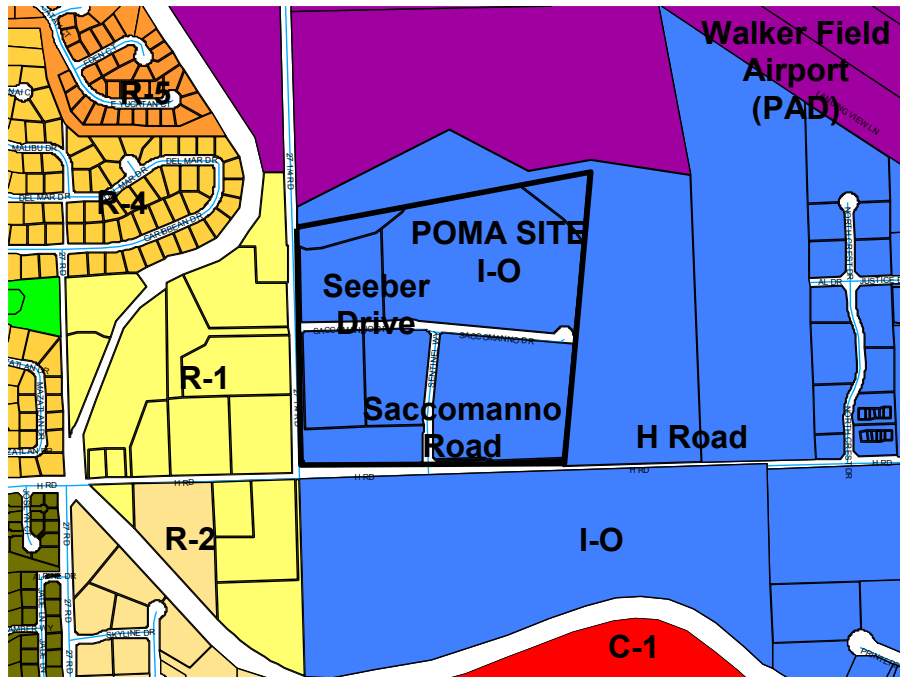
Future Land Use Map

Figure 3



Existing City 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."



6" x 12" CORNER
 8" x 12" N
 120' 00" 20' N

WILMA M. CLARKE FAMILY TRUST
 2701-254-00-250

TRACT B
 1.36 ACRES

TRACT A
 1.48 ACRES

LOT 5
 17.89 ACRES

LOT 4
 4.86 ACRES

2746

2725

LOT 3
 4.39 ACRES

LOT 2
 4.43 ACRES

2735

2745

LOT 1
 12.00 ACRES

TRACT C
 DETENTION AREA
 3.14 ACRES

27 1/4 ROAD

WILMA M. CLARKE FAMILY TRUST
 2701-254-00-250

ALL EASEMENTS
 TELEPHONE & UTILITIES
 15' x 15' PER FOOT OF W.D.

AIRBORNE SOUND
 NOISE CONTOUR

10' PROTECTION & DRAINAGE EASEMENT

10' PROTECTION & DRAINAGE EASEMENT

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CITY OF GRAND JUNCTION

RESOLUTION NO. _____

**A RESOLUTION RENAMING SACCOMANNO DRIVE TO SEEBER DRIVE
AND SENTINEL WAY TO SACCOMANNO ROAD**

Recitals.

A request was made by Leitner-Poma of America, Inc. to change the street names in the Bookcliff Tech Park Subdivision. The applicant is the first tenant in this subdivision and the company felt the name of their adjacent right-of-way should honor the Owner of the Company. Bookcliff Tech Park Subdivision is located in the northeast corner of H Road and 27 1/4 Road. All affected property owners have expressed agreement with the proposed street name change.

Section 6.2.B.3.6 of the Zoning and Development Code states a street naming system shall be maintained to facilitate the provisions of necessary public services and provide more efficient movement of traffic.

The proposed name changes will not impact adjacent land uses or neighborhood stability or character.

The proposed street name changes are consistent with the goals and policies of the Growth Plan and requirements of the Zoning and Development Code.

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

That Saccomanno Drive, as described in this resolution is hereby changed to Seeber Drive and Sentinel Way, as described in this resolution is hereby changed to Saccomanno Road.

ADOPTED AND APPROVED THIS ____ day of _____, 2009.

ATTEST:

Stephanie Tuin
City Clerk

Gregg Palmer
President of City Council

Attach 10

Public Hearing – Night Hawk Drive Right-of-Way Annexation, Located Approximately at 30 and B Roads

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Night Hawk Drive Right-of-Way Annexation – Located approximately 660 feet west of 30 Road, adjoining B Road on the North		
File #	ANX-2008-301		
Meeting Day, Date	January 21, 2009		
Placement on the Agenda	Consent	<input type="checkbox"/>	Individual <input checked="" type="checkbox"/>
Date Prepared	December 29, 2008		
Author Name & Title	Ivy Williams, Development Services Supervisor		
Presenter Name & Title	Ivy Williams, Development Services Supervisor		

Summary: Request to annex 1.45 acres, located approximately 660 feet west of 30 Road, adjoining B Road on the north and extending southerly approximately 2,060 feet. The Night Hawk Drive Annexation consists entirely of right-of-way.

Budget: N/A

Action Requested/Recommendation: Adopt Resolution accepting the petition for the Night Hawk Drive Annexation and hold a public hearing and consider final passage of the annexation Ordinance.

Attachments:

1. Staff report/Background information
2. Site Location Map
3. Acceptance Resolution
4. Annexation Ordinance

Background Information: See attached Staff Report/Background Information

STAFF REPORT / BACKGROUND INFORMATION

Location:		All of Night Hawk Drive as described in Book 4470, Page 532, Public Records of Mesa County, Colorado lying approximately 660 feet west of 30 Road, adjoining B Road on the north and extending southerly for approximately 2,060 feet		
Applicants:		Owner: Mesa County Representative: Tim Moore		
Existing Land Use:		Right-of-Way		
Proposed Land Use:		Right-of-Way		
Surrounding Land Use:	North	N/A		
	South	N/A		
	East	N/A		
	West	N/A		
Existing Zoning:		N/A		
Proposed Zoning:		N/A		
Surrounding Zoning:	North	N/A		
	South	N/A		
	East	N/A		
	West	N/A		
Growth Plan Designation:		N/A		
Zoning within density range?		N/A	Yes	No

Staff Analysis:

ANNEXATION:

This annexation area consists of 1.45 acres of land, all of which lies in the Night Hawk right-of-way. The City of Grand Junction is requesting annexation into the City to allow for ease of maintenance and delivery of services. Under the 1998 Persigo Agreement, the County consents to the annexation of all or a portion of any road,

street, easement, right-of-way, open space or other County-owned property within the Persigo Wastewater Treatment boundary.

It is staff's opinion, based on review of the petition and knowledge of applicable state law, including the Municipal Annexation Act Pursuant to C.R.S. 31-12-104, that the Night Hawk Drive Annexation is eligible to be annexed because of compliance with the following:

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;
- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;
- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners consent.

Please note that this petition has been prepared by the City. Because the petition annexes right-of-way, the ownership and area requirements of the statute are not applicable.

The following annexation and zoning schedule is proposed.

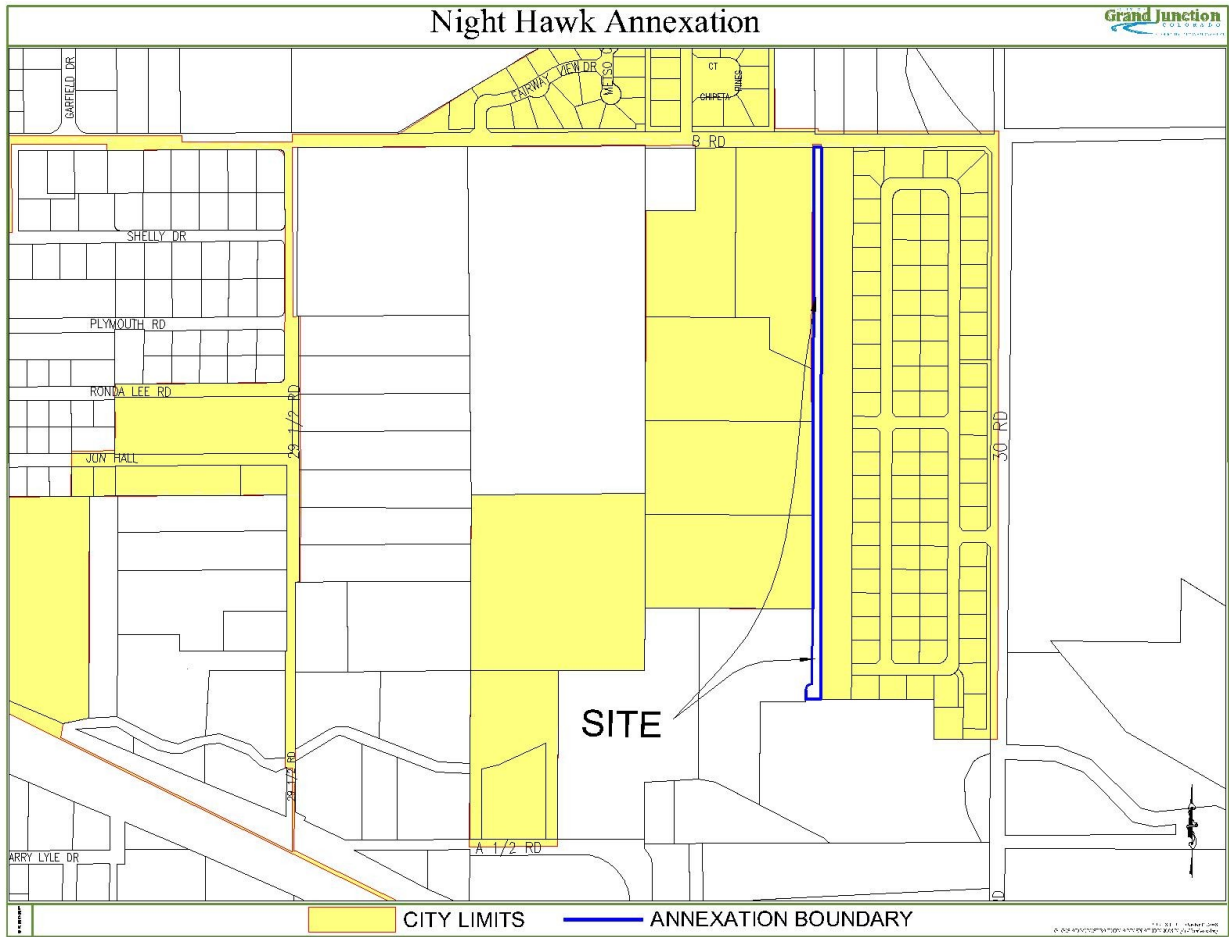
<u>ANNEXATION SCHEDULE</u>	
December 15, 2008	Referral of Petition (30 Day Notice), Introduction of a proposed Ordinance, Exercising Land Use
January 21, 2009	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
February 22, 2009	Effective date of Annexation and Zoning

NIGHT HAWK DRIVE ANNEXATION SUMMARY

File Number:	ANX-2008-301	
Location:	All of Night Hawk Drive as described in Book 4470, Page 532, Public Records of Mesa County, Colorado lying approximately 660 feet west of 30 Road, adjoining B Road on the north and extending southerly for approximately 2,060 feet	
Tax ID Number:	See legal description	
Parcels:	One	
Estimated Population:	None	
# of Parcels (owner occupied):	None	
# of Dwelling Units:	None	
Acres land annexed:	1.45 acres	
Developable Acres Remaining:	0 acres	
Right-of-way in Annexation:	1.45 acres	
Previous County Zoning:	N/A	
Proposed City Zoning:	N/A	
Current Land Use:	N/A	
Future Land Use:	N/A	
Values:	Assessed:	N/A
	Actual:	N/A
Address Ranges:	N/A	
Special Districts:	Water:	Ute Water
	Sewer:	City 201 and Orchard Mesa Sanitation
	Fire:	Grand Junction Rural
	Irrigation/ Drainage:	Orchard Mesa Irrigation
	School:	District 51
	Pest:	Grand River Mosquito District

SITE LOCATION MAP NIGHT HAWK DRIVE

Night Hawk Annexation



CITY LIMITS

ANNEXATION BOUNDARY

11-21-11 10:47 AM
6:00 PM 11/21/11 10:47 AM

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. _____

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

NIGHT HAWK DRIVE ANNEXATION

**LOCATED AT APPROXIMATELY 660 FEET WEST OF 30 ROAD AND ADJOINING B
ROAD ON THE NORTH AND EXTENDING SOUTHERLY FOR
APPROXIMATELY 2,060 FEET**

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 15th day of December 2008, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

NIGHT HAWK DRIVE ANNEXATION

A certain parcel of land located in the East 1/2 of the Northeast Quarter (E 1/2 NE 1/4) of Section 32, Township One South, Range One East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Northwest corner of the NE 1/4 NE 1/4 of said Section 32 and assuming the North line of the NE 1/4 NE 1/4 of said Section 32 to bear N89°51'58"E with all bearings contained herein relative thereto; thence S00°06'53"W a distance of 30.00 feet along the West line of the NE 1/4 NE 1/4 of said Section 32; thence N89°51'58"E a distance of 625.77 feet along a line being 30.00 feet South of and parallel with the North line of the NE 1/4 NE 1/4 of said Section 32 to the Point of Beginning; thence N89°51'58"E a distance of 30.00 feet along a line being 30.00 feet South of and parallel with the North line of the NE 1/4 NE 1/4 of said Section 32, said line also being the Southerly line of Hawks Nest Annexation No. 2, Ordinance No. 3737, City of Grand Junction; thence S00°15'22"W a distance of 2059.41 feet along the West line of Hawks Nest Subdivision Filing Two, as same is recorded in Book 4470, Pages 500 through 501, inclusive, public records of Mesa County, Colorado; thence N89°44'27"W a distance of 55.30 feet; thence N00°15'33"E a distance of 32.72 feet; thence 39.57 feet along the arc of a 25.00 foot radius curve, concave Southeast, having a central angle of 90°41'52" and a chord bearing N45°35'42"E a distance of 35.57 feet; thence N00°15'22"E a distance of 2001.47 feet to the Point of Beginning.

Said parcel contains 1.45 acres (63,101.43 sq. ft.), more or less, as described.

WHEREAS, a hearing on the petition was duly held after proper notice on the 21st day of January, 2009; and

WHEREAS, the Council has found and determined and does hereby find and determine that said petition is in substantial compliance with statutory requirements therefore, that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the said territory is integrated or is capable of being integrated with said City; that no land held in identical ownership has been divided without the consent of the landowner; that no land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; and that no election is required under the Municipal Annexation Act of 1965.

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

The said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

ADOPTED the ____ day of _____, 2009.

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

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

NIGHT HAWK DRIVE ANNEXATION

**APPROXIMATELY 1.45 ACRES
LOCATED APPROXIMATELY 660 FEET WEST OF 30 ROAD AND ADJOINING B
ROAD ON THE NORTH AND EXTENDING SOUTHERLY FOR
APPROXIMATELY 2,060 FEET**

WHEREAS, on the 15th day of December 2008, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 21st day of January 2009; and

WHEREAS, the City Council determined that said territory was eligible for annexation and that no election was necessary to determine whether such territory should be annexed;

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

That the property situate in Mesa County, Colorado, and described to wit:

A certain parcel of land located in the East 1/2 of the Northeast Quarter (E 1/2 NE 1/4) of Section 32, Township One South, Range One East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Northwest corner of the NE 1/4 NE 1/4 of said Section 32 and assuming the North line of the NE 1/4 NE 1/4 of said Section 32 to bear N89°51'58"E with all bearings contained herein relative thereto; thence S00°06'53"W a distance of 30.00 feet along the West line of the NE 1/4 NE 1/4 of said Section 32; thence N89°51'58"E a distance of 625.77 feet along a line being 30.00 feet South of and parallel with the North line of the NE 1/4 NE 1/4 of said Section 32 to the Point of Beginning; thence N89°51'58"E a distance of 30.00 feet along a line being 30.00 feet South of and parallel with the North line of the NE 1/4 NE 1/4 of said Section 32, said line also being the Southerly line of Hawks Nest Annexation No. 2, Ordinance No. 3737, City of Grand Junction; thence S00°15'22"W a distance of 2059.41 feet along the West line of Hawks Nest Subdivision Filing Two, as same is recorded in Book 4470, Pages

500 through 501, inclusive, public records of Mesa County, Colorado; thence N89°44'27"W a distance of 55.30 feet; thence N00°15'33"E a distance of 32.72 feet; thence 39.57 feet along the arc of a 25.00 foot radius curve, concave Southeast, having a central angle of 90°41'52" and a chord bearing N45°35'42"E a distance of 35.57 feet; thence N00°15'22"E a distance of 2001.47 feet to the Point of Beginning.

Said parcel contains 1.45 acres (63,101.43 sq. ft.), more or less, as described.

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

INTRODUCED on first reading on the 15th day of December, 2008 and ordered published.

ADOPTED on second reading the ____ day of _____, 2009.

Attest:

President of the Council

City Clerk

Attach 11

Public Hearing – Riverside Parkway and Overpass Annexation, Located at 29 Road and North Avenue and at 29 Road and I-70 B

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Riverside Parkway and Overpass Rights-of-Way Annexation		
File #	ANX-2008-307		
Meeting Day, Date	January 21, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	January 6, 2009		
Author Name & Title	Ivy Williams, Development Services Supervisor		
Presenter Name & Title	Ivy Williams, Development Services Supervisor		

Summary: Request to annex approximately 15.0 acres, located at five locations on Riverside Parkway, a portion of 29 Road adjoining North Avenue on the north and extending southerly to I-70 Business Loop and a portion of I-70 Business Loop beginning at 29 Road northeasterly approximately 2,400 feet. The Riverside Parkway and Overpass Annexation consists only of right-of-way.

Budget: N/A

Action Requested/Recommendation: Adopt Resolution accepting the petition for the Riverside Parkway and Overpass Annexation and hold a public hearing and consider final passage of the annexation Ordinance.

Attachments:

1. Staff report/Background information
2. Site Location Maps
3. Acceptance Resolution
4. Annexation Ordinance

Background Information: See attached Staff Report/Background Information

STAFF REPORT / BACKGROUND INFORMATION

Location:		Five sections of Riverside Parkway right-of-way as shown on the site maps in this report, 29 Road from North Avenue and southerly to I-70 B and I-70 Business Loop from 29 Road, northeasterly approximately 2,400 feet		
Applicants:		Owner: Mesa County and State of Colorado – Representative: Tim Moore		
Existing Land Use:		Right-of-Way		
Proposed Land Use:		Right-of-Way		
Surrounding Land Use:	North	N/A		
	South	N/A		
	East	N/A		
	West	N/A		
Existing Zoning:		N/A		
Proposed Zoning:		N/A		
Surrounding Zoning:	North	N/A		
	South	N/A		
	East	N/A		
	West	N/A		
Growth Plan Designation:		N/A		
Zoning within density range?		N/A	Yes	No

Staff Analysis:

ANNEXATION:

This annexation area consists of approximately 15.0 acres of land, all of which lies in the Riverside Parkway, 29 Road and I-70 Business Loop rights-of-way. The City of Grand Junction is requesting annexation into the City to allow for ease of maintenance and delivery of services. Under the 1998 Persigo Agreement, the County

consents to the annexation of all or a portion of any road, street, easement, right-of-way, open space or other County-owned property within the Persigo Wastewater Treatment boundary. The State of Colorado is aware of the annexation of certain of its ROW's and according to Colorado State policy, will neither be consenting nor objecting to the annexation.

It is staff's opinion, based on review of the petition and knowledge of applicable state law, including the Municipal Annexation Act Pursuant to C.R.S. 31-12-104, that the Riverside Parkway and Overpass Annexation is eligible to be annexed because of compliance with the following:

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;
- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;
- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners consent.

Please note that this petition has been prepared by the City. Because the petition annexes right-of-way, the ownership and area requirements of the statute are not applicable.

The following annexation and zoning schedule is proposed.

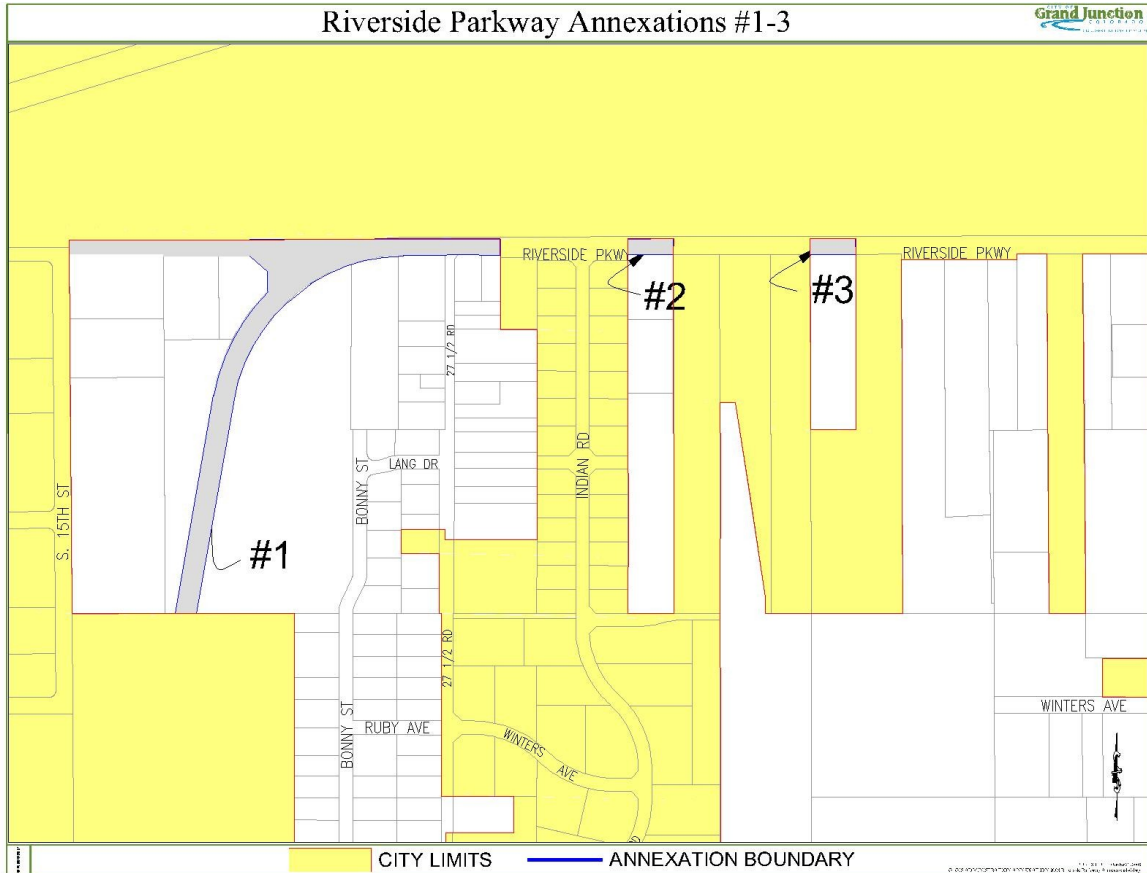
<u>ANNEXATION SCHEDULE</u>	
December 15, 2008	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
January 21, 2009	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
February 22, 2009	Effective date of Annexation and Zoning

RIVERSIDE PARKWAY AND OVERPASS ANNEXATION SUMMARY

File Number:	ANX-2008-307	
Location:	Five sections of Riverside Parkway as shown on the site maps provided in this report, 29 Road from North Avenue and southerly to I-70 B and I-70 Business Loop from 29 Road, northeasterly approximately 2,400 feet	
Tax ID Number:	See legal descriptions	
Parcels:	One	
Estimated Population:	None	
# of Parcels (owner occupied):	None	
# of Dwelling Units:	None	
Acres land annexed:	Approximately 15.0 acres	
Developable Acres Remaining:	0 acres	
Right-of-way in Annexation:	Approximately 15.0 acres	
Previous County Zoning:	N/A	
Proposed City Zoning:	N/A	
Current Land Use:	N/A	
Future Land Use:	N/A	
Values:	Assessed:	N/A
	Actual:	N/A
Address Ranges:	N/A	
Special Districts:	Water:	Grand Junction and Ute Water
	Sewer:	Central Grand Valley; City 201; Fruitvale
	Fire:	Grand Junction Rural and City
	Irrigation/ Drainage:	Grand Valley irrigation/Grand Valley Drainage
	School:	District 51
	Pest:	Grand River Mosquito District

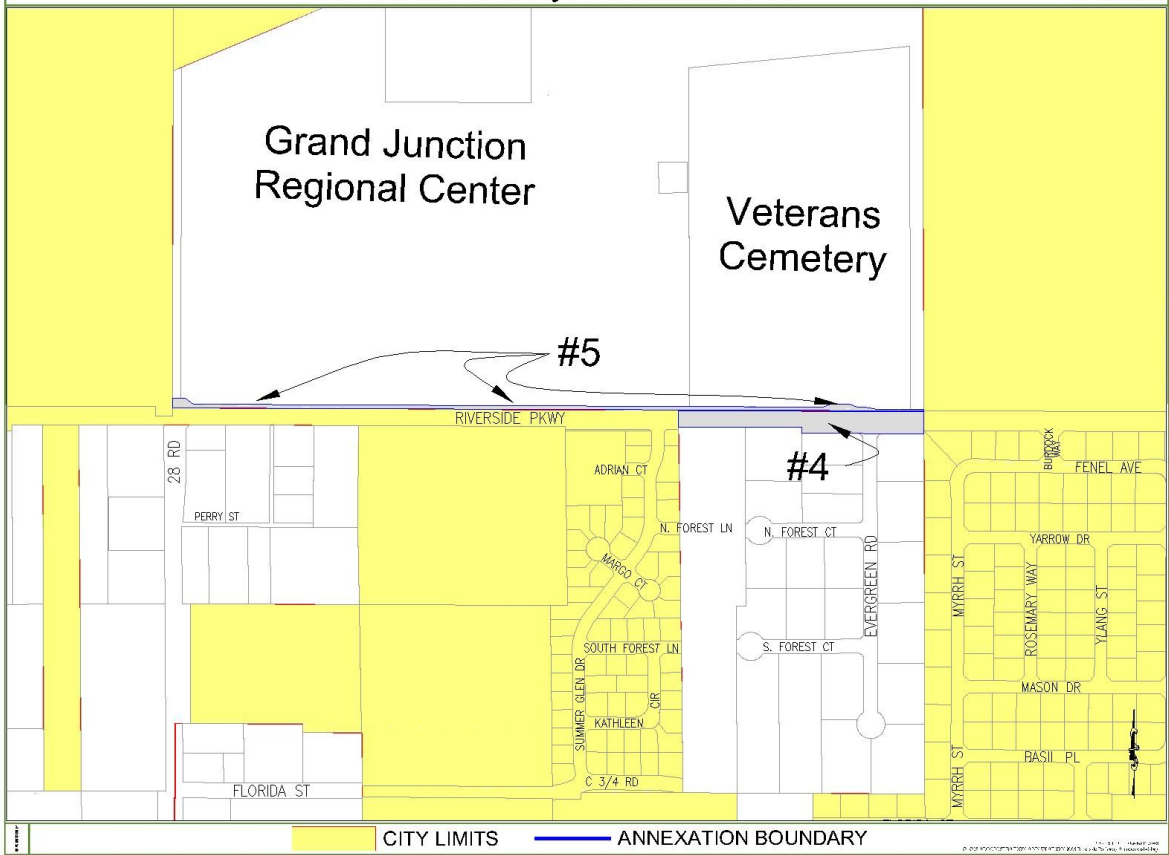
SITE LOCATION MAP RIVERSIDE PARKWAY

Riverside Parkway Annexations #1-3



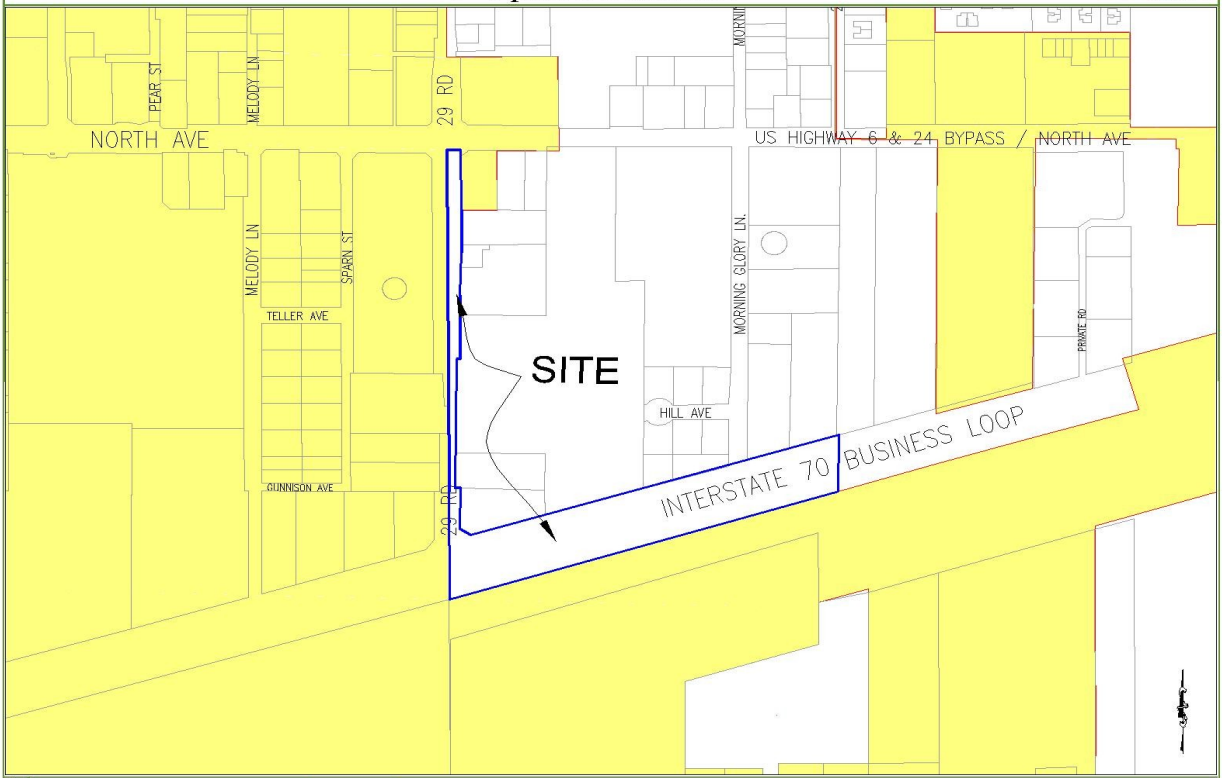
SITE LOCATION MAP RIVERSIDE PARKWAY

Riverside Parkway Annexations #4-5



SITE LOCATION MAP OVERPASS

Overpass Annexation



CITY LIMITS **ANNEXATION BOUNDARY**

11/11/11 10:00 AM
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CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. ____

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

RIVERSIDE PARKWAY AND OVERPASS ANNEXATION

**APPROXIMATELY 15.0 ACRES
LOCATED AT FIVE SECTIONS OF RIVERSIDE PARKWAY RIGHT-OF-WAY, 29 ROAD
FROM 29 ROAD SOUTHERLY TO I-70 BUSINESS LOOP AND I-70 BUSINESS LOOP
FROM 29 ROAD NORTHEASTERLY APPROXIMATELY 2,400 FEET**

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 15th day of December, 2008, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

RIVERSIDE PARKWAY AND OVERPASS ANNEXATION

Riverside Parkway Annexation No. 1

A certain parcel of land lying in the North Half (N1/2) of Section 24 and the South Half (S1/2) of Section 13, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

Beginning at the Northwest corner of D Road Storage Annexation, City Ordinance No. 3683, and considering the North line of the N1/2 of said Section 24 to bear S89°59'19"E with all bearings herein relative thereto; thence S00°08'44"W, along the west line of said D Road Storage Annexation, a distance of 58.57 feet; thence N89°29'49"W a distance of 150.72 feet; thence S89°28'17"W a distance of 80.30 feet; thence N 89°59'09"W a distance of 115.99 feet to a point of tangency; thence 353.44 feet along the arc of a 625.00 foot radius curve, concave southeast, through a central angle of 32°24'03" and which chord bears S73°30'38"W a distance of 348.75 feet to a point of non-tangent compound curvature; thence 105.94 feet along the arc of a 625.00 foot radius curve, concave southeast, through a central angle of 09°42'42" and which chord bears S51°05'48"W a distance of 105.81 feet to a point of non-tangent compound curvature; thence 407.40 feet along the arc of a 622.50 foot radius curve, concave southeast; through a central angle of 37°29'52" and which chord bears S28°49'57"W a distance of 400.17 feet to a point of tangency; thence S10°05'01"W a distance of 783.78 feet to the North line of South Fifteenth Street Annexation, City Ordinance No. 2312; thence N89°52'24"W, along said North line, a distance of 77.16 feet; thence

N10°05'01"E a distance of 797.12 feet to a point of tangency; thence 428.01 feet along the arc of a 698.50 foot radius curve, concave southeast, through a central angle of 35°06'31" and which chord bears N27°38'18"E a distance of 421.35 feet to a point of non-tangency; thence N00°00'10"E a distance of 71.19 feet; thence N49°13'37"W a distance of 84.97 feet; thence N89°59'19"W a distance of 290.65 feet; thence N00°00'41"E a distance of 33.00 feet to a point on the north line of the NE1/4NW1/4 of said Section 24; thence N89°59'19"W, along the north line of the NE1/4NW1/4 of said Section 24, a distance of 358.46 feet to the southeast corner Keith's Addition as recorded in Plat Book 1, Page 13, in the office of the Mesa County Clerk; thence N00°09'05"E, along the east line of said Keith's Addition, a distance of 28.00 feet to a point on the south line of the two-foot strip for Darren Davidson Annexation, City Ordinance No. 3205, said south line running 28.00 feet north of and parallel with the North line of said Section 24; thence S89°59'19"E, along said south line, a distance of 1,549.47 feet, more or less, to the point of beginning.

CONTAINING 205,909 square feet, or 4.7 Acres, more or less, as described.

Riverside Parkway Annexation No. 2

A certain parcel of land lying in the North Half (N1/2) of Section 24 and in the South Half (S1/2) of Section 13, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

That portion of the North 30.00 feet of said Section 24 lying east of Indian Road Industrial Subdivision, City Ordinance No. 3677 and West of Pine Industrial No. 1 Annexation No. 1, City Ordinance No. 3942, together with that portion of the South 28.00 feet of said Section 13, being South of and adjacent to the South line of the 2.00 foot strip for Darren Davidson Annexation, City Ordinance No. 3205, Lying east of said Indian Road Industrial Subdivision and West of said Pine Industrial No. 1 Annexation No. 1.

CONTAINING 9,512 square feet, or 0.218 Acres, more or less, as described

Riverside Parkway Annexation No. 3

A certain parcel of land lying in the South Half (S1/2) of Section 13 and the North Half (N1/2) of Section 24, all in Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

That portion of the D Road right of way, being 58.00 feet in width, bounded on the East and West by Home Lumber Annexation, City Ordinance No. 4059, and bounded on the North by the South line of the 2.00 foot strip for Darren Davidson Annexation, City Ordinance No 3205.

CONTAINING 9,512 square feet, or 0.218 acres, more or less, as described.

Riverside Parkway Annexation No. 4

A certain parcel of land located in the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) of Section 18 and the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section 19, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Beginning at the Northeast corner of the NE 1/4 NW 1/4 of said Section 19 and assuming the North line of the NE 1/4 NW 1/4 of said Section 19 to bear N89°39'17"W with all bearings contained herein relative thereto; thence S00°04'09"E a distance of 50.00 feet along the East line of the NE 1/4 NW 1/4 of said Section 19, said line also being the West line of White Willows Annexation, Ordinance No. 3242, City of Grand Junction; thence N89°39'17"W a distance of 430.36 feet along a line being 50.00 feet South of and parallel with the North line of the NE 1/4 NW 1/4 of said Section 19; thence N00°06'11"W a distance of 20.00 feet; thence N89°39'17"W a distance of 435.79 feet along a line being 30.00 feet South of and parallel with the North line of the NE 1/4 NW 1/4 of said Section 19 to a point on the East line of Tomkins Annexation, Ordinance No. 3602, City of Grand Junction; thence N00°34'23"W a distance of 58.00 feet along the East line of said Tomkins Annexation to a point on the South line of Darren Davidson Annexation, Ordinance No. 3205, City of Grand Junction; thence S89°39'17"E a distance of 866.67 feet along a line being 28.00 North of and parallel with the North line of the NE 1/4 NW 1/4 of said Section 19, said line also being the South line of said Darren Davidson Annexation; thence S00°04'18"E a distance of 28.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18, said line also being the West line of said White Willows Annexation to the Point of Beginning.

Said parcel contains 1.99 acres (86,834.52 sq. ft.), more or less, as described.

Riverside Parkway Annexation No. 5

A certain parcel of land located in the Southwest Quarter (SW 1/4) of Section 18, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Southwest corner of the SW 1/4 SW 1/4 of said Section 18 and assuming the South line of the SW 1/4 SW 1/4 of said Section 18 to bear S89°39'17"E with all bearings contained herein relative thereto; thence N00°14'14"E a distance of 30.00 feet along the West line of the SE 1/4 SW 1/4 of said Section 18 to the Southeast corner of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction, said point also being the Point of Beginning; thence N00°14'14"E a distance of 33.72 feet along the West line of the SE 1/4 SW 1/4 of said Section 18, said line also being the Easterly line of said Southern Pacific Railroad Annexation No. 1; thence S89°39'17"E a distance of 46.48 feet; thence S54°07'20"E a distance of 35.63 feet; thence S89°39'17"E a distance of 2221.84 feet along a line being 43.00 feet North of and parallel with the South line of the SW 1/4 SW 1/4 of said Section 18; thence along the following five (5) courses: (1) N71°00'15"E a distance of 31.70 feet; (2) S89°39'17"E a distance of 63.23 feet; (3) S70°21'54"E a distance of 31.78 feet; (4) S89°39'17"E a distance of 27.38 feet; (5) S78°20'43"E a distance of 40.79 feet;

thence S89°39'17"E a distance of 166.49 feet along a line being 35.00 North of and parallel with the South line of the SE 1/4 SW 1/4 of said Section 18 to a point on the East line of the SE 1/4 SW 1/4 of said Section 18; thence S00°06'45"E a distance of 5.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18, said line also being the West line of Mesa State Annexation, Ordinance No. 4801, City of Grand Junction; thence N89°39'17"W a distance of 2654.30 feet along a line being 30.00 North of and parallel with the South line of the SE 1/4 SW 1/4 of said Section 18, said line also being the North line of Darren Davidson Annexation, Ordinance No. 3205, City of Grand Junction to the Point of Beginning.

Said parcel contains 0.81 acres (35,323.20 sq. ft.), more or less, as described.

Overpass Annexation

A certain parcel of land lying in the Northwest Quarter (NW1/4) of Section 17, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

All that portion of 29 Road and I-70B right of way, as exists prior to the effective date shown hereon, lying South of Flynn Annexation, City of Grand Junction Ordinance No. 1864; and East of the following three Annexations:

- 1) Central Fruitvale Annexation, by Court Order No. 16298;
- 2) Sonrise Church Annexation No. 1, City of Grand Junction Ordinance No. 3090;
- 3) Sonrise Church Annexation No. 2, City of Grand Junction Ordinance No. 3091;

And North of the 1 foot strip of Wells Annexation, City Ordinance No. 3092, as runs parallel with and 2 feet northwesterly of Southern Pacific Railroad Annexation No. 1, City Ordinance No. 3158; and West of the East line of the Northwest Quarter Northwest Quarter (NW1/4NW1/4) said Section 17.

CONTAINING 6.9 Acres, more or less, as described.

WHEREAS, a hearing on the petition was duly held after proper notice on the 21st day of January, 2009; and

WHEREAS, the Council has found and determined and does hereby find and determine that said petition is in substantial compliance with statutory requirements therefore, that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the said territory is integrated or is capable of being integrated with said City; that no land held in identical ownership has been divided without the consent of the landowner; that no land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; and that no election is required under the Municipal Annexation Act of 1965.

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

The said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

ADOPTED the ____ day of _____, 2009.

Attest:

President of the Council

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

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

RIVERSIDE PARKWAY AND OVERPASS ANNEXATION

APPROXIMATELY 15.0 ACRES

**LOCATED AT FIVE SECTIONS OF RIVERSIDE PARKWAY RIGHT-OF-WAY, 29 ROAD
FROM 29 ROAD SOUTHERLY TO I-70 BUSINESS LOOP AND I-70 BUSINESS LOOP
FROM 29 ROAD NORTHEASTERLY APPROXIMATELY 2,400 FEET**

WHEREAS, on the 15th day of December 2008, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 21st day of January 2009; and

WHEREAS, the City Council determined that said territory was eligible for annexation and that no election was necessary to determine whether such territory should be annexed;

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

That the property situate in Mesa County, Colorado, and described to wit:

RIVERSIDE PARKWAY AND OVERPASS ANNEXATION

Riverside Parkway Annexation No. 1

A certain parcel of land lying in the North Half (N1/2) of Section 24 and the South Half (S1/2) of Section 13, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

Beginning at the Northwest corner of D Road Storage Annexation, City Ordinance No. 3683, and considering the North line of the N1/2 of said Section 24 to bear S89°59'19"E with all bearings herein relative thereto; thence S00°08'44"W, along the west line of said D Road Storage Annexation, a distance of 58.57 feet; thence N89°29'49"W a distance of 150.72 feet; thence S89°28'17"W a distance of 80.30 feet; thence N 89°59'09"W a distance of 115.99 feet to a point of tangency; thence 353.44 feet along the arc of a 625.00 foot radius curve, concave southeast, through a central angle of

32°24'03" and which chord bears S73°30'38"W a distance of 348.75 feet to a point of non-tangent compound curvature; thence 105.94 feet along the arc of a 625.00 foot radius curve, concave southeast, through a central angle of 09°42'42" and which chord bears S51°05'48"W a distance of 105.81 feet to a point of non-tangent compound curvature; thence 407.40 feet along the arc of a 622.50 foot radius curve, concave southeast; through a central angle of 37°29'52" and which chord bears S28°49'57"W a distance of 400.17 feet to a point of tangency; thence S10°05'01"W a distance of 783.78 feet to the North line of South Fifteenth Street Annexation, City Ordinance No. 2312; thence N89°52'24"W, along said North line, a distance of 77.16 feet; thence N10°05'01"E a distance of 797.12 feet to a point of tangency; thence 428.01 feet along the arc of a 698.50 foot radius curve, concave southeast, through a central angle of 35°06'31" and which chord bears N27°38'18"E a distance of 421.35 feet to a point of non-tangency; thence N00°00'10"E a distance of 71.19 feet; thence N49°13'37"W a distance of 84.97 feet; thence N89°59'19"W a distance of 290.65 feet; thence N00°00'41"E a distance of 33.00 feet to a point on the north line of the NE1/4NW1/4 of said Section 24; thence N89°59'19"W, along the north line of the NE1/4NW1/4 of said Section 24, a distance of 358.46 feet to the southeast corner Keith's Addition as recorded in Plat Book 1, Page 13, in the office of the Mesa County Clerk; thence N00°09'05"E, along the east line of said Keith's Addition, a distance of 28.00 feet to a point on the south line of the two-foot strip for Darren Davidson Annexation, City Ordinance No. 3205, said south line running 28.00 feet north of and parallel with the North line of said Section 24; thence S89°59'19"E, along said south line, a distance of 1,549.47 feet, more or less, to the point of beginning.

CONTAINING 205,909 square feet, or 4.71 Acres, more or less, as described.

Riverside Parkway Annexation No. 2

A certain parcel of land lying in the North Half (N1/2) of Section 24 and in the South Half (S1/2) of Section 13, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

That portion of the North 30.00 feet of said Section 24 lying east of Indian Road Industrial Subdivision, City Ordinance No. 3677 and West of Pine Industrial No. 1 Annexation No. 1, City Ordinance No. 3942, together with that portion of the South 28.00 feet of said Section 13, being South of and adjacent to the South line of the 2.00 foot strip for Darren Davidson Annexation, City Ordinance No. 3205, Lying east of said Indian Road Industrial Subdivision and West of said Pine Industrial No. 1 Annexation No. 1.

CONTAINING 9,512 square feet, or 0.218 Acres, more or less, as described

Riverside Parkway Annexation No. 3

A certain parcel of land lying in the South Half (S1/2) of Section 13 and the North Half (N1/2) of Section 24, all in Township 1 South, Range 1 West of the Ute Principal

Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

That portion of the D Road right of way, being 58.00 feet in width, bounded on the East and West by Home Lumber Annexation, City Ordinance No. 4059, and bounded on the North by the South line of the 2.00 foot strip for Darren Davidson Annexation, City Ordinance No 3205.

CONTAINING 9,512 square feet, or 0.218 acres, more or less, as described.

Riverside Parkway Annexation No. 4

A certain parcel of land located in the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) of Section 18 and the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section 19, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Beginning at the Northeast corner of the NE 1/4 NW 1/4 of said Section 19 and assuming the North line of the NE 1/4 NW 1/4 of said Section 19 to bear N89°39'17"W with all bearings contained herein relative thereto; thence S00°04'09"E a distance of 50.00 feet along the East line of the NE 1/4 NW 1/4 of said Section 19, said line also being the West line of White Willows Annexation, Ordinance No. 3242, City of Grand Junction; thence N89°39'17"W a distance of 430.36 feet along a line being 50.00 feet South of and parallel with the North line of the NE 1/4 NW 1/4 of said Section 19; thence N00°06'11"W a distance of 20.00 feet; thence N89°39'17"W a distance of 435.79 feet along a line being 30.00 feet South of and parallel with the North line of the NE 1/4 NW 1/4 of said Section 19 to a point on the East line of Tomkins Annexation, Ordinance No. 3602, City of Grand Junction; thence N00°34'23"W a distance of 58.00 feet along the East line of said Tomkins Annexation to a point on the South line of Darren Davidson Annexation, Ordinance No. 3205, City of Grand Junction; thence S89°39'17"E a distance of 866.67 feet along a line being 28.00 North of and parallel with the North line of the NE 1/4 NW 1/4 of said Section 19, said line also being the South line of said Darren Davidson Annexation; thence S00°04'18"E a distance of 28.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18, said line also being the West line of said White Willows Annexation to the Point of Beginning.

Said parcel contains 1.99 acres (86,834.52 sq. ft.), more or less, as described.

Riverside Parkway Annexation No. 5

A certain parcel of land located in the Southwest Quarter (SW 1/4) of Section 18, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Southwest corner of the SW 1/4 SW 1/4 of said Section 18 and assuming the South line of the SW 1/4 SW 1/4 of said Section 18 to bear S89°39'17"E with all bearings contained herein relative thereto; thence N00°14'14"E a distance of 30.00 feet along the West line of the SE 1/4 SW 1/4 of said Section 18 to the Southeast

corner of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction, said point also being the Point of Beginning; thence N00°14'14"E a distance of 33.72 feet along the West line of the SE 1/4 SW 1/4 of said Section 18, said line also being the Easterly line of said Southern Pacific Railroad Annexation No. 1; thence S89°39'17"E a distance of 46.48 feet; thence S54°07'20"E a distance of 35.63 feet; thence S89°39'17"E a distance of 2221.84 feet along a line being 43.00 feet North of and parallel with the South line of the SW 1/4 SW 1/4 of said Section 18; thence along the following five (5) courses: (1) N71°00'15"E a distance of 31.70 feet; (2) S89°39'17"E a distance of 63.23 feet; (3) S70°21'54"E a distance of 31.78 feet; (4) S89°39'17"E a distance of 27.38 feet; (5) S78°20'43"E a distance of 40.79 feet; thence S89°39'17"E a distance of 166.49 feet along a line being 35.00 North of and parallel with the South line of the SE 1/4 SW 1/4 of said Section 18 to a point on the East line of the SE 1/4 SW 1/4 of said Section 18; thence S00°06'45"E a distance of 5.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18, said line also being the West line of Mesa State Annexation, Ordinance No. 4801, City of Grand Junction; thence N89°39'17"W a distance of 2654.30 feet along a line being 30.00 North of and parallel with the South line of the SE 1/4 SW 1/4 of said Section 18, said line also being the North line of Darren Davidson Annexation, Ordinance No. 3205, City of Grand Junction to the Point of Beginning.

Said parcel contains 0.81 acres (35,323.20 sq. ft.), more or less, as described.

Overpass Annexation

A certain parcel of land lying in the Northwest Quarter (NW1/4) of Section 17, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

All that portion of 29 Road and I-70B right of way, as exists prior to the effective date shown hereon, lying South of Flynn Annexation, City of Grand Junction Ordinance No. 1864; and East of the following three Annexations:

- 1) Central Fruitvale Annexation, by Court Order No. 16298;
- 2) Sunrise Church Annexation No. 1, City of Grand Junction Ordinance No. 3090;
- 3) Sunrise Church Annexation No. 2, City of Grand Junction Ordinance No. 3091;

And North of the 1 foot strip of Wells Annexation, City Ordinance No. 3092, as runs parallel with and 2 feet northwesterly of Southern Pacific Railroad Annexation No. 1, City Ordinance No. 3158; and West of the East line of the Northwest Quarter Northwest Quarter (NW1/4NW1/4) said Section 17.

CONTAINING 6.9 Acres, more or less, as described.

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

INTRODUCED on first reading on the 15th day of December, 2008 and ordered published.

ADOPTED on second reading the ____ day of _____, 2009.

Attest:

President of the Council

City Clerk

Attach 12

Public Hearing – Growth Plan Amendment, Outline Development Plan and Rezone for St. Mary’s Rose Hill Hospitality House Expansion, Located at 609 26 ½ Road

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Growth Plan Amendment, Outline Development Plan and Rezone for St. Mary’s Rose Hill Hospitality House Expansion - Located at 609 26 ½ Road		
File #	RZ-2008-227		
Meeting Day, Date	Wednesday, January 21, 2009		
Placement on the Agenda	Consent		Individual <input checked="" type="checkbox"/>
Date Prepared	January 7, 2009		
Author Name & Title	Scott D. Peterson, Senior Planner		
Presenter Name & Title	Scott D. Peterson, Senior Planner		

Summary: A request for approval for a Growth Plan Amendment from Residential Medium (4 – 8 du/ac) to Commercial and also a request for approval to zone property located at 609 26 ½ Road known as St. Mary’s Rose Hill Hospitality House to PD (Planned Development) with a default zone of B-1, (Neighborhood Business) by approval of the Outline Development Plan.

Budget: N/A

Action Requested/Recommendation: Hold a public hearing and consider adopting a Resolution amending the Growth Plan Future Land Use Map from Residential Medium (4 – 8 du/ac) to Commercial and also consider final passage of the proposed zoning Ordinance.

Attachments:

1. Staff Report
2. Site Location Map / Aerial Photo Map
3. Future Land Use Map / Existing City Zoning
4. Resolution
5. Ordinance

Background Information: See attached report.

BACKGROUND INFORMATION					
Location:		609 26 ½ Road			
Applicants:		SISTERS OF CHARITY OF LEAVENWORTH HEALTH SERVICES CORP. (“St. Mary’s Hospital”), Owner			
Existing Land Use:		Vacant land			
Proposed Land Use:		Parking lot for St. Mary’s Rose Hill Hospitality House expansion			
Surrounding Land Use:	North	Single-family residential			
	South	St. Mary’s Rose Hill Hospitality House			
	East	Single-family residential			
	West	Commercial retail/office development and Single-family residential			
Existing Zoning:		B-1, (Neighborhood Business)			
Proposed Zoning:		PD, (Planned Development)			
Surrounding Zoning:	North	R-5, (Residential – 5 du/ac)			
	South	PD, (Planned Development)			
	East	R-4, (Residential – 4 du/ac)			
	West	B-1, (Neighborhood Business) and R-5, (Residential 5 du/ac)			
Growth Plan Designation:		Residential Medium (4 – 8 DU/Ac.)			
Zoning within density range?		X	Yes		No

Staff Analysis:

1. Background:

The applicant, St. Mary’s Hospital, is requesting a Growth Plan Amendment to Commercial and also a Rezone to PD, (Planned Development) for property that they own located at 609 26 ½ Road (0.80 +/- acres) in order to achieve a uniform Planned Development zone for its hospital properties located throughout the area. The B-1, (Neighborhood Business) would still be designated as the underlining/default zoning district under the PD, (Planned Development) zoning district. The parcel is currently vacant but will be utilized as a parking lot for the St. Mary’s Rose Hill Hospitality House expansion located on the adjacent property to the south which is presently under Site Plan Review by the City (see attached Aerial Photo Map). The applicant also wishes to combine the existing two properties into one through the Simple Subdivision process which is also presently under review by City Staff.

This existing property was zoned PB, (Planned Business) prior to the year 2000. However, when the current Zoning and Development Code and Zoning Map were adopted in the year 2000, this property was zoned B-1, primarily because the property did not yet have a “plan” tied to it. Also, the City and County adopted the current Future Land Use Map in the year 1996 and should have addressed the discrepancy at that time between the PB, zone and the Residential Medium (4 – 8 DU/Ac.) future land use category, but did not. This creates a discrepancy in the zoning and Future Land Use designation that makes little practical sense. This proposed Growth Plan Amendment and Rezone requests would tie the Future Land Use Map and Zoning into a corresponding Commercial designation and remove this existing map discrepancy.

The existing St. Mary’s property to the south (605 26 ½ Road) that contains the Rose Hill Hospitality House is presently designated as Commercial on the Future Land Use Map and zoned PD.

The Zoning and Development Code allows a Growth Plan Amendment and a Rezone to PD, to be reviewed concurrently in accordance with Section 2.5 B. 2.

2. Section 2.5 C. of the Zoning and Development Code:

The Growth Plan can be amended if the City finds that the proposed amendment is consistent with the purpose and intent of the Plan and it meets the following criteria:

- a. There was an error such that then existing facts, projects or trends (that were reasonably foreseeable) were not accounted for; or

This property, although historically at one time was a residential use, is presently zoned B-1, and the proposed Growth Plan Amendment request to Commercial would bring the existing property into conformance with the current zoning for the property. This existing property was zoned PB, (Planned Business) prior to the year 2000. However, when the current Zoning and Development Code and Zoning Map were adopted in the year 2000, this property was zoned B-1, primarily because the property did not yet have a “plan” tied to it. Also, the City and County adopted the current Future Land Use Map in the year 1996 and should have addressed the discrepancy at that time between the PB, zone and the Residential Medium (4 – 8 DU/Ac.) future land use category, but did not. This creates a discrepancy in the zoning and Future Land Use designation that makes little practical sense.

- b. Subsequent events have invalidated the original premises and findings;

With current population growth trends within western Colorado and the need for St. Mary’s Hospital to accommodate this growth, additional Commercial designated properties near the hospital campus is needed in support of

hospital services. Also, with the anticipated combination of the existing two properties through the simple subdivision process by the applicant, the combined properties would then match the Commercial land use designation so that the two St. Mary's properties in this area north of Patterson Road would be uniform in classification.

- c. The character and/or condition of the area have changed enough that the amendment is acceptable and such changes were not anticipated and are not consistent with the plan;

The character of the area directly to the south of this property is already commercial in nature. With the approval of the Growth Plan Amendment request, it would bring the Future Land Use Map into compliance with the existing B-1, Neighborhood Business Zoning District and eliminate this discrepancy between the Future Land Use and Zoning Maps. St. Mary's has also acquired adjacent residential properties to the west of the main hospital campus in support of hospital services throughout the years. St. Mary's Hospital is requesting a Growth Plan Amendment to Commercial and also a Rezone to PD, (Planned Development) in order to achieve a uniform Planned Development zone classification to match the rest of their hospital properties located throughout the area. The parcel is currently vacant but will be utilized as a parking lot for the St. Mary's Rose Hill Hospitality House expansion located on the adjacent property to the south which is presently under Site Plan Review by the City.

- d. The change is consistent with the goals and policies of the Plan, including applicable special area, neighborhood and corridor plans;

The amendment is consistent with the following goals and policies of the Growth Plan:

Goal 8: Policy 8.10: The City should encourage the growth and development of retail, office and service uses related to hospital operations. Retail businesses should be of an appropriate scale to serve the needs of clients, employees and visitors to the hospital and adjacent medical offices.

Goal 13: Policy 13.2: The City and County will enhance the quality of development along key arterial street corridors.

Goal 17: Policy 17.3: The City and County will support public and private projects which increase the attractiveness of the community for residents and tourists.

Goal 28: The City of Grand Junction is committed to taking an active role in the facilitation and promotion of infill and redevelopment within the urban growth area of the City.

- e. Public and community facilities are adequate to serve the type and scope of the land use proposed;

Public and community facilities and infrastructure are adequate to serve the type and scope of the land use proposed for development by the expansion of the Rose Hill Hospitality House.

- f. An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and

Presently, the existing Future Land Use Map designation of Residential Medium (4 – 8 DU/Ac.) does not match the existing zoning designation for the property of B-1, Neighborhood Business. With the approval of the Growth Plan Amendment request, it would bring the Future Land Use Map into compliance with the existing B-1, Neighborhood Business Zoning District and eliminate this discrepancy between the Future Land Use and Zoning Maps. The property is presently zoned B-1 and therefore there is no need to continue with the Residential Medium category since the property is not being utilized as a residential land use. The City and County are currently going through the Comprehensive Plan adoption process and this area around the main hospital campus is designated as a medical center/business park for the medical community. The proposed Growth Plan Amendment change to Commercial would bring the current Future Land Use Map and proposed Comprehensive Plan Land Use Map into compliance with the future medical center/business park designation.

- g. The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

St. Mary's Hospital is requesting the Growth Plan Amendment to Commercial in order to achieve a uniform Future Land Use Map designation prior to combining the existing two properties into one through the simple subdivision process. Also, the community will benefit in two ways with the approval of the Growth Plan Amendment request by first bringing the Future Land Use Map into compliance with the existing B-1, zoning district and eliminating the discrepancy between the Future Land Use and Zoning Maps and secondly by allowing the expansion of the hospital campus to serve the growing population within western Colorado.

3. Section 2.12 B. of the Zoning & Development Code:

As the request is to add this parcel to the St. Mary's Hospital Planned Development, the applicant needs to address the review criteria for an Outline Development Plan (ODP) for the expansion of the proposed Rose Hill Hospitality House. Since the applicant has

an approved Master Plan 2005 (“MP 2005”) that was adopted by the City Council in 2006 that included the property owned by St. Mary’s Hospital for the Rose Hill Hospitality House, the same review criterion for the Outline Development Plan applies. The proposed Ordinance for the rezoning of the property located at 609 26 ½ Road to PD, Planned Development will amend the original Master Plan 2005 Ordinance 3992 to include this property. The Master Plan is the Outline Development Plan. The following ODP review criteria was utilized for MP 2005 and therefore, the proposed Rose Hill Hospitality House expansion is in compliance with all applicable review criteria and thus the applicant is requesting that the property located at 609 26 ½ Road be zoned, PD, Planned Development.

- a. The Growth Plan, Grand Valley Circulation Plan and other adopted plans and polices;

Master Plan 2005 for St. Mary’s Hospital complies with the goals and policies of the Growth Plan, Grand Valley Circulation Plan, the Zoning and Development Code and the TEDS Manual and with the addition of this parcel MP 2005 still complies.

- b. The rezoning criteria provided in Section 2.6;

Present zoning for the St. Mary’s Hospital complex is PD, Planned Development. The addition of this parcel requires it to be rezoned. Please refer to the criteria below in Section 3.

- c. The planned development requirements of Chapter Five;

All building setbacks, parking and landscaping requirements, etc., were met with the MP 2005 and will continue to be met. The deviations approved with the MP 2005 were that the maximum height would exceed the B-1 requirement of 40’ in height. A Conditional Use Permit will not be required for a “hospital” or buildings exceeding 30,000 sq. ft. City staff finds these deviations from the default zoning district of B-1 to be acceptable since the Hospital is presently zoned PD, Planned Development and the current hospital building already exceeds the maximum height of 40’. The community has benefitted and will continue to benefit from the deviations as St. Mary’s Hospital provides the health care needs for the entire area.

- d. The applicable corridor guidelines and other overlay districts in Chapter Seven;

There are no applicable corridor guidelines or overlay districts for this parcel.

- e. Adequate public services and facilities shall be provided concurrent with the projected impacts of development;

Adequate public facilities or services have been provided to the site or are being upgraded to accommodate the needs of the hospital and site development.

- f. Adequate circulation and access shall be provided to serve all development pods/areas to be developed;

MP 2005 complied with the Grand Valley Circulation Plan and Transportation Engineering Design Standards (TEDS) manual and will continue to do so with this addition to the ODP.

- g. Appropriate screening and buffering of adjacent property and uses shall be provided;

Appropriate screening and buffering of adjacent properties will be provided.

- h. An appropriate range of density for the entire property or for each development pod/area to be developed;

MP 2005 incorporated an appropriate range of building density for the St. Mary's Hospital campus and will continue to do so with this addition to the ODP.

- i. An appropriate set of "default" or minimum standards for the entire property or for each development pod/area to be developed;

See item C.

- j. An appropriate phasing or development schedule for the entire property or for each development pod/area to be developed; and

The phasing schedule approved with MP 2005 shall not change. Development with MP 2005 is scheduled to be completed by 2011.

- k. The property is at least twenty (20) acres in size.

The land within the PD zone for St. Mary's Hospital exceeds 20 acres.

4. Consistency with Section 2.6 A. of the Zoning and Development Code:

Rezone requests must meet all of the following criteria for approval:

- a. The existing zoning was in error at the time of adoption; or

Since the PD, zone request uses the existing zone district of B-1, as the underlying default zone, this criteria is not applicable. The applicant would just like to utilize the property as a parking lot for the Rose Hill Hospitality House expansion.

- b. There has been a change of character in the neighborhood due to installation of public facilities, other zone changes, new growth/growth trends, deterioration, development transitions, etc.;

The property is located in an area of existing commercial and hospital development near the intersection of Patterson Road and 26 ½ Road (N. 7th Street). The applicant, St. Mary's Hospital is requesting the rezone to PD, Planned Development in order to include all its properties within the PD and subject to the same development requirements. The area continues to change as St. Mary's Hospital expands. St. Mary's Hospital is now a campus and has available services to meet most health care needs as well as ancillary services to the health care needs. The expansion of the St. Mary's Rose Hill Hospitality House is one of those ancillary services.

- c. The proposed rezone is compatible with the neighborhood, conforms to and furthers the goals and policies of the Growth Plan and other adopted plans and policies, the requirements of this Code, and other City regulations;

St. Mary's Hospital has been a part of the neighborhood for many years. Its developments have been designed to work within the neighborhood with as minimal impact to the neighbors as is feasible with meeting the health care needs. The proposed parking lot for this parcel will comply with all requirements of the Code regarding landscaping and lighting. As stated previously the ODP for the PD zone conforms with the City's plans and City requirements and regulations. The ODP will continue to comply with the addition of this parcel.

- d. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of development allowed by the proposed zoning;

Adequate public facilities (water, sewer and right-of-way access, etc.) are currently available and can address the impacts of development consistent with the PD, zoning district and the default zoning district of B-1.

- e. The supply of comparably zoned land in the surrounding area is inadequate to accommodate the community's needs; and

The property is currently zoned B-1. The applicant wishes to rezone to PD, so that all of its property for the hospital is included within the same zone and follows the same requirements for development. With the approval of the PD Zoning District, the default zoning district would then be B-1.

- f. The community will benefit from the proposed zone.

With current population growth trends within western Colorado and the need for St. Mary's Hospital to accommodate this growth, additional PD designated properties near the hospital campus is needed in support of hospital services.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the St. Mary's Rose Hill Hospitality House application, RZ-2008-227 for a Growth Plan Amendment and Rezone, the following findings of fact and conclusions have been determined:

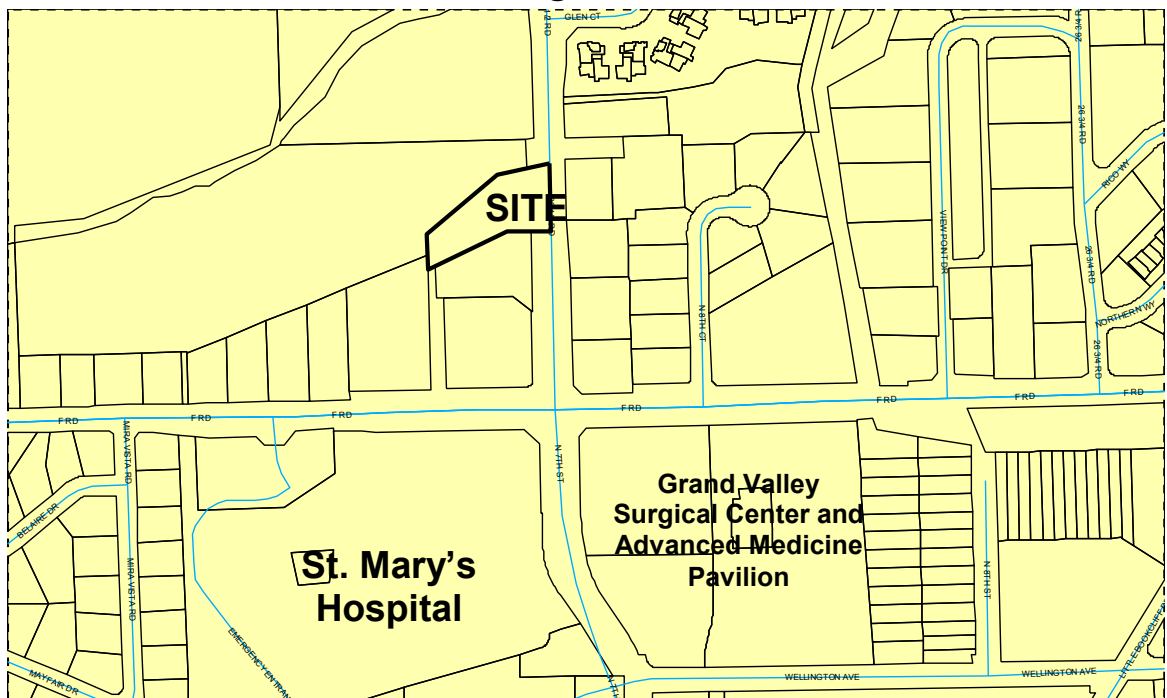
1. The requested Growth Plan Amendment and Rezone is consistent with the purpose and intent of the Growth Plan.
2. The review criteria in Sections 2.5 C., 2.6 A. and 2.12 B. of the Zoning and Development Code have all been met.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommended approval of the requested Growth Plan Amendment from Residential Medium (4 – 8 du/ac) to Commercial and also a Rezone to the City Council finding the requested rezone from B-1, (Neighborhood Business) to PD, (Planned Development) and the approval of the Outline Development Plan for the St. Mary's Rose Hill Hospitality House, file number RZ-2008-227, with the findings and conclusions listed above.

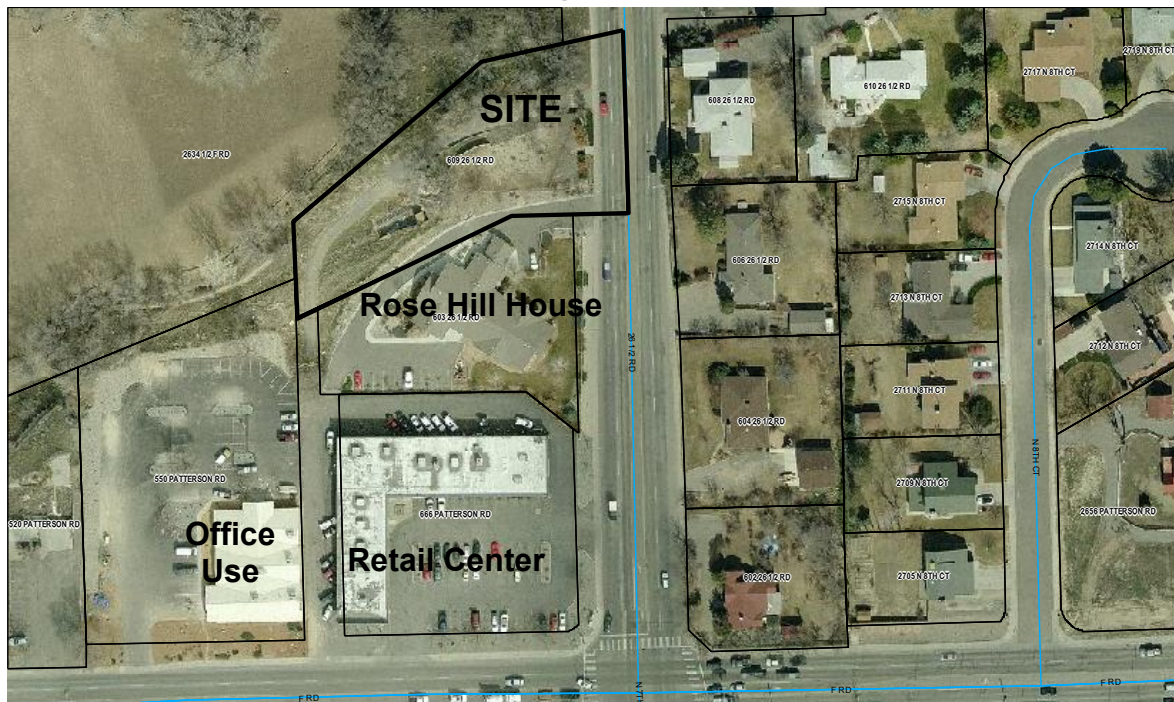
Site Location Map

Figure 1



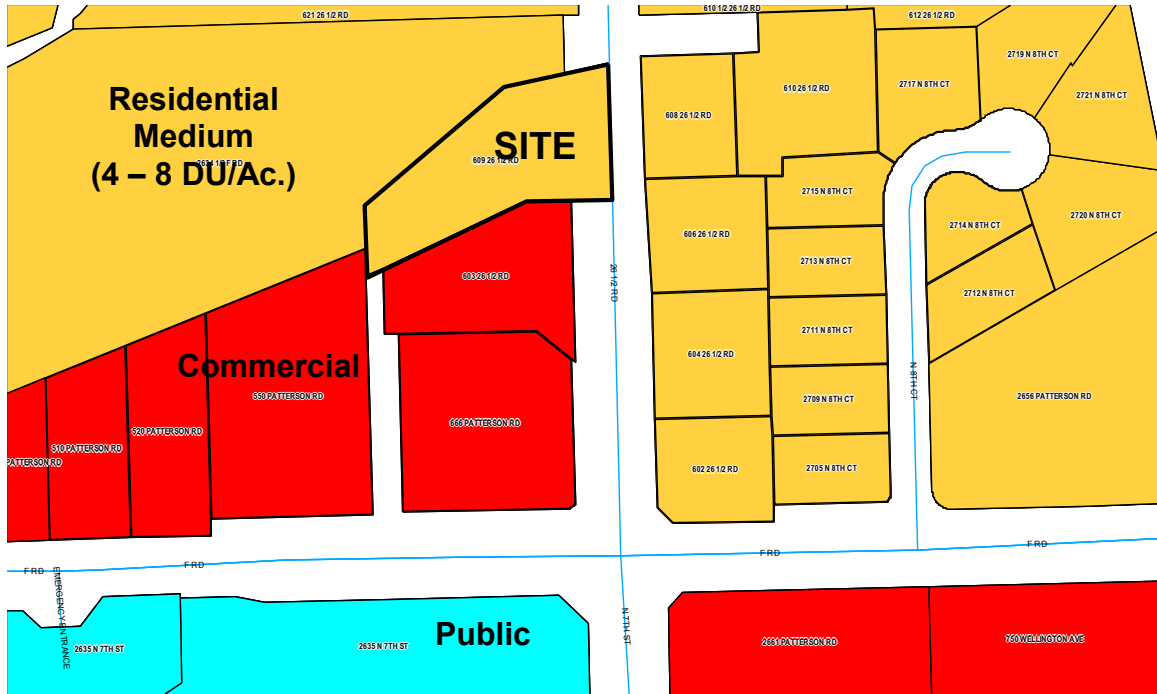
Aerial Photo Map

Figure 2



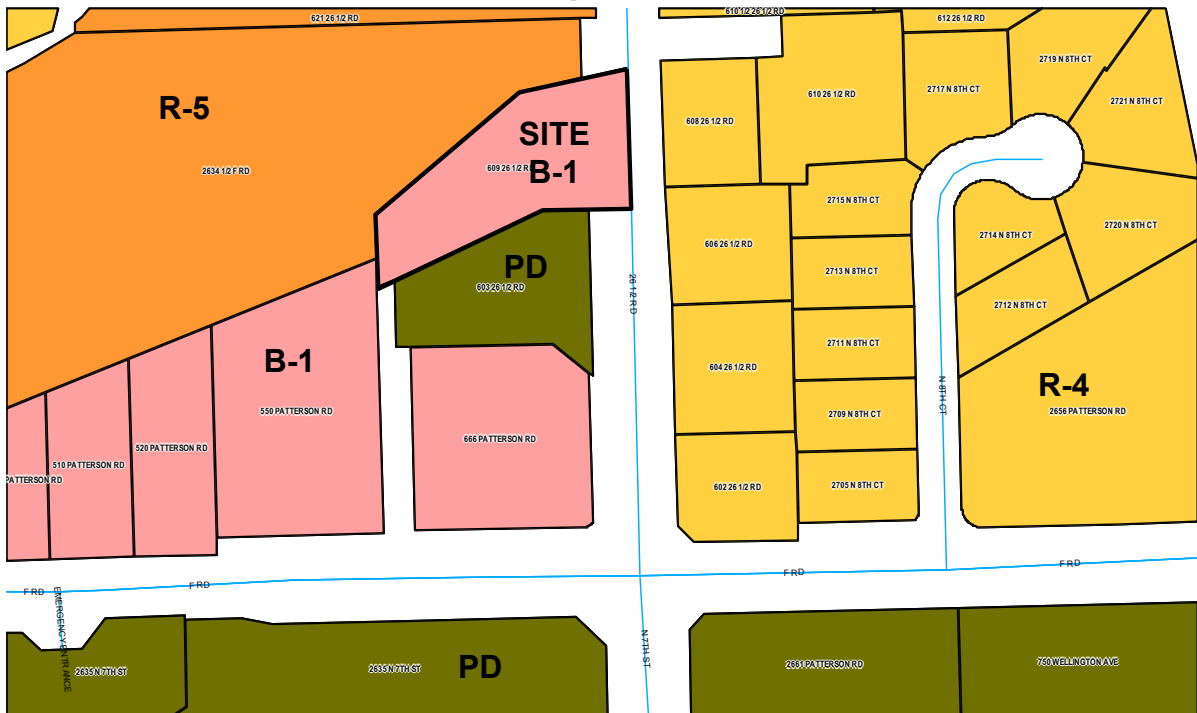
Future Land Use Map

Figure 3



Existing City Zoning

Figure 4



CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. ____

A RESOLUTION AMENDING THE GROWTH PLAN OF THE CITY OF GRAND JUNCTION TO DESIGNATE APPROXIMATELY 0.80 +/- ACRES LOCATED AT 609 26 ½ ROAD KNOWN AS THE ST. MARY'S ROSE HILL HOSPITALITY HOUSE EXPANSION FROM RESIDENTIAL MEDIUM (4 – 8 DU/AC.) TO COMMERCIAL

Recitals:

A request for a Growth Plan Amendment has been submitted in accordance with the Zoning and Development Code. The applicant has requested that approximately 0.80 +/- acres, located at 609 26 ½ Road be redesignated from Residential Medium (4 – 8 DU/Acre) to Commercial on the Future Land Use Map.

In a Public Hearing, the City Council reviewed the request for the proposed Growth Plan Amendment and determined that it satisfied the criteria as set forth and established in Section 2.5 C. of the Zoning and Development Code and the proposed amendment is consistent with the purpose and intent of the Growth Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE AREA DESCRIBED BELOW IS REDESIGNATED FROM RESIDENTIAL MEDIUM (4 – 8 DU/ACRE) TO COMMERCIAL ON THE FUTURE LAND USE MAP.

St. Mary's Rose Hill Hospitality House Expansion

Located at 609 26 ½ Road

Commencing at a Mesa County Survey Marker for the N.E. Corner of the SE 1/4 SW ¼ of Section 2, Township One South, Range One West of the Ute Meridian, Mesa County,

Colorado, from whence a Mesa County Survey Marker for the South 1/4 Corner of said Section 2 bears S00°01'25"W for a distance of 1314.69 feet; thence S00°01'25"W on the easterly line of the SE 1/4 SW 1/4 of said Section 2, 716.69 feet; thence S78°59'25"W 35.66 feet to the point of beginning; thence S00°01'25"W, on the easterly right- of- way of 7th Street 160.82 feet; thence leaving said easterly right- of- way line, N89°23'35"W 70.00 feet on the northerly line of P.D.C. Subdivision, Filing No. 2, to an angle point; thence, continuing on said northerly line, S66°32'56"W 196.23 feet to the east line of an alley; thence N00°01'25"E, on said alley, 31.04 feet to the northerly line of Fairmount Heights Subdivision; thence S68°46'25"W on said northerly line, 21.46 feet; thence N00°01'25"E 56.20 feet; thence N51°21'25"E 224.67 feet; thence N78°59'25"E 96.34 feet to the beginning.

Said parcel contains 0.80 +/- acres (34,848 +/- square feet), more or less, as described.

PASSED on this _____ day of _____, 2009.

ATTEST:

City Clerk

President of Council

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. _____

**AN ORDINANCE REZONING PROPERTY LOCATED AT 609 26 ½ ROAD KNOWN
AS ST. MARY'S ROSE HILL HOSPITALITY HOUSE
TO PD, PLANNED DEVELOPMENT BY AMENDING ORDINANCE NO. 3992 TO
INCLUDE THIS PROPERTY**

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of rezoning property located at 609 26 ½ Road to the PD, (Planned Development) zone district, and approving the outline development plan by amending Ordinance No. 3992 to include the parcel finding that the PD zone district and the ODP conform with the recommended land use category as shown on the future land use map of the Growth Plan and the Growth Plan's goals and policies and is generally compatible with land uses located in the surrounding area. The zone district and the ODP meet the criteria found in Sections 2.6 and 2.12 and Chapter Five of the Zoning and Development Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that Ordinance 3992 should be amended and that the PD, (Planned Development) zone district and ODP are in conformance with the stated criteria of Section 2.6, Section 2.12 and Chapter Five of the Grand Junction Zoning and Development Code.

This PD Ordinance will establish the default zoning district, B-1, (Neighborhood Business).

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

Ordinance 3992 is amended to include the following parcel with the addition to the ODP for the parcel.

The following property be zoned PD, Planned Development

Commencing at a Mesa County Survey Marker for the N.E. Corner of the SE 1/4 SW ¼ of Section 2, Township One South, Range One West of the Ute Meridian, Mesa County, Colorado, from whence a Mesa County Survey Marker for the South 1/4 Corner of said Section 2 bears S00°01'25"W for a distance of 1314.69 feet; thence S00°01'25"W on the easterly line of the SE 1/4 SW 1/4 of said Section 2, 716.69 feet;

thence S78°59'25"W 35.66 feet to the point of beginning; thence S00°01'25"W, on the easterly right- of- way of 7th Street 160.82 feet; thence leaving said easterly right- of- way line, N89°23'35"W 70.00 feet on the northerly line of P.D.C. Subdivision, Filing No. 2, to an angle point; thence, continuing on said northerly line, S66°32'56"W 196.23 feet to the east line of an alley; thence N00°01'25"E, on said alley, 31.04 feet to the northerly line of Fairmount Heights Subdivision; thence S68°46'25"W on said northerly line, 21.46 feet; thence N00°01'25"E 56.20 feet; thence N51°21'25"E 224.67 feet; thence N78°59'25"E 96.34 feet to the beginning.

Said parcel contains 0.80 +/- acres (34,848 +/- square feet), more or less, as described.

The default zone shall be B-1, (Neighborhood Business), with the property being utilized as a parking lot for the Rose Hill Hospitality House.

Ordinance 3992 with this amendment shall remain in full force and effect.

INTRODUCED on first reading the 7th day of January, 2009 and ordered published.

ADOPTED on second reading this _____ day of _____, 2009.

ATTEST:

President of the Council

City Clerk

Attach 13

Appeal of the Planning Commission's Decision Regarding a Conditional Use Permit for a Bar/Nightclub

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Appeal of the Planning Commission's decision regarding a Conditional Use Permit for a Bar/Nightclub – Located at 2256 and 2258 Colex Drive		
File #	CUP-2008-158		
Meeting Day, Date	Wednesday, January 21, 2009		
Placement on the Agenda	Consent	<input type="checkbox"/>	Individual <input checked="" type="checkbox"/>
Date Prepared	December 29, 2008		
Author Name & Title	Senta L. Costello, Senior Planner		
Presenter Name & Title	Senta L. Costello, Senior Planner		

Summary: An appeal has been filed regarding the Planning Commission's decision to deny a Conditional Use Permit for a Bar/Nightclub, located at 2256 and 2258 Colex Drive. The project sits on 1 lot in an I-1 (Light Industrial) zone district. (The project will include leased parking spaces from the lot immediately to the north.) 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: Hold a hearing on the appeal.

Attachments:

1. Planning Commission Staff Report of November 25, 2008 with attachments.
2. Minutes of the Planning Commission meeting of November 25, 2008
Appeal letter

Background Information: Please see the following and the attached staff report.

Background Information:

The property was annexed in 1992 with the Grand Junction West Annexation. The property was a part of the High Desert Commercial Park Subdivision approved and recorded in 2006.

The applicant is proposing to construct a bar/nightclub with a maximum occupancy of 185 people and an office/warehouse complex with 882 sq. ft. of office and 9172 sq ft of warehouse area with an outdoor storage area. The two sites are proposing to share parking, with uses that have offset hours of operation. The project will be constructed in two phases with the bar/nightclub and all of the parking being completed with Phase 1 and the office/warehouse and storage yard being done with Phase 2.

This request is for the bar/nightclub only as required in an I-1 zone district.

On August 12, 2008 a Public Hearing was held by the City of Grand Junction's Planning Commission for review of a Conditional Use Permit for a bar/nightclub. Reviewing the contents of the written staff report; a presentation by Senta L. Costello, Senior Planner; a presentation by the developer's representative; and public testimony taken during the Public Hearing, the Planning Commission denied the Conditional Use Permit by a majority vote of four to three.

On August 22, 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. The following criteria were considered by the City Council for affirming, reversing, or remanding the matter back for further consideration by the Planning Commission:

- (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.

The decision was remanded back to Planning Commission with the City Council stating the rationale for its decision as Planning Commission's interpretation of "neighborhood" in relation to this request was too broad. City Council gave direction to the Planning Commission to rehear the request, keeping in mind the definition of "neighborhood" as

defined by the Zoning and Development Code and considering what was triggering the Conditional Use Permit requirement.

“Neighborhood” as defined by the Zoning and Development Code is “An area of a community with characteristics that distinguish it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers, such as major highways and railroads or natural features, such as rivers.”

On November 25, 2008, based on the City Council's remanding the matter back for further consideration with instruction, a Public Hearing was held by the City of Grand Junction's Planning Commission to review the proposed Conditional Use Permit for a bar/nightclub. Reviewing the contents of the written staff report which included the instruction by City Council; a presentation by Greg Moberg, Planning Services Supervisor; a presentation by the developer's representative; and public testimony taken during the Public Hearing, the Planning Commission denied the Conditional Use Permit by a tied vote of three to three. The two of the three Planning Commissioners that voted against the motion, voiced their concern that the use is not compatible with the I-1 zoning and is not compatible with the residential use adjacent to the east.

AGENDA TOPIC: Bar/Nightclub Conditional Use Permit – CUP-2008-158

ACTION REQUESTED: Approval of a Conditional Use Permit (CUP)

BACKGROUND INFORMATION				
Location:		2256 and 2258 Colex Drive		
Applicants:		Owner: Kevin Eardley Representative: Design Specialists, PC – Rob Rowlands		
Existing Land Use:		Vacant		
Proposed Land Use:		Bar/Nightclub; Office/Warehouse		
Surrounding Land Use:	North	Vacant / Industrial		
	South	Western Slope Ford		
	East	Non-Conforming Residential		
	West	Vacant / Industrial		
Existing Zoning:		I-1 (Light Industrial)		
Proposed Zoning:		I-1 (Light Industrial)		
Surrounding Zoning:	North	I-1 (Light Industrial)		
	South	C-2 (General Commercial)		
	East	I-1 (Light Industrial)		
	West	I-1 (Light Industrial)		
Growth Plan Designation:		Commercial/Industrial		
Zoning within density range?		X	Yes	No

PROJECT DESCRIPTION: Applicant is requesting a Conditional Use Permit to operate a Bar/Nightclub in a I-1 (Light Industrial) zone district.

RECOMMENDATION: Conditional approval of the Bar/Nightclub Conditional Use Permit

Staff Analysis:

1. Background

The property was annexed in 1992 with the Grand Junction West Annexation. The property was a part of the High Desert Commercial Park Subdivision approved and recorded in 2006.

The applicant is proposing to construct a bar/nightclub with a maximum occupancy of 185 people and an office/warehouse complex with 882 sq. ft. of office and 9172 sq ft of warehouse area with an outdoor storage area. The two sites are proposing to share parking, with uses that have offset hours of operation. The project will be constructed in two phases with the bar/nightclub and all of the parking being completed with Phase 1 and the office/warehouse and storage yard being done with Phase 2.

This request is for the bar/nightclub only as required in an I-1 zone district.

On August 12, 2008 a Public Hearing was held by the City of Grand Junction's Planning Commission for review of a Conditional Use Permit for a bar/nightclub. Reviewing the contents of the written staff report; a presentation by Senta L. Costello, Senior Planner; a presentation by the developer's representative; and public testimony taken during the Public Hearing, the Planning Commission denied the Conditional Use Permit by a majority vote of four to three.

On August 22, 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. The following criteria were considered by the City Council for affirming, reversing, or remanding the matter back for further consideration by the Planning Commission:

- (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.

The decision was remanded back to Planning Commission with the City Council stating the rationale for its decision as Planning Commission's interpretation of "neighborhood" in relation to this request was too broad. City Council gave direction to the Planning

Commission to rehear the request, keeping in mind the definition of “neighborhood” as defined by the Zoning and Development Code and considering what was triggering the Conditional Use Permit requirement.

“Neighborhood” as defined by the Zoning and Development Code is “An area of a community with characteristics that distinguish it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers, such as major highways and railroads or natural features, such as rivers.”

2. Consistency with the Growth Plan

The proposal is consistent with the following goals and policies of the Growth Plan:

Goal 1: To achieve a balance of open space, agricultural, residential and non-residential land use opportunities that reflects the residents' respect for the natural environment, the integrity of the community's neighborhoods, the economic needs of the residents and business owners, the rights of private property owners and the needs of the urbanizing community as a whole.

Policy 1.1: The City and County will use the future land use categories listed and described in Exhibit V.2 to designate appropriate land uses within the Joint Planning Area identified in Exhibit V.1. City and County actions on land use proposals within the Joint Planning Area will be consistent with the plan.

Policy 1.3: The City and County will use Exhibit V.3: Future Land Use Map in conjunction with the other policies of this plan to guide zoning and development decisions.

- City and County decisions about the type and intensity of land uses will be consistent with the Future Land Use Map and Plan policies.

Policy 1.7: The City and County will use zoning to establish the appropriate scale, type, location and intensity for development. Development standards should ensure that proposed residential and non-residential development is compatible with the planned development of adjacent property.

Policy 1.8: The City and County will use zoning and special area policies (adopted as part of this plan) to describe the preferred types of non-residential development in different parts of the community.

Goal 5: To ensure that urban growth and development make efficient use of investments in streets, utilities and other public facilities.

Policy 5.2: The City and County will encourage development that uses existing facilities and is compatible with existing development.

Goal 11: To promote stable neighborhoods and land use compatibility throughout the community.

Policy 11.1: The City and County will promote compatibility between adjacent land uses by addressing traffic, noise, lighting, height/bulk differences, and other sources of incompatibility through the use of physical separation, buffering, screening and other techniques.

3. Section 2.13.C of the Zoning and Development Code

Requests for a Conditional Use Permit must demonstrate that the proposed development will comply with all of the following:

- a. All applicable site plan review criteria in Section 2.2.D.4 of the Zoning and Development Code and with the SSID, TEDS and SWMM Manuals.

Section 2.2.D.4

- 1) Adopted plans and policies such as the Growth Plan, applicable corridor or neighborhood plans, the major street plan, trails plan and the parks plan

The proposal conforms to the Growth Plan as described above. The area does not have other applicable neighborhood or corridor plans associated with it and the street plan and trails plan requirements were address with the subdivision.

- 2) Conditions of any prior approvals

The required subdivision improvements have been completed and accepted.

- 3) Other Code requirements including rules of the zoning district, applicable use specific standards of Chapter Three of the Zoning and Development Code and the design and improvement standards of Chapter Six of the Code.

The Code requirements for zone district bulk standards, parking, landscaping and buffering have all been met or exceeded. The two lots are being developed uses that have offset hours of operation and shared parking across both properties

- 4) Quality site design practices

SSID Manual, TEDS Manual. And SWMM Manual

The requirements of the SSID, TEDS, and SWMM Manuals have been addressed.

- b. The underlying zoning district's standards established in Chapter Three of the Zoning and Development Code

The I-1 zone district standards of Chapter Three have been met.

- c. The use-specific standards established in Chapters Three and Four of the Zoning and Development Code

The use-specific standards of Chapter Three and Four have been met. Chapter 4 requires that Adult Entertainment establishments be located 1000' or more away from any other Adult Entertainment business, any church, school, park, playground, public building, or residentially zoned property. The proposed location meets all requirements as described above.

- d. Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to, schools, parks, hospitals, business and commercial facilities, and transportation facilities.

There are other business, commercial and/or industrial type uses in the area that can support the proposed use.

- e. Compatibility with and protection of neighboring properties through measures such as:

- 1) Protection of privacy

The property to the east is an existing legal non-conforming residential site. The proposed building is located along the eastern property line with the main entrance on the western face of the building. The eastern property line also has a 10'-15' landscape strip adjacent the parking area which includes shrubs ranging in height from 3'-6' in height to help maintain privacy of the neighboring property. The landscaping and site layout mitigate the impacts to the neighboring residential site by placing the entrance and a majority of the parking on the opposite side of the site, away from their property.

- 2) Protection of use and enjoyment

The property to the east is an existing legal non-conforming residential site. The proposed building is located along the eastern property line with the main entrance on the western face of the building. The eastern

property line also has a 10'-15' landscape strip adjacent the parking area which includes shrubs ranging in height from 3'-6' in height to help maintain use and enjoyment of the neighboring property. The landscaping and site layout mitigate the impacts to the neighboring residential site by placing the entrance and a majority of the parking on the opposite side of the site, away from their property.

3) Compatible design and integration

The proposed building and site layout are consistent with the surrounding commercial industrial park. The landscaping and site layout mitigate the impacts to the neighboring residential site by placing the entrance and a majority of the parking on the opposite side of the site, away from their property.

FINDINGS OF FACT/CONDITIONS/CONCLUSIONS

After reviewing the Bar/Nightclub application, CUP-2008-158 for a Conditional Use Permit, I make the following findings of fact and conclusions:

3. The requested Conditional Use Permit is consistent with the Growth Plan.
4. The review criteria in Section 2.13.C of the Zoning and Development Code have all been met.
5. A shared parking/cross access agreement must be recorded prior to final plan approval.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission approve the requested Conditional Use Permit, CUP-2008-158 with the findings, conditions, and conclusions listed above.

RECOMMENDED PLANNING COMMISSION MOTION:

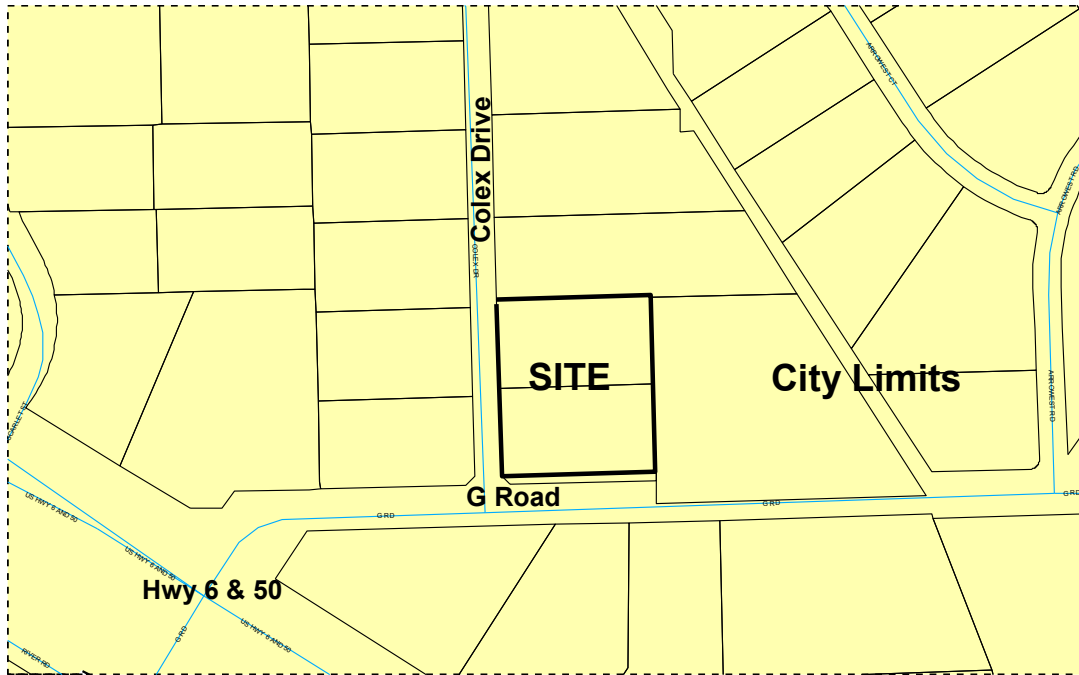
“Mr. Chairman, on Bar/Nightclub Conditional Use Permit, CUP-2008-158 I move that the Planning Commission approve of the Conditional Use Permit with the facts and conclusions listed in the staff report.”

Attachments:

1. Site Location Map / Aerial Photo Map
2. Future Land Use Map / Existing City Zoning Map
3. Proposed Site Plan
4. Proposed Landscape Plan
5. Map showing 1000' radius
6. Citizen letters prior to August 12, 2008 Planning Commission meeting
7. Planning Commission verbatim minutes – 8/12/08
8. Applicant's 1st letter of appeal
9. November 5, 2008 City Council Minutes
10. Citizen letters after August 12, 2008 Planning Commission meeting

Site Location Map

Figure 1



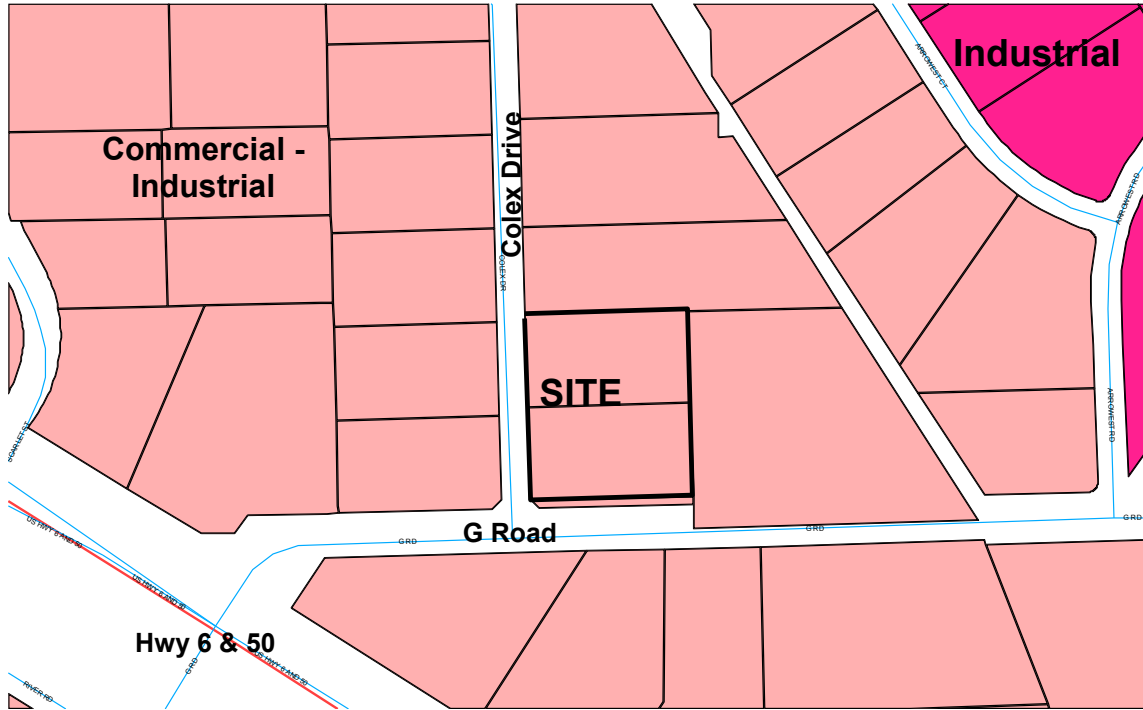
Aerial Photo Map

Figure 2



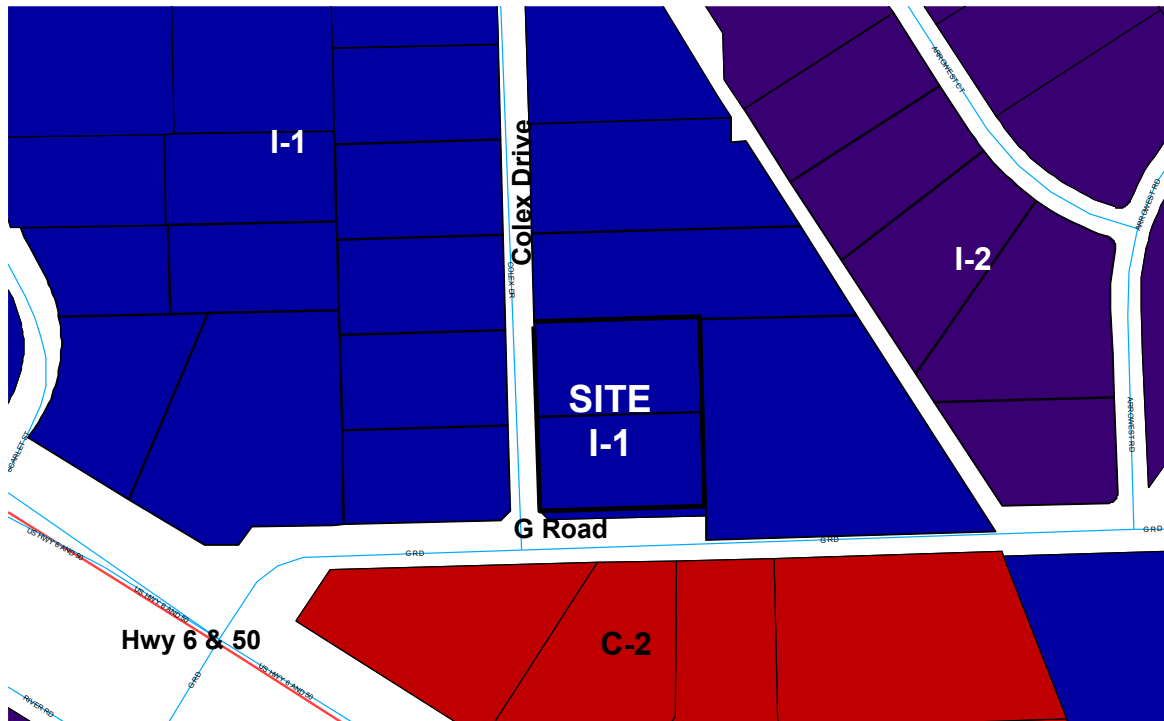
Future Land Use Map

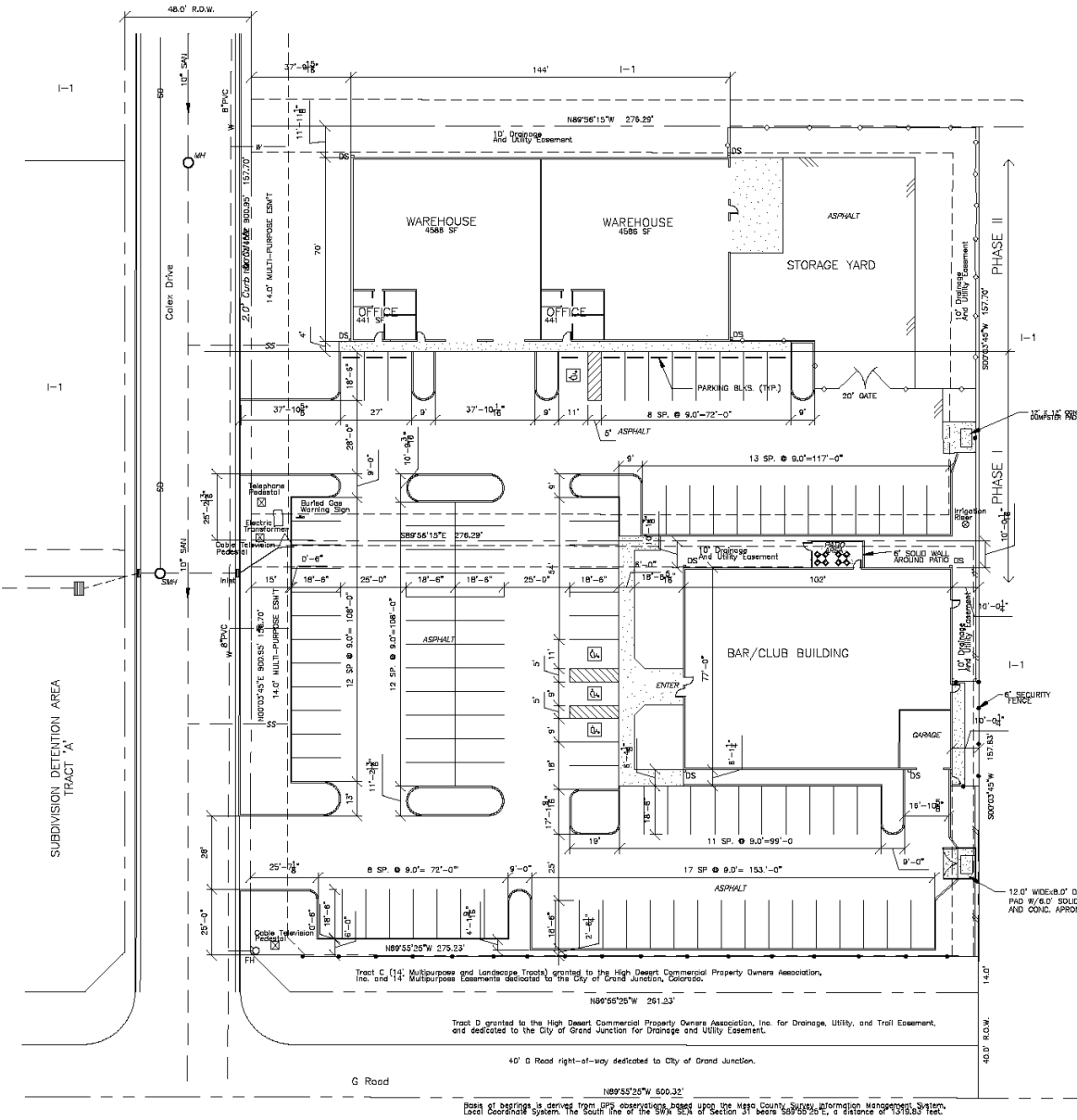
Figure 3



Existing City Zoning Map

Figure 4





ALL CONSTRUCTION AND MATERIALS SHALL COMPLY WITH THE CITY OF GRAND JUNCTION SPECIFICATIONS AND STANDARDS DETAILS.

THE CONTRACTOR SHALL HAVE A SIGNED COPY OF THE PLANS AND A COPY OF THE CITY OF GRAND JUNCTION SPECIFICATIONS AND STANDARDS ON THE JOB SITE.

SERVICES BY:

WATER - UTE WATER
 GAS & ELEC. - X-CEL
 PHONE - QWEST
 SEWER - CITY OF GRAND JUNCTION
 DRAINAGE - GRAND JUNCTION DRAINAGE DIST.

LAND USE BREAKDOWN—LOT 1

DEVELOPED AREA LOT 1 - 1.001 AC = 43,599 SF

BUILDING - 7,854 SF = 18.0%
 ASPHALT/CONCRETE = 27,388 SF = 62.8%
 LANDSCAPING = 8,359 SF = 19.2%
 TOTAL = 100%

PARKING REQUIREMENTS—Phases 1 and 2

PARKING REQUIRED:
 PER CITY PLANNING = 185 OCCUPANCY FOR CLUB
 1 SPACE PER 2 PEOPLE = 180/2 = 90.5 = 93 SPACES

OFFICE - 1 SPACE PER 300 SQ. FT.
 WAREHOUSE - 1 SPACE PER 1.5 EMP OR
 1 SPACE PER 1000 S.F. WHICHEVER GREATER

OFFICE - 183 SF/300 = 2.84 = 3 SPACES
 WAREHOUSE - 9172 SF/1000 = 9.17 = 10 SPACES
 THEREFORE = 3.0 + 10.0 = 13 SPACES

TOTAL REQUIRED (CLUB & OFFICE/WAREHOUSE):
 93 + 13 = 106 SPACES

TOTAL PROVIDED = 106 SPACES

LAND USE BREAKDOWN—LOT 2

DEVELOPED AREA LOT 2 - 1.000 AC = 43,572 SF

BUILDING - 10,054 SF = 23.1%
 ASPHALT/CONCRETE = 22,400 SF = 51.6%
 ROADBASE = 3,199 SF = 7.3%
 LANDSCAPING = 7,848 SF = 18.0%
 TOTAL = 100%

ABBREVIATIONS

- | | |
|------------|--------------------|
| FL | FLOWLINE |
| RDW | RIGHT-OF-WAY |
| EXIST. | EXISTING |
| TELE. PED. | TELEPHONE PEDISTAL |
| PP | UTILITY POLE |
| SF | SQUARE FEET |
| AC | ACRES |
| CONC. | CONCRETE |
| PVC | POLYVINYL CHLORIDE |
| ELEC. | ELECTRIC |
| SWN | SANITARY |
| MH | MANHOLE |
| W.M. | WATER METER |
| SMH | STORM MANHOLE |

LEGEND

- PROPERTY LINE
- - - LINE OF UTILITY EASEMENT
- 8" SAN --- SANITARY SEWER MAIN LINE
- SS --- SANITARY SEWER SERVICE
- 2" MW --- GAS LINE MAIN
- G --- GAS LINE SERVICE
- 6" PVC --- WATER LINE MAIN
- W --- WATER LINE SERVICE
- SD --- STORM DRAIN LINE
- MH --- MANHOLE
- SMH --- STORM MANHOLE
- EDGE OF NEW ASPHALT
- CONC. --- CONCRETE
- TH --- FIRE HYDRANT
- NEW EXTERIOR DOOR
- CHANLINK FENCE
- EXISTING WOOD FENCE
- EXISTING WIRE FENCE
- NEW BUILDING FOOTPRINT
- DS --- NEW DOWNSPOUT (APPROX. LOCATIONS)

ACCEPTED AS CONSTRUCTED FOR ONE YEAR FROM THIS DATE

APPROVED FOR CONSTRUCTION

CITY OF GRAND JUNCTION - ENGINEER
 DATE
 CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT
 DATE

CITY OF GRAND JUNCTION - ENGINEER
 DATE
 CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT
 DATE

SITE PLAN
 SCALE: 1"=30'-0"



LOTS 1 AND 2, BLOCK 1
 HIGH DESERT COMMERCIAL
 LOT 1 - 1.001 Acres = 43,599 SF
 LOT 2 - 1.000 Acres = 43,572 SF

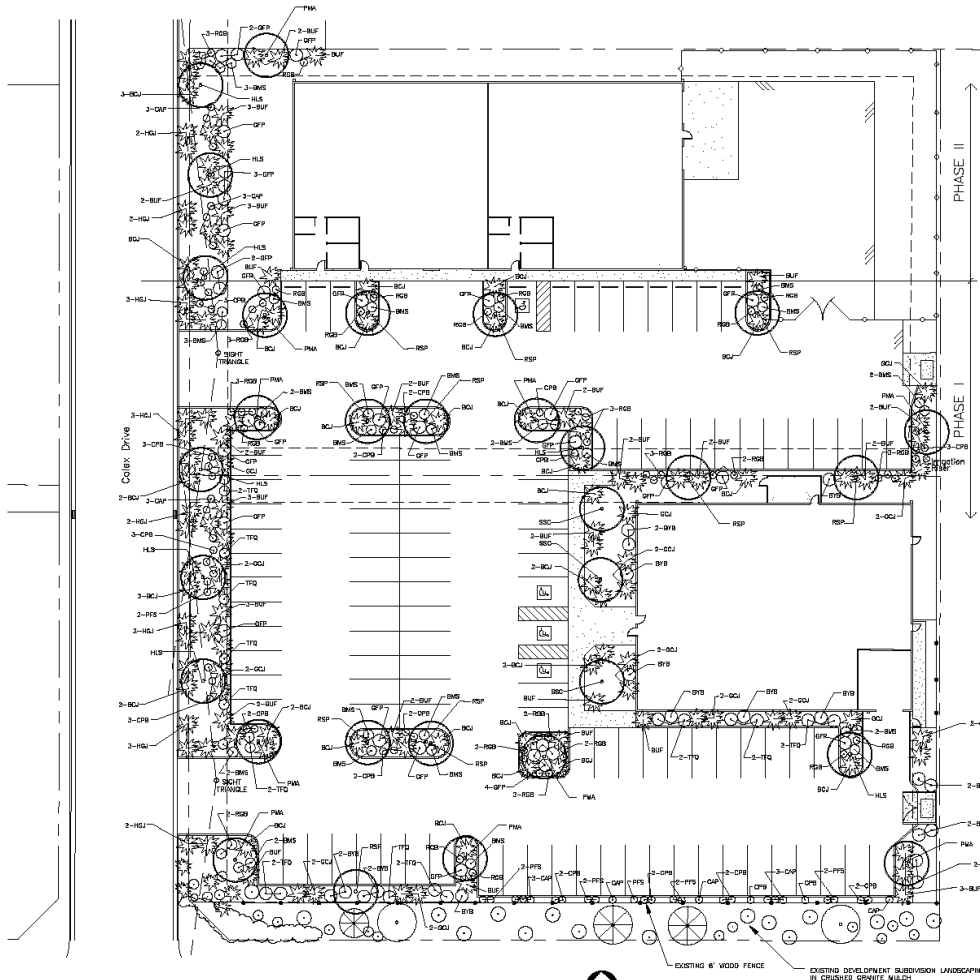
NO. DATE REVISIONS

ARCHITECTS AND PLANNERS
 917 MAIN STREET
 GRAND JUNCTION
 COLORADO 81501
 (970) 241-1803

design specialists

PROJECT TITLE: ILLI TLL
 SHEET TITLE: DWGNAME1
 DWGNAME2

DRAWING
SDN1
 SHEET SHIT OF CF



PHASE I
LANDSCAPE CALCULATIONS - I-1 Zone
 (DEVELOPED AREA = 0.358 AC = 15,638 SF)

LANDSCAPING REQUIRED:
 TREES - 1 TREE & PLANTING SPACES
 108 SPACES = 108 TREES
 - 1 TREE/40 LINEAR FEET STREET FRONTAGE (EXCLUDING CURB CUTS)
 173' FRONTAGE = 173/40 = 4.3 = 5 TREES
 - 1 TREE/50 LINEAR FEET SIDE YARD
 1 SIDE YARD = 1 TREE
TOTAL TREES REQUIRED = 24
TOTAL TREES PROVIDED = 27

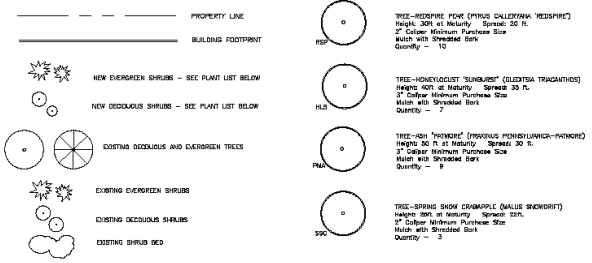
SHRUBS - MIN. 75% COVERAGE IN STREET FRONTAGE AND RIGHT-OF-WAY PLUS 50' OF SIDE YARD 6' WIDE

PHASE II
LANDSCAPE CALCULATIONS - I-1 Zone
 (DEVELOPED AREA = 0.358 AC = 15,638 SF)

LANDSCAPING REQUIRED:
 TREES - 1 TREE & PLANTING SPACES
 0 SPACES = 0 TREES (not in Phase I)
 - 1 TREE/40 LINEAR FEET STREET FRONTAGE (EXCLUDING CURB CUTS)
 0' FRONTAGE = 0/40 = 0 TREES
 - 1 TREE/50 LINEAR FEET SIDE YARD
 1 SIDE YARD = 1 TREE
TOTAL TREES REQUIRED = 1
TOTAL TREES PROVIDED = 2

SHRUBS - MIN. 75% COVERAGE IN STREET FRONTAGE AND RIGHT-OF-WAY PLUS 50' OF SIDE YARD 6' WIDE

LEGEND - PHASES I and 2



DEVELOPMENT LANDSCAPING - PHASE I

KEY	COMMON NAME	BOTANICAL NAME	MIN. SIZE	MATURE SPREAD	MATURE HEIGHT	QTY.
SHRUBS: EVERGREEN	JUNIPER GOLD COAST	JUNIPERUS CHINENSIS 'GOLD COAST'	5 GAL	3'-3"	3'-5"	24
BCU	BLUE CHIP JUMPER	JUNIPERUS HORIZONTALIS 'BLUE CHIP'	5 GAL	6'-8"	5-17'	34
BUF	BUFFALO JUMPER	JUNIPERUS SPINA 'BUFFALO'	5 GAL	6'-8"	1'-11'	36
HUJ	HUGHES JUMPER	JUNIPERUS HORIZONTALIS 'HUGHES'	5 GAL	4'-11"	4'-11"	15
						SUB-TOTAL 108
SHRUBS: DECIDUOUS						
ROB	ROSE GLOW BARBERRY	BERBERIS THUNBERGI 'ROSE GLOW'	5 GAL	2-3'	3'	38
BMS	BLUE MET SPIREA	GORTONOPSIS SPI.	5 GAL	2-3'	2'	30
SPF	SOLDINGER POTENTILLA	POTENTILLA FRUTICOSA	5 GAL	2'	3'-4'	24
TRQ	TEAR SHEET FLOWERING QUINCE	CHENOMELES ANTHONY 'TEAR SHEET'	5 GAL	2-4'	3'	21
PSB	SUNSET CORYLINA	POTENTILLA FRUTICOSA 'SUNSET'	5 GAL	2'	2'	11
CAP	EARLY CORYLIFLOR	CORYLIFLOR AFRICANUS 'FRANCOIS'	5 GAL	2'	2'	11
CPB	CRIMSON PINEY BARBERRY	BERBERIS T. 'CRIMSON PINEY'	5 GAL	2-3'	2'	38
BBB	BUTTERFLY BUSH	BUTTERFLY BUSH	5 GAL	4-8'	4-8'	17
						SUB-TOTAL 191
						TOTAL 288

DEVELOPMENT LANDSCAPING - PHASE II

KEY	COMMON NAME	BOTANICAL NAME	MIN. SIZE	MATURE SPREAD	MATURE HEIGHT	QTY.
SHRUBS: EVERGREEN						
HUJ	HUGHES JUMPER	JUNIPERUS HORIZONTALIS 'HUGHES'	5 GAL	4-8"	5-17'	4
BCU	BLUE CHIP JUMPER	JUNIPERUS HORIZONTALIS 'BLUE CHIP'	5 GAL	6-8"	5-17'	4
BUF	BUFFALO JUMPER	JUNIPERUS SPINA 'BUFFALO'	5 GAL	6-8"	1'-11'	18
						SUB-TOTAL 26
SHRUBS: DECIDUOUS						
ROB	ROSE GLOW BARBERRY	BERBERIS THUNBERGI 'ROSE GLOW'	5 GAL	2-3'	3'	4
BMS	BLUE MET SPIREA	GORTONOPSIS SPI.	5 GAL	2-3'	2'	3
SPF	SOLDINGER POTENTILLA	POTENTILLA FRUTICOSA	5 GAL	2'	3'-4'	9
CPB	EARLY CORYLIFLOR	CORYLIFLOR AFRICANUS 'FRANCOIS'	5 GAL	2'	2'	9
CPB	CRIMSON PINEY BARBERRY	BERBERIS T. 'CRIMSON PINEY'	5 GAL	2-3'	2'	1
						SUB-TOTAL 23
						TOTAL 43

LANDSCAPE PLAN
 SCALE: 1"=20'-0"



CITY OF GRAND JUNCTION NOTES:

1. ALL LANDSCAPE AREAS ARE TO BE WATERED BY AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM.
2. EVERGREEN TREES ARE TO BE MINIMUM 6" HT. DECIDUOUS TREES ARE TO BE 3" MIN. CALIPER. SHRUBS TO BE 5" GAL. MIN.
3. ALL SPECIFIED 1" GAL. GROUND COVER MATERIALS IS TO HAVE A MINIMUM OF 12" SPREAD AT TIME OF PLANTING.

GENERAL LANDSCAPE NOTES:

1. ALL LANDSCAPE PLANTING & IRRIGATION SHALL CONFORM TO CITY OF GRAND JUNCTION REQUIREMENTS FOR SUCH WORK.
2. ALL PLANTING AREAS SHALL BE INSTALLED WITH CLOTH WEED FABRIC AND TOP DRESSED WITH 2" WASHED ROUNDED RIVER ROCK MULCH AT A MIN. DEPTH OF 3 INCHES.
3. ALL EDGER SHALL BE MIN. 1/8" GALV. MET. EDGER.
4. ALL IRRIGATION LINES CROSSING UNDER PAVEMENT, UNDER CONCRETE WALKS, OR UNDER OTHER HARDSCAPE MATERIALS SHALL BE SLEEVED.
5. CONNECT IRRIGATION LINE TO SITE IRRIGATION LINE. CONNECTION SHALL HAVE A BACKFLOW PREVENTION DEVICE.

APPROVED FOR CONSTRUCTION

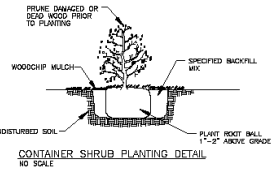
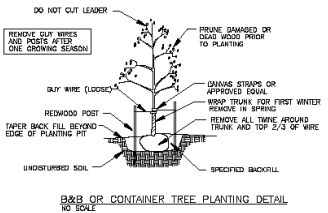
CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT

DATE

ACCEPTED AS CONSTRUCTED FOR ONE YEAR FROM THIS DATE

CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT

DATE



NO. DATE REVISIONS

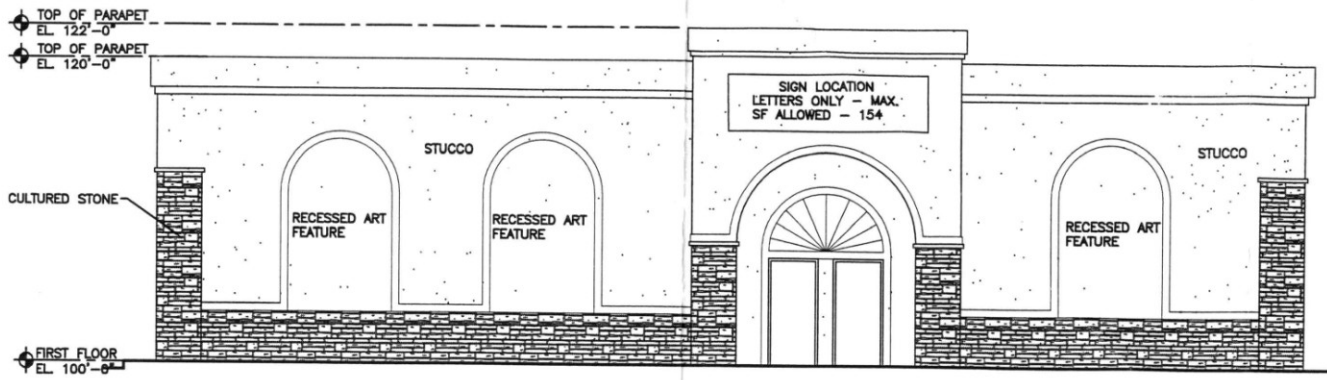
ARCHITECTS AND PLANNERS
 817 MAIN STREET
 GRAND JUNCTION
 COLORADO
 (970) 241-1903

design specialists

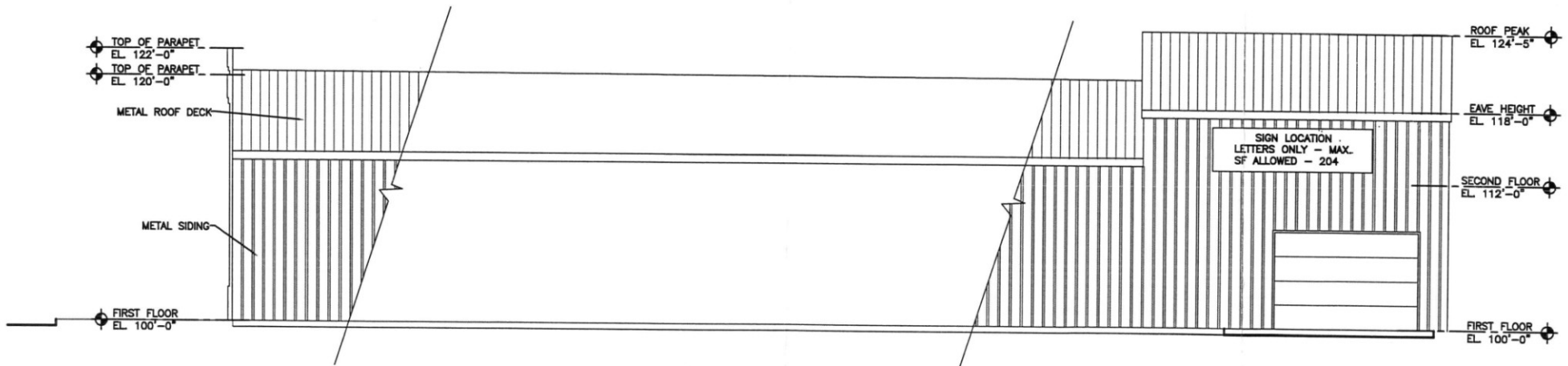
PROJECT TITLE: TLL1
 TLL2
 TLL3

SHEET TITLE: DWGNAME1
 DWGNAME2

DRAWING
 LSA11
 SHEET SHIT OF OF



FRONT ELEVATION - WEST



SIDE ELEVATION - SOUTH

Gentlemen's Club Proposed Building Elevations



ARCHITECTS AND PLANNERS
917 MAIN STREET
GRAND JUNCTION
COLORADO 81501
(970) 241-1903



Senta Costello - Fwd: Gentleman's Club

From: Greg Moberg
To: Senta Costello
Date: 8/11/2008 2:12 PM
Subject: Fwd: Gentleman's Club

>>> Belinda White 8/11/2008 1:02 PM >>>

*Belinda White
Senior Administrative Assistant
City of Grand Junction
Administration
(970) 244-1508*

>>> "Nelda Burdett" <edenrhea@gvii.net> 8/11/2008 12:54 PM >>>
Please do not allow the "Gentlemen's Club" to come to Grand Junction.

It would be a degenerative influence on our community. We want a positive healthy influence for our young, our families and community. The "Club" would be a terrible model for women. Women should be respected instead of used as a non-person sex gratification tool.

Our young need examples of wholesome relationships, not the "use and throw away" influence of the so called, "Gentlemen's Club."

Thank you for carefully considering our future,

Nelda Burdett

Senta Costello - Fwd: Gentlemen's Club

From: Greg Moberg
To: Senta Costello
Date: 8/11/2008 5:00 PM
Subject: Fwd: Gentlemen's Club

>>> Belinda White 8/11/2008 4:44 PM >>>

*Belinda White
Senior Administrative Assistant
City of Grand Junction
Administration
(970) 244-1508*

>>> "Harlan Woods" <pappywoods@bresnan.net> 8/11/2008 4:41 PM >>>
GRAND JUNCTION CITY COUNCIL

To Gregg Palmer-Mayor District C, Teresa Coons-Mayor Pro Tem District E, Jim Doody-District A - Bonnie Beckstein District E -Bruce Hill District At Large, - Doug Thomason District At Large - Linda Romer Todd District At Large

MESA COUNTY PLANNING COMMISSION

John Justman, Chairman-Mark Bonella, Vice-Chairman-Christi Flynn, Secretary-Michael Gardner, Thomas Kenyon, Sam Susuras, Gregory Robson, Phillip Jones and George Domet

I urge you all to vote against the proposed Gentlemen's Club as not being in the best interest of the citizens of Grand Junction. Thank You. Harlan Woods and Families

Senta Costello - Fwd: Proposed "Gentleman's Club"

From: Greg Moberg
To: Senta Costello
Date: 8/12/2008 10:03 AM
Subject: Fwd: Proposed "Gentleman's Club"

>>> Belinda White 8/12/2008 8:29 AM >>>

*Belinda White
Senior Administrative Assistant
City of Grand Junction
Administration
(970) 244-1508*

>>> <milana@acsol.net> 8/11/2008 8:56 PM >>>
TO: Mesa County Planning Commission and
Grand Junction City Council members

RE: Proposed "Gentleman's Club"

I am writing you regarding the proposed "Gentleman's Club." As a former dancer in the 1970s in Alaska, I saw first-hand the drugs, violence and prostitution resulting from the environment such an establishment provides. During the Vietnam War and pipeline construction, money flowed - - not only one or two such clubs were established, others followed, some out of town and much larger. Behavior allowed in the city limits was even more accelerated and decadent outside the city. As a dancer I worked in a very small strip club, but was about to move to a larger one - - the night I was to change location, 6-8 girls at the new location were shot with a 12-gauge shotgun by a man who was obsessed with one of the girls, wanting her to marry him. Violence seemed to erupt at the club on a nightly basis.

Men do not go to these clubs for the artistic beauty of the dance, or the "down-to-earth" conversation with the ladies - - they are going to view, to look for a superficial relationship, and/or to proposition a dancer for sex. The ladies know it's easy money, it gives them a false self-esteem and adds to, or begins, a drug and/or alcohol habit. If the men are married it brings trouble in the home. If the girls are married or have a relationship it causes violence or prostitution to occur. Back in the 70s I lived with a heroin addict who would have liked me to prostitute myself to support his addiction.

As an alcohol & drug counselor, many of the women (and

men) I see have started, or supported, their drug habit by dancing - - some have gone further, prostituting in addition to the dancing because the club generates that type of activity and environment. We may be talking about one club, but once one is established and succeeds, many more will follow.

The owner of Rum Bay is apparently selling that business - - why? Because of the violence and police calls his bar generates; a "gentleman's club" will generate even more. The question between what is moral and what is legal is an issue for me, however, what is good for Grand Junction and it's families is even more relevant. We are already in a war against methamphetamines and other drugs. This club, or others like it, will cause an even bigger problem. Do we want this for our community?

The petroleum industry & workers are bringing in money, much as it was during the 70s and the Alaska pipeline, providing a similar dynamic and environment. Are we willing to sacrifice our homes, have our mothers, sisters and daughters degraded and seen/used as sex objects or worse? Do we want more violence, drugs, prostitution, DUIs, etc.? We are fighting a war on pornography, why add this to it? Please consider and vote "no."

Thank you,

Milana L. Hudon-Deal, CAC-II(p)

TO: Mesa County Planning Commission and
Grand Junction City Council members

RE: Proposed "Gentleman's Club"

I am a former topless dancer who began dancing here in Grand Junction in 1990 at a club called "Cheers." Since then I have worked in many clubs in many states, and it is not a glamorous business. Shortly after starting to dance I became addicted to cocaine and alcohol. I would say that 90% of the dancers at these clubs become addicted to drugs and many end up turning to prostitution to support those addictions. I am not blaming the people who own these clubs or the girls that work there, but these types of clubs attract the lowest kinds of people, including drug dealers and perverts. I know this because I am a recovering addict/alcoholic who worked in the business for 10 years in many clubs and know what really goes on in those places, even in the nicest of places it still goes on. The drug use/dealing and prostitution take place around and in the businesses, a part of the environment resulting from such business.

To allow such a business to operate in our community, basically a "strip-club" by another name, would encourage increased drug dealing and prostitution. Lives would be damaged, crime will increase, and I know this from

first-hand experience. No matter how "upscale" they make this club it will still attract these people and this behavior.

Sincerely,

Sarah F.

Dear Council Members and Mayor,

It has come to my attention that a gentlemen's club is attempting to establish themselves in our community. I am concerned as to the effect that this will have on our community. We live in Grand Junction for several reasons, not the least of which being the peaceful family atmosphere found in the valley.

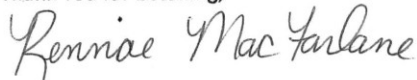
The nature of a "gentleman's club" is anything but that of a gentleman. I desire to raise my children and grandchildren in a community that respects women, displays modesty, and has an overall wholesome environment they can thrive in. I desire my descendants to be true Ladies and Gentlemen in the purest sense of the word and would hope that this community would provide the type of environment for that to take place.

I realize that in denying the proper permits the city will lose revenue. I am confident that in allowing this type of business it will cost us more in the long run than if we turn down their request. History and many studies show that this type of business has a higher frequency of 911 calls that cost the city revenue. People who frequent these types of places have higher rates of health issues that end up costing the community. This type of business tends to promote a plague of sexual violations that destroy children and women alike. The net result being dysfunctional people who are not productive in society and they in turn have a higher rate of alcoholism, drug abuse, violence and subsequently find themselves in the penal system. This kind of temptation leads to marriage issues for some that cannot be overcome resulting in divorce with the net outcome being women and children on public assistance. We all know statistics show children from broken homes tend to end up in trouble and therefore cost law enforcement and other public agencies great amounts of money not to mention the fact that their lives are destroyed. The Cost is too high to allow this to come here.

Considering the negative mentioned and much more too lengthy to detail, combined with the fact that I can't think of one positive thing a gentleman's club provides, I feel it would be foolish on any level to allow this kind of establishment to exist in our beautiful community.

Please hear the voice of the community concerning this issue and take this opportunity to represent the city in a way that makes us proud of our leadership.

Thank You for Listening,



Rennae MacFarlane

2808 Bookcliff Ave.

Grand Junction, CO 81501

RECEIVED MAR 04 2008

cc: *James K.*

02/22/2008

Dear Council Members and Mayor,

It has come to my attention that a gentlemen's club is attempting to establish themselves in our community. I am concerned as to the effect that this will have on our community. We live in Grand Junction for several reasons, not the least of which being the peaceful family atmosphere found in the valley.

The nature of a "gentleman's club" is anything but that of a gentleman. I desire to raise my children and grandchildren in a community that respects women, displays modesty, and has an overall wholesome environment they can thrive in. I desire my descendants to be true Ladies and Gentlemen in the purest sense of the word and would hope that this community would provide the type of environment for that to take place.

I realize that in denying the proper permits the city will lose revenue. I am confident that in allowing this type of business it will cost us more in the long run than if we turn down their request. History and many studies show that this type of business has a higher frequency of 911 calls that cost the city revenue. People who frequent these types of places have higher rates of health issues that end up costing the community. This type of business tends to promote a plague of sexual violations that destroy children and women alike. The net result being dysfunctional people who are not productive in society and they in turn have a higher rate of alcoholism, drug abuse, violence and subsequently find themselves in the penal system. This kind of temptation leads to marriage issues for some that cannot be overcome resulting in divorce with the net outcome being women and children on public assistance. We all know statistics show children from broken homes tend to end up in trouble and therefore cost law enforcement and other public agencies great amounts of money not to mention the fact that their lives are destroyed. The Cost is too high to allow this to come here.

Considering the negative mentioned and much more too lengthy to detail, combined with the fact that I can't think of one positive thing a gentleman's club provides, I feel it would be foolish on any level to allow this kind of establishment to exist in our beautiful community.

Please hear the voice of the community concerning this issue and take this opportunity to represent the city in a way that makes us proud of our leadership.

Thank You for Listening,



Michael MacFarlane

2808 Bookcliff ave. Grand Junction Co 81501

RECEIVED FEB 27 2008

Senta Costello - Fwd: Gentleman's Club

From: Greg Moberg
To: Senta Costello
Date: 8/11/2008 9:27 AM
Subject: Fwd: Gentleman's Club

>>> Belinda White 8/11/2008 8:20 AM >>>

Belinda White
Senior Administrative Assistant
City of Grand Junction
Administration
(970) 244-1508

>>> "Mike MacFarlane" <macjehu@gmail.com> 8/9/2008 12:18 PM >>>
Dear City Council and Planning Commission,

I have heard that there is a gentleman's club attempting to open. I believe that allowing this would be a mistake. The cost to the community would be too high. Studies show that these type of establishments increase the frequency of sex crimes including rape and child molestation, divorce, and substance abuse to name a few. It degrades the women performers to a commodity and destroys their self esteem. The cost to the City and County in the form of increased police calls, increased welfare rolls as homes are broken, and the maintenance of those whose lives degenerate due to this type of activity are not worth the revenue that will be generated.

This is a beautiful community with a clean safe atmosphere to raise a family in. My children have grown up here and my grandchildren are now both beginning life here. I desire to give them a nice place to live as they grow up. Not a place that promotes filth. Please help us to keep this a nice place to live without the type of businesses that only care about their pocket books and not the welfare of the community as a whole.

Any business that is approved to open in the valley should bring a benefit to the valley. This would only bring problems. I cannot think of one positive item that this kind of business brings to the table that would increase the quality of life in the valley. Any revenue it may generate would be more than offset by the cost in public assistance required to deal with the negatives. Please vote against this vile business!

Thank you, Mike MacFarlane

Senta Costello - Fwd: Gentlemen's Club concern and Mt Garfield Concern...for Tuesday meeting.

From: Greg Moberg
To: Senta Costello
Date: 8/11/2008 9:26 AM
Subject: Fwd: Gentlemen's Club concern and Mt Garfield Concern...for Tuesday meeting.

>>> Belinda White 8/11/2008 8:22 AM >>>

*Belinda White
Senior Administrative Assistant
City of Grand Junction
Administration
(970) 244-1508*

>>> <ronih@live.com> 8/10/2008 8:13 AM >>>

Notice: Please get to them before the Tuesday meeting, Aug.

12th□□□Thanks!

John Justman
Mark Bonella
Christi Flynn
Michael Gradner

Gregg Plamer
Teresa Coons
Jim Doody
Bruce Hill
Doug Thomason
Linda Romer Todd

Dear Mesa County Planning Commission,
Sunday August 10th, 2008

The thought of having a □Gentlemen□s Club□ in our city
is a grief to me.

Pornography and sexual sin has touched my life through

my children in years past. The consequences of men or our young adults following the path of lust is completely destructive. I had no idea until it landed on my porch.

I believe in freedom, but when it hurts so many people, my heart GRIEVES. I have not a clue what hoops that you must jump through and abide by. I do ask that you do whatever is in your power to stop this organization from becoming a part of our community.

Another subject that is much less important has been on my mind.

Mt Garfield is a unique and beautiful mountain. The land beneath it is for sale.

It would be so UGLY to have a trailer community beneath such a gorgeously unusual Mountain. Is it possible for our city to purchase it? It would be a shame to have it marred by civilization.

The land could be turned into a bike/horse/hiking area for the whole community. There must be some good use for the land so the beauty of it can continue to be enjoyed by all.

Thanks for your time and consideration on these two subjects. I appreciate what you DO for our community.

Roni Hale ·
RoniH@live.com
3596 G 7/10 Road
Palisade, Co. 81526
970-464-0772



I, representing myself, my family, my church and our community, ask you to make the decision to say "No" to any development of this type in Grand Junction, now and in the future, for the benefit of all.

Thank you once again for your service and leadership to the community. I ask God to bless you and your families in every way.

Sincerely,

Pastor Jim Hale

Delicious ideas to please the pickiest eaters. Watch the video on AOL Living. (<http://living.aol.com/video/how-to-please-your-picky-eater/rachel-campos-duffy/2050827?NCID=aolcmp00300000002598>)

From: Laurie Kadrich
To: Angela Harness
Date: 2/24/2008 12:05 PM
Subject: Fwd: Letter to the Council

please prepare a letter, laurie

Laurie M. Kadrich
City Manager
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501
(970) 256-4154 office
(970) 589-0674 cell

>>> Belinda White 2/22/2008 11:15 AM >>>

>>> <JimhaleSLCF@aol.com> 2/22/2008 11:00 AM >>>

Dear Friends,

Many of you know me through organizing prayer for the Council and the National Day of Prayer. I am always rallying support for you in the decisions you must make in the planning and operations of the City.

I have dedicated my life to the community of the Grand Valley. My desire is that Grand Junction and the surrounding area continue to grow in healthy ways and that the community and society grow to be better and better as a place to live. My children and grand children live here and I want to see our region be a good place for them to stay and prosper.

The decision coming before you regarding a "Gentleman's Club" deeply concerns me. I have seen, in Anchorage, Alaska, the same situation develop and show it's results. At first, it seems a "right" and a way to increase commerce, taxes and benefits. At least it's "sold" in that light. But, experience shows that commerce of that kind draw the prostitution, drug and criminal elements along with it. Problematic law enforcement problems arise and costs to the people escalate

We are now experiencing a decline in criminal activity that is drug related. That decrease is coming for a variety of reasons, but, it is proper to say that a community, cooperative effort to educate, treat and enforce the laws is at the "root" of the changing situation. I believe it is critical to understand that this kind of "Club" activity is just an invitation to greater problems that will affect our community. Can we see that the decisions we make will have positive or negative long term impact? Our community realizes a "Club," such as this is an open door to increasing problems.

I am sure the people desiring to develop this proposed, "Club" have no evil intent, but, this kind of activity will have it's draws and impacts.

Senta Costello - Fwd:

From: Greg Moberg
To: Senta Costello
Date: 8/11/2008 9:25 AM
Subject: Fwd:

FYI

>>> Belinda White 8/11/2008 8:22 AM >>>

*Belinda White
Senior Administrative Assistant
City of Grand Junction
Administration
(970) 244-1508*

>>> Ruth Jacobs <rcjacobs08@hotmail.com> 8/11/2008 12:00 AM >>>
RE: Gentleman's Club

Continuing to allow this establishment to be opened in our community would be wrong, and sad for our population. It is easy enough for people to choose to do the wrong things without deliberately setting up a place and disguising it under the pretense of 'gentleman'. What we really need is a commitment to our community to guide people into the right things.....not the wrong.

Sincerely,
Ruth Jacobs

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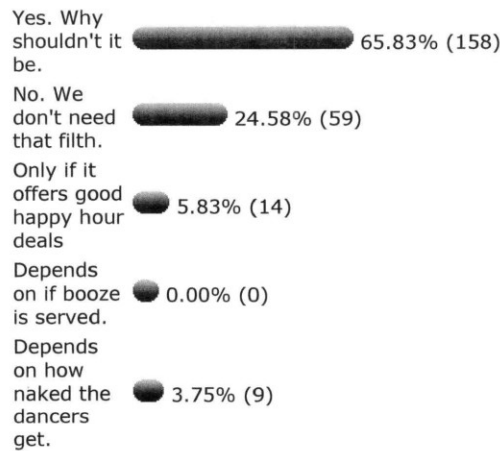
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Current Poll Results

Should a strip club be allowed to open in Grand Junction?



Total Votes: 240

[[Voting Booth](#) | [Other Polls](#)]

Last 3 polls...

- [What did you think of the Angry White column in the Free Press? \(88\)](#)
- [Should a strip club be allowed to open in Grand Junction? \(votes\)](#)
- [Should residents be concerned about a uranium mill tailing pond? \(236 votes\)](#)

[...more polls](#)

"Should a strip club be allowed to open in Grand Junction?" | [Login / Create Account](#) | **0** comments

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We ask that you register to improve the communication among our on community.



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You may remain anonymous by registering.

The screen name you choose is entirely up to you. We ask for a valid e-address only to send you a password for commenting under your chosen name; we will not use that e-mail address for any other reason.

Thank you for joining the gjfreepress.com online community.

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2/28/08

To Jim Doody,

I wish to state my opinion regarding the gentlemen's club. I don't feel this is an appropriate business to have in our community. There are enough adult businesses here already ; ie, North Ave. and 24 road . If people wish to participate in such things, they should go where they are available, like Denver, Vegas, or Salt Lake, and not bring them home. This is supposed to be a family oriented community. I feel it will decrease property value and increase crime, drugs, alcohol, and sex offences, especially in a college town. If this happens, the cost of police / sheriff protection will go up . This will defer money that is considered incoming revenue.

When the next election comes up, my family, friends, and co-workers will take this into our consideration.

Sincerely,

A handwritten signature in cursive script that reads "Margie Cribari". The signature is written in black ink and is positioned above the printed name.

M. Cribari

RECEIVED MAR 04 2008

February 29, 2008

RECEIVED MAR 03 2008

Mayor Jim Doody
City of Grand Junction
City Hall
250 North 5th Street
Grand Junction, CO 81501

Dear Mayor Doody,

My husband and I are writing concerning the proposed "Gentlemen's Club" and request that you do all you can to keep this out of Grand Junction and keep our city one we can be proud of. With all the high school students and Mesa College students here, this is not a temptation we want to add to their lives.

I know a young girl who needed a job and thought the tips at "Cheers" would be really good. She didn't think that evil place would affect her, but it ruined her life and even after fifteen (15) plus years later, she is still a mess. And she is only one person! Just think how many other lives would be affected.

If we let the "Gentlemen's Club" in after years of trying to get "Cheers" out, it will just open the door to letting more of the same kind of "club" in. Also, I think you will be hiring more police and it will cost a lot more to patrol and enforce than what the tax revenue from it would bring in.

Please fight to keep it and all such "clubs" out of Grand Junction. We have a wonderful city now and I want it to stay that way - one we can always be proud of.

Thank you,

Mr. and Mrs. Patrick McKague

Mr. and Mrs. Patrick McKague
326 Independent Avenue
Grand Junction, CO 81505

Mayor Jim Doody
City Hall
250 North 5th Street
Grand Junction, CO 81501

Tami Tarr
3468 G Road
Clifton, CO 81520

February 26, 2008

RE: Gentlemen's Club

Dear Sir:

Because I care about the moral health of our community, having lived here for 30 years, I was very concerned when I heard about the possibility of a "Gentlemen's Club," coming to Grand Junction. I find this very disgusting, and degrading to women. I do hope you will not allow this to come to Grand Junction. It will only result in the moral decay of our city.

Thank you for your time.

Sincerely,



Tami Tarr

RECEIVED FEB 29 2008

RECEIVED MAR 03 2008

Kelly, Gene M^e Jorda
Feb 29 2008
2809 Elora Ct
Grand Pt. Co 81506

Dear Mayor & Councilmen
I'm writing to you to express
my concern & dislike in the granting
of a "gentlemen club" I believe
this would be a "disaster" to G. Pt.
we have enough problems in our
beautiful City now with allowing
another one.

I have lived in G. Pt.
since I was 14 & graduated from
Central High. I am now 76 &
I am very concerned about this
possible granting of a "Smudge" on
us.

Thank you
Gene M^e Jorda
2809 Elora Ct
Grand Pt Co 81506

cc: Council
Original to Quatro

2/26/08

To The Mayor: Jim Doady: and all City Councilmen

I'm sure you all have already considered the ramifications of a gentlemen's club here in our city as well as the moral aspects.

This proposal may very well cost the city more money in law enforcement costs than it will bring in in tax revenue. It will most certainly result in new opportunities for drugs and other illicit, and morally decadent activities.

Please consider voting no on this proposal: thus helping to keep our city free of these moral sewers

Respectfully submitted

Charles W. Fix

2813 Cottage Ln.

Grand Junction, Co

81506

RECEIVED FEB 28 2008

CC: Tawie
Original to Justin

February 27, 2008

RECEIVED FEB 28 2008

Mayor Jim Doody
City of Grand Junction
City Hall
250 North 5th Street
Grand Junction, CO 81501

Dear Mayor Doody,

We are writing to voice our concerns regarding the Gentlemen's Club being proposed to open in Grand Junction.

This type of club, or any venue of that sort, could be the beginning of a great change in the atmosphere of the community (ever see "It's A Wonderful Life"?). We have a good college here now, with many young people. All of us want the very best atmosphere possible for those that will follow after us. Life is complicated enough, even with things at their best, without adding a strip joint (in actuality, that is what this will be). It will affect not only the men of the community, but will encourage young women into a lifestyle better suited to Las Vegas. If people want that sort of thing, let them find it in a place other than Grand Junction. We can't tell others how to live, but we can provide a community that encourages good character in our citizens.

Any tax revenues the city would realize from this kind of business, would be offset to a great degree, with costs of intervention by our local police, since businesses of this type are usually a financial burden on law enforcement agencies. Grand Junction should continue to do all possible to be a model community.

We are requesting that you will determine that this (or any other venue of this type) not be allowed in Grand Junction - let's keep a city we can be proud of.

Sincerely,

Mr. and Mrs. George G. Clark

Mr. and Mrs. George G. Clark
2119 Saguaro Road
Grand Junction, CO 81503

cc: Jamie
Original to Justin

Mayor Jim Doody

February 26, 2008

I am concerned about the proposed Gentleman's Club being opened in Grand Junction.

I moved here 5 years ago from the Washington D.C. area where there are many "Adult" type establishments, which have over a short amount of time devalued the neighborhoods in several ways. Crime rose, drugs increased, family values suffered, etc.

I am told it would also be located near the Bananas Fun Park. Would this be an environment for children to associate near, or their parents want?

Would you, as a parent or grandparent wish to bring this to our city as part of your legacy?

Would you, as a parent or grandparent want your children influenced by this business?

Would you, as a parent or grandparent want your children to see you frequent a strip club?

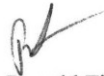
Would you, as a parent or grandparent want to see your children frequent a strip club?

This city is a great place to live and grow up in. There is enough "Adult" entertainment already!!!

Please think carefully about what this can do to the city in the future and what extra costs in law enforcement and control would be needed for this one business.

Consider carefully for the good of the community we live in.

Thank you for your time



Ronald Fields
661 Faircloud Way
Grand Junction

RECEIVED FEB 28 2008

cc: Laurie K

661 Faircloud Way
Grand Junction, CO 81504
February 24, 2008

Jim Doody
Mayor
City Hall
250 North 5th Street
Grand Junction, CO 81501

Subject: Gentlemen's Club

Dear Mayor Doody:

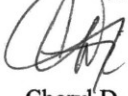
The purpose of this letter is to let you know that I am very disappointed with the prospect of the City Council approving the building a "*Gentlemen's Club*." This is a fancy name for what is really known as a strip joint or brothel.

I am concerned about the health and wellbeing of our community. We already have problems with drugs and crime in Grand Junction. This could add to the problem, as well as be an invitation to men who are **not** gentle by any means. I moved to Grand Junction from the big city to get away from crime.

I am a tax payer, and I **do not** want my taxes paying for the protection of the owner(s) and participants of this type of activity.

As Mayor of our City, you should not permit this or any other venue of this type to be brought to Grand Junction.

Sincerely,



Cheryl D. Fields

cc: Chamber of Commerce

RECEIVED FEB 26 2008

C.C. Hawick.

Nobel Council Member
City Hall, 250 North 5th Street
Grand Junction, Colorado 81501

Dear City Council Member: Mayor Jim Doody,

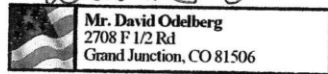
Considering myself a gentleman and being a native of Grand Junction, I am very much concerned about the health of our Community in matters that deteriorates Family Values, Morals and the like.

One of the recent matters that has come up is the proposal for an establishment called the Gentlemen's Club. I want to go on record as an opponent to this establishment, or any like venue that is already established or considered for proposal, because these are not healthy for the families of our great Community.

Council Member, Jim Doody, I am hoping you will be one that will not grant permission for such an establishment.

Sincerely,

David F. Odelberg



February 25, 2008

RECEIVED FEB 26 2008

cc: Dave K.

February 25, 2008

Mayor, Jim Doody,

I do hope I can depend on you to use wisdom with your vote concerning the proposal of a "strip joint" in Grand Junction. I trust you will vote against such a proposal. I refrained from using the words "gentleman's club" for according to Webster's Collegiate Dictionary it does not describe "Gentleman" in this manner.

I am concerned not only for the moral issues, but for the added expense involving our police department. More patrolmen will be needed, and perhaps more jail space. Thus creating more taxes to foot the bills. (Needless to say I am not really interested in more taxes.)

Once we open our doors to this type of business there will be others who wish to apply. There will be no end in sight. I truly hope you can agree with my point.

Sincerely,

Martha May Odelberg

Martha May Odelberg
2708 F ½ Rd.
Grand Junction, CO. 81506

RECEIVED FEB 26 2008

*cc: Council
Original to
Justin*

February 26, 2008

Attention All Council Members,

This letter is in regards to the possibility of you approving a "Gentlemen's Club" for the Grand Valley. We have enough trouble here in the valley with drugs and other problems that the police have to take of.

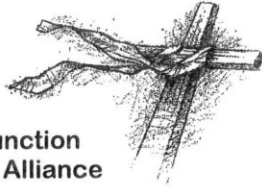
Our Police and Sheriff's Department are understaffed now and bringing an element into our valley that would create more problems is not what we want. The money gained for taxes can not over come the harm that will be done to our children. We should be concerned about making this a more family oriented community.

Please give this a great deal of consideration and not be blinded by the dollar signs and always keep in mind the saying, "WHAT WOULD JESUS DO". Look into your heart for the answer.

A concerned citizen,
Ida M. Partrich

RECEIVED FEB 28 2008

**Grand Junction
Ministerial Alliance**



Leadership Team:
Jim Hale; Spirit of Life Christian Fellowship
Mark Harris; Four Square West Slope Ministry
Abe Pfeifer; New Horizons Four Square Church
Michael Rossman; Valley Bible Church
Rob Storey; River of Life Alliance Church

February 28, 2008

Honorable Mayor	Jim Doody
Mayor Pro Tem	Bonnie Beckstein
Councilmember	Bruce Hill
Councilmember	Linda Romer Todd
Councilmember	Teresa Coons
Councilmember	Doug Thomason

It is with deep concern for our community and constituents that we write this letter to you, our elected leaders.

We have become aware that there is an application for the introduction of a "gentleman's club" (a socially acceptable way to say "strip club") to be opened in Grand Junction.

We as individuals and as congregational leaders wish to express in as strong a terms as possible our total opposition to this or any such "strip club" being opened in Grand Junction or for that manner the entire Mesa County.

The negative moral and social impact upon our community and the financial costs to the city are just two of the many reasons for such places to not be permitted in our community. The negative moral and social impact is well documented in communities which have permitted such venues to exist. In addition there are the additional costs for policing of the area around such establishments plus the added related drug and sex crime treatment only add to the costs to the greater community which are not acceptable.

You lead and we all live in a working, growing, family community where we are proud to raise our children, proud to send our young people to a fine local college and proud of the very positive history and culture of our city. Let us not lower the level of excellence which is so important to our community for that which will only lessen who we are and who we can become together. May your leadership as elected representatives reflect the family and personal moral strength upon which this community has been built. We are all praying for you. Thank you for your leadership of our great community.

Sincerely:


Rob Storey
For the Grand Junction Ministerial Alliance

RECEIVED FEB 29 2008

Dear *Mr. Jim Doody*

When it comes time to approve another strip club, please, please do not approve it. This is a college town, and we do not want more prostitution, drunkenness, rape, drugs or other crimes that a gentlemen's club would lead to. Please protect our community and public welfare.

Thank-you,

Barbara Roberson
Barbara Roberson

RECEIVED MAR 11 2008

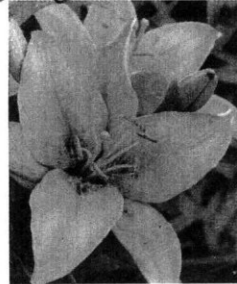
RECEIVED FEB 29 2008

2-25-08

To Jim Doody, Mayor and
all the City Council Members,

I'm writing this letter
with deep concern for the
moral health of our
community. It's come to my
attention that the Gentle-
men's Club (strip joint) is
purposing to be opened in
Grand Junction.

This is a college town
and it would certainly
not be of any help to any
of the college students or
any one for that matter. I
would deeply appreciate
if you would not
permit them or any
other venue of this
type to be brought



to Grand Junction.

Thank you,

Sincerely,

May Ellen Waid

March 1, 2008

Council Members

Jim Doody, Mayor
Bonnie Beckstein, Mayor Pro Tem
Bruce Hill, Gregg Palmer, Linda Goddard
Teresa Coons and Doug Thomason

We, the undersigned are residents
of the City of Grand Junction and
members of the First Church of the
Nazarene of Grand Junction

We want to take this opportu-
nity to urge you, the City Council,
not to allow the Gentlemen's Club
or any other venue of this type
to be brought into Grand Junction

We believe that this type of
entertainment would not be at all
well for the residents of the City
and cause more problems for the
law enforcement officers.

Sincerely

James D. Walters
Blenda R. Walters

RECEIVED MAR 03 2008

To mayor of Grand Junction, Jim Doody, and city council members.

Please consider carefully all the ramifications of allowing a "Gentlemen's club" to operate in our city. We have many bars which already contribute to extra problems for our law enforcement personnel. We believe this kind of a club would bring with it a need for extra police protection, ultimately calling for higher taxes, and would be a detriment morally and financially to all. We are asking that the decisions you make are for the good of majority.

respectfully,

Harold Stride
Charlene Stride

Grand Jct., Co.
3-1-08

Council Members:

Mayor Jim Doady, Bonnie Beckstein,
Mayor Pro Tem, Bruce Hill, Gregg Palmer,
Linda Todd, Teresa Coons and Doug Thomason

We have a beautiful growing city.
It has also become a great College
town and I believe we need good
moral wholesome entertainment for
our young College students, also for
our many visitors, not a Gentlemen's
Club (strip joint).

I have lived in Mesa County most of
my life (approx. 75 yrs). I have always
been proud of our city and state.

I am thankful for your good leaders
and I know you will use good
judgement.

Sincerely,
Josephine Hyde

RECEIVED MAR 03 2008

GRAND JUNCTION CODE

16-127

Physically Separated means separated from smoke-free public places by continuous floors to-ceiling walls which are interrupted only by entrances or exits to smoking areas. Such entrances and exits shall be fitted with self-closing or automatic closing devices.

Private Club means any establishment which restricts admission to members of the club and their guests.

Private Function means any activity which is restricted to invited guests in a non-public setting and to which the general public is not invited.

Public Place means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, schools, health facilities, laundromats, public transportation facilities including bus stations and stops, taxis, shelters, airports, train stations, reception areas, restaurants, retail food production and marketing/grocery establishments, retail service establishments, retail stores, theaters and waiting rooms. A private club is considered a *public place* when functions are held at the club which are open to the general public and are not restricted to the members of the club. A private residence is not a *public place* except during times when it is being used as a child care, adult care or health care facility, and for thirty minutes before such uses.

Restaurant means a business with fifty five per cent (55%) or more of its gross annual sales coming from the sale of food or meals prepared on site, typically for consumption on site. Examples of restaurants are coffee shops, cafeterias, sandwich stands, private or public school or other cafeterias, and other eating establishments which give or offer food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities. Also see section 8.

Retail Tobacco Store means a business utilized primarily for the sale of tobacco and accessories and in which the sale of other products is incidental.

Service Line means any indoor or outdoor line at which one or more (≥ 1) persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Smoke-free means that air in an enclosed area is free from smoke caused by smoking.

Smoke or *Smoking* means the carrying or possession of a lighted cigarette, lighted cigar or lighted pipe of any kind, and includes lighting of a pipe, cigar, cigarette, tobacco, weed or other combustible plant.

Sports Arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Sec. 24-18. Indecent exposure.

It shall be unlawful to commit a lewd or indecent act in the City. Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public violates this section:

- (1) An act of sexual intercourse;
- (2) An act of carnal copulation either per anus or per os;

24-18

- (3) To willfully or knowingly: be nude; wear any indecent or lewd dress; make or perform any indecent exposure of such person's intimate parts; or to make or perform any indecent exposure of the intimate parts of another person. For the purposes of this section: "Intimate Parts" means the external genitalia, the anus, the buttocks, the pubes or the breast or breasts of any person.
- (4) A lewd fondling or caress of the body of another person;
- (5) Intentional exposure of genitals to the view of any person;
- (6) Urinating in public; or
- (7) Aiding, suffering or permitting in the doing of any of the offenses described in this section.

(Code 1965, § 19-15, Ord. No. 3202, 11-3-99, Ord. No. 3312, 11-15-00)

State law reference(s)--Similar provisions, C.R.S. §§ 18-7-301, 18-7-302

RECEIVED FEB 28 2008

CC: Council
Original to Justin

Feb. 27, 2008

Dear Mayor Doody and GJ City
Council members: Bonnie
Beckstein, Bruce Hill, Gregg
Palmer, Linda Todd, Teresa
Coons, and Dang Thomason,

I am writing this letter
to entreat you to NOT allow
a "Gentlemen's Club" to be opened
in Grand Junction. No community,
especially ours, needs this kind
of degrading, immoral business.

Please do not allow yourselves
to be swayed by an argument
of great tax revenue from such
a source - we are not a
poor city now, and there certainly
are other acceptable means to
bring tax dollars into the coffers.

In following the local

news, it is more than apparent
that we (LJ Community) are
battling the evils of meth,
sexual perversion in our schools,
alcohol, and domestic abuse.
We really don't need a business
(for "Gentlemen?") that can
only add to the immoral and
illegal behavior of any
segment of our population.

Thank you for your
consideration.

Sincerely,
Jean Barsuch

From: Laurie Kadrich
To: Justin Kopfman
Date: 3/3/2008 8:56 AM
Subject: Fwd: GENTLEMEN'S CLUB

Laurie M. Kadrich
City Manager
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501
(970) 256-4154 office
(970) 589-0674 cell

>>> Belinda White 3/3/2008 7:14 AM >>>

>>> "Shirley Ewing" <ewing77@gobrainstorm.net> 3/1/2008 8:37 AM >>>
Grand Junction City Council,

We are deeply concerned about the possibility of a "Gentlemen's Club" coming to our Grand Valley. We believe this would just be the beginning of increasing problems for our families. It would open doors that our area does not need. Nothing in it would set a good example for our young people. It would only draw out lustful thoughts and acts.

Please consider the consequences this could have and make a wise decision not to open this door. Thank you very much.
Concerned citizens, Glenn and Shirley Ewing, 531 Garfield Dr., Grand Jct CO 81504; 245-9785

Judicial Decisions

Accessory Uses *See:*

60 PEL 9, *Easement to keep horses on vacant land is not illegal or invalid, although zoning law prohibits keeping horses on residential lot not containing a residence*

Adult Uses

60 PEL 1, CALIFORNIA

Adult entertainment businesses may be restricted to industrial zones

Two adult entertainment establishments sued San Diego County after it amended its zoning ordinance to restrict their hours of operation, require the removal of doors on peep show booths, and force the businesses to disperse to industrial areas of the county. They argued that Justice Kennedy's concurrence in *City of Los Angeles v. Alameda Books*, 535 U.S. 425 (2002), radically altered the traditional *Renton* analysis that requires (1) the ordinance cannot be a complete ban on protected expression; (2) the ordinance must be content-neutral or, if content-based with respect to sexual and pornographic speech, its predominate concern must be the secondary effects of such speech in the community; and (3) the ordinance must pass intermediate scrutiny by serving a substantial government interest, be narrowly tailored to serve that interest, and allow for reasonable alternative avenues of communication (*Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986)).

In *Alameda Books*, Kennedy wrote that the quantity and accessibility of speech must be left substantially intact. The adult businesses argued that by relegating them only to the industrial zones and totally excluding them from commercial zones, they were prevented from having a reasonable opportunity to relocate. The Ninth Circuit disagreed. Kennedy did not impose a heightened evidentiary burden on the County to show "how speech would fare" under the ordinance. So long as an industrial site is reasonably accessible and has sufficient infrastructure, it

provides a reasonable alternative. The 68 industrial parcels in the County provide ample opportunity for the adult businesses to relocate. However, the trial court erred when it severed the offending 130- to 140-day time limits from the ordinance because "a licensing requirement for protected expression is patently unconstitutional if it imposes no time limits on the licensing body," the Ninth Circuit said. The trial court should have severed all of the provisions pertaining to the permit requirement because they were not connected to a reasonable time limit, leaving the remaining ordinance provisions intact.

Tollis, Inc. v. County of San Diego, United States Court of Appeals, Ninth Circuit [intermediate court], Decided October 10, 2007, 2007 WL 2937012

Adult Uses

60 PEL 2, KENTUCKY

Kentucky Constitution provides no greater protection for adult uses than U.S. Constitution

The 2004 ordinance requires a license for operation of an adult entertainment business, contains anti-nudity provisions, restricts hours of operation, prohibits direct payments to entertainers, prohibits sales of liquor, prohibits touching between patrons and employees, and includes buffer restrictions. The appeals courts upheld the law, rejecting arguments that it should rely on Pennsylvania cases to interpret the Kentucky Constitution and that the Kentucky Constitution provides broader rights than the U.S. Constitution, saying instead that "Kentucky does not openly embrace forms of expression that some other states do." Noting the lower protection for erotic expression and that the ordinance is a content-neutral effort to deal with secondary effects, the court applied intermediate scrutiny.

After holding that the law is within the constitutional power of the municipality, furthers a legitimate interest, and

is not aimed at suppression of expression, the court analyzed individual provisions to determine whether they were narrowly tailored to meet that interest. The ban on total nudity has a minimal impact on expression; a requirement that adult uses close between 1:00 a.m. and 9:00 a.m. is less restrictive than limits that have been upheld in challenges under the U.S. Constitution. The court similarly upheld a prohibition on sales of alcohol, no-touch and no direct tipping provisions, and a requirement that semi-nude entertainers be located at least 18 inches off the floor and at least six feet from a patron. The court noted that the restrictions allow businesses a reasonable opportunity to open and operate and that it is not concerned with economic impact on individual businesses. The licensing fee defrays the costs of policing adult uses.

Owners lacked standing to challenge the law as vague because their businesses clearly fit within regulated categories; they also lacked standing to challenge criminal disability prohibitions and prohibitions on minors because they asserted that their patrons were over age 21. The trial court had invalidated provisions requiring disclosure of principal owners of an adult use and prohibiting physical contact between patrons and entertainers while not performing. The appeals court reversed, noting that the disclosure requirement does not apply to owners of minimal shares and that touching between an entertainer and a patron is not expressive activity.

Cam 1, Inc. v. Louisville/Jefferson County Metro Gov't, Court of Appeals of Kentucky [intermediate court], Decided October 5, 2007, 2007 WL 2893435

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Case Abstracts are numbered consecutively throughout each volume of *Planning & Environmental Law*, beginning with No. 1. The heading for each abstract contains the main subject category, the PEL abstract number, the state in which the case arose, and a brief statement of the decision's main holdings. At the end of the abstract is the complete case name, the court and the level of the court (trial, intermediate, highest), the date of the decision, and the West Reporter citation. If the West Reporter citation is not yet available, the Westlaw citation is given.

From: "Bob Lee" <Bob.Lee@mesacounty.us>
To: <justink@gjcity.org>
Date: 3/10/2008 12:59 PM
Subject: Gentlemens Club Occ Load

Justin,

The occupant load is difficult to determine precisely without dimensions on the floor plan. If we use the seating layout shown of the plan, the total occupant load for the building will be about 166. Seating layouts are not very reliable as tables and chairs can be added at any time to accommodate customers during busy times.

We prefer to use the area of the assembly room for occupant load determination. Without consideration of the seating layout, the occupant load for the entire building is about 228.

For purposes of building code application, we will determine the occupant load to be +-228

W/Seating Chart = 166

W/O Seating Chart = 228

Attachment A

CUP-2008-158, Verbatim Minutes for Bar/Nightclub Conditional Use Permit

14. **Bar/Nightclub – Conditional Use Permit**

Request approval of a Conditional Use Permit for a bar/nightclub in an I-1 (Light Industrial) zone district.

FILE #: CUP-2008-158

PETITIONER: Kevin Eardley

LOCATION: 2256 & 2258 Colex Drive

STAFF: Senta Costello, Associate Planner

SEE VERBATIM MINUTES FOR THIS ITEM STARTING ON PAGE 11.

1 CHAIRMAN COLE: The next item on the agenda is a bar/nightclub
2 conditional use permit, CUP-2008-158. Is staff going to make the initial presentation?

3 MS. COSTELLO: Yes, sir.

4 CHAIRMAN COLE: Okay.

5 MS. COSTELLO: If I can find it. Good evening, Mr. Chairman,
6 members of the Commission. Senta Costello, Public Works and Planning Department.
7 This is a request for a bar nightclub conditional use permit located at 2256 and 2258
8 Colex Drive. It's on the northwest corner of G and Colex Drive. The property is
9 currently vacant. Much of the existing industrial subdivision that these properties are
10 located in are currently vacant. There's a few of them that have been through the
11 review process and are currently beginning construction. But for the most part a lot of
12 the lots are currently vacant.

13 The future land use map designation for this property as well as the
14 surrounding properties is commercial industrial and the zone district is an I-1
15 surrounded to the north, west and east with I-1 and on the south by a C-2. As I stated
16 the request is for a conditional use permit for a bar and nightclub. The applicant is
17 proposing to construct a 9,000 square foot office warehouse...I'm sorry, almost 10,000
18 square foot office warehouse on the property to the north as well as the proposed bar
19 site. The two will have a shared parking lot. This works for the code because the hours
20 of operation for the two uses are offset.

21 I have reviewed it and it meets the consistency of the growth plan, goals
22 and policies. It...sorry, it meets the review criteria for the zoning and development code
23 and also the submittal standards, the transportation and engineering standards and the

24 storm water management standards. The underlying zone district for chapter 3, the
25 proposal meets all of the standards required for the I-1 zone district.

26 The use specific standards required in chapters 3 and 4 for this particular
27 type of use have been met. The...by definition a nightclub includes a establishment
28 which has the sale of alcohol which exceeds 25 percent of their total sales and includes
29 music, dancing or live entertainment and the applicant has stated that they will have all
30 of the above listed. In their general project report they describe the proposed
31 entertainment component as an entertainment area with a bar, stage for two dancers
32 and a deejay.

33 In reviewing this in accordance with the requirements of chapters 3 and 4,
34 the specific criteria that we are required to look at as staff are whether an adult
35 entertainment component is an allowed use in this particular zone district of I-1 and it is
36 an allowed use, determine whether the proposed site is within a thousand feet from
37 another adult entertainment establishment and there is no other existing establishment
38 within that boundary.

39 The third component is whether the proposed site is within a thousand
40 feet of any church, school, park, playground, public building or residentially zoned
41 property and I have a map which shows those boundaries and all of those properties
42 are within that thousand foot radius and none of them fall under any of those categories
43 as listed. The specific conditional use permit criteria talks about the protection of
44 privacy, protection of use and enjoyment and a compatible design and integration with
45 the surrounding neighborhood.

46 This is the site plan proposed by the applicant. The majority of the
47 parking as well as the entrance to the building are located on the west side of the
48 building away from the existing property to the east. This helps to mitigate any uses
49 that may be encountered due to the uses within the building as most of the people
50 when they're coming and going are going to be going in and out that front door as well
51 as most of the parking so there's not going to be a lot of traffic, pedestrian traffic and
52 people on the sides of the buildings. This will help with the protection of privacy and
53 protect the use and enjoyment of the adjoining properties.

54 The building as proposed is compatible in design with other industrial type
55 buildings that have been approved in the same neighborhood. They are proposing a
56 stucco façade with cultured stone accents. The signage that they're proposing as you
57 can see is located above the door and on the south elevation of the building. They are
58 also proposing on doing landscaping along the eastern property line as an added
59 benefit to the property owner to the east. The landscaping along that side is...ranges
60 from 3 to 6 feet in height with a majority of that landscaping closer to the property line.
61 This particular side by code does not require landscaping. The applicant is putting that
62 in to help buffer that adjacent property owner to the east and that strip ranges from 10
63 to 15 feet in wide...or in width.

64 Based on this criteria I do find that it meets the criteria of the zoning and
65 development code. The only condition recommended by staff as the approval will be
66 that they do put in place a shared parking agreement for the property to the north to
67 guarantee that the parking remains available and with that we're recommending
68 approval. Are there any questions?

69 CHAIRMAN COLE: Any questions of Senta?

70 COMMISSIONER DIBBLE: Ah, yes, Mr. Chairman. In the
71 application that we received with our material for this evening the agenda topic was bar
72 nightclub conditional use permit of which we have heard we have jurisdiction on that.
73 According to Kathy...Kathy Portner who wrote administrative regulation 0-1-1 in '01,
74 definition of a bar is premises used primarily for the sale of dispensing of alcoholic
75 beverages by a drink for onsite consumption and where food may be available for
76 consumption as an accessory use. In the general project report as was pointed out in
77 the memo from our assistant city attorney, this...she referred to a...a bar nightclub of
78 the application the general progress or general project report refers to it in the
79 application process as a gentlemen's club with a conditional use. What's a gentlemen's
80 club? Can you give me a highlight on that?

81 MS. COSTELLO: Based on discussions that we have had with
82 the applicant and their representative it became apparent that they fit into the category
83 of the bar nightclub category of the code. You're correct it doesn't specifically call that
84 out in the general project report as far as we are requesting but like I've said we've
85 through discussions...

86 COMMISSIONER DIBBLE: I assume this is our...this is their
87 proposal to us?

88 MS. COSTELLO: Yes.

89 COMMISSIONER DIBBLE: This...this is done at their request and
90 it's their words...

91 MS. COSTELLO: Yes.

92 COMMISSIONER DIBBLE: ...and they refer to it on page 3 as wish
93 to construct a gentlemen's club. Later on they describe the activity as being
94 wholesome and whatever. What I...what I...what I want to ask is kind of a technical
95 question. I think I know the answer but so maybe you can clarify it for me. We have
96 jurisdiction on...on a bar nightclub applying for an application. It's not a...it's not
97 a...a...it's...it's a conditional use that we have jurisdiction over.

98 MS. COSTELLO: Yes.

99 COMMISSIONER DIBBLE: But an adult entertainment business is
100 not. It's an administrative approval decision.

101 MS. COSTELLO: Yes.

102 COMMISSIONER DIBBLE: So my understanding from...from our
103 attorney's perspective is that if I wouldn't think this would happen but if this...this
104 request came forward for only a...an adult entertainment business we wouldn't even
105 see it?

106 MS. COSTELLO: Correct.

107 COMMISSIONER DIBBLE: And if it came forward as we see it as a
108 bar by definition we have jurisdiction? So we're looking at this strictly as a bar
109 nightclub? Now you mentioned in your comment that you just made that it...it will have
110 live entertainment with it?

111 MS. COSTELLO: Yes.

112 COMMISSIONER DIBBLE: What would...what would this might be?
113 What would this be? Could it be a band or live dancers, line dancers, or clowns?

114 MS. COSTELLO: That I think the specifics of that I think is best
115 entertained by the applicant.

116 COMMISSISONER DIBBLE: Entertainment of all sorts? Stand up
117 comic? Live entertainment. How about a pole dancer? How about, I'm going to be
118 very blunt here, a striptease artist? I don't know if they call them that. Is that live
119 entertainment by definition?

120 MS. COSTELLO: The specifics...that would be classified as live
121 entertainment. As far as what in the specifics of what the applicant has in mind, he is
122 best suited to answer those questions.

123 COMMISSIONER DIBBLE: Okay. Is my definition of the
124 jurisdictions correct, Jamie? Is approval by administration that portion of entertainment
125 that would be classified as adult entertainment?

126 MS. BEARD: If this was not a part of a conditional use permit that is
127 coming forward to you because of the bar nightclub portion, then the adult
128 entertainment would be determined just as an administrative approval and it would not
129 come to you except under the possibility of an appeal.

130 COMMISSIONER DIBBLE: But it is...it is something outside of our
131 jurisdiction to approve adult entertainment per se? Is that correct?

132 MS. BEARD: Okay. It is not outside your jurisdiction to consider
133 the adult entertainment as it is part of the criteria. It's included as your conditional use
134 permit. But the means by which it's included is part of your criteria is whether the use
135 specific standards in chapter 4 for adult entertainment have been met. So when you
136 consider the adult entertainment it's in relation to that criteria in determining if it has

137 been met and then if there are any secondary effects on the site that may affect
138 compatibility for purposes of the site design and the uses that are surrounding this
139 particular property.

140 COMMISSIONER DIBBLE: They are strictly the code regulations
141 such as lighting and setbacks, a thousand feet from a school and that kind of thing as
142 far as an adult entertainment?

143 MS. BEARD: For the adult entertainment the criteria were as Senta
144 stated earlier and that's whether or not adult entertainment one is allowed in an I-1
145 zone which according to our code it is. It is whether or not it's within a thousand feet of
146 another adult entertainment establishment and it's our understanding from the review
147 that it is not and that the...not be within at least a thousand feet of a church, school,
148 playground, public building being used for governmental purposes and, Senta, I'm not
149 remembering – what's the last one?

150 MS. COSTELLO: Park and residentially zoned properties.

151 MS. BEARD: Park and also then residentially zoned property.

152 COMMISSIONER DIBBLE: Residentially zoned property? That
153 would not be...

154 MS. BEARD: So it has to be at least a thousand feet from any of
155 those and that's the criteria that's included under the use specific standards which is
156 then relevant to the criteria that you're considering for the conditional use permit.

157 COMMISSIONER DIBBLE: Okay, but basically we're looking at the
158 bar nightclub conditional use permit and the administrative approval will still have to be
159 made for the other part?

160 MS. BEARD: No, your approval tonight of the conditional use
161 permit with the understanding that the adult entertainment is a part of your conditional
162 use permit application will be included as part of that approval. That it's met those
163 conditions of the criteria. And part of the conditional use permit as you understand is
164 it's not a use of right and so bars and nightclubs have been considered to have certain
165 factors sometimes related to it that you... the city council has said they want to look at
166 this a little more closer and determine is it appropriate in the location where it's asking
167 to be located. And in an I-1 a bar nightclub does require a conditional use permit.

168 So one of those other factors you're looking at is compatibility and the
169 other criteria that are included under there. But that compatibility is how is the site
170 designed and does it take some of those other factors into consideration that might
171 otherwise affect a bar being next to some of the other uses or bar or nightclub being
172 next to some of the other uses and those are the secondary effects that we were
173 talking...I think that you mentioned such as like traffic, lighting, circulation, access and
174 those type of things. Those are the things that you're looking in additional because it's
175 a conditional use permit.

176 COMMISSIONER DIBBLE: I'm still...this is going to have to be a lot
177 more clear to me before I know what I'm thinking but I'm still questioning the fact that if
178 a...if a applicant came forward and wanted a adult entertainment approval, who would
179 give that? We don't have jurisdiction over adult entertainment approval in my thinking.

180 MS. BEARD: Okay. If it was only for an adult entertainment
181 establishment that did not require an approval for a conditional use permit, then you
182 would not have the jurisdiction of that to hear that matter. That would be heard just by

183 the director and that would be approved administratively – if it was only for adult
184 entertainment alone. It comes before you simply because it is also a portion of a
185 conditional use permit. The conditional use permit comes into play because of the fact
186 that this is also going to be a bar/nightclub. And I would say it fits the definition most
187 with nightclub with including the live entertainment. That's the portion that brings it to
188 you but because the adult entertainment does have use specific standards under our
189 code those are part of the criteria that you will be approving tonight and that's part of
190 your jurisdiction in approving that criteria.

191 COMMISSIONER DIBBLE: So we're...we're really...the
192 nomenclature live entertainment is not the real purpose. The adult entertainment
193 perspective is what we should be looking at along with the approval?

194 MS. BEARD: Okay. Live entertainment is included as a part of the
195 nightclub portion of their application and since part of that live entertainment appears to
196 fit the definition of the adult entertainment, though I'm not sure you've had much of that
197 information come before you. I think you'll hear that more from the applicant. But then
198 if it is considered to be adult entertainment we have to look at the use specific
199 standards that are set forth specifically in chapter 4 as that is part of the criteria that
200 you're required to consider in granting a conditional use permit.

201 COMMISSIONER DIBBLE: Okay. Back around to my original point,
202 those seem to be more code restrictive rather than any other restrictive.

203 MS. BEARD: That would be correct.

204 COMMISSIONER DIBBLE: Okay. Well, okay. I'm still hazy but
205 that's probably me. It's late or something.

206 CHAIRMAN COLE: Are there any other questions?

207 COMMISSIONER CARLOW: If this were a...since this is a use by
208 right without the...the bar and liquor license in effect and it would be decided
209 administratively if it were only for the entertainment? Club? That's a use by right?

210 MS. BEARD: You're asking is the adult entertainment in an I-1 zone
211 otherwise allowed? It would be if it meets the criteria and normally that criteria would
212 be decided by the director rather than by the planning commission. It's now part of the
213 conditional use permit though and that's why it brings it to you as part of your approval.

214 COMMISSIONER CARLOW: Well what would be the scenario of say
215 if they went ahead and did that without alcohol and then came back and applied for a
216 liquor license in a year or six months or...?

217 MS. BEARD: When they came back at a later date to change their
218 use to now a nightclub then it would be a conditional use permit approval and they
219 would have to come forward to you at that time.

220 COMMISSIONER CARLOW: I understand that...

221 MS. BEARD: And if they were continuing the same live
222 entertainment then it would be part of that approval.

223 COMMISSIONER DIBBLE: It would be a whole new approval?

224 MS. BEARD: If later they added the nightclub portion to their use
225 that would require a new approval.

226 COMMISSIONER CARLOW: But in effect without the liquor license it
227 would still be a nightclub...I mean being used for the same thing and then ...and then if
228 they applied for that, what...what criteria do you use?

229 MS. BEARD: Based on our definition in our land use code, the
230 nightclub includes the alcohol so the alcohol would require the liquor license.

231 COMMISSIONER CARLOW: Yes I know but...but if they did an adult
232 entertainment thing it could be set up exactly like what they intend to do with the liquor
233 license and then the liquor license would be in addition?

234 MS. BEARD: If they wanted to just go forward with everything but
235 not include alcohol at this point in time then it would not need a conditional use permit
236 and it could be approved administratively. If at a later date then they wanted to add the
237 alcohol portion to it they would still need to get then a liquor license but in addition they
238 would have to get a conditional use permit at that time.

239 COMMISSIONER CARLOW: Yes I understand. It just seems to me
240 that it doesn't matter which orders this goes in the result may end up being the same.

241 MS. BEARD: As long as it includes a nightclub it requires your
242 approval and so, yes, the decision would be the same regardless with the fact that the
243 nightclub is included.

244 CHAIRMAN COLE: Any further questions of staff? Okay, let's
245 proceed to the applicant. Is the applicant present?

246 MR. SIMS: Good evening, Mr. Chairman, commission members.
247 I'm Bryan Sims with Design Specialists Architects. We are the planners and architects
248 of the bar and nightclub. I don't have a whole to add to what the planner said as far as
249 the technical requirements that we have met. I believe we have met those technical
250 requirements that are involved in the application for a conditional use permit. And

251 those technical requirements essentially fall into two categories as we see it and we've
252 done several of these before.

253 And those two categories are essentially area and space requirements as
254 it concerns the site on the building and that becomes a...both a architectural issue as
255 well as a land planning issue. And those we have sought to solve satisfactorily and
256 have gotten approval from staff...from planning staff. Specifically, for example, the
257 parking being adequate. Specifically we actually more parking there and better
258 maneuvering than you might typically see in some of the warehouse areas and I believe
259 this...this will help the access and maneuvering in the parking lots night and day.
260 That's another thing.

261 We've actually increased the amount of landscaping to provide better
262 buffering and screening so the place is more attractive and it's buffered better from its
263 neighbors. We've provided a 6 foot screen fence on 3 sides of the facility which again
264 provides a visual barrier and creates a better separation. Note that one of the
265 exposures or both exposures are actually on streetscape so it's not encompassed
266 between two buildings and that's another good aspect and we did get good comment
267 from the police department. They're one of the ones that are probably the most
268 concerned with some of the experiences from some of the other bars and nightclubs
269 which incidentally we are not the architects on and not the planners on. But they are
270 most concerned as you know about keeping order there and we did get comments from
271 the police department and we met that commentary in a planning effort.

272 The other part or the second area that you cover when you talk about
273 conditional use permits is the management operations of the...of the actual building

274 and that's really where the architectural part comes in. You can't say that you can
275 separate that from space requirements or how it meets that criteria because it really is
276 pretty interrelated and really you can break that down in points that Senta talked about
277 as far as the various issues that are internal within the site itself and I can...I'll just
278 briefly say what those are so it's quite apparent.

279 One is the site lighting and security issues and this is brought up by the
280 police department. We were already aware of that and we have provided very good
281 site lighting and that would be a good idea as you know to keep that...that site well lit.

282 The other thing is...is providing proper entry and exit for the patrons.
283 They really only have one entry and exit which is out the front. Obviously you have to
284 by building code requirements you have to have other exits which are fire controlled
285 and time controlled exits which have to passed by the building code and...and we'll
286 address that in the architectural plans.

287 The other things...the fact that food will be served and that is part...I
288 mean any of us who have ever been to a nightclub and bar appreciate at times having
289 something to eat. I think at times it helps us to cope with the some of the beverages
290 that we might be drinking at the time and everybody says let's order something so we
291 feel better. So it does serve food, has a kitchen and there will be good food service
292 there.

293 The...things the visual barriers within the interior itself are minimized. And
294 that again takes care of security issues by management so they can keep their eye on
295 the patrons and also minimal barriers on the exterior – low landscaping. So the security

296 issues are addressed on the outside which again is another issue of the permitting of
297 the conditional use permit for this kind of project.

298 The...I think an issue here that we don't normally see in many of the bar
299 nightclub aspects is the separation of the employees from the public and if you examine
300 the plan you will see how we have addressed that. It simply says that the employees of
301 the facility and let's not make any bones about it we do not want the employees and
302 entertainers mixing with the patrons other than on the entertainment or live
303 entertainment basis. Therefore, the building does have a separate garage for the entry
304 and exit of the employees. It has a separate dressing room, has separate bathrooms,
305 has a separate smoking area...a separate smoking porch and so the actual
306 design...architectural design of the plan itself addresses I believe some of the issues
307 that this audience and this commission may be concerned with as it concerns adult
308 entertainment and the crossing over between the public and the actual employees
309 there. And that is reflected in the plan and we do have...that is I believe that's part of
310 the presentation here as well.

311 The last thing is we seem to get in other bar nightclub situations the
312 objections adjacent owners saying hey, you know, I've got a problem with my...I've got
313 a problem here. Bear in mind that the adjacent owner has signed a cross access
314 agreement, a cross parking agreement with the owner and that in itself is an
315 endorsement that the adjacent property is in support of this position and I believe that's
316 a good issue to resolve that we look at as well.

317 And in closing I just feel that this is...understand it's a little different
318 operation as far as the entertainment's concerned. And, you know, we're not kidding

319 you about that but I think...I think we've met the other criteria...all the other
320 criteria...any of the criteria that should be appropriate for the proper approval of this
321 application and I'm happy to take any....any questions you have from a planning
322 and...and programming standpoint. We also have the owner and manager of the
323 nightclub here tonight who will be able to answer any questions you have during the
324 public comment period and I would be happy to answer any questions you have as I
325 stand here right now.

326 CHAIRMAN COLE: Are there any questions of this or the
327 applicant's testimony?

328 COMMISSIONER DIBBLE: You mentioned the adjacent owner.

329 MR. SIMS: Yes.

330 COMMISSIONER DIBBLE: Is that the same owner as the bar
331 nightclub?

332 MR. SIMS: No.

333 COMMISSIONER DIBBLE: Okay, that's the warehouse person?

334 MR. SIMS: That's correct.

335 COMMISSIONER DIBBLE: It's a separate owner then?

336 MR. SIMS: It is.

337 COMMISSIONER DIBBLE: Okay. I probably should ask the owner
338 operator this question and it's the same question that I asked staff. What's a
339 gentlemen's club?

340 MR. SIMS: A gentlemen's club is...is a club where gentlemen and ladies
341 may go to have a night of...of beverage, a night of entertainment. I don't think...I don't

342 think it's a misnomer. I think we just have referred to it as a gentlemen's club. It's
343 actually a bar and nightclub and presumably by the adult entertainment, yes, it will
344 probably mainly cater to the male population but I...it's not...ladies may attend as well.

345 COMMISSIONER DIBBLE: Well I guess I can ask you further what
346 goes in a gentlemen's club but you and I both know that answer.

347 MR. SIMS: Probably both. I think we can both answer that one if you
348 like but, you know, we know what happens in gentlemen's club and it's not an immoral
349 activity. It's simply entertainment.

350 COMMISSIONER PITTS: Mr. Sims, I've got a question perhaps
351 that can be directed to the proposer but have they had this type of operation previously
352 and where?

353 MR. SIMS: I believe they did. I believe in Grand Junction this
354 type of operation at one time, is no longer. But this particular applicant, no, he's never
355 had this operation.

356 COMMISSIONER PITTS: Okay, thank you.

357 COMMISSIONER DIBBLE: This applicant is familiar with all of the
358 ins and outs of running such an establishment?

359 MR. SIMS: Well I...I should hope to make his project profitable or
360 his...his nightclub profitable I should hope he does. He's paying our bills so it's
361 profitable enough at this point.

362 CHAIRMAN COLE: Are there questions that the commission would
363 like to ask of the owner operator of the...of the establishment?

364 MR. SIMS: The owner operator's in the audience.

365 CHAIRMAN COLE: I understand that. That's why I'm asking the
366 question.

367 COMMISSIONER DIBBLE: Would he identify himself? Raise his
368 hand? Okay, thank you.

369 CHAIRMAN COLE: Okay, with that...thank you, sir, you'll have an
370 opportunity to come back up a little later.

371 MR. SIMS: Thank you.

372 CHAIRMAN COLE: We will now open the public hearing. I would
373 like to state that we have received a number of letters and communication from you
374 folks most of which are addressed to the city council. Some of which are addressed to
375 the Mesa County planning commission which does not have jurisdiction at all on what
376 we are considering this evening. And also there are...one allegation that I would just
377 like to speak to this...this evening. Many of these letters here allude to the fact that it is
378 a revenue producer for the city of Grand Junction. That is not a consideration that
379 we're taking into consideration tonight.

380 What has happened here is an application has been made and it's
381 incumbent upon we as a appointed body from the city to render a decision – a fair
382 decision – and be...be sure that this hearing is a fair hearing and that the decision
383 is...is fair as the commission views it and we...we all have our personal feelings about
384 this but hopefully those will not enter into it as much as the facts of the case. So with
385 that, if you have submitted a letter previously, now as I said at the beginning of the
386 meeting these that we have just received this evening we have not had a chance to
387 review other than very briefly and so we don't quite know what's...what's in all of those

388 but the other letters that we've received this commission has read those letters and it is
389 something that will be entered into as we make our...as we deliberate this evening and
390 render our decision at the end of the hearing. So with that, we will first open the...the
391 hearing to those who are in favor of this application.

392 COMMISSIONER PITTS: Mr. Chairman, I just have a comment to
393 make about...about these letters that were handed to us this evening. You're a much
394 faster reader than I am. I want to state that I've had no opportunity to read any of these
395 letters presented this evening and I can't consider anything that was presented at that
396 time.

397 CHAIRMAN COLE: Okay and that may be the case with other
398 commission members as well and so I would ask that you keep your comments to three
399 minutes. We will enforce that and ask that those comments be restricted to that so that
400 everyone gets an opportunity to speak this evening. So with that are there those who
401 would like to speak in favor of this application? Okay, yes sir – in the red shirt.

402 MR. PE'A: Mr. Chairman, commissioners and staff. My name is
403 Phillip Pe'a. As our city grows our contemporary adults' profile is growing. These
404 younger adults have more disposable income and granted you said to take the revenue
405 part out of it. I think we're lacking adult entertainment. Not for revenue purposes just
406 for entertainment purposes. I think they need a place to go, somewhere to just enjoy
407 themselves as adults.

408 I'll try to define gentlemen club – strip club basically is more like...I
409 perceive Cheers as a strip club. You know, go in there; it's crazy, wild out of control
410 when a gentlemen's club is normally more upscale. You're dealing with more upscale

411 clientele and the valley has a lot of upscale clientele. I feel again these...the
412 contemporary adult profile demographic has more disposable income and they need
413 somewhere to go. If Allegiant Air can fill two planes twice a week to go to Las Vegas,
414 why can't we keep those people here? Thank you.

415 CHAIRMAN COLE: Thank you. Anyone else who would like to
416 speak in favor? Yes, ma'am.

417 MS. COX: Good evening. My name is Lessette Cox. I have been in
418 this...this is my business. This is what I do, my entire family. I have been doing it for
419 eight years. I've grown up in the valley. I do know that we have an extreme need for
420 this in the town. There's such a high demand. It's exploding at the seams and we've
421 got, you know, girls doing this that probably should be in a better environment, a safer
422 environment – a place where they can pay taxes. Where they can be safe in what
423 they're doing because it's gonna happen whether we like it or not. It's all around us.
424 But if we can control that and if, you know, we have that opportunity to control that and
425 add to our community for that and for these girls make sure of their safety and
426 everything. This is a gentlemen's club. I've traveled all over the country working and a
427 strip club is completely different. A gentlemen's club is always very respectable. It
428 always works out very nicely. I've seen hundreds of 'em. But that's just all I want to say
429 that it's going to be something very good for the valley and I definitely approve of it.

430 CHAIRMAN COLE: Thank you. Anyone else who would like to
431 speak? Yes, sir, in the back.

432 MS. BEARD: Mr. Chairman, you might want to also remind if some
433 of these people who are coming forward haven't actually signed up in the back if they
434 please would after they were done so we would have it for the record.

435 CHAIRMAN COLE: Yes, if you haven't signed the sheet back in the
436 back, we would like for you to sign that if you are speaking this evening. Yes, sir?

437 MR. CLARK: Good evening, council. My name is Shaun Clark. I
438 grew up in Las Vegas so I grew up around a lot of clubs similar to what they're trying to
439 approve here. I believe that they have done their due diligence obviously in the
440 planning of the club and doing the zoning, the parking, the restrictions as to, ya know,
441 how far away they are from public buildings, schools, and things like that. Obviously
442 there's a definite need for a service like this anywhere that the energy and gas
443 companies exist. These people have a lot of money and they are going to other states,
444 other cities in Colorado and spending their money there. Like I said it's not really an
445 issue here as to...as to the revenue but I believe that they have done their diligence in
446 planning it correctly and I am for it. Thank you.

447 CHAIRMAN COLE: Thank you. Someone else would like to speak
448 in favor? Yes, ma'am.

449 Ms. McKAY-HALVORSON: Thank you for having us here tonight.
450 My name is Sooner McKay-Halvorson. I was born and raised in Grand Junction. I
451 currently own three businesses on Main Street. I'm very much in support of...of seeing
452 a club being opened in Grand Junction. There's three points that I want to make to
453 present to you and hopefully you'll consider.

454 My first one is the current demand versus the current supply. My
455 businesses on Main Street - I own a pole dancing studio where we teach women pole
456 dancing on an aerobic level. We have a very strong client base with the middle to
457 upper class female business and professional women. My other store is a women's
458 boutique adult toy store and so for the last year and a half I've listened to my customers
459 and my clients talk to me about the things that they're looking for for their personal lives
460 and it's very hard to find a resource or a place for them to go to work through these
461 needs – these desires. And when there's not a resource available, they seek other
462 avenues which often are more deviant, they're more underground and they can get
463 them into situations where they're not abiding by the law.

464 The...the supply is there and...or the demand is there and the supply will
465 be there no matter if it's in a gentlemen's club or if it's on a private level. On a private
466 level it's very unsafe for the women who are working in this industry right now. They
467 are going into people's homes. They're being called, hired and paid to go into people's
468 homes and perform for them topless which is probably what would happen in a
469 gentlemen's club. However, they're on that person's private property and if a crime
470 were to be committed they are on that person's private property and so they have not a
471 lot of legal recourse if they are to be injured or assaulted by somebody who's paid them
472 to come there to perform for them topless or on an adult oriented way.

473 The current business model...secondly, the current business model for a
474 gentlemen's club it differs substantially from the model of strip clubs of the past.
475 There's been a separation in the type of clientele that the gentlemen's club caters to.
476 As Phil had pointed out, it caters mostly to the middle to upper class professionals who

477 are looking for an avenue to play as hard as they work and we don't have that
478 opportunity here. The strip club or the gentlemen's club also caters a lot more to
479 women and to couples and in my business of speaking to men and women especially in
480 the adult toy store, couples are looking for ways to explore their monogamous sexual
481 relationships in a way that's different and there's no way to do that right now in Grand
482 Junction. You have to go out of town to do it which makes you feel like you're doing
483 something bad. If you feel like you have to go away, run away from the people that are
484 around you.

485 I already touched on the other one - the safety and professionalism.
486 There's not a lot of safety for people who are supplying to this demand. I guess
487 just...currently there are no managed, controlled or taxed establishments or
488 environments available and where's there's a demand there will be a supply in one form
489 or another. A gentlemen's club, especially the professional establishment being
490 proposed, seems to be a responsible means to acknowledge and monitor this aspect of
491 entertainment and free enterprise in Grand Junction. So, thank you for your time.

492 CHAIRMAN COLE: Thank you. Someone else who would like to
493 speak in favor of it?

494 MR. MOSBY: Don Mosby, 3348½ B-1/4 Road, regardless of the
495 demand, it meets the criteria for the business and it looks like he's gone above and
496 beyond to try to make it attractive and correct for the city so I'm for it. Thank you.

497 CHAIRMAN COLE: Thank you. Anyone else who would like to
498 speak in favor? Yes, sir?

499 MR. HALVORSON : Thank you, Chairman and commissioners. I
500 wanted to address a little bit about...oh, I'm sorry. Matt Halvorson, 2620 Wisteria
501 Court, Grand Junction. I wanted to address a little bit about the owner operator's
502 character if that's okay.

503 CHAIRMAN COLE: No, that is not appropriate.

504 MR. HALVORSON: No? Okay. Well I am definitely in support of it.
505 I was asked today why and I would think that some of the opposition that we might
506 hear are...are some violence or activities that go on there. Speaking from personal
507 experiences and being in the entertainment business I was a casino host in Las Vegas.
508 Being in a regular bar or nightclub versus an adult entertainment club I personally saw
509 a whole lot more well behaved people in that situation than I did in a regular bar or
510 nightclub.

511 I also have a lot of experience here in town. I managed a bar for three
512 years and I think that what's gonna be said that it...that the adult entertainment is going
513 to more adversely affect what people are going to be there I think is a farce. I saw
514 plenty of it downtown on Main Street and, you know, I don't think that that should be
515 weighed into...to the fact of if...if we're going to be able to open a bar, you should be
516 able to open it. Thank you.

517 CHAIRMAN COLE: Anyone else who would like to speak in favor
518 of this application?

519 MR. MARTIN: Good evening, Eric Martin. I just want to remind the
520 people that are against it that they don't have to frequent the establishment.

521 CHAIRMAN COLE: Someone else would like to speak in favor?

522 Okay, we will now go to those who would like to speak in opposition to this land use
523 decision. Yes, sir?

524 MR. BRADEN: My name is James Braden. I live at 4 35 32 Road.
525 I'm in opposition to this. I'm in my seventieth year. I will give you some of my
526 experience up in Alaska during the construction of the pipeline. My particular section
527 was from Fairbanks down to Valdez in security. We found that these type of gentlemen
528 clubs invite into the community people that you do not necessarily want in your
529 community. It is income making but there would be no doubt it. There will be from the
530 peripherals as those that go out probably an increased use of drugs. Why do we spend
531 so much money to build a meth house when we would turn right around and invite it
532 right back in.

533 I say this very clearly and I think as I have spoke to many people and
534 listened to their suggestions, we want to put this down quickly, pleasantly but I do not
535 want to see the draw of men that I saw up in Alaska come in, get drunk, walk out and
536 begin to look for your daughters. Now they say...they will say well, a gentlemen's club
537 doesn't do that but we have a major college here. Every young man wants to go out
538 and experience life and they will probably make a trip out there. When you start that
539 kind of blood rolling in a human body as you as a doctor know you lose control of your
540 senses. Losing control, getting terribly excited and drunk I can see them leaving and
541 there'll be increased traffic accidents on 6 and 50. So those are just some of the
542 qualms.

543 It is immoral in a way because it leads to other things that you don't see
544 but we have experience here. There is dancing already going on in Grand Junction in
545 private homes and there is no revenue or taxes being collected from it and yet people
546 are making money from it. So I think that rather than to say you're controlling it in one
547 spot, you're actually inviting people from Las Vegas because the income has gone
548 down in Vegas will be looking for other places to go. Thank you.

549 CHAIRMAN COLE: Thank you.

550 MS. HUGHDON DEAL: Hello, my name is Milana Hughdon Deal and I
551 live at 13 13 North 18th Street. I am writing you regarding the proposed gentlemen's
552 club. As a former dancer in the seventies in Alaska I saw first hand the drugs, violence
553 and prostitution resulting from the environment such an establishment provides. During
554 the Vietnam War and pipeline construction, money flowed. Not only one or two such
555 clubs were established, others followed some out of town and much larger. Behavior
556 allowed in the city limits was even more accelerated and decadent outside the city.
557 Thank you.

558 As a dancer I worked in a very small strip club but was about to move to a
559 larger one. The night I was to change location 6 to 8 women were at the new
560 club...sorry, were shot with a 12-guage shotgun by a man who was obsessed with one
561 of the girls and wanted her to marry him. Violence seemed to be...seemed to erupt at
562 the club nightly.

563 Men do not go to these clubs for the artistic beauty of the dance or the
564 down to earth conversation with the ladies. They are going to view, to look for a
565 superficial relationship and/or to proposition a dancer for sex. The ladies...I'm sorry,

566 the ladies know it's easy money. It's good money. It gives them a false self esteem
567 and adds to or begins a drug and alcohol habit. If the men are married it brings trouble
568 in the home. If the girls are married or have a relationship, it causes violence or
569 prostitution to occur.

570 Back in the seventies I lived with a heroin addict who would have liked me
571 to prostitute myself to support his habit. As an alcohol and drug counselor, I work for
572 the Salvation Army for six years in the residential treatment center. I was the women's
573 primary counselor. I started...I see, have and started and supported...I'm sorry, as a
574 drug...alcohol and drug counselor many of the women and men I see have started or
575 supported their drug habit by dancing. Some have gone further prostituting in addition
576 to the dancing because the club generates that kind of activity environment. We may
577 be talking about one club but once one is established and succeeds, many will follow.

578 The owner of Rumbay is apparently selling his business. Why? Because
579 of the violence and police calls his bar generates. A gentlemen's club will generate
580 even more. The question between what is moral and what is illegal is an issue for me.
581 However,...

582 CHAIRMAN COLE: Excuse me?

583 MS. HUGHDON DEAL: Yes, ma'am?

584 CHAIRMAN COLE: Would you wrap it up?

585 MS. HUGHDON DEAL: Yes, yes. However, I would just like to see...I
586 love Grand Junction. I love the...the environment here and I just see, sir, that this
587 gentlemen's club would just bring more prostitution, more drug addiction and more
588 crime to our area and I don't want to see that happen. Thank you.

589 CHAIRMAN COLE: Thank you. Someone else?

590 MS. FINDLAY: My name is Sarah Findlay. My address 2 0 2 North
591 Avenue, number 195. I am a recovered drug addict and alcoholic and I'm also an ex-
592 topless dancer. You're asking, what is a gentlemen's club. I was in the business
593 for...for over ten years and I can give you a pretty clear view of what a gentlemen's club
594 is.

595 I started dancing here in Grand Junction when I was 18 years old at
596 Cheers. That's where my cocaine habit started. Shortly after I tried doing cocaine I
597 began dealing cocaine out of the club. The deejay was dealing cocaine. And that was
598 just and Cheers was a strip club, yes. Then I ended up moving to New York and I
599 danced in places like Goldfingers, Scores - the top of the line gentlemen's clubs - and
600 the same exact thing that goes on in the dumpiest little strip club like Cheers goes on at
601 the top of the line club. I don't care how fancy you make it, how you gloss it over, the
602 same thing goes on. It destroys lives.

603 Ninety percent of the women that are dancing in those clubs become
604 hooked on drugs, become alcoholics. If any of you have daughters between the ages
605 of 18 and 30, please do not pass this. I really agree with what the gentleman said
606 about, you know, this is a college town. We have young women. This is going to put
607 our young women in danger. It's gonna...the crime rate is gonna go up. It's just...it'll
608 basically be a building where from what I have seen it makes it easier for the drug
609 dealing and the prostitution to go on having an establishment like that and I have
610 worked in many, many clubs.

611 I wrote you guys a letter and like I said, it's no matter how upscale you
612 make it, no matter how you gloss it over, even...I...I mean the idea of separating the
613 clients or I mean the dancers from the clientele, that's a great idea. That still doesn't
614 stop it. It doesn't...it doesn't stop them. Are you gonna not let the dancers drink at the
615 bar at all? You're not going to let 'em talk...talk to the customers? It's not gonna work.
616 They're still gonna interact. There's...there's still gonna be the prostitution that goes
617 on. There's still gonna be the drug dealing that goes on. There's still gonna be the
618 increased crime rate and it's...it's a negative for this community and the reason that I
619 can say that is because I was in the business for ten years. Thank you.

620 CHAIRMAN COLE: Thank you. Someone else?

621 MS. STAR: Hi. I'm Patty Star, 17 30 North 7th Street, and the
622 previous speakers were great and I haven't been in the business but what I want to say
623 is we have enough bars and we really don't need a strip club and I agree with
624 everything they say and what it does. And it's not what these people think. Well, they
625 think they need this. They think. If you don't want the revenue part of it in I won't say
626 anything about that but it's what our town wants. We don't want that, you know. And
627 those who say it's a moral issue or it isn't, I'm just saying my family goes way back to
628 great-great grandfather's time and great grandfather. And, you know, a town chooses
629 what they want and I think our choice should be no because it does bring in all that and
630 we have enough trouble with the bars. And I know this for a fact because what I do so
631 even though I'm here on a personal level I know for a fact things.

632 But, at any rate, the definition of a gentlemen's club, gentlemen, the
633 definition is not a strip club so...this is hard to say this in front of everybody but, like I

634 said, it's a choice. If you have children, wives, grandchildren, you'll have to think about
635 this and you all have to look at yourselves in the mirror and decide what's best for our
636 town not what's best for some people and the other people it would bring into our town.
637 Okay? So the choice is up to you.

638 CHAIRMAN COLE: Thank you. Someone else?

639 MR. FERRIS: I'm Mike Ferris. I own Western Slope Auto Company
640 for 30 years. As I thought about what I'd say tonight I realized it's just past - a couple
641 days ago or a week ago. But this is...this is a car dealer's worst nightmare is to have a
642 bar located next to their business and this is just across G Road from my business
643 which is about 20 acres of facility and millions of dollars in inventory. And the problem
644 for a car dealer being near a bar is the vandalism and the theft that occurs after hours,
645 late at night, as a result of reduced inhibitions and so forth and so when I saw...saw the
646 notice on this my concern was what's going to happen as a result of these people
647 leaving at one in the morning, two in the morning.

648 I was previously at Second and Main up until 1983. So I've been out at
649 the current location for 25 years but somebody broke into the...into the dealership at 2nd
650 and Main and so the police called me and I went down and we went through and looked
651 at the facility. Incidentally they send me first. I thought that was interesting. They had
652 the guns and they sent me first but we...we...we went through the facility to...and...and
653 there was nobody there and so we walk out and so on and they're taking down the
654 information and somebody walked out of the bar that was down there and started to get
655 under the dash of my car. He didn't even notice standing as close as I am to you

656 people that this was a police officer and me and he was hot wiring my car right there in
657 front of him.

658 But the vandalism that I suffered when I was down at 2nd and Main was
659 ongoing, it was non-stop, it was theft, it was spare tires, it was bumpers, it was...the
660 worst part though always for me was when somebody would scratch the paint on a
661 brand new vehicle and...and in a way violate that brand new vehicle where it's never
662 quite the same and so forth. If they took something I almost felt better about it than I
663 did about the other.

664 But we've got, you know, a couple little minor things from a planner
665 her...her comments. One is she had said the northwest corner. I think it's the
666 northeast corner as I see it at G Road and Colex is the actual address and immediately
667 behind that is a home and I...maybe nobody's living in that home now. Maybe it's not
668 zoned residential but there's a home immediately behind it and I believe there's another
669 one on the other side of that and certainly is within a thousand foot. If those are being
670 occupied or if they...if the zoning has not been changed on those locations. So
671 those...so those are two minor things.

672 Another couple things is the exits onto Highway 6 and 50 are really
673 questionable because you've got that slope to the west as you go out of there and it's
674 hard to see and turn back and go to the east. And then 23 Road is really famous for all
675 the accidents – serious accidents - that occur at that area. If they go down to 23 Road
676 on G Road and then go up to get onto 6 and 50 so...so there really is some problems in
677 terms of traffic patterns that would be exacerbated by a facility like this. As I think about
678 it, you know, this facility is gonna attract younger males on average. It's gonna attract

679 people who like to drink and it's...it creates a situation that is really a bad situation
680 businesswise for me because of the fact that vandalism and theft is gonna go way up.
681 So thank you very much.

682 CHAIRMAN COLE: Thank you. Someone else like to speak?

683 UNIDENTIFIED SPEAKER: Mr. Dibble, you asked a question awhile
684 ago what was a gentlemen's club? I think we've heard...heard what the answer was to
685 that already. I live in Clifton, that's going to be further away from this place.

686 CHAIRMAN COLE: Sir, what's your name?

687 MR. TEVIS: My name is Charles Tevis. I signed.

688 CHAIRMAN COLE: Okay, but we still need you to speak it.

689 MR. TEVIS: Okay, my name is Charles Tevis. We're talking about
690 Grand Junction there but you know it also includes the other towns in this valley. It
691 does. You're gonna make a decision for Grand Junction but it also includes Fruita,
692 Mack, this little town, it will also include some like Palisade, little town out here, what is
693 this little town out here...we have out here? You pass right by it. Anyway it's there.
694 Those people live here.

695 I'd like to read the first sentence here on this paper I picked up back there
696 - planning commission members are dedicated volunteers who work long hours for the
697 betterment of our community. I do not think a strip joint - and that's what it's gonna be -
698 is for the benefit of our community. Nobody's talked anything about anything about
699 morals. But I'd like to lift up a little bit about morals right now and I don't want to take
700 too much more time.

701 CHAIRMAN COLE: That's not appropriate for this.

702 MR. TEVIS: But morals should be...should be included because
703 that's what should be included when you make your decision.

704 CHAIRMAN COLE: I don't necessarily disagree with you.

705 MR. TEVIS: I'm not going to bring up Christianity. I'm not going to
706 bring up a lot of things like that, sir. But I do want to tell you but there's a lot of people
707 in this whole valley think no to this kind of thing. Thank you.

708 CHAIRMAN COLE: Thank you. Someone else who would like to
709 speak in opposition?

710 MR. JACOB: My name is Mike Jacob and I want to thank the ladies
711 and gentlemen for allowing us to speak our thoughts this evening and just based on
712 what we have seen go out at 30 Road with Rumbay and all of the violence and the
713 crime that's been going on out there, the extra police expense to try to keep some of
714 that under control I think it's going to be worse...even worse out here. There's gonna
715 be more activity, it's going to be more perverse, it's going to be worse and I would
716 submit that anyone who attends one of these gentlemen's club is anything but a
717 gentleman.

718 CHAIRMAN COLE: Thank you. Someone else like to testify this
719 evening? Yes, sir?

720 MR. DEAL: Good evening. My name is Robert Deal. I live at 13
721 13 North 18th Street.

722 CHAIRMAN COLE: Could you say that again, please?

723 MR. DEAL: My name is Robert Deal.

724 CHAIRMAN COLE: Thank you.

725 MR. DEAL: I live at 13 13 North 18th Street. I would like to
726 present two things here. First is, I spent 13 years in the military. I've been to a lot of
727 gentlemen's clubs across the world and as somebody said earlier it doesn't make any
728 difference whether it's on the south side of some little town or upscale European club.
729 They all are the same. The same thing comes out of them.

730 The second point I would like to make some of you may have lived in this
731 area long enough to remember a place called the Colorado Club out west of here.
732 There have been many, many, many people killed returning from Grand Junction from
733 that Colorado Club. Having a place this far out of town, how are these people gonna
734 get back and please don't tell me they don't get intoxicated and that far out of town
735 they're not gonna call a cab. You're gonna find traffic accidents between there and
736 Grand Junction rising very significantly including fatalities because of something like
737 that. Thank you.

738 CHAIRMAN COLE: Thank you. Someone else? Is there anyone
739 else who would like to speak this evening in opposition to this application? Okay,
740 seeing none we will close the public hearing and we will allow the applicant to come
741 back up for any rebuttal that they would like to make.

742 MR. SIMS: Bryan Sims, Design Specialists Architects. I will
743 speak plainly to the merits of what we have attempted to do in our design, the site plan
744 and the building design to mitigate the circumstances that have come about that we
745 have talked about tonight. Also I learned something I wasn't aware of and that is the
746 car dealer bringing up the aspect of increased vandalism in the area. If this is
747 something that is of concern I do know that the police...the police are...if you put

748 something like this in an area, the police are well aware of that something is there
749 where it is not presently. That in itself causes increased enforcement in that certain
750 area.

751 Obviously we can't solve all the problems of the offsite situations. That is
752 something that...that the infrastructure of the town obviously is going to have to be
753 faced with at some point. But I do want to emphasize that within the...the...the realm of
754 us making a presentation for the benefit of our client and trying to design a facility that
755 we feel serves not only the physical needs of what our client's trying to build but his
756 business interest this is the type of facility that...that is probably good for Grand
757 Junction in...in...in an economic sense.

758 As far as getting into morals, I won't discuss morals either. I don't think
759 morals is an issue here. I think really what is an issue here is...is a business person
760 doing a reputable business and doing it properly. That's why we're involved in this
761 process. That's why we were hired to represent this person because we worked with
762 this person on other projects and, no, we will not speak to his character but I can speak
763 to his character he is a very good character. So we're not dealing with some kind of
764 Las Vegas immigrant if that's what we're worried about.

765 I'll just emphasize the fact that we've tried to solve all the problems. I
766 think the planner has emphasized that we have and as this is passed...as this is
767 passed in a positive manner we'll make every attempt and will make every attempt to
768 solve any problems that have come up within this commentary. So we'll do the best in
769 our professional expertise to do that and I think the owner has told me that his

770 management principles, he'll do everything in his power to mitigate circumstances that
771 have come up in the other areas so that's the best I can give you at this point.

772 CHAIRMAN COLE: Okay. Are there any questions from the
773 commission? Is it appropriate for us to question, Jamie?

774 MS. BEARD: Are you asking if you can question the applicant?

775 CHAIRMAN COLE: Yes.

776 MS. BEARD: Yes, you're entitled to do that.

777 CHAIRMAN COLE: Okay, okay. Are there questions of the
778 applicant? Okay, hearing none we will bring it back to the commission for discussion.
779 Thank you, sir.

780 MR. SIMS: You're welcome.

781 CHAIRMAN COLE: I might ask the city attorney's office what we
782 are to consider this evening. If you would just summarize that for us.

783 MS. BEARD: As a conditional use permit, then what you are
784 supposed to consider is the criteria that is listed for a conditional use permit which
785 includes the site plan, the district standards which are those included for an I-1 zone,
786 the specific standards which are the use specific standards that we were referring to
787 earlier in regards to the adult entertainment and then the availability of complimentary
788 uses, compatibility with adjoining properties and that would include protection of
789 privacy, description and protection of use and enjoyment and then compatible design
790 and integration. That is your criteria for consideration.

791 As to some of the other things that were brought up and concerns that
792 were mentioned by some of the testimony, if it doesn't fit within the criteria and

793 consideration for determining whether or not the criteria has been met, then that
794 information isn't the information that you should be considering as relevant.

795 CHAIRMAN COLE: Okay, thank you. Let me just make one quick
796 comment. If this is approved at this stage, I realize that many of you as that have come
797 tonight think that this is a camel with it's nose under the tent thing and you're trying to
798 get your...your piece said right at the beginning of it, I understand that. But we do have
799 criteria to...to consider here tonight. There will be such things as liquor license
800 hearings and those types of hearings that...that will come up at a later date and at that
801 time it would also if this passes this evening would be appropriate for you to...to give
802 your testimony at that time. Is that...would you agree with that?

803 MS. BEARD: Yes, there will later be...it's my understanding they
804 have not received a liquor license at this time so there would still be a liquor hearing as
805 far as approval by the local office which would include Grand Junction.

806 CHAIRMAN COLE: And at that time the needs and the desires of
807 the neighborhood can be considered. Okay, with that does the commission have
808 comments that they would like to make?

809 COMMISSIONER DIBBLE: I have a question for staff. In, excuse
810 me, in looking over the lot I noticed as has been referred to that there are a couple of
811 houses – two of them obviously looked like they were abandoned but one of the...one
812 of the on the back had two cats in the yard and a car in the drive. I don't remember
813 who sang that song but two cats in the front yard and I'm just wondering if it's been
814 determined or ascertained that there's occupancy in that house? It looked like it could
815 be but here again.... and whether or not that has any bearing or not I'm curious.

816 MS. BEARD: Technically as the criteria indicates that it must be
817 zoned for residential property and it is not zoned for residential property, it's actually I
818 believe either I-1 or commercial or no, I'm sorry, it's actually not in the city at this time
819 so I'm not positive exactly what it is in the county but it's not residential.

820 COMMISSIONER DIBBLE: But it is an allowed use and until that
821 changes it will be occupied or available to occupancy?

822 MS. BEARD: If I can clarify they just indicated to me that staff has
823 that it is actually in the city. It is I-1 is what it's present zone is. And, I'm sorry, then.
824 What was the second question you asked there?

825 COMMISSIONER DIBBLE: If it is occupied it can continue to be
826 occupied?

827 MS. BEARD: If it is presently occupied and has been used as a
828 residential property and has continued to be used as such then they would be able to
829 continue that use.

830 COMMISSIONER DIBBLE: So they've got a residential neighbor in
831 other words?

832 MS. BEARD: If they have a residential neighbor...if there's
833 somebody living there but technically it's not part of the criteria for consideration so I
834 don't know if staff's made a definite determination of that or not.

835 COMMISSIONER DIBBLE: There was a general meeting held, staff,
836 for the property?

837 MS. COSTELLO: Yes.

838 COMMISSIONER DIBBLE: Okay, and there was not a
839 neighborhood meeting held, is that correct?

840 MS. COSTELLO: No.

841 COMMISSIONER DIBBLE: Okay. As long as I'm...

842 COMMISSIONER PITTS: I think a point of clarification on the...on
843 the zoning thing if I'm not mistaken it was probably residential or farm ground much
844 prior to it ever being industrial. That's just an observation of being a resident for 42
845 years. Farm ground before it was industrial. Anyway.

846 COMMISSIONER DIBBLE: Is the property to the...to the west
847 zoned I-1 also across Millex Road or whatever that is?

848 CHAIRMAN COLE: Colex Drive.

849 COMMISSIONER DIBBLE: Colex.

850 MS. COSTELLO: This is the zoning map for the property and the
851 surrounding area. To the east, north and west all of those properties are zoned I-1 and
852 the property south of G Road is zoned C-2.

853 COMMISSIONER DIBBLE: Okay, so potentially within the criteria of
854 the zoning matrix it...we could have x number of applications for bars and nightclubs to
855 the west of this property?

856 MS. COSTELLO: Potentially.

857 COMMISSIONER DIBBLE: Okay. Because that's germane to the...

858 MS. COSTELLO: It is an allowed use with the C-U-P.

859 COMMISSIONER DIBBLE: And the criteria in chapter 4? So as
860 long as they meet the criteria we could end up with 5, 8, 10 bars out there?

861 MS. COSTELLO: Potentially if it met the criteria.

862 COMMISSIONER DIBBLE: A neighborhood of gentlemen's clubs,
863 right?

864 MS. COSTELLO: Well, for the gentlemen club, for the adult
865 entertainment component, there is the thousand foot spacing requirement between
866 uses but if they met the requirements.

867 COMMISSIONER DIBBLE: Okay. I still have a problem with the
868 understanding of what we're really...what we're really grueling on this evening. We
869 have specific designated jurisdiction over bar nightclub and we have no jurisdiction if
870 they weren't a bar nightclub but they were an adult entertainment club?

871 MS. COSTELLO: Correct.

872 COMMISSIONER DIBBLE: I have...I have a real problem. They
873 have come before us as we have been given a staff report that asks for a C-U-P to
874 operate a bar nightclub in an I-1 zone district and that's required in order for them to
875 operate and the two areas of consideration for this as you have described because of
876 the adult entertainment have added chapter 4. Is that correct? We would be going by
877 2.2.D 4 if it weren't for the adult entertainment portion describing by definitions adult
878 entertainment and adult entertainment establishments. Those are definite definition
879 descriptions for the process that the city recognizes to control or to oversee adult
880 entertainment. Is that correct?

881 MS. BEARD: Those are the use specific standards that are set
882 forth in the code in regards to adult entertainment. Correct.

883 COMMISSIONER DIBBLE: And that's what you're telling us we
884 need to also consider along with the...the aspects. Those are called accessory use
885 specific aspects, right?

886 MS. BEARD: And as they are part of the actual criteria for a
887 conditional use permit then it is part of your consideration to say yes it has or has not
888 been met.

889 COMMISSIONER DIBBLE: Okay, but section 2.2.D 4 is really the
890 zoning ordinances that we need to look at and personally after reviewing the area of
891 buffering I'm sure and have been assured by the applicant that there will be adequate
892 parking, there will be fine lighting, there'll be I understand a fence or some kind of a
893 buffer item. Building design standards seem to be in order. The sign conditions I
894 wasn't sure about the sign conditions but they appear...we didn't get a copy of that by
895 the way I don't think, did we in our packet? But I looked at them as they came by and
896 they looked like they conform.

897 Traffic is still a question mark in my mind. That is a dangerous stretch of
898 road especially at the corner of 23rd and G and I believe they're going to be doing
899 something about that, mister engineer. Is that correct? And so that definitely has
900 already been earmarked as a danger area. Well, this will add traffic and probably quite
901 a bit.

902 But I can't take issue with the...with those particular things but as I review
903 the growth plan I have deep concerns that consistency with the growth plan have not
904 been met. If we refer to goals and policies that substantiate an integral part of this
905 program, goal number one states that the proposal must achieve a balance with the

906 integrity of the communities' neighborhoods. Communities' neighborhoods is greater
907 in...by definition of the word nomenclature and logology of it is different than that
908 neighborhood immediately adjacent to the property. Neighborhoods opens the
909 expanse and I would in my own mind consider Grand Junction as part of that extended
910 neighborhood.

911 The word integrity sticks out in that...in that policy. It's my understanding
912 of integrity that adherence to moral principle and character are directly related to
913 understanding the meaning of that word. Another way of looking at it and I came up
914 with a way of preserving the unimpaired structure of something and I contend this
915 evening that the neighborhoods of Grand Junction are that unimpaired structure that
916 we're trying to preserve by due diligence.

917 A sub-policy within goal one states city and county decisions about the
918 type and intensity of land uses will be consistent with the future land use and map and
919 planned policies. And goal number eleven states to promote stable neighborhoods and
920 land use compatibility throughout the community. If the first goal didn't broaden it
921 enough this certainly does. And policy 11 1 further stresses the compatibility with the
922 zoning codes including other sources of incompatibility and I'm quoting directly from the
923 policies and the goals.

924 So I believe the evidences of incompatibility expressed by the public here
925 tonight as well as the preponderance of letters coming to us including those that we
926 didn't get a chance to look at tonight do in fact express an opinion about the
927 compatibility in our community. I don't believe that a bar, and I'm looking at this now a
928 little different than you're looking at it, and I may be...I may stand corrected someday,

929 I'm looking at it for the fact that this property could be an automatic use with
930 administrative approval without our consent if it were...had no drinking on the premises.
931 But because it has drinking on the premises, I'm separating this in my mind and saying
932 is this a bar nightclub application as required under our jurisdiction and I say it is and I
933 say in my opinion it has...it is not a fit for Grand Junction and I don't believe the goals
934 of the growth plan and the lifestyle that's exercised within the building are also a fit for
935 Grand Junction. Therefore, I would have to consider a no vote.

936 CHAIRMAN COLE: Thank you.

937 COMMISSIONER PITTS: Mr. Chairman?

938 CHAIRMAN COLE: Yes.

939 COMMISSIONER PITTS: Without going into the detail that my
940 cohort Doctor Dibble did, there's really two things that I have based an opinion on and
941 that is the compatibility with the neighborhood, with the growth plan and in the I-1 zone
942 area but I'll throw in another one and that is a benefit to the community – the entire
943 community – the entire Mesa County within 200 miles of us. And then there was a
944 comment made...well, I won't refer to that...but those I will...I will underscore what
945 Doctor Dibble said and add to it the benefit to the community but he already mentioned
946 the neighborhood and consequently I cannot support the proposal as presented.

947 CHAIRMAN COLE: Someone else?

948 COMMISSIONER CARLOW: I didn't....when I got out of college I was
949 a bartender for five years. I didn't realize I was such a rotten person until tonight. I
950 don't disagree with some of the comments that have been made. I do have or think
951 that the...if...if that's the prevailing opinion then it would call for a rewrite of the uses by

952 right or the conditional uses and I think it's awfully late in the game to be proposing that.
953 And in light of that I would vote in favor of it.

954 COMMISSIONER PUTNAM: We have been advised by staff that the
955 courts have held that this kind of thing is protected by the...I guess amendment one of
956 the U. S. Constitution - free speech. You may not agree with looking at unclad women
957 as free speech but that's immaterial. We have to be governed by what the Supreme
958 Court says and I can't buy the allegation it doesn't make it true just because somebody
959 says it's true that automatically the...the establishment of someplace like this is...is
960 gonna produce drunkenness, disorderly conduct, bad driving, vandalism, et cetera. It
961 may be true but just saying it doesn't make it true. It seems to me that the staff's
962 argument that...that we ought to approve this and they say they recommend it should
963 be taken seriously and I...I'm prepared to take their recommendation.

964 CHAIRMAN COLE: Okay, anyone else like to make a comment
965 this evening? I would just like to make a couple of comments. I happen to agree that
966 most of the conditions that have been expressed by staff have been met. I...I have
967 certain personal feelings concerning this matter that I...I cannot or will not consider and
968 as I look at this I've listened to all of the testimony; however, I think that Doctor Dibble
969 has made a very valid point and that is the compatibility to the neighborhood and I
970 would have to agree with him that the neighborhood is in fact the city of Grand Junction.
971 I may be called into question about thinking that and so with that in mind I will have to
972 vote no on this application. Does anyone else like to speak? Hearing none, we are
973 ready for a motion on the....on the application this evening.

974 COMMISSIONER DIBBLE: Mr. Chairman, on the bar nightclub
975 conditional use permit, C-P-U, 2008-158, I move that the planning commission approve
976 of the conditional use permit with the facts and conclusions listed in the staff report.

977 COMMISSIONER PITTS: Second.

978 CHAIRMAN COLE: We do have a motion and a second. I think I
979 will ask for a roll call vote on this.

980 MS. SINGER: Commissioner Pitts?

981 COMMISSIONER PITTS: No.

982 MS. SINGER: Commissioner Pavelka-Zarkesh?

983 COMMISSIONER PAVELKA-ZARKESH: No.

984 MS. SINGER: Commissioner Dibble?

985 COMMISSIONER DIBBLE: No.

986 MS. SINGER: Chairman Cole?

987 CHAIRMAN COLE: No.

988 MS. SINGER: Commissioner Putnam?

989 COMMISSIONER PUTNAM: Aye.

990 MS. SINGER: Commissioner Lowrey?

991 COMMISSIONER LOWREY: Yes.

992 MS. SINGER: Commissioner Carlow?

993 COMMISSIONER CARLOW: Aye.

994 CHAIRMAN COLE: Motion fails so the application has been
995 denied. Is there any other business to come before the commission this evening?
996 Hearing none, we are adjourned.

END OF VERBATIM MINUTES.



RECEIVED

AUG 22 2008

COMMUNITY DEVELOPMENT
DEPT.

August 22, 2008

Director of Community Planning
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

Re: Appeal to City Council
File No.: CUP-2008-158
Bar/Nightclub and Office/Warehouse
2256 and 2258 Colex Drive

The owner of the above subject property was aggrieved by a final decision of the Planning Commission on the August 12, 2008 hearing, and wish to appeal this decision in accordance with Section 2.18.E of the Zoning and Development Code.

The applicant wishes to address the following approval criteria of Section 2.18.E.1.a, in reference to the applicable items:

Item (4): The decision maker may have acted arbitrarily, acted capriciously, and/or abused its discretions.

In justifying their "no" vote, 2 of the commissioners said the club is not compatible with the "neighborhood" and widened the definition of neighborhood to encompass all of Grand Junction. This brings to item 1 of the criteria:

Item (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

Chapter 9 of the Zoning and Development Code defines a neighborhood as:

An area of a community with characteristics that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by

physical barriers, such as major highways and railroads or natural features, such as rivers. (Note: Historically, the Neighborhood was defined as the area served by an elementary school, with shopping and recreation facilities to serve neighborhood residents. While the description is probably dated, the Neighborhood designation is useful in analyzing the adequacy of facilities and services and in identifying factors affecting the quality of the built environment. In addition, as a distinct and identifiable area, often with its own name, Neighborhoods are recognized as fostering community spirit and sense of place, factors recognized as important in community planning.) Or: That area with definite boundaries as determined by the Director on a case-by-case basis to meet the intent and purpose of the Code.

We note that numerous bars and nightclubs are located in widely dispersed locations throughout the City.

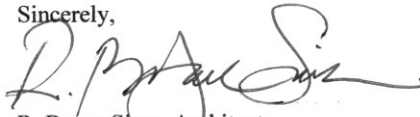
The proposed business is an allowed usage and meets all the criteria established in Chapter 3, Table 3.5 and Chapter 4, Section 4.B of the Zoning and Development Code. In addition, the form of entertainment is an allowed use by right. We believe the decision to deny the application was based on the type of entertainment provided by the bar/nightclub. All technical aspects of the Zoning and Development Code were met with regards to a conditional use permit.

Which brings us to item (5) of the criteria:

- (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.

The official record will show that Bryan Sims of Design Specialists, acting as the owner's representative, provided testimony to the August 12 hearing. Additionally, the Owner, Kevin Eardley, was present at the hearing, but did not provide testimony.

Sincerely,



R. Bryan Sims, Architect
Owner's Representative



Kevin Eardley, Owner

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

November 5, 2008

The City Council of the City of Grand Junction convened into regular session on the 5th day of November 2008 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Doug Thomason, and Council President Gregg Palmer. Councilmember Linda Romer Todd was absent. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Palmer called the meeting to order. Councilmember Coons led in the Pledge of Allegiance.

Council President Palmer announced that no additional public testimony will be taken on Item #5, the appeal. It is an appeal on the record only and no new testimony can be taken.

Certificates of Appointment

Mark Abbott, Patrick Carlow, and Ebe Eslami were present to receive their Certificates of Appointment to the Planning Commission.

Presentations

Stephanie Tuin, City Clerk, gave a report on the Election Results. She reviewed the phenomenal turnout of the City voters and then pointed out the number of those that did not vote on items 2A and 2B.

Councilmember Hill thanked City Clerk Stephanie Tuin for her work with Kids Voting which also had a great turnout.

Citizen Comments

There were none.

CONSENT CALENDAR

Council President Palmer asked that item #1 be pulled for individual consideration.

Councilmember Thomason read items on the Consent Calendar, and moved to approve the Consent Calendar items #2 and #3. Councilmember Beckstein seconded the motion.

Motion carried by roll call vote with Councilmember Hill recusing himself from the vote on Item #3, Colorado Avenue construction contract.

1. **Contract to Purchase Property at 302 S. 7th Street**

City Staff has negotiated with the owners of 302 S. 7th Street, Bert W. Younger, Dan L. Younger, and Glen R. Younger, for purchase of the property. The negotiations have been successful and a purchase contract for \$321,678.00 has been signed by both parties.

Action: Moved to individual consideration.

2. **Setting a Hearing on the Loy Rezone, Located at 2872 F Road** [File #RZ-2008-273]

A request to rezone 1.425 acres from R-5 (Residential, 5 DU/Ac) zone district to RO (Residential Office) zone district located at 2872 F Road.

Proposed Ordinance Rezoning a Parcel of Land from R-5 (Residential– 5 DU/Ac) To RO (Residential Office) Located At 2872 F Road

Action: Introduction on Proposed Ordinance and Set a Hearing for November 19, 2008

3. **Construction Contract for Colorado Avenue Reconstruction Project Phase II, Landscape and Irrigation**

This project consists of installation of irrigation system and landscape for Colorado Avenue from 2nd Street to 7th Street, including two (2) parking lots in the 500 and 600 blocks.

Action: Authorize the City Manager to Sign a Construction Contract for the Colorado Avenue Reconstruction Project Phase II Landscape and Irrigation to Urban Farmer, Inc. in the Amount of \$207,694.98

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Contract to Purchase Property at 302 S. 7th Street

City Staff has negotiated with the owners of 302 S. 7th Street, Bert W. Younger, Dan L. Younger, and Glen R. Younger, for purchase of the property. The negotiations have been successful and a purchase contract for \$321,678.00 has been signed by both parties.

City Attorney John Shaver reviewed this item. He described the location of the property. The property is for the future Public Safety Facility.

Councilmember Hill noted there are some items in the budget that are linked for the Public Safety Initiative. He noted that the project is a priority project for the City Council. The funding option is what was defeated. With the funding option not being approved, other options will need to be explored with those folks that did not favor the funding options put forward. He is comfortable with continuing to use those funds budgeted for the initiative.

Councilmember Coons agreed; the defeat of the ballot measures does not mean the need has gone away. She supports the continuation of the project. Additionally, the City negotiated in good faith with the Younger family and should go forward.

Councilmember Thomason stated the reason this was taken off the Consent Calendar was to reiterate that the project is still a priority.

Councilmember Doody agreed, stating assemblage of the property is still good business.

Council President Palmer said he has discomfort about going forward when the matter was just defeated. He felt that there still needs to be an analysis as to why the vote was a defeat. However, he does still support the project.

Councilmember Beckstein said the defeat was due to funding and may have been the economic situation of the nation. The need is still there. The City needs to go forward and get prepared. The project is already fifteen years too late.

Resolution No. 139-08—A Resolution Ratifying the Contract to Purchase Real Property Located at 302 S. 7th Street, Grand Junction

Councilmember Thomason moved to approve Resolution No. 139-08. Councilmember Beckstein seconded. Motion carried by roll call vote with Council President Palmer voting NO.

Public Hearing—Merkel Growth Plan Amendment, Located at 769 24 ½ Road and 766 24 Road [File #GPA-2006-126]

Request to amend the Growth Plan, changing the Future Land Use designation from Estate (1 DU/2-5 Ac) to Commercial for property located at 769 24 ½ Road and 766 24 Road.

The public hearing was opened at 7:21 p.m.

David Thornton, Principal Planner, presented this item. He described the location, the site and the proposal. He entered the Staff Report into the record. The current designation of the property is Estate and it is surrounded by Estate designated land. The property is about 15 acres. The current zoning is partially rural and the Merkel

property is awaiting zoning since being annexed. There was a development proposal for a shopping center for the property but that was withdrawn. Now the property owners have asked to go forward with the Growth Plan designation and then the zoning. Two of the parcels (Parcels 4 and 5) are already zoned Commercial.

Mr. Thornton then addressed the North Central Valley Plan and its recommendation for this site. There are access issues for the southern most parcels.

Mr. Thornton reviewed the history of these parcels being brought into the Persigo Sewer Service boundary. All of these parcels were recommended for commercial uses in that study (Sub Area Plan).

With a Growth Plan Amendment, there are criteria to be reviewed. The review was as follows:

- a. There was an error such that then existing facts, projects or trends (that were reasonably foreseeable) were not accounted for. Mr. Thornton did not believe the designation was due to an error.
- b. Subsequent events have invalidated the original premises and findings. It was Mr. Thornton's opinion that with the continued growth in the community and the analysis done regarding traffic and access issues in the 24 Road corridor north of I-70, particularly for the 57 acres which includes the 15 acres already designated commercial, the original premise to establish the commercial boundary confined to only the two parcels totaling the 15 acres as the only area that should be commercial is no longer valid. This includes traffic access issues on 24 Road, noise impacts from I-70 and the visibility of this site for commercial purposes.
- c. The character and/or condition of the area have changed enough that the amendment is acceptable. Mr. Thornton advised that the character of the Appleton area as well as the traffic using the 24 Road interchange shows that the neighborhood has been and continues to be developing with urban land uses. I-70 continues to see an increase in daily traffic which increases the noise and traffic impacts to 24 Road. A commercial designation is more appropriate for all properties located on the north side along I-70 between 24 Road and 24 ½ Road. The south side of I-70 is Canyon View Park, a park facility that at times serves hundreds, even thousands of visitors on the same day, with it traffic and other impacts to the urban environment. All of this supports a change to this Land Use designation.
- d. The change is consistent with the goals and policies of the plan, including applicable special area, neighborhood and corridor plans. Mr. Thornton referred to the plans and goals this change would fulfill.

The 1998 North Central Valley Plan recommends non-residential highway oriented services at the northeast corner of Interstate 70 and 24 Road.

The amendment is consistent with goals of the Growth Plan. It is important to ensure that the Future Land Use Map designates sufficient land in appropriate locations to accommodate anticipated demand for each land use category.

- e. Public and community facilities are adequate to serve the type and scope of the land use proposed. Mr. Thornton advised that there are adequate public facilities currently available and can address the impacts of any development consistent with a "Commercial" designation. The Colorado Department of Transportation completed interchange improvements including a double round-about at I-70 and 24 Road a couple of years ago which has increased the capacity and safety of this interchange and provided increased capacity for traffic to this site.
- f. An inadequate supply of suitably designated land is available in the proposed land use. Mr. Thornton stated that the commercial areas already designated are too limited in size and the existing commercially designated property has access issues so would not fulfill the need.
- g. The community or area, as defined by the presiding body, will derive benefits from the proposed amendment. Mr. Thornton advised the change will provide 57 acres on a site with highway visibility and flat terrain that is heavily impacted by highway noise. Commercial uses in this area will act as a buffer and transitional area from a high impact area (a busy interstate highway system) to less intensive land uses north of the site. With the visibility for business, economic value can be realized for the community.

In conclusion, he believes the request is consistent with the intent of the Growth Plan and recommends approval. Planning Commission also recommended approval.

The applicant was not present.

There were no public comments.

The public hearing was closed at 7:39 p.m.

Councilmember Hill noted the Council is familiar with this area due to its review for inclusion in the Persigo 201 boundary. He believes the request meets the criteria of the Growth Plan Amendment and would support the change.

Councilmember Doody said the potential for the development of this property is huge, as demonstrated while the previous shopping mall application was being processed. This property has potential and he supports the change in designation.

Resolution No. 140-08—A Resolution Amending the Growth Plan of the City of Grand Junction to Designate 42.28 Acres, Located at 769 24 ½ Road and 766 24 Road, Known as the Merkel Growth Plan Amendment, from Residential Estate (1 DU/2-5 Ac) to Commercial

Councilmember Thomason moved to adopt Resolution No. 140-08. Councilmember Hill seconded the motion. Motion carried by roll call vote.

Appeal of the Planning Commission's Decision Regarding a Conditional Use Permit for a Bar/Nightclub [File #CUP-2008-158]

An appeal has been filed regarding the Planning Commission's decision to deny a Conditional Use Permit for a Bar/Nightclub, to be located at 2256 and 2258 Colex Drive. The project sits on 1 lot in an I-1 (Light Industrial) zone district. (The project will include leased parking spaces from the lot immediately to the north.) 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.

John Shaver, City Attorney, reviewed the process for this action. The City Council is the appellant body for some decisions made by the Planning Commission; this is one such item. The Planning Commission reviewed this item and the request was denied. That denial has been appealed to the City Council. The City Council was provided the complete record including a video of the Planning Commission proceedings in order to consider the appeal. The Code allows the City Council to approve, reverse, or remand the application. City Attorney Shaver explained each one of those actions. In order to reverse or remand the application, the City Council should find one the following:

- (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; and

(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.

The City Council is not to substitute their judgment for the Planning Commission.

Councilmember Thomason said he did review the record and his thought was to remand the matter back to the Planning Commission with some direction, that being to narrow the scope of the discussion as it pertains to the definition of the neighborhood.

Councilmember Coons asked about the precedence in the definition of the neighborhood and what are the allowable uses in that zone district.

City Attorney Shaver said there is not specific legal precedent as to the definition of a neighborhood. It should be accorded the common definition; it is generally not encompassing the entire community. The Planning Commission used a much more expansive definition than the common definition.

Council President Palmer asked if the Planning Commission has ever used the community as the definition of the neighborhood. Neither City Attorney Shaver nor Assistant City Attorney Beard could recall such a time.

Senta Costello, Senior Planner, stated the allowed uses for this zone district range from general office uses, veterinary clinics, parking lots, to public service businesses.

Councilmember Coons asked what would be a use by right for this type of business. Ms. Costello said, with this business, it is the bar component that triggered the Conditional Use Permit (CUP).

Council President Palmer clarified that it was the alcohol application that triggered the CUP. Ms. Costello replied affirmatively.

Councilmember Beckstein asked that without the alcohol, it would have been a use by right. Ms. Costello said yes, it would have only had a site plan review.

Council President Palmer asked if the City could outlaw certain types of businesses. City Attorney Shaver said the City can do that but whether it is constitutional is the question. It would not be; it is protected under the First Amendment.

City Attorney Shaver read the definition of a neighborhood from the City Zoning Code.

Councilmember Coons noted that many people in the community feel this type of business is distasteful and morally wrong but the City Council must follow the City requirements. She is hesitant to designate the entire community as a neighborhood. She agrees with Councilmember Thomason to remand the matter back to the Planning

Commission with the instruction that they consider it under the normal definition of a neighborhood.

Councilmember Doody agreed, adding they should consider it like any other establishment under the CUP process.

Councilmember Hill noted that most of the objections received were about the gentlemen's club part, not the service of alcohol. Unless it is an activity that is unlawful, the City has to make it allowable. It is heavily regulated so they are upholding some community values. This body cannot just say no because they don't like it, that creates a risk for a legal situation. Even the denial of the CUP would not stop the gentlemen's club activity. He supported remanding the matter back to the Planning Commission with the instruction for them to focus on the definition of a neighborhood and on the reason for the CUP.

Council President Palmer reiterated the purpose of the City Council sitting as the appellant body and their charge under those criteria. He stated that the Planning Commission may have acted in a manner inconsistent with the provisions of this Code or other applicable local, State or Federal law and they may have made erroneous findings of fact based on the evidence and testimony on the record so he also agrees with remanding the matter back to the Planning Commission.

Councilmember Coons moved to remand the matter back to the Planning Commission with the instruction for them to define neighborhood in the traditional sense in their consideration. The motion was seconded by Councilmember Hill. Motion carried.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting was adjourned at 8:09 p.m.

Stephanie Tuin, MMC
City Clerk

Oct. 31, 2008

City Council 250 N 5th St Grand Junction, CO 81501

Honorable Mayor Jim Doody
Mayor Pro Tem Bonnie Beckstein
Council member Bruce Hill
Council member Linda Romer Todd
Council member Teresa Coons
Council member Doug Thompson

It has come to my attention there has been an appeal of the decision denying the application for the introduction of a gentleman's club or strip club to be opened in Grand Junction. Please, the original denial of the application was in the best interest of the city and the county. For our children's sake, our college's sake, our crime's sake, and the moral and social impact upon our community. We are already having trouble with drug and sex crimes. Would you not be adding to this problem by having a strip club (gentleman's club) in our valley? PLEASE DO WHAT YOU KNOW IS RIGHT AND KEEP THIS TYPE OF BUSINESS OUT OF OUR CITY.

Thank you for your attention to this matter.

Albert Jean Brown

Jeannine Brown

RECEIVED

NOV 11 2008

RECEIVED OCT 29 2008

Oct 27, 2008

To The Mayor and all Council
Members:

It deeply concerns my husband
and I: this is a very nice town.
We love living here. My daughter
and my grandchildren go to school
here. We do not need a strip club.
It will be built real close to
where a future High School will
be. There are many senior citizens
here. We soon will fit in that
age group.

We have many tourists that
come to see sights in this
town and that is one
sight we do not need. Las
Vegas is not that far away.
We don't need to become a
little Vegas. Morally, it's not
right and it brings more drug
and sex to this community.
We have fine young people
and a college that do not

need this. We have many
churches in this town
and we attend one. I
happen to know that many
will be writing you.

This is a growing, work-
ing family community.
The people that run these
places think only of them-
selves and not what is
right for everyone else.

Sincerely,

Suzanne D. Cantrell
Pete A. Cantrell



Members of City Council of Grand Jct. 10-27-08

I have noticed that the application for a "Gentlemen's Club" has been turned down by the Council, I thank you for doing this. We just don't need anything like this in our city. It could lead to more crime, and we have enough of this already, it also could have a bad effect on our young people.

I understand the persons who want it to happen and be built are going to appeal. Please vote again to turn their appeal down the city can get along without such a club as this we just don't need it.

Thanks you;

Earl Eubert
2962 N. Ronin Ave.
Grand Jct., Colo. 81504

RECEIVED

Earl Eubert



Attention: City Council members

Subject: Proposed Gentlemen Club

How quickly we forget what is morally right when it comes to tax money and what it can buy. Is it that hard to imagine the influence this club will have on young adults not to mention students of our new high school to be built not miles away? This club will open the door to prostitution, crime of every kind, and will change this town forever for the worse. Is it worth it? I pray that you will vote no on this most important measure. The people of this community are watching you, please don't let us down.

Respectfully Submitted
Charles W. Fay
2813 Cottage LN
Grand Junction CO.

RECEIVED

OCT 21-08

Two whom it may concern
I am a concerned citizen and
I don't believe we need a
strip club in Grand Jct. We
have enough of that kind of
stuff on I-70 and all around us.

Sincerely a Concerned Citizen
of Mesa County

RECEIVED

Oct. 28, 08

RECEIVED OCT 29 2008

Honorable, Jim Dody,
Mayor Pro Tem, Bonnie Beckstein,
Council Member, Bruce Hill,
Council Member, Linda Gomez Todd,
Council Member, Teresa Coons,
Council Member Doug Thompson

It is with deep concern that I write this letter in concern for our community and constituents. I write this to you, our elected leaders.

I found out that there has been an appeal of the decision denying the application for the introduction of a "gentleman's club" (a sociable way to say "strip club") to be opened in Grand Jct, or, for the entire Mesa County. I am sure that most of the voters of this community will agree we do not such an entertainment venues in our community.

It would have a negative moral & social impact on our

community, and the financial costs to the city are just 2 of many reasons we do not need or want such places permitted in our community. There would be more police costs for such places and plus the added drug & sex crimes. I hope your leadership as elected representatives reflect the family and personal moral strength upon which this community has been built.

Sincerely,

Mary Ellen Waid

RECEIVED OCT 29 2008

To *Gregg Palmer,*

I wish to state my opinion regarding the gentlemen's club. I don't feel this is an appropriate business to have in our community. There are enough adult businesses here already ; ie, North Ave. and 24 road . If people wish to participate in such things, they should go where they are available, like Denver, Vegas, or Salt Lake, and not bring them home. This is supposed to be a family oriented community. I feel it will decrease property value and increase crime, drugs, alcohol, and sex offences, especially in a college town. If this happens, the cost of police / sheriff protection will go up . This will defer money that is considered incoming revenue.

When the next election comes up, my family, friends, and co-workers will take this into our consideration.

Sincerely,

M. Crihari

M. Crihari

Oct. 31, 2008

Honorable Mayor and City Council Members,

I am writing about the pending appeal of the decision to deny an application for a "Gentlemen's Club" in our community of Grand Junction. I was so relieved when you turned down their original application, but now this 'beast' has raised its head again.

We can be so proud of our small city, with all it has to offer families, seniors, young people, both men and women. There is absolutely no reason for an establishment of this kind to be part of a community like ours. We are struggling here in Grand Junction with a drug problem, and, I believe, making good headway in combating the terrible effects of such a life on the various people who succumb to that lifestyle. I can only believe that a strip club ("gentlemen's club" is a misnomer, as no real gentleman would attend it) would attract more illegal and immoral business that we are striving to eliminate in Grand Junction. If not on moral grounds alone, please consider the financial cost to our town to police such a venue, with the following legal costs, etc. I can't help but believe that those costs would soon outweigh any tax revenue received from such a business.

Please, I am asking all of you to stand by your original decision and refuse this appeal, in the best interests of our community and its citizens.

Sincerely,



Jean L. Gorsuch

RECEIVED

OCT 24 2008

October 29, 2008

RECEIVED

OCT 31 2008

Honorable Mayor Jim Doody
Mayor Pro Tem Bonnie Beckstein
Councilmember Bruce Hill
Councilmember Linda Romer Todd
Councilmember Teresa Coons
Councilmember Doug Thompson

To One and All:

It is with deep concern that I write this letter to you. It has come to my attention that once again there has been an appeal made for your consideration regarding the gentleman's club, better known as a "strip club."

I want to express to you my total opposition to this type of "club" anywhere in Grand Junction or Mesa County. I feel the moral and social significance of such a club will be extremely detrimental to our community. Someone said not long ago in my hearing that some of those individuals who attend the club, leave, and then start looking for our young girls. There have been many cases over the years where murderers and child molesters have owned up to their beginnings of crime by being involved in pornography. While pornography is more or less from magazines and/or through the intranet, having such a club in your backyard makes it that much more accessible.

In communities where such a club has existed, crime rate has increased and the cost of policing the areas has cost the community additional costs for the increased manpower. If the news is to be believed, our jails are already overcrowded, so the question is, do we have the space to put the extra individuals who will be arrested as a result of having such a club available?

It is also my understanding that a proposed future high school is to be within one mile of this proposed club. I cannot see how this proximity will be of value to any young person this close to their school. One might argue that the club's hours will be after school is out. While true, the availability would still be there with their full knowledge.

We live in a community already struggling with methamphetamine to such an extent that more of our city official's time, effort, and finances are being spent on task forces to deal with this epidemic. Do we really want to add to the already overworked law enforcement agencies with this type of problem for them to deal with? I think not.

I have lived in this community for over 35 years and have raised 2 children here. I am thankful this type of club was not here when my children were growing up. That was one less place I had to worry about them going into. I have 2 grandchildren growing up here. I want them to be proud of their community and the heritage they have of growing up here. I do not want them to have this type of an influence on their lives.

I certainly hope, you as leaders in this community, will take this club under advisement and reflect upon its impact on the community, the families of the community, the moral impact and strength of the community, the resources of the community, and will come to the conclusion this is not something we need that will lessen who we are or are striving to become.

Thank you.

Sincerely,

Geri Walters

Geri Walters
666 E. Cliff Dr.
Grand Junction, CO 81506

October 28, 2008

City Council: 250 N. 5th Street. Grand Junction, CO 81501

Honorable Mayor	Jim Doody
Mayor Pro Tem	Bonnie Beckstein
Council member	Bruce Hill
Council member	Linda Romer Todd
Council member	Teresa Coons
Council member	Doug Thompson

I have become aware there has been an appeal of the decision denying the application for the introduction of a "gentleman's club" (a politically correct way to say "strip club") to be opened in Grand Junction. I believe the original denial of the application was in the best interests of the City as a whole and present and future residents of this county.

I wish to express in as strong a term as possible my total opposition to this or any such "strip club" being opened in Grand junction or for that manner the entire Mesa County.

The negative moral and social impact upon our community and the financial costs to the city are just two reasons for such places to not be permitted in our community.

Let us not lower the level of excellence, which is so important to our community for that which will only lessen, who we are. May your leadership as elected representatives reflect the family and personal moral strength upon which this community has been built.

Sincerely,



RECEIVED

OCT 30 2008

Oct. 30, 2008

RECEIVED

Grand Junction City Council
250 Road One,
Grand Junction, Co 81501

Dear City Council Members

We understand that the Gentlemen's Club has asked you to consider allowing them to build their business here in Grand Junction.

We are very strongly opposed to this.

If you truly represent the people of Grand Junction you will not let such a business come here.

This business is very degrading to women and will have a demoralizing effect on our beautiful city. It might bring in revenue but that would be more than off set by the need for our police to patrol that part of the city to protect our women and children.

Our granddaughter is working out in that area. She is in college and works where she must deposit the days receipts after hours. As it is now she needs to have a security guard walk her to her car. I can not bear the thought that some sex crazed person coming from that club might molest her.

Please be strong on our behalf.

Sincerely, Mary Hogan + Harry A. Hogan

From: Greg Moberg
To: Senta Costello
Date: 10/24/2008 10:06 AM
Subject: Fwd: Gentleman's Club

>>> Belinda White 10/24/2008 7:48 AM >>>

Belinda White
Senior Administrative Assistant
City of Grand Junction
Administration
(970) 244-1508

>>> "Mike MacFarlane" <macjehu@gmail.com> 10/23/2008 7:42 PM >>>

Dear City Council,

I would like to take a minute to ask you to stand in opposition to the appeal by the "gentleman's club". I feel the right decision was made by the planning commission when they choose to deny them the right to go forward with their plans.

They choose to look at the entire city as the neighborhood and denied the petition on those grounds. I feel this is the right choice.

As a Pastor in this city I have had the opportunity to minister to many of the girls and bouncers from the former club that operated in our city. My wife and I took in one of the dancers for a period of time and have had many of them in our Church.

I can say without exception, these young girls and young men have been deeply scared by their experiences and take into their lives the fall out from this line of work. The two ways these women tend to end up are one, very bitter and in denial of any issues, or two, they have such low esteem they typically end up in abusive relationships and feel that is what they deserve.

The men tend to look at the women in their lives as a commodity rather than somebody special to be cherished and thereby destroy their homes, leaving scared women and children in their wake.

These young men and women have high rates of STD's, mental issues, and law enforcement encounters, while typically being single parents receiving public help of some sort.

I am confident the argument will be made that there is no negative impact on the community but I have found that to be false. None of the employees will live within 1000 feet, a block, or probably even a half mile of the business and they are the most affected with the customers being a close second. That tells me the influence of this business will be far reaching. It will effect the neighborhoods we all live in, the schools that the cast off kids will attend, the health care system, the public assistance system, and the legal system.

With these things in mind, I am sure you can see that the planning commission was correct in their assessment of the impact of this type of establishment. I know your decision will not be made on personal ideals relating to morality. That was not the place of the planning commission in the original decision nor will it be yours in looking at this appeal. However, it is your place to consider whether the planning commission judged accurately in its belief that the "neighborhood" was larger than the name might ordinarily imply. I believe you will not find any grounds to overturn their carefully thought out position. Every study you will find comes to the same conclusions concerning these type of businesses. They leave a mess in their wake.

Thank you for your time.

Pastor Mike MacFarlane
970-270-3205
2808 Bookcliff ave.
Grand Junction, CO 81501

Martha May Odelberg
2708 F ½ Rd.
Grand Junction, CO. 81506
October 30, 2008

Honorable Mayor, Jim Doody

Sending my feelings about the so called "gentleman's club". I do hope with all my heart that I can depend on your vote against this appeal. I was so very thankful that the first time it came up that it was voted down. We do appreciate our officials and know they have a very hard time trying to please everyone.

This is one time that we trust you will look at the damage something of this type can do to our community and vote it down. As a long time resident of Grand Junction, in fact born here, I do hope I can depend on your vote against this particular request and any in the future of similar requests that would be so damaging to our community.

When people are provided a public place to enhance their emotions that are not proper we cause our community to be down graded. Thus not providing a community that is safe for raising a family. Once we allow something of this nature to come in to our city we are assured that the descent atmosphere of our whole Grand Valley will be affected.

It is my trust that you will vote against the proposal of ever having any such business allowed in our Valley. Oh, that you have the strength to uphold the moral strength of this community. Thank you for representing us and we will be watching for your vote on this crucial matter.

Sincerely,

Martha May Odelberg

Martha May Odelberg

RECEIVED

October 30, 2008

Councilmember Doug Thompson,

With deep concern for our community and constituents,
I again write a letter to you, one of our elected leaders.

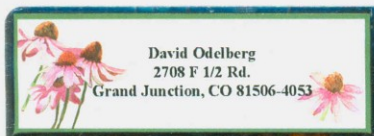
Becoming aware that an appeal of the decision denying
the application for the introduction of a so-called "gentleman's Club"
to be opened in Grand Junction, I still very strongly believe
that the original denial of the application was in the best
interests of the city as a whole as well as present and future residents
of Mesa County. Some of my reasons for opposition are:

- No such "strip club" is needed in Grand Junction or Mesa County;
- Negative moral and social impact upon our community;
- Additional costs for policing of the area and other public
needs around such establishments;
- Increase in drug and sex crime;
- Destructive nature and break up of families of those
who work in or support such establishments.

I am proud of this working, growing, family community
where I was born and raised. I have been a part of it for 76+
years. Please, let us not lower the level of excellence which is so
important to our community. May you, as an elected leader of our
community, reflect the family and personal moral strength upon
this community in which we live.

Sincerely,

RECEIVED



BOARD OF COMMISSIONERS

OCT 20 2008

Dear Mayor & County Commissioners

I am writing in regard to the effort being made by the "Gentlemen Club" to establish their business in Grand Jct. I believe that we are a family community and don't need or want this type of business in our town. I understand that they also want to establish this business close to the planning of a school; this is even worse. Please do not let this happen.

Sincerely

Kelly McSpadden



Kelly McSpadden
2809 Eldora Ct.
Grand Jct, CO 81506-8245

Grand Junction 1st Church of the Nazarene

2802 Patterson Road, Grand Junction, Colorado 81506

Website: www.gjnazarene.com

Office Phone: 970-245-3125

RECEIVED

OCT 31 2008

Lead Pastor:

Rev. Larry Chovancek, M.Div.

Office: (970) 245-3125

FAX: (970) 245-5698

Home: (970) 424-0588

Visitation Pastor:

Josephine Hyde

Office: (970) 245-3125

Office Manager:

Tami Tarr

Office: (970) 245-3125

Bookkeeper:

Shirley Oliver

Office: (970) 245-3125

Sunday School

Superintendent

Martha May Odelberg

N.M.I. President

Mary Garner

NYI President

Shirley Oliver

October 29, 2008

Grand Junction City Council
Mayor Jim Doody, Pro Tem Mayor Bonnie Beckstein,
Council Members Bruce Hill, Linda Romer Todd,
Teresa Coons, and Doug Thompson:

Dear Grand Junction City Council;

It is my understanding that the applicant for the 'gentleman's club' has appealed the denial of their application to build in Grand Junction.

I understand the challenges of the council faces in attempting to reflect the vast majority of the population being against this application while at the same time upholding the laws; local, state and federal.

My belief is that the citizens will not soon forget a council who seemingly caved under legal pressure to permit something they as voters are totally against.

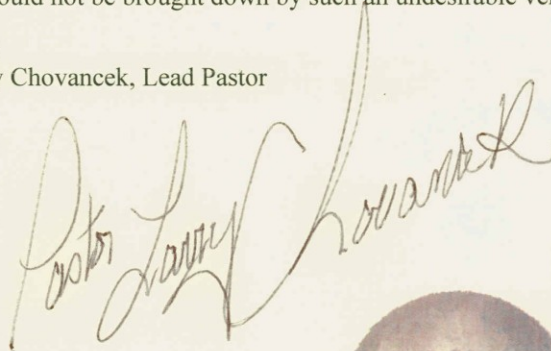
Therefore, I believe an amendment to the city requirements for adult entertainment venues of this type should be incorporated. Instead of the requirements being that no adult entertainment venue be permitted within 1,000 of homes, schools, churches etc. The requirement for such adult entertainment venues should immediately be changed to 10,000 feet.

This change would enable the city to be in harmony with the vast majority of city residents while meeting the requirements of the law which forbid total rejection but do permit full regulation.

As you can tell, I am totally against this form of adult entertainment venue being a part of my city and yet I do understand the difficult situation the council finds itself. I also know that voters have good memories and this council should not be brought down by such an undesirable venue in our city.

Sincerely;

Rev. Larry Chovancek, Lead Pastor



90th Anniversary
Celebration

Oct. 25-26, 2008

To Know Christ
and to make Him

RECEIVED

NOV 04 2008

11-3-08

Honorable Mayor Jim Doady:

Sir, I am sending this last minute request to ask that you sincerely will continue to "Deny," the application process for the Stripe Club (Gentleman's Club).

As a fairly new resident to this great community of Grand Junction, I hope that the moral and social entertainment here will stay to a positive side of life for all concerned, and not the negative impact that the City and Mesa County would incur if the application for this venue is accepted.

Our young people here have enough negative already here that need further and better attention. What with the local child abuse, drugs (Meth Labs) and check & identity fraud. I think the Stripe Club would be one more harmful impact. I believe to grant the application would lead to further negative influences in the future.

I'm asking as a concerned citizen that you deny the request. Let the parties asking this request move their business elsewhere.

Let's keep Grand Junction, "Grand".

Sincerely,

Kendal D. Walz

3017 Milburn Dr

Grand Junction, CO 81504

cc.: Mayor Protem
Bonnie Bealstein

Scanned

RECEIVED

OCT 30 2003

City Council members of G. J.

I am deeply concerned for the community of Grand Junction and Mesa County, that is why I write this letter.

There has been an appeal to you, our elected leaders, of the decision denying the application of a "gentlemen's club" (better known as a strip club) to be opened in Grand Junction.

I strongly express my total opposition to this or any such "club" being opened in the entire Mesa County.

The moral and social impact to our community plus the financial are just some of the many reasons for such places to not be permitted in our community. There is also the additional costs policing of the area around such establishments and the related drug and sex crimes that will be connected to such establishments.

We must keep this a community to be proud of to raise our families,

send our children to college and
attend church together.

I look forward to seeing you all
doing the right thing for your
community.

Yours truly,
Ida M. Partrick

RECEIVED OCT 17 2008

Oct. 15, 08

Thank you for serving on the City
Council.

please use your influence to stop
the approval for a strip club, bar and place
of prostitution here in our wonderful community.
my family and I have lived here since
1964 and dearly love Grand Jet, we feel it would
only bring more crime and disorder.

Remember the proposal for a High School
at Hand 23 Rd. only one mile away, please
say no to a not gentlemen club coming
to our area.

Thank you

~~the~~ parkway overpass is wonderful.

Barb Roberson

717 24³/₄ Rd

Grand Jet Co.

81505

*All of City
Council
Received*

Charlene Springsteel
417 Canyon Trail
Grand Junction, CO 81504

Mayor Pro Tem Bonnie Beckstein
250 No. 5th Street
Grand Junction, CO 81501

RE: "Gentlemen's Club" (Strip club)

Dear Mayor Pro Tem Bonnie Beckstein:

I strongly object to a strip club in this valley. I moved here in 1944 with my parents and grew up watching the changes in this valley, most of which have been for the better and I would like that growing mode to be maintained. It would be counter productive to the goals of your council, the majority of citizens and any one bringing up children in this valley to allow an establishment of this sort in this community and valley. If this is allowed, more will come, and it is an uneconomical and antisocial trend I sincerely hope you will put an end to every time it rears its ugly head.

I am thankful we live in a country where people can express themselves freely. The downside of this freedom is the factors included in maintaining a positive growth in the communities of this country. Strip club "expressions" could only lead to more negatives in our society such as increased law enforcement and social problems.

Control of the negatives in this City is the responsibility of our leaders...you. Please keep up the good work of keeping things like a strip club out of this town and valley.

Respectfully,

Charlene Springsteel
Charlene Springsteel

RECEIVED

REC-12-14

David E. & Dorothy C. Roberts
533 Citrus Street
Grand Junction, CO 81504-7041
(970) 523-9343

RECEIVED

October 29, 2008

OCT 31 2008

City Council
250 North 5th Street
Grand Junction, CO 81501

Attention:

Honorable Mayor	Jim Doody
Mayor Pro Tem	Bonnie Beckstein
Councilmember	Bruce Hill
Councilmember	Linda Romer Todd
Councilmember	Teresa Coons
Councilmember	Doug Thompson

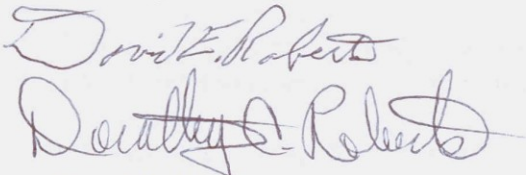
Dear Sirs:

It is our deep concern for our community that we write to our elected leaders, about the possibility of a gentleman's club.

We received extremely disturbing information that an appeal of your decision denying the application for a gentleman's club to be opened in Grand Junction has been received for your review at the November meeting. "We believe your original denial of the original application was in the best interests of Mesa County and the City of Grand Junction." A gentleman's club is socially unacceptable and immoral addition to our community. We believe the vast majority of the Mesa County voters in this area would agree "we all do not want such a entertainment outlet in our Western Slope Community."

We are proud of our community, the fine local collage and proud of the positive history and Christian culture of the Grand Junction community. May your leadership continue to reflect the family and Christian moral strength upon which this city was built. Please vote against this appeal and stop this gentleman's club from coming to the Western Slope City of Grand Junction, CO.

Sincerely



David E. Roberts
Dorothy C. Roberts

RECEIVED

NOV 04 2008

11-3-08

Mayor Pro tem Bonnie Beckstein:

Bonnie, I am sending this last minute request to ask that you sincerely will continue to "Deny" the application process for the Stripe Club (Gentlemen's Club).

As a fairly new resident to this great community of Grand Junction, I hope that the moral and social entertainment here will stay to a positive side of life for all concerned, and not the negative impact that the city and Mesa County would incur if the application for this venue is accepted.

Our young people here have enough negative already here that need further and better attention. What with the local child abuse, drugs (meth labs) and check & identity fraud. I think the Stripe club would be one more harmful impact. I believe to grant the application would lead to further negative influences in the future.

I'm asking as a concerned citizen that you deny the request.

Let the parties asking this request move their business elsewhere.

Let's keep Grand Junction "Grand"

Sincerely,

Jenna D. Wells

3017 Milburn Dr
Grand Junction, CO 81504

RECEIVED

OCT 31 2008

October 30, 2008

Honorable Mayor Jim Doody
Mayor Pro Tem Bonnie Beckstein
Councilmember Bruce Hill
Councilmember Linda Romer Todd
Councilmember Teresa Coons
Councilmember Doug Thompson

To One and All:

I am extremely concerned about the appeal of the decision denying the application to allow what has been referred to as a "gentleman's club." I want to express to you my total opposition to this type of "club" anywhere in Grand Junction or Mesa County. I feel the moral and social significance of such a club will be extremely detrimental to our community. The types of people who will be attracted to this "club" are definitely not gentlemen.

In communities where such a club has existed, crime rate has increased and the cost of policing the areas has cost the community additional costs for the increased manpower. If the news is to be believed, our jails are already overcrowded, so the question is, do we have the space to put the extra individuals who will be arrested as a result of having such a club available?

It is also my understanding that a proposed future high school is to be within one mile of this proposed club. I cannot see how this proximity will be of value to any young person this close to their school. One might argue that the club's hours will be after school is out. While true, the availability would still be there with their full knowledge.

We live in a community already struggling with methamphetamine to such an extent that more of our city official's time, effort, and finances are being spent on task forces to deal with this epidemic. The law enforcement agencies are already overloaded.

I certainly hope, you as leaders in this community, will take this club under advisement and reflect upon its impact on the community, the families of the community, the moral impact and strength of the community, the resources of the community, and will come to the conclusion that this is something we do not want or need.

Sincerely,

Bob Walters

Bob Walters

666 East Cliff Dr.

Grand Junction, CO 81506

From: Planning planning
To: Senta Costello
Date: 11/6/2008 2:13 PM
Subject: Fwd: Hearing re Matter of 'Gentlemen's Club,' 11-5-08

>>> "Sisco, N." <sisco78@bresnan.net> 11/3/2008 3:29 PM >>>
City of Grand Junction Planning Commission
Re: Hearing, Matter of 'Gentlemen's Club,' scheduled for consideration, p.m., 11-5-08

Gentlemen:

As persons that would be made genuinely and greatly aware and have strong persuasions against permitting a 'Gentlemen's Club' in Grand Junction, we firmly believe such a club to be out of character, unwanted, and certainly UNNECESSARY. Such 'clubs' have no redeeming value, and open a whole can of worms that are an expense and blight on the community, foster lawlessness and do nothing but tear down decency.

We firmly believe that this community is better for not having such a club, and respectfully ask your consideration of our position regarding this matter.

Sincerely,

Mr. and Mrs. H. N. Sisco

670 1/2 W. Moorland Cir.
Grand Junction, CO 81504
sisco78@bresnan.net
970-434-2198

CC: Council

RECEIVED NOV 12 2008

Sent to C.
Laurie K.

Mayor Palmer;

So the Law says the City cannot consider the nature of hta establishments that apply for liquor licences?

And if the newspapers are right-- the City has been told that there is a need for such a club. And the City has been told that the Supreme Court is on the side of those who insist there is a need for a sexual deviants club. I will NOT be deceived and call the club other than what it will be.

IF there club is to be --then there is an equal need for a "neighborhood watch." a citizens group to provide the GJPD with necessary eyes and ears so a rapid response to any suspected illegal activity associated with the club can be established. Experience suggests such club invite clientele who traffick in illegal drugs, prostitution--and such clubs often invite violence--that is pushed outside--so as not to disturb the sexual deviants inside.

I've known idiots who insisted that pornography and so called "adult entertainment" were not harmful. These deviants encourage their girlfriends to be party to that addiction. Not one of them had a healthy--or normal sexual relationship. I see no difference between our "gentlemans Club" Sexual deviants club-- and other establishments that all are related to sexual exploitation. The Soviet Communist had a policy of introducing such behaviors into societies they wished to overcome. Yet the businessmen? who insist their club is necessary would find such offensive. And would bristle at any suggestion that such clubs are related to the mob controlled illegal sex and drugs dive called the Stonewall Inn, in NY City. A sexual predator named

that dive included as a supposed national treasure--as the starting point for the modern American Gay Rights Movement.

It was the homosexuals who tried to burn that joint down with some police inside --yet now it is considered equal to Bunkers Hill-- or Gettysburge. What will our local club be called when America is judged by God? I will not be entertained by the lusts of the flesh--nor the sale of liquor. I will instead encourage and support any idea of a "neighborhood watch" however uncomfortable such might make the sexual deviants who will provide such a club with clientele. They ought to be ashamed and uncomfortable. IF the law now protects and advances If the law now protects and advances such establishments-- then the law is divorced from the fundamentals of American LAW and our Society as far removed from the foundation as Sodom was from righteousness. Lets have the club--and a neighborhood watch to keep the club more honest--and gentlemanly.

Robert James Burkholder.

Dear Mr. Lowrey,

We are citizens of Grand Jct who are concerned about the possible topless bar.

The location is one concern because of its easy access to the entrance of I-70. This would make a great escape route for criminals. And we all know that the use of alcohol adds to the problem.

According to the Police Dept., the intersection of I-70B and G Rd. is one of the worst in the city for accidents. Plus the increased need for police patrols, which would increase the cost for the city.

And all of this besides our concern for the young people of our community.

Thank you for considering our concerns.

Sincerely, Glenn and Shirley Ewing

Dear Mr. Cole,

We are concerned Grand Jct community citizens regarding the topless bar that is being considered. We believe this would increase the crime that comes with drinking, which would increase the need for police patrols, which would increase cost for the city.

The Police Dept. has said the intersection at I-70B and G Road is one of the worst in the city for accidents.

Also, we are concerned for the youth in our community. This would be a very poor example to them.

Thank you for considering our concerns.

Sincerely, Glenn and Shirley Ewing

November 25, 2008

To Whom It May Concern:

A "Gentlemen's Club"?? Right? I wonder what the definition of a Gentleman is? According to the World Book Dictionary, it is:

I. A Man who is honorable and well-bred: a man of fine feelings or instincts, shown by behavior and consideration for others: It is almost a definition of a "Gentlemen" to say he is one who never inflicts pain.

4. A Man of good family and social position

I wonder if the "Gentlemen" who are wanting this Club so badly could be classified as "Gentlemen"??? Are they good husband's, father's, son's? If they are single, are they caring of their mother's, girlfriend's etc.?? Do they respect women and love them? Are they family men who do not spend their hard-earned money on selfish entertainment, but are they men who love their families and are they being a good example to their children? If they are family men who love and care for their women folks, they will think twice about becoming involved in a Club that promotes selfish, lustful desires, that put women up as "SEX Objects" that are clearly there for one purpose and only one....

We need more "REAL MEN" in this valley who will stand up for the right values and help protect our women and children, and of course, to our teenagers who are needing a good example from their fathers.

-2-

After all, men are supposed to be the leaders of the nation, cities and families. It's only when REAL MEN do not stand up and be counted that women have been put into the leadership role, as in single mothers. Most would not prefer that role. It is tough trying to raise children alone.

It is a sad day in Grand Junction when men choose to shirk their duties as fathers and family heads and go to a Club that promotes Immorality, just the thing to have in our community!

We have nudity on main street, now a porn shop on 24 Road... Of course, just about all the sad pictures of women on the internet that are available for the looking.. What an example to new people coming in here. Just look at LO DO in Denver...There are more "Gentlemen" Club's there and it sure hasn't helped the crime and violence there.....

Please reconsider this. It, of course, will be a \$\$\$\$Money maker for the owners. So of course they want it to be granted.

Sincerely,

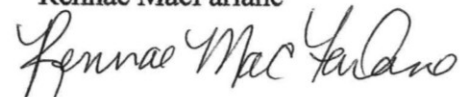
B. Hines

Dear Planning commission,

Thank you for your recent decision on the gentlemen's club. I do believe you were correct in your decision in the term neighborhood to include the entire city. This kind of business does effect the entire city. There are sexually related crimes that increase and they are not limited to the club itself. Rapes and molestations occur because of the nature of this business. This business is located at the edge of town by an interstate and highway which increases the crime rate as we have seen with Rum Bay. We must look at the facts. Also the intersection of G rd. and the highway is a dangerous intersection without the alcohol factor increasing the chance of an accident. Check with the highway dept. to see if this is true. I hope you will come to the same conclusion that you have in the past. These people would like to pressure you into a bad decision for our city. We cannot afford this. Also the police or sheriffs dept. would have their hands full with the extra calls way out there. Thank you.

Sincerely yours,

Rennae MacFarlane

A handwritten signature in cursive script that reads "Rennae MacFarlane". The signature is written in black ink and is positioned to the right of the typed name.

Verbatim Minutes

Planning Commission Hearing - November 25, 2008

Bar/Nightclub & Office/Warehouse – Conditional Use Permit

Request approval of a Conditional Use Permit for a bar/nightclub on 2.01 acres in an I-1 (Light Industrial) zone district. Request remanded back to Planning Commission on November 5, 2008 by City Council.

FILE #: CUP-2008-158
PETITIONER: Kevin Eardley
LOCATION: 2256, 2258 Colex Drive
STAFF: Senta Costello, Senior Planner

CHAIRMAN COLE: The first...the first and only item on this tonight is the bar nightclub and office warehouse conditional use permit. It's a request approval of a conditional use permit for a bar nightclub on 2.01 acres in an I-1, light industrial, zone district. This request is remanded back to Planning Commission on November 5th, 2008 by City Council. Lisa, are you going to start?

MS. COX: Well, I'm going to just open with a couple of comments so, good evening, Planning Commission and Mr. Chairman, Lisa Cox, planning manager with the City of Grand Junction. I did just want to clarify for...for the audience viewing at home, for our audience here this evening and for the Planning Commission that the...the item before you this evening is for a request for a conditional use permit for a bar and a nightclub. There's been a lot of press and attention been given to the adult entertainment portion of this application but the item before you and the item that's here to be approved this evening is a conditional use permit for a bar and a nightclub. You need to take the other items into consideration but I just wanted to be very clear that there was a distinction between the adult entertainment and the conditional permit

request before you this evening. Jamie Beard, Assistant City Attorney, also has a few words to...to share with you before you begin the presentation this evening.

MS. BEARD: Thank you, Lisa. I'm Jamie Beard, Assistant City Attorney, and again just to help clarify for some of the people here in the audience and also for those who are watching at home there have been many objections that have been presented to the city that were included along with the staff report that was prepared for you that they were objecting to this use particularly being allowed within the City of Grand Junction and the use is focused more on the adult entertainment portion of the use that's part of this application and I wanted to just make clear that that use is allowed within the City of Grand Junction.

Our zoning and development code does allow it and the zoning and development code was adopted and approved in such a manner because of the decisions that had been made by the Supreme Court of the United States and those decisions were based on the fact that the justices had determined that this type of entertainment is considered expressive conduct and since it is considered expressive conduct they consider it to be basically covered under the Free Speech requirements of our First Amendment. And so though we may be allowed to make some restrictions where it's concerned, we can't not allow it all together and some of those restrictions that we have to consider are the time, manner and place and our zoning and development code has taken those into consideration already in saying that adult entertainment is allowed in either the C-1, the C-2, the I-1 or the I-2 zone districts. And the site that we're dealing with here this evening you'll be informed is actually in the I-1 zone district.

The other restrictions that you can take into consideration are whether or not this site is within at least a thousand feet of another adult entertainment site that's been approved or within a thousand feet of a church, a school, a playground, a park or a residentially zoned property. That's the information that you're going to get to consider in regards to the adult entertainment.

The reason that this is here before you tonight is because it's also included with a bar nightclub application. If this was just the adult entertainment request then you would not even have it come before you this evening. It would have been approved administratively by staff. But it's because of the bar nightclub matter that it's here before you and then you have to look at the criteria that is included for a conditional use permit. And one of the major differences with that conditional use permit that you're going to be considering it is to be sure that this particular use on this site is compatible with the adjoining properties that are around it. Do you have any other questions?

CHAIRMAN COLE: Any questions of the City Attorney?

MS. BEARD: Okay, thank you.

CHAIRMAN COLE: Okay, before we get into it I have a couple remarks I would like to...to make. This item...item was heard on August 12th. It was a split decision to deny the application and the applicant, as is their right, appealed to City Council for a rehearing. City Council - they are the policy makers of the city - and they make...make the rules for us to follow. They remanded this back to the Planning Commission with instructions and let me just read those instructions – the Planning Commission interpretation of neighborhood in relation to this request was too broad. City Council gave direction to the Planning Commission to rehear the request keeping

in mind the definition of neighborhood as defined by the zoning and development code.

The C-U-P requirement is...and item 2, the C-U-P requirement is triggered by the fact that the applicant seeks to construct and operate a bar nightclub in an I-1 zone rather than by the type or types of entertainment offered at the establishment. So we have those...those guidelines.

We have received a number of letters concerning this item. The Planning Commission has copies of those letters both from the hearing in August as well as the hearing tonight and we have read those letters. In addition to that we have verbatim copies of the minutes from that hearing as it went before and so that also has been read by Planning Commission members and these are already a part of the record. Therefore, if you have sent a letter it's not necessary that you read that letter to us. All of us up here are able to read so we have read those letters and would appreciate if you not do that and it is already in the record as I've already said.

So with that I would open it for...for the staff to make the presentation concerning this and he may repeat some of the things that I've said which is just fine because we all know that repetition helps in learning and understanding these things.

MR. MOBERG: Thank you, Mr. Chairman, members of the Planning Commission, Greg Moberg, Planning Services Supervisor for the Public Works and Planning Department. Again the request that is before you tonight is a conditional use permit for a bar and nightclub in an I-1, a light industrial zone. The property is located on...at the intersection of G Road and Colex Drive. The surrounding land use on the property is vacant to the north and to the west; we have a residence that is zoned I-1 located to the east and then we do have a car lot sales lot to the south. The future land

use map on the property designates the site as commercial industrial and the existing zoning on the property is I-1. Again there is I-1 to the north, the west and the east and C-2 to the south.

On August 12th, 2008, there was a public hearing that was held by Planning Commission to review this. The Planning Commission did deny the conditional use permit. On August 22nd there was an appeal of that decision to City Council and that appeal was remanded back to Planning Commission for the reasons that the Chair has pointed out. I'd like to go through section 2.2.D.4 which is the criteria to approve a conditional use permit for a bar and nightclub. The proposal does conform with the growth plan as identified in the staff report. There are no other conditions on the site that this approval would or this request would affect the approval of those conditions. The code requirements for the zone district...the bulk standards, dimensional standards, parking, landscaping and buffering...landscape buffering have all been met or exceeded. The I-1 zone district...the standards for the chapter 3 have all been met and those are the dimensional standards.

I would also like to point out that and this is where the use does come into a certain degree. We are required to look at the use specific standards in chapter 4 and I would point out that staff has reviewed those standards for adult entertainment. The specific standards for the adult entertainment is basically they have to be a thousand foot buffer from any other adult entertainment, any church, any school, park, playground, public building or residentially zoned property and staff has reviewed that and this...this request does meet all those standards.

There are other standards that are located within chapter 4 that have to do with conduct and things that are happening within the building and the applicant will have to follow those as they go through or as they're using the site. And this...the slide that's before you shows that thousand foot buffer that we did look at and there are no facilities that would disallow that type of use within or on this property.

I'd also like to point out that the eastern property line has a 10 to 15 foot landscape strip adjacent to the parking area which includes shrubs ranging in the height of 3 to 6 feet in height to help maintain the privacy of the neighboring properties. That's one of the requirements under section 2.2. The police department has reviewed this plan and has suggested modifications in the design to reduce secondary effects and the applicant has incorporated those requests into their design. I would also like to point out that the proposed...proposed bar site...well let me back up just a hair.

One of the things that did occur in your last meeting was a concern about the...the car lot...the use or the sales car lot to the south of the property. We took a look at that to make sure that we had enough buffering that it did meet the requirements to try and take care of any problems that would occur on that site. And the proposed site is approximately 90 feet from this Western Slope property separated by G Road which is classified as a minor arterial. The subdivision...the previous subdivision that was approved and developed for this property provided a 6 foot wood privacy fence and a 14 foot landscape tract along that southern property line and which this also serves with that buffering from the C-2 property. We'd also like to point out that the Western Slope side property to the south also has a 6 foot high chain link fence on the perimeter with 3 strands of barbed wire on top.

In conclusion I would like to make the statement that after review of the bar and nightclub application for a conditional use permit the request does meet or is consistent with the growth plan, the review criteria of section 2...of section 2, the parking, excuse me, also that the parking must be provided. There is one condition and that's why you'll see the site plan that shows the property to the north and the property to the south. There is one condition that we are requiring there is a shared parking agreement between the two so that both uses...uses can use this parking that's in between both sites so that is a condition of our recommendation. With that I would recommend that Planning Commission approve the requested conditional use permit with the findings, facts and conditions that are listed in your staff report. If you have any questions, I'd be more than happy to answer them at this time.

CHAIRMAN COLE: Questions of staff?

COMMISSIONER CARLOW: What changes did the police department recommend on this?

MR. MOBERG: The changes had to do with the material that were...that was being planted. They had to do with a little more lower line so that if a police car drove by they could see through...

COMMISSIONER CARLOW: ...a visual.

MR. MOBERG: ...and doesn't create a...

COMMISSIONER CARLOW: ...visual.

MR. MOBERG: ...buffer. Exactly.

CHAIRMAN COLE: Further questions?

COMMISSIONER ESLAMI: Greg, is that...are they going to...

CHAIRMAN COLE: Would you speak into the mic.

COMMISSIONER ESLAMI: Are they going to build the nightclub first or the warehouse first?

MR. MOBERG: My understanding is they're going to build the nightclub first.

COMMISSIONER ESLAMI: So they would provide a fence to that property?

MR. MOBERG: There is already a fence located along the south end.

COMMISSIONER ESLAMI: No, on the north side.

MR. MOBERG: There...oh, you mean up here?

COMMISSIONER ESLAMI: No, down.

MR. MOBERG: In the middle?

COMMISSIONER ESLAMI: In between the two properties.

MR. MOBERG: There is no fence requirement between the two properties.

COMMISSIONER ESLAMI: But if they do not (inaudible) that and put fence around it. But there's a fence around the other one?

MR. MOBERG: Yeah. The property to the south that I was discussing, the Western Slope property, is actually located south of G...

COMMISSIONER ESLAMI: I'm talking about the north, the north.

MR. MOBERG: Down here?

COMMISSIONER ESLAMI: North. The second property which they're going to do the warehouses.

MR. MOBERG: There is no fencing requirement between those two properties.

COMMISSIONER ESLAMI: Well, as a security...

MR. MOBERG: Up here?

COMMISSIONER ESLAMI: Right.

MR. MOBERG: There is...that it would be the same thing. There would be no fence requirement between because it's another industrial property to the north.

COMMISSIONER ESLAMI: I see. Okay.

MR. MOBERG: Does that answer your question?

COMMISSIONER ESLAMI: Well, I'm concerned about the security.

People they drive through or come and go from that site.

MR. MOBERG: From the site to the north down...

COMMISSIONER ESLAMI: Right.

MR. MOBERG: This way?

COMMISSIONER ESLAMI: Right. So is there going to be a privacy, I mean a fence to provide that?

MR. MOBERG: There's no requirement for that. You can certainly suggest that to the applicant.

COMMISSIONER ESLAMI: Right.

MR. MOBERG: When you take it forward.

COMMISSIONER WALL: I think the residential property to the east that's zoned industrial, would that...would we consider that to be grandfathered in since it's residential now or do we not even look at it that way?

MR. MOBERG: The residential use is a non-conforming...a legal non-conforming use of that property, therefore, yes, it is grandfathered in.

COMMISSIONER WALL: As a residential use?

MR. MOBERG: As a residential use. And they would have to meet...for them to expand or do anything different on that property as a residential use, they would have to meet the requirements of section 4 within our code.

COMMISSIONER WALL: So if it's grandfathered in as residential, would I not look at that as being within the thousand feet or do I just look at the whole zoning as a whole?

MR. MOBERG: The code is specific to zone...to residentially zoned property not residentially used property and so the thousand feet would be to those properties that are zoned residential and not used.

CHAIRMAN COLE: Do you know, Greg, are those residences occupied?

MR. MOBERG: It is. It's only one single family residence and it's located right here and, yes, it is occupied.

CHAIRMAN COLE: Any further questions? Hearing none, is the applicant present? Would you like to step forward and add anything to this report?

MR. ROWLANDS: Good evening, fellow Commissioners. My name is Rob Rowlands. I'm with Design Specialists, Architects and Planners, 917 Main Street, here in Grand Junction. I represent the owner, Mr. Eardley. I really don't have anything to add. I'm here to answer any questions you might have about this property. The city staff has really covered all the bases as well as Jamie has too. So I'm just here to answer any questions you might want to know about the design of anything.

CHAIRMAN COLE: Are there questions of the applicant?

COMMISSIONER ESLAMI: Is...how about the food? Is it going to be a full menu or just microwave?

MR. ROWLANDS: Presently we are planning to have some food, yes.

COMMISSIONER ESLAMI: But what kind of food? Is that microwave food or full menu? Because that's important...

CHAIRMAN COLE: That's...that's not part of this hearing.

COMMISSIONER ESLAMI: Oh, I see.

MR. ROWLANDS: Okay.

CHAIRMAN COLE: Any further questions of the applicant? Okay, thank you, sir. We will now open the hearing to the public. We would like first to hear of those that are in favor of this application. This is a full hearing even though we have heard it once. It has been remanded back to us as a full hearing. I might just state that there are some factors that you may take into consideration. We do have new members on the Commission that did not hear this item before and as I've already stated they have read the verbatim minutes from the last hearing and so they're able to participate tonight with...with this and, however, even if they had not have, this is considered a...a new hearing so we will hear testimony tonight and again I would ask that you keep your...your remarks under 3 minutes if you possibly can.

So first we'll open it to those who are in favor of this application. Seeing none, we will move to those who are opposed to this application. Yes, sir, back in the back, back in the back, you, sir. And I would ask that when you speak there is a sign up sheet on the table in the back and would ask that you sign up...sign on that sheet or is

it up here?

MS. BEARD: There's one up front, both.

CHAIRMAN COLE: There's one both here and in the back. So if you'd sign that we'd appreciate it. Yes, sir.

MR. McFARLANE: I already did, sir. My name is Mike McFarlane and my address is 2808 Bookcliff, Grand Junction, Colorado. The first thing that I want to speak to is they...they mentioned something in the very beginning about the constitutionality of this issue. Judge Scalia rendered a judgment in the case of City of Erie versus Pabst AM and said this, the traditional power of government to foster good morals and the acceptability of the traditional judgment that nude public dancing is itself immoral have not been repealed by the First Amendment. There have also been at least two other cases – United States versus O'Brien, Barnes versus Glen Theater that have supported local municipalities as they have not allowed these types of...of businesses to open. Now there are also other Supreme Court cases where they were allowed to open and they found it in favor of the business and that tells us that we've got a situation where...free speech is allowed. For example, though if you'd walk into a theater and yell fire, that's not a covered constitutional right, okay? And so we're...we're looking here that the case is that the free speech is going to be decided by the conditions of the particular case rather than the fact that there's just a blanket statement that can be made that...that this is free speech and it has to therefore be allowed.

In the code, number 4.1, says this - it says that rule number 1 says to establish and promote neighborhoods with integrity and character and that is neighborhoods

plural not just a single neighborhood limiting it to a close proximity but it says neighborhoods plural. It...where do we draw the line of a neighborhood is the question. It says to establish integrity and *Webster* defines integrity as an adherence to a moral code of values or incorruptibility. Now it's hard to believe that a business is an incorruptible type of business when they serve alcohol or have the dancing either one. I don't think that that lines up with the...with the...the conditions there. It says in rule number 3 that there should be an appropriate level of flexibility for the use of a non-residential property while maintaining...maintaining compatibility.

Now commercial land is in somewhat short supply around here so I'm wondering about the wisdom is whether it makes sense to open a bar in a place where bars could open in other places as a non-conforming use and using up some of our commercial land that...that we can use and...and possibly have a better fit for this area. Okay, could another type of business be a better fit and a more reasonable use of the land? See if we open this up it also opens up to other businesses of this type which would then possibly keep other type businesses from wanting to or even desiring to come into here. So is this type of business really compatible when there's family type retail businesses like the Ford dealer right across the street, okay?

And the application now, as far as separating the two issues, the application was not just for a bar but it was for actually both and I believe by the app itself then ties the two together. It's one business not two so the whole business is...is on the table as far I can see that...that when they had to...when they added the liquor to it, it brought the whole issue before this...this...this Commission here and therefore ties them all together as one thing to be addressed.

The...the fact that adult entertainment is before the commission is a statement of their connectivity as far as I can see. Goal number 1 in the land use goals contained in the city code says that the purpose must be to achieve a balance of integrity of community neighborhoods. *Webster* defines integrity as an unimpaired condition and are our neighborhoods truly unimpaired when the city says that the intersection directly out of here is a dangerous one and...and the one right up from it is a deadly one, now if we add liquor to the mix of this...this traffic issue, is that a compatible use for this land?

Does it make sense to put a bar in a place where we already have traffic issues that the city has identified and who's going to pay for the upgrading of those...those intersections and if we do upgrade those intersections does that then guarantee that somebody is not going to be hurt in these intersections or even killed because of the drinking?

Goal 11 states...it says it's to promote stable neighborhoods and land use compatibility throughout the community; 4.B.1 says that the City Council finds that the concentration...it says that the concentration of adult entertainment establishments in cities tends to result in the belittling and deterioration of neighborhoods is belittling and deterioration promoting stability of neighborhoods. See I don't think that these things...these things line up. I think there's an incompatibility issue here. How does compatibility throughout the community fall into place when it's not compatible with the very...

CHAIRMAN COLE: Excuse me, sir.

MR. McFARLANE: ...with the very zoning laws.

CHAIRMAN COLE: Would you wind down, please?

MR. McFARLANE: Sure. I'm uptight because I'm a little nervous so I'm sorry. Compatibility means things live in harmony together, okay and I don't think that these things can be in harmony together. In...in code 4.B.3 it says the purpose of this section is to establish zoning locations for these type of establishments which a) are not a nuisance. Now increased crime in my opinion is a nuisance. Traffic issues are a nuisance. Crime always increases around bars. I believe that will be a nuisance. I believe it will be a nuisance to our police department because that's an area that's not highly patrolled because it's a low activity area now so it's going to be a nuisance to the city to have to increase patrols in this area and...and that increased patrol is going to cost the people of the city something which I believe is also a nuisance. And...and they're going to have to, unless they have some kind of a funding increase, pull patrols from other areas where they've already prior to this deemed it necessary to patrol and yet they're going to have to pull those things out. This area is in close proximity to...

CHAIRMAN COLE: Sir, I'm going to ask you to cut it off. We have your point. You've...you've went five minutes so...

MR. McFARLANE: I'm sorry. I didn't realize that. Thank you.

CHAIRMAN COLE: Someone else. Yes, ma'am.

MS. GOMEZ: Hi, everybody. My name is...

CHAIRMAN COLE: You can pull that mic down.

MS. GOMEZ: Oh, okay. My name is Susana Gomez. I live on 1171 Santa Clara up in Orchard Mesa. I basically want to say the same thing but just where I can understand. When it comes to the First Amendment I do agree it doesn't fit because it pertains to religion and other things. And when you continue to read it it says to

assemble but peaceably so I don't think with alcohol and all this type that it's gonna happen. Crimes are, you know, well it says in the statistics that it will happen so that's why I go with. And as far as the neighborhood this is a business so it doesn't just affect that area. It affects the neighborhood which are businesses; it pertains to the region, Junction, Orchard Mesa, Clifton, Fruita, like people come from everywhere to go to Wal-Mart which is convenient and stuff like that. And I just want to say I'm not for it. Thank you.

CHAIRMAN COLE: Thank you. Yes, sir, in the leather jacket.

MR. ALCORTA: Hi, my name is Marty Alcorta. I live at 144 Helen Court. I want to address the alcohol issue. Being a person that used to frequent those kind of places, people go into those kind of places and they just don't have a shot and a peep and leave. They sit there, they slam beers down, they get drunk, they get out on the highway and we don't need to put our citizens and our police department, sheriff department in that kind of a harm's way. With the violence in this world as it is now, you got guys going into places like that carrying guns and it's just not safe. You know, they get out on the street, they're drunk, it's not safe. And I just don't like the idea of the alcohol issue. I mean they come from that neighborhood drunk, into my neighborhood which is 12 miles away and it still affecting my neighborhood. Thank you.

CHAIRMAN COLE: Thank you. Someone else. Yes, sir.

MR. DEAL: My name is Robert Deal. I live at 1313 North 18th Street. I'd like to address real briefly three points. The first is the adult entertainment. I have observed places like this throughout the United States and Europe and Asia and never seen any that did not involve excessive alcohol and drug use, prostitution, violence. These

women have...I'm also a counselor. I've been a counselor in Grand Junction for 20 years. I've counseled a lot of these women who have self-esteem issues. The women are taught to present themselves as sexual objects. Men learn to view them as sexual objects. I don't think that's healthy or beneficial for any of them. It's a lure for easy money and I hesitate to see young...young women of Grand Junction lured into this so called business by easy money.

The second point, some of you may remember a club out in the west part of the county years ago and I know personally of 3 people killed coming back from that club. There were many traffic accidents, DUI's and so on. These people out in that area are not gonna call a cab. They're gonna attempt to drive back on a major highway that has tourists and families traveling on it.

The third point involves the use of neighborhood. If this was a neighborhood bar where people were coming for two or three blocks around that would be one thing. These people are coming from throughout Grand Junction and as far as I'm concerned that is the neighborhood this involves is Grand Junction in which I live. If the term neighborhood does not fit there even so since when do we not stand up for what we believe is right and decent for our community. Somebody made the point a...a few minutes ago, when...when do we...when did we begin to let fear of what others believe stand in the way of our standing up for what is moral and right in our community?
Thank you.

CHAIRMAN COLE: Thank you. Someone else. Yes, sir, in the red shirt...purple shirt, whatever it is.

MR. STRASSER: Good evening. My name is Michael Strasser. I live at 485 31-1/4 Road. I'm too nervous so I wrote everything down and I'm just gonna read it from verbatim. Okay. The proposed gentlemen's club is gonna be built in an industrial zoned area. I understand that. Based on this fact, how can a gentlemen's club, a club that will promote sex and alcohol even be considered for this area? The businesses in the proposed area do not support this gentlemen's club in the area. The businesses do not want their neighborhood to deteriorate as was the case when...when Cheers was in business in downtown Grand Junction. While Cheers...Cheers was in business there were 711 phone calls to police over a 45-month period. This is 4 calls a week to police. Can our jail handle the possible increase by allowing the gentlemen's clubs to be built? If police receive the same amount of calls, how many more police officers will have to be hired for the increased number of police patrolling in the area?

The current surrounding businesses of the nightclub might even have to pay higher property insurance rates due to a possible increase in vandalism to their businesses. Western Slope Ford has been an outstanding business to our community for over 20 years. Are you going to ask them to pay a higher premium to remain in business just because of the gentlemen's club? How many current businesses will close because of this club that are in the surrounding area?

The intersection of G Road and I-70 Business Loop will see an increase in traffic. The intersection has seen multiple number of accidents over the past years with no signal at this intersection. I work at AmeriGas Propane and that intersection is right across my highway. I see accidents there weekly. There always an accident there - maybe not weekly but at least monthly. With an increase in traffic at this intersection by

allowing this club to be built who will pay for the signal that will have to be constructed due to the added amount of traffic? How many more deaths will be caused from the patrons leaving this club intoxicated into our community? How many more DUI checkpoints will have to be added to I-70 and the I-70 Business Loop, increasing the burden of the Colorado State Patrol, which is already spread very thin? Thank you.

CHAIRMAN COLE: Thank you. Someone else. Ma'am, I think you...you were next.

MS. FINDLAY: My name is Sarah Findlay. My address is 202 North Avenue, number 195. I just want to say that I came from the dancing industry and I started stripping here in Grand Junction at Cheers. I was in the industry for 10 years and all the clubs that I've worked in which have been a number of clubs there's always been drugs, prostitution, crime – even in places where they were top of the line clubs and I know they're gonna try to make this club a gentlemen's club where it's top of the line. They're gonna try to make it look nice. The same things are going to be going on in the club that they try to make look fancy.

Also I want to say that I've been out active in the community. I had two petitions signed. I don't know if you guys received those or not. One was from students...I'm a student at Mesa State...stating that they did not...they were strongly against having a strip club in our community. And another one was from residents of Mesa County. I got hundreds of signatures. The community has spoken. We don't want it here. That's all I have to say.

CHAIRMAN COLE: Thank you. Someone else. Yes, ma'am.

MS. HUDON-DEAL: Hi. My name is Milana Hudon-Deal and I live at 1313 North 18th Street. And I'm going to read this because I get very nervous.

CHAIRMAN COLE: Could you speak up just a little bit, please?

MS. HUDON-DEAL: I will try. As a former dancer in Alaska during the 70's I saw the boom of the oil fields, the Vietnam War and the money that seemed to flow from them. One or two clubs started but as the pipeline work increased so did the number of clubs. Outside the city limits the clubs were even more wild and disorderly. Fights were frequent, shootings were not uncommon. Even at times the dancers were being maimed or killed by gunfire. Drugs, violence and prostitution were a part of the lifestyle. It became a reoccurring nightmare never knowing what would happen next.

The dancers were encouraged to drink with the customers, fraternize and flirt and it was good money – building a false self-esteem which led to drug use and prostitution. Men paid attention to them not for who they were but for what they saw and wanted – sex and sexual fantasy – both for the dancers and...and the men. The life of a dancer becomes shallow. Only in the nightlife is she comfortable. She becomes dependent on men to build her self-esteem. Not only may she become addicted to the alcohol and the drugs, she becomes male dependent.

As an alcohol and drug counselor, I have counseled many women and men who have started and supported their drug habit through dancing and many have moved to prostitution. I would be very disappointed to think young women would be lured into this lifestyle because of the readily available money involved.

By allowing a gentlemen's club, strip club to be established in our community we are opening the doors to drug and alcohol addiction, prostitution, violence, DUI's and

other criminal behaviors. And using tax dollars for law enforcement to maintain peace and order which means we are paying to have law enforcement monitor activities without this right to say no to this club.

As in the 70s as far as violence I want to say I worked at a club and 8 women were shot because one woman said no to a man that asked him...her to marry him. I've seen a lot...a lot of violence. I just cannot...I don't want this in my community. We all have pasts. I'm not ashamed of my past. But I don't want to see another woman victimized in this way. Thank you.

CHAIRMAN COLE: Thank you. Someone else. Yes, sir, Mr. Pitts.

MR. PITTS: I'm Bill Pitts. I live at 2626 H Road in Grand Junction. I first off want to mention that you guys look just about as well from back here as I used to look at you from up there. You all look good tonight. But I'm here to oppose...

CHAIRMAN COLE: Flattery will get you nowhere.

MR. PITTS: ...the proposition that's before you on...on...on several accounts. One is that it's your job to determine whether it's fitting for a community to approve a proposition before you not to decide whether it's within the zoning codes, the growth plan or...or the...it's up to the planning department. Our planning department does a tremendous job on sifting through reams and reams and reams of paper and volumes and...and...and texts to determine whether a project meets the code or is within the growth plan. And that's not your job.

Your job is to listen to the public to see whether that proposal fits our neighborhood. Neighborhood in my dictionary is defined as compatibility with a region...a region the people who live in such a region, any region or area or vicinity.

And as mentioned by the city attorney at the City Council meeting a neighborhood can even be the entire community. And so that's...that's up to this body to determine what's a neighborhood and the neighborhood where this situation or this proposal is located is not...is not applicable. It's not compatible. It's an industrial area. It's a light industrial. It's a warehouse area. That's not indicative of a...of a bar and a nightclub. So that's...I would...I would submit that in using the old Ben...Ben Franklin tally chart, if you just add up the ginnners and the forers, it's pretty easy. I didn't hear anybody who was in favor of that and so far I've heard 11 people that's in opposition to what this proposal is. And I thank you very much.

CHAIRMAN COLE: Thank you. Someone else. Yes, ma'am.

MS. STRASSER. Good evening. My name is Kerrie Strasser and I live on 485 31-1/4 Road. This establishment promotes neighborhoods, please notice the neighborhoods is plural with integrity and character. This is in the current zoning code that we can be found on the City of Grand Junction's website. Based on this fact if the city of Grand Junction allowed a gentlemen's club to be built, how can the word integrity be used in the same sentence with a gentlemen's club? Gentlemen's clubs throughout our country degrade women. When we use the word integrity we speak of a firm adherence to a code of standard of values. Is the City of Grand Junction going to lower our community standards by allowing this gentlemen's club to be built? Remember gentlemen's clubs do not promote integrity. They promote degrading of women. A business like this will affect the integrity of the City of Grand Junction in lowering our community's standards. Thank you for your time.

CHAIRMAN COLE: Thank you. Someone else. Yes, sir.

MR. JACOB: Good evening. My name is Mike Jacob and I live at 2180 Standing Rock Drive and I had just a...a story and just a different definition of neighborhood from *Webster's* - a particular community, district or area. So that encompasses the entire city. And the story I would relate is we used to have to go to Las Vegas for conventions and when I would go to the convention hall by myself and we'd come out of the convention hall for a break at the end of a day, we always had strippers and hookers passing out cards to any man or group of men that did not have a woman present with them. And I don't think we need that kind of behavior and activity going down here at Two Rivers for any convention that we might have or any hotel out on Horizon Drive or even any hotel out on North Avenue. And, of course, those areas are outside the greater Grand Junction area – our neighborhood.

I remember walking down the strip with my daughters, just kids - 3 years old, 5 years old - and we'd come up to the bus stops and they'd have these big fancy posters with the girls of glitter – glitter gulch - and my daughters were just thrilled with these sequins and these pretty women in these posters. And I don't think that we want that kind of activity in the bus stops in Grand Junction. If you allow these things to come in, it's going to affect the greater community. These posters will show up at all of our bus stops and they could very well show up at our convention halls and hotels and I don't think that's the impression we want to give where people will come in this town for conventions. Thank you very much.

CHAIRMAN COLE: Thank you. Someone else. Yes, sir, in the back.

MR. SMITH: My name is Dave Smith. I live at 541 29-1/2 Road. And I would just like to ask the commission to...to consider a couple of things and that is first

the...the traffic situation in that area that is not designed for a mass amounts of civilian or...or commercial traffic like that is very much an industrial area. Those intersections are not meant for heavy loads of daily traffic like that and that intersection right there is already a very dangerous intersection and the placement of this establishment being such as it is allows for those who would commit criminal activity easy access to I-70 and a quick exit out of town which is going to allow them to commit their crimes and leave before our police force has a chance to respond. When we have a police force that is already stretched as thin as it is I would ask that you take into consideration the fact that it would not be beneficial either to the city or any of its residents or the police force to ask them to take on the extra...the extra patrol routes, the extra ambulance activity from the fire department and such to...to patrol an area that is already a low activity area that they don't currently have to assign a lot of manpower to.

Secondly, that is also not an area where there's a lot of businesses open at night and so cabs don't tend to frequent that area and as such most people are going to be in the habit of driving home afterwards rather than...than providing the safe...safe alternatives that...that we would all ask them to.

The other things that I would ask you to consider is that with the lack of...of commercial zoning that we have in this area, use it the wisest course of action to assign this lot to a bar nightclub that can be put in other areas and in other zoning commercial...other zoning districts that don't impede the...the business and the commercial zoning that is currently there. I...I look at the...the commercial zoning as it is currently and I look at it kind of from a standpoint of instant replay in football. If it was there as one thing then it should be incontrovertible evidence to overturn it. In other

words if it was deemed to be commercial by previous commissions and previous councils and that's been held up thus far, why would we change it now especially while we are experiencing the growth that we are. It's not like we're in a...in a downturn or anything like that. You know within Grand Junction expanding the way it is, why would we overturn it now? Why would we change that now and allow this use now when every other commission and council has upheld its use as commercial.

And finally the last thing that I would ask you to consider is that every time one of these...these types of establishments come into town it affects the reputation of Grand Junction just as it's affected every other town that's ever allowed one of these in and I would ask you guys to take into consideration I don't want the town that I live in and the town that I have to do business in having the reputation that comes along with these establishments. Thank you for your consideration.

CHAIRMAN COLE: Thank you. Anyone else? Yes, ma'am.

MS. McFARLANE: My name is Rennae McFarlane. My address is 2808 Bookcliff Avenue. Mainly I know we're not supposed to talk about the adult side of it but I just wanted to remind everyone about Paige Birgfeld. Running an escort service I know is a little different but she turned up dead because of the type of business and then Abby and Jennifer Blagg who we still haven't found the young girl but her dad was into pornography. They found it on the computer and this type of sexual misconduct always promotes violence. You see in the bigger cities the mafia and the things like that are always involved somehow in the strip clubs and those type of businesses. And also I wanted to just say there is the Westgate Inn right close by there and the Holiday Inn Express which are at this point very good businesses.

Westgate Inn has a very high dollar restaurant and it's a very nice motel and then also the Holiday Inn Express is a family type hotel that people when they're traveling trust to go to but they are in a little bit darker area but with this type of business...I know when I'm traveling if we're staying in a hotel we've stayed a couple of times and didn't realize but there was a strip club close by. The type of things that go on in the rooms next to you...I don't even want to mention it, it's vulgar. But families can't sleep, they're traveling and this type of stuff, partying and the things they do in there that innocent families have to listen to. And people travel through Grand Junction. That's the first stop is the Westgate Inn or the Holiday Inn Express and I don't think we should put families and their children in, you know, this type of place where they can't be safe at night.

Also I had bartended years ago, I don't do that anymore, but the bar that I bartended we didn't have strippers but it was a biker bar and it...it drew this type of establishment will draw that type of people there I can guarantee it. And they all carried guns, knives and there was always a violent fight. One time I was robbed. Some guy robbed me by knifepoint. Things like that happen and I just...I'm more worried about the violence to these women. You know these men do follow them home and rape them and some of the men that go there get in a frenzy and break into neighborhood homes, you know, their neighbors, some girl out late at night. So it will affect our entire city and I hope you all consider that. Thank you.

CHAIRMAN COLE: Thank you. Someone else. Yes, ma'am.

MS. STRASSER: My name is Amber Strasser. I live at 485 31-1/4 Road and I attend Central High School. I believe the developers of this club chose this

area due to the close proximity of the Acorn gas station and truck stop. We know that the club will be open after normal business hours but semi drivers drive their trucks all day and all night. With this club being approximately one mile away from the truck stop, how many of these drivers will visit this club and then leave possibly intoxicated getting in their trucks and driving east or west on I-70 and cause a dangerous accident.

Perhaps these drivers will not get in their trucks but will be looking for women for sex because they have been sexually aroused from the women inside the club exposing and touching their breasts. We know that most truckers live in their trucks with little or no home life. They visit these kinds of establishments to get aroused. They stop to fill their trucks with gas and currently move on. If these truckers visit this club the chances that something bad will very much increase. Thank you.

CHAIRMAN COLE: Thank you. Someone else. Okay. Yes, sir.

MR. CHAVANCEK: Good evening. My name is Larry Chavancek. I live at 2929 Whitney Lane. In sitting and listening I cannot help but have some questions and to reiterate questions in relation to most appropriate use of land. We live in an area that land is not easily created and manufactured. And industrial land to diversify the potential long term growth of this community is very important and each of you know that and understand that very well. I do not believe that such a use as this applicant is appropriate use for that land and there is much better and more appropriate uses that can be and will be necessary in the future.

I remember being at the meeting like this one that you referred to earlier and hearing questions of the commissioners yourself in relation to the staff and the legal counsel of the city. Questions like if one of these was placed in this position could

another one be right next door and, of course, the response was no. It would have to be at least a thousand feet away. But another question came from the same commissioner asking, but would it be appropriate for other institutions, namely bars, to be in the area and the response as I remember and planning and city would have to correct me if I'm wrong was that oh, yes, it would be very possible that there could be the potential of half a dozen in fact the terms 8 and nine were actually voiced in that area. I'm not quite sure...in fact I am sure I know that that's not what this city wants for that area of the city to become an area whereby that such institutions would grow and foster for indeed they would feed off of this institution.

I moved here 14 months ago from a much larger city community and worked just 4 blocks from an institution that claimed to be the same as this applicant wants to build. I watched in the 11 years that I lived there the area around that community decay. The businesses that were there that were reputable moved away because it had a negative impact upon them and I think it's interesting that we as a city, you as commissioners and elected officials have heard of comments and letters from companies that are in that vicinity that are not pleased about this use and its potential impact upon them and I would dare say that the impact will be ongoing and that area of the city will not be a growing industrial park that will enable the long-term financial viability of this city but will indeed tend to pull down that area and, therefore, be an economic drain instead of an economic benefit. I appreciate your time.

CHAIRMAN COLE: Thank you. Someone else. Seeing none, would the applicant like to respond to anything that has been said this evening?

MR. ROWLANDS: Thank you, Mr. Chairman. I sympathize with all the people here and I really understand their concerns but being a representative of my client I have to say the city zoning and development codes recognized they had to have a place for this type of business and they made the requirements very specific that have to be met and this project was located here because it met all these requirements. And city staff recognizes the fact that it meets all the requirements.

We're here for a conditional use permit for the bar and nightclub portion of this. If you see on your consent agenda, you approved two conditional use permits for a bar and type deals and even the conditional use permit has specific requirements that must be met. And again I have to say we met all those requirements as city staff has identified that we have done this. That's really all I have. Thanks.

CHAIRMAN COLE: Are there any further questions of the applicant?

COMMISSIONER ABBOTT: I have a question. My...my biggest concern is the compatibility with the adjacent land uses. Can you address in your opinion how this fits?

MR. ROWLANDS: It's...it's very difficult alright. The city development code had to identify a type of zoning in which to put this type of establishment, alright, and made the determination that an I-1 zone was an appropriate use or appropriate zoning for this type of use. It keeps you away from the residences, the parks, the schools, the churches and saw from the aerial view that (inaudible). If an industrial zone is not an appropriate use then what zone is an appropriate use? I mean you could...you could apply that to every zone in the city. So the city code recognized that

probably the least impact would be in my opinion that an I-1 would probably be the place to put this. Okay?

CHAIRMAN COLE: Any further questions? Okay with that we will close the public hearing and I'm sure the commission probably has some more questions for staff but my first question would be and I'll ask it since it's been brought up again. We were instructed by City Council to rehear the request keeping in mind the definition of neighborhood as defined by the Zoning and Development Code and so I'd like staff to give us that definition if you would.

MR. MOBERG: I'm sorry, Mr. Chairman, if you could repeat that.

CHAIRMAN COLE: Give us the definition of the neighborhood as defined in the Zoning and Development Code. I believe you have it in your staff report but...it's where the City Council...where you've written the City Council's directions.

MR. MOBERG: Neighborhood as defined by the Zoning and Development Code is an area of a community which...with characteristics that distinguish it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools or boundaries defined by physical barriers such as major highways, railroads or natural features such as rivers.

CHAIRMAN COLE: Okay, and that is one of the criteria that we have to consider since the City Council has instructed that...and so you might as well stay there a little bit, Greg, because I think there's probably other questions of...of you or perhaps others of the staff.

MR. MOBERG: I would while you're thinking about that the question about surrounding property and...and the compatibility and how this property...that's

something obviously staff looked very closely at because that's something that is one of the criteria. The surrounding properties, just for everybody's benefit, are mostly vacant at this time. We do have an industrial use at this point and as pointed out before we also have that...that non...legal non-conforming residential use to the east. We also have the...the auto dealership to the south.

As we discussed with the landscape plan, excuse me, there is existing landscaping and a six foot fence that's located along this south property line. There's also a fence that's located to...from the south property line up to this point and so that would deter anybody from being able to go across to that property to the east. The applicant has also placed in landscaping. Back to Commissioner Carlow's question about the police review, one of the things that they were also looking at was making sure that not only were the material...plant materials planted that they could see through but also plant materials in areas that would prohibit people from going through and using plant materials that have barbs, those kind of things that would reduce the ability for people to go back and forth in this area. If that helps any.

CHAIRMAN COLE: Are there further questions?

COMMISSIONER WALL: I've got some questions. Call me stubborn but we're going to go back to the house. Because that's what's really bothering me the most is the house. As I understand it if they want to do anything to that house they would have to conform to the code. So if they expanded or did anything they'd have to conform to the code.

MR. MOBERG: They would have to conform to chapter 4, the non-conforming...

COMMISSIONER WALL: Yeah, yeah. Do they have the ability to sell the home as a residence and not...even though nothing was done to it?

MR. MOBERG: Yes.

COMMISSIONER WALL: And so anybody could go live in that house?

MR. MOBERG: Um, hmm.

COMMISSIONER WALL: So with that in mind, understanding that there is the zoning of the whole area of industrial which I completely understand that, I'm having a difficult time, and maybe you can help me with this, not thinking about the residents that would live within that zone. So there's the opportunity...there could be...I don't know who lives there. There could be a retired couple who lived there now. There could be a new family that moves in there later with kids. So that piece, ignoring that piece is...is hard for me to overlook the whole entire area as industrial because there's still that one element to the neighborhood for compatibility. As long as there's that opportunity there, that throws a different dart into the mix that I'm having a hard time getting over.

MR. MOBERG: Um, hmm.

COMMISSIONER WALL: Can you help me figure that one out?

MR. MOBERG: Well, as I've stated earlier the problem that...that we have as staff in looking at this is it's very specific to a thousand foot buffer or separation from any residentially zoned property, not used property.

COMMISSIONER WALL: I understand that but I'm having a hard time just because on paper, black and white, it says residentially zoned. I'm having a hard time ignoring the residents that actually live in that area. I'm having a really difficult

time. And that's the piece that I asked about being grandfathered in because businesses get grandfathered in areas. I understand that but I...I think the code is written and...and it's fine but I think...it's...it's...it's too black and white. There's a gray that...that I'm having an issue with.

MR. MOBERG: As you pointed out, one of the things that the city has done is zone that entire area industrial. It is the city's determination that all of these properties including that residence would go to an industrial use. At this time there happens to be a residence on it. My feeling, as just a personal feeling, this were to go up for sale it would go for sale as industrial dirt if you will and would be at a price where you'd more than likely have to develop it as industrial rather than just buy it to...to move in as a residence. However, your comment somebody could buy it, could sit on it, could rent it out. Obviously it is a residence and could be maintained as a residence under chapter 4 indefinitely until something were to occur to the...the structure itself.

COMMISSIONER WALL: Thank you.

COMMISSIONER PAVELKA-ZARKESH: I have a gray area. I mean we...we already...it's already been stated I mean as far as the adult entertainment, it's allowed there by...in an industrial area. The issue before us is the use of alcohol. What other areas can we have bars? We'll just simplify it – commercial?

MR. MOBERG: Let me look that up for you real quick so I'm not just going off the top of my head but certainly in the C-1 zone, the C-2 zone, the I-1 zone, let's see. I'm just not sure. I'm assuming it's also in the B-2 which would be the downtown.

COMMISSIONER PAVELKA-ZARKESH: Okay.

MR. MOBERG: I just don't know about the B-1 zone, but certainly the B-2, C-1, C-2 and the I-1 zone.

COMMISSIONER PAVELKA-ZARKESH: So in those areas we've, you know, a straight...a bar is allowed in an I-1?

MR. MOBERG: Um, hmm. With a conditional use permit.

COMMISSIONER PAVELKA-ZARKESH: With a conditional use permit. What about C...the commercial zones with a CUP or not?

COMMISSIONER WALL: Actually it's B-1, B-2, C-1, C-2, I-O and I-1 are all bar nightclubs with a C-U-P.

MR. MOBERG: With a conditional use permit.

COMMISSIONER PAVELKA-ZARKESH: All bars are with a conditional use?

MR. MOBERG: And you did review one tonight, Quincy's, which was looking to do an addition.

COMMISSIONER PAVELKA-ZARKESH: Yes. I understand that one. I just wanted to make sure I had my zones, my alphabet soup straight. Thank you.

CHAIRMAN COLE: Further questions?

COMMISSIONER CARLOW: This is probably better aimed at Jamie but when the liquor licensing authority convenes do they address any of these issues other than...or do they just address the character of the applicant or whatever?

MS. BEARD: They will address those issues that are required to be addressed in regards to the state statutes before being able to grant a liquor license. They are not looking specifically when it comes to what the use of the property is.

And if I may, if you can give me the opportunity to address some of what Mr. Wall was asking, some connection needs to be made. If you're looking at the criteria for the adult entertainment, then the specific criteria is that it cannot be residentially zoned property within a thousand feet. If you're looking at the fact that there is a residence next door, then you're looking at the criteria for the C-U-P as for compatibility purposes. So if you're not going to or if you're saying that it shouldn't be allowed to be there, then you have to connect it back to the compatibility and say what is it about the secondary effects on that site that are going to make it incompatible with the residences next door and can those secondary effects then be mitigated with the site so that it's not incompatible.

So don't connect it with the adult entertainment and the fact that our criteria indicates that they have to be at least a thousand feet from residentially zoned property. Connect it back to the actual criteria for the conditional use permit and keep in mind that we do have bars that are next to neighborhoods and or residences. So it's specific to this particular site and what is it about the secondary effects that you believe make it incompatible and if you could then include those on the record so that we have an understanding of the decision.

COMMISSIONER WALL: I'm not sure that I can separate those two now that it's combined into one. I understand exactly what you're saying but when it comes

to the compatibility piece as long as that one is held to such strict restrictions I think that does come into play as far as a residence being there.

MS. BEARD: But the restriction is specific to just residentially zoned property so it's not...

COMMISSIONER WALL: I understand that.

MS. BEARD: It's not that criteria. It goes to the compatibility and then connect it to the secondary effects.

CHAIRMAN COLE: Further questions? Hearing none, we will bring it back to the commission for discussion. Would anyone like to...like to start out and make any statements before we call for the motion?

COMMISSIONER CARLOW: My opinion that it was remanded back to us considering...I...I was convinced we erred when we called our city a neighborhood the last time and I still feel that way. I...I think that's far too broad and...and they also remanded it back to...let's see...where am I...not to...not to consider what the entertainment's going to be but rather the bar nightclub aspect. So I...I would vote in favor of the motion.

CHAIRMAN COLE: Someone else?

COMMISSIONER ESLAMI: Yes. Oh, sorry, sorry. Go ahead.

COMMISSIONER PAVELKA-ZARKESH: (Inaudible).

COMMISSIONER ESLAMI: The only thing that I...I have a concern is the traffic, of course, but the rest of the stuff I don't believe that we have seen all those in the TV, violence, sex, everything that has been presented to the kids with the IPODS,

cell phones, computers. So that is not the concern. My concern is mostly the traffic. If they can fix that one, then I'm for it.

CHAIRMAN COLE: Anyone else?

COMMISSIONER PAVELKA-ZARKESH: Mr. Chairman?

CHAIRMAN COLE: Yes.

COMMISSIONER PAVELKA-ZARKESH: As...as we look at this by right adult entertainment is permitted on this site; however, it is the bar nightclub aspect that we're looking at. And if we take a look at having, from a business standpoint, if we start looking at having alcohol in an industrial area, does that foster a good spot for people to be bringing in their businesses? That's a question I keep asking myself and what we're trying to do for the City of Grand Junction and, you know, in the long run with respect to providing jobs and opportunities for our...our residents and I just don't believe having alcohol in this area where we've got businesses and that we're hoping to promote businesses will...will help the situation so I'm just not in favor of this. I don't believe it will be compatible with the uses that we're trying to promote.

CHAIRMAN COLE: Anyone else?

COMMISSIONER WALL: I'd probably agree with my peer as far as the compatibility piece and the alcohol use. Being an industrial zone, I...I...my vision for that is a little bit different and I don't think having alcohol in the area is going to promote the safety aspects of that neighborhood that we're looking for. Definitely with the residential property next to it, I'm not in favor of compatibility-wise with that piece but as far as the whole neighborhood as a vision, I...I...I just don't see how a bar is going to

influence that neighborhood and let it grow into the neighborhood that we...we hope it to be industrially.

CHAIRMAN COLE: Anyone else? Okay, let me just say that the last time this came before this body, excuse me, the determination was that the entire city was the neighborhood and in fact that was what was reported in the newspaper as being the...the criteria that the commission used. I followed that criteria; however, weighing more on my mind as I voted against this application was the concerns of the automobile dealer that is across the street. That has since been addressed to my satisfaction that that probably is consistent with what is presented here.

When I look at this now I...and let me just say I thought at the time to establish neighborhoods - neighborhood as being the entire city - that we were on shaky ground to do that probably legally. Council saw that and I think that's one of the reasons that they remanded it back to us. We are required to follow the criteria that...that has been set forth by the ruling body which is the City Council here in this city. And let me just say that we must follow the criteria whether it be a bar nightclub or even if it were a church. We are required to follow the criteria that is set forth in that zone for whatever is applied for and so we need to...to take that into consideration.

We've heard this twice. At least I've heard it twice. Some of you have not been so privileged as to hear it twice. Some have. But at any rate after hearing all of the testimony, and by the way, I...I happen to agree with the type of entertainment that is going on here but we're called on to establish a bar nightclub. The entertainment is not to enter in only as a...a side issue here and, regardless of my personal feelings, I have to say that I believe this item has met the criteria as set forth by those that rule the city.

And I think that is what we are called on...to make our decision that whether or not it meets the criteria for a bar nightclub in this zone and in my opinion it has been established that it does. Although I know that this goes against the grain for probably nearly everyone here tonight and...but, including myself.

However, I'm called on to decide on the basis of the law here and so I would have to find in favor of...of this application. Let me also say that there will be other...another...at least one more opportunity and that is when they come to apply for a liquor license for you to voice your...your concerns at that time in...in regards to them getting a liquor license. So this...this is just one step in the process of getting this...this type of business established here and I would ask our legal representative if she would have any more comments concerning this.

MS. BEARD: Not unless there are specifically any questions that need to be answered.

COMMISSIONER ABBOTT: I...I do have one question. I guess my concern is, Mr. Chairman, as stated that, you know, we're going forth with what staff has presented and staff has found that this is all in code and everything's good, I guess my real question is, is are we obligated to follow staff's recommendation or are we to use our best judgment in deciding whether or not in our opinion that this is a compatible use for this area?

MS. BEARD: It is not a requirement that you follow the staff's recommendation. What it is is just a recommendation to you for your consideration but based on staff's expert opinion in reviewing the criteria and reviewing the information that is available, they have brought to you and said that this can be approved.

However, it's your responsibility to look at each of the criteria and determine has the information and the evidence and testimony been provided to you that you can say that yes this project can be approved.

If there are factors and matters that you feel haven't been brought for you particularly things such as discussed with Mr. Wall, that if there are secondary effects that are occurring because of the site that make you feel that it is incompatible with the adjoining properties, then this is the time when you ask for the additional evidence and the testimony that can make you feel more comfortable whether it does or it doesn't or present some recommendation as to what needs to be done with the site so that it can. But in the end it's up to you to decide has all of the criteria been met that's required to be met under the code for a conditional use permit for a bar nightclub.

COMMISSIONER ABBOTT: Okay.

CHAIRMAN COLE: Any further comments or questions? Hearing none, I think we are ready for a motion and for the benefit of those who are new to the commission we attempt to make...always make our motions in the affirmative so that's just one of the conditions that we have placed on...on motions.

COMMISSIONER WALL: Mr. Chairman, on bar nightclub conditional use permit, C-U-P 2008-158, I move that the Planning Commission approve the conditional use permit with the facts, conditions and conclusions listed in the staff report.

COMMISSIONER CARLOW: Second.

CHAIRMAN COLE: Okay, we have a motion and a second. Is there any further discussion? Hearing none, all in favor say aye.

COMMISSIONERS: Aye. Aye. Aye.

CHAIRMAN COLE: Opposed, no.

COMMISSIONERS: No. No. No.

CHAIRMAN COLE: Okay, let's have a show of hands. All in favor, raise their hand. Opposed? It's a tie vote therefore the motion fails so the application has been denied.

CHAIRMAN COLE: Is there anything else that comes before the commission this evening? We are adjourned.



RECEIVED

DEC 02 2008

COMMUNITY DEVELOPMENT
DEPT.
December 2, 2008

Director of Community Planning
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

Re: Appeal to City Council
File No.: CUP-2008-158
Bar/Nightclub
2258 Colex Drive

The owner of the above subject property was aggrieved by a final decision of the Planning Commission on the November 25, 2008 hearing, and wishes to appeal this decision in accordance with Section 2.18.E of the Zoning and Development Code.

The applicant wishes to address the following approval criteria of Section 2.18.E.1.a, in reference to the applicable items:

Item (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.

Expert testimony from City Planning Staff stated that all Conditional Use Permit (CUP) Criteria and Standards have been met in accordance with Section 2.2.E.4 of the Zoning and Development Code. In addition, all use-specific Standards identified in Chapter 4 of the Zoning and Development Code were also met. Therefore, the City Staff recommended approval of this CUP.

Testimony from Roland E. Cole, Chairman of the Planning Commission, stated that the Board was required to follow criteria set out by the City Council. They were to look at the property and zoning the same, whether it was a bar or a church, and that the entertainment was not to be considered. Evidence was presented that the bar/nightclub has met all the criteria stated in the zoning requirements so they were required to approve the request for the conditional use permit.

In justifying their "no" vote, some of the commissioners said the bar/nightclub may not be compatible with an I-1 zone and could be a deterrent to bring in new businesses to the

area. This was a purely speculative comment on their part and they provided no evidence as such. We note that numerous bars and nightclubs are located in widely dispersed locations throughout the City, both within and adjacent to industrial and commercial use zones.

Testimony from Jamie Beard, Assistant City Attorney, stated that the Commissioners were to look at each of the criteria for zoning requirements, and determine if the testimony presented was sufficient to approve the project. If the Commissioners feel there are secondary effects that are occurring because of the site that makes it incompatible with the area, that this was the time to ask for additional information and testimony which would make them feel more comfortable. No additional testimony or information was requested. They can also set some recommendations for the site so it meets the criteria. No recommendations were forthcoming. It is up to the Commissioners to determine if all of the criteria has been met that is required to be met under the code for Conditional Use Permit for a bar/nightclub. Lacking inquiry, we assume that all criteria have been met

Which brings us to item (5) of the criteria:

- (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.

The official record will show that Rob Rowlands of Design Specialists, acting as the owner's representative, provided testimony to the November 25 hearing. Additionally, the Owner, Kevin Eardley, was present at the hearing, but did not provide testimony nor was he requested to.

In conclusion, based on the testimony and evidence provided, as well as the statements made by Roland Cole, the property in question meets all the criteria for a conditional use permit and must be approved.

Sincerely,



Robert D. Rowlands, Architect
Owner's Representative



Kevin Eardley, Owner

Attach 14

Public Hearing – Amending the Municipal Code Regarding Minors in Possession of Alcohol and Marijuana

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Amend Ordinances 3852 and 3853 regarding minors in possession of alcohol and marijuana to provide guidance for the sentencing of repeat offenders		
File #			
Meeting Day, Date	Wednesday, January 21, 2009		
Placement on the Agenda	Consent		Individual <input checked="" type="checkbox"/>
Date Prepared	January 15, 2009		
Author Name & Title	Mary Lynn Kirsch, City Attorney's Office		
Presenter Name & Title	John Shaver, City Attorney		

Summary: Amendments are being proposed to define and clarify sentencing parameters for repeat Minor in Possession (MIP) offenders. Changes to the Ordinance will help enforce compliance with the City Ordinances governing minors in possession of alcohol and marijuana.

Budget: There is no direct budget impact.

Action Requested/Recommendation: Hold a Public Hearing and consider final passage and publication of the Ordinance. First reading occurred on January 5, 2009.

Attachments: Proposed Ordinance

Background Information: The Municipal Court Judge and City Attorney believe that it would greatly enhance the efficacy of the Municipal Court if amendments were made to the Code to better define what constitutes a repeat offense for alcohol and marijuana offenses. The proposed Ordinance changes provide further clarification of sentencing guidelines for repeat offenders. Specifically, the proposed changes:

- 1) establish that any prior municipal alcohol or drug offense is a prior offense for sentencing purposes;
- 2) clarify that conviction for a violation of a category of offenses (marijuana and alcohol), not specific offenses, are the basis for determining priors; and

3) establish aggravating factors for sentencing.

The changes are recommended to enhance compliance with this important body of law.

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 3852, WHICH ESTABLISHES SECTION 24-22 OF THE CODE OF ORDINANCES AND PROHIBITS THE PURCHASE, POSSESSION OR CONSUMPTION OF ALCOHOL BY MINORS AND ALSO AMENDING ORDINANCE 3853, WHICH ESTABLISHES SECTION 24-23 OF THE CODE OF ORDINANCES AND PROHIBITS THE PURCHASE, POSSESSION OR CONSUMPTION OF MARIJUANA BY MINORS

RECITALS:

Ordinance 3852 of the City Code of Ordinances was adopted by the City Council in December 2005, to prohibit the possession, purchase and consumption of alcohol by minors and prohibit the provision of alcohol to minors. The passage of this Ordinance gave the Municipal Court power to enforce and punish underage drinking violations.

Ordinance 3853 of the City Code of Ordinances was adopted by the City Council in December 2005, to prohibit the possession, purchase and consumption of marijuana by minors and prohibit the possession of drug paraphernalia. The passage of this Ordinance gave the Municipal Court power to enforce and punish underage marijuana possession/consumption.

Since the passage of Ordinances 3852 and 3853, the Municipal Court has successfully prosecuted many violations. In the course of prosecuting those cases, it has become necessary to further define and identify how prior offenses relate to new violations by prior offenders.

To provide clarity and further guidance to the Municipal Court, City staff proposes the following changes to Chapter 24, Sections 22 and 23 and requests that the City Council approve the recommended changes to the Code of Ordinances.

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

1. Chapter 24, Section 22 of the Code of Ordinances, as adopted by this Ordinance No. _____ is hereby amended to read as follows. (Additions are shown in underline; deletions are shown by ~~strikethrough~~.)

Sec. 24-22. Purchase, possession, consumption or sale of alcohol by or to persons under the age of 21.

Definitions

Alcoholic beverage, as used in this section, shall mean any vinous, spirituous or malt liquor and/or any fermented malt beverage, including 3.2 percent beer, of any kind and in any quantity.

Providing alcohol to minor

(1) It shall be unlawful for any person to knowingly sell, serve, give away, dispose of, exchange or deliver, or to permit the sale, serving, giving or procuring of any alcoholic beverage to or for anyone under the age of 21 years.

(2) It shall be unlawful for any person to knowingly permit any person under the age of 21 years to violate subsections (3), (4) or (5) of this section.

Purchase of alcohol by minor

(3) It shall be unlawful for any person under the age of 21 years to obtain or attempt to obtain any alcoholic beverage by misrepresentation of age or any other method in any place selling or providing alcoholic beverages.

(4) It shall be unlawful for any person under the age of 21 years to purchase any alcoholic beverage.

Possession or consumption of alcohol by minor

(5) It shall be unlawful for a person under the age of 21 years to possess or consume any alcoholic beverage.

Defenses, exceptions

(6) It shall be an affirmative defense to any violation of this section 24-22 that the person under the age of 21 years was participating in a religious ceremony or practice, or was participating in a supervised and bona fide investigation conducted by a law enforcement agency, or that the conduct was permitted by Articles 46 and/or 47 of Title 12, Colorado Revised Statutes.

(7) Nothing in this section 24-22 shall prohibit any person under the age of 21 from possessing or consuming any alcoholic beverage in their own home with the knowledge and permission of, and in the presence and under the supervision of, their

natural parent(s) or legal guardian, nor to prohibit any natural parent or legal guardian from providing any alcoholic beverage to their child(ren) in their own home.

Penalties

(8) Each violation of subsections (1) or (2) (providing alcohol to a minor) of this ordinance, Section 24-22, may be punishable by a fine of up to \$1,000, useful public service, up to 30 days in jail, or any combination thereof, in the discretion of the Court.

(9) Each violation of subsections (3), (4) or (5) (purchase, possession or consumption of alcohol by a minor) of this ordinance, Section 24-22, may be punishable by useful public service, suspension of drivers' license, alcohol education classes, alcohol evaluation and treatment, fines, or any combination of these in the discretion of the court, subject to the following:

- (a) Useful public service of no less than 24 hours for any single offense shall be imposed.
- (b) Drivers license shall be suspended for a period of three (3) months for a first offense and up to one (1) year for subsequent offenses.
- (c) Fines of up to \$250 for a first offense, up to \$500 for a second offense and up to \$1000 for a third offense, may be imposed. Fines may be suspended on the condition of timely completion of useful public service and alcohol classes or treatment. This subsection (9)(c) shall not limit the discretion of the court to suspend fines for other reasons it deems appropriate. It is the intention of the City Council in adopting this subsection (9)(c) to establish a preference for useful public service, alcohol education and/or treatment over fines.

(10) Each violation of subsections (3), (4) or (5) (purchase, possession or consumption of alcohol by a minor) of this ordinance, Section 24-22, by a person who is 18 years of age or older may be punishable by up to 30 days in jail, in combination with or in lieu of any penalties set forth in subsection (9) of this ordinance, Section 24-22, in the discretion of the Court.

(11) "First offense", "second offense", "third offense" and further offenses shall be defined as including any prior municipal alcohol or drug related possession or consumption offense(s).

(12) Aggravating factors for sentence enhancement include but shall not be limited to the following factor(s):

- (a) prior conviction(s) for minor in possession or consumption of alcohol or marijuana;
- (b) prior conviction(s) for possession, consumption, or distribution of alcohol or other unlawful drugs (including prescription drugs);
- (c) prior conviction(s) for driving under the influence of alcohol, driving while impaired by alcohol and other motor vehicle offense(s) involving the use of alcohol and drugs; and
- (d) lack of cooperation by the defendant, including poor attitude and/or aggressive or hostile demeanor.

2. Chapter 24, Section 23 of the Code of Ordinances, as adopted by this Ordinance No. ____ is hereby amended to read as follows. (Additions are shown in underline; deletions are shown by ~~strikethrough~~.)

Sec. 24-23. Purchase, possession, consumption of marijuana by persons under the age of 21.

(1) It shall be unlawful for any person under the age of 21 years to purchase or possess one ounce or less of marijuana, and/or to consume any quantity of marijuana, except as allowed for medicinal purposes.

Penalties

(2) Each violation of this section 24-23, shall be punishable by useful public service, suspension of drivers' license, drug education classes, drug evaluation and treatment, fines, or any combination of these in the discretion of the court, subject to the following:

- (a) Useful public service of no less than 24 hours for any single offense shall be imposed.
- (b) Drivers license shall be suspended for a period of three (3) months for a first offense and up to one (1) year for subsequent offenses.
- (c) Fines of up to \$250 for a first offense, up to \$500 for a second offense and up to \$1000 for a third offense, may be imposed. Fines may be suspended on the condition of timely completion of useful public service and drug classes or treatment. This subsection (2)(c) shall not limit the discretion of the court to suspend fines for other reasons it deems appropriate. It is the intention of the City Council in adopting this subsection (2)(c) to

establish a preference for useful public service and drug education and/or treatment over fines.

(3) Each violation of this section 24-23 by a person who is 18 years of age or older may be punishable by up to 30 days in jail, in combination with or in lieu of any penalty provided for in subsection (2) of this ordinance, Section 24-23, in the discretion of the Court.

(4) “First offense”, “second offense”, “third offense” and further offense(s) shall be defined as including any prior municipal alcohol or drug related possession or consumption offense(s).

(5) Aggravating factors for sentence enhancement include but shall not be limited to the following factor(s):

- (a) prior conviction(s) for minor in possession or consumption of alcohol or marijuana;
- (b) prior conviction(s) for possession, consumption, or distribution of alcohol or other unlawful drugs (including prescription drugs);
- (c) prior conviction(s) for driving under the influence of alcohol, driving while impaired by alcohol and other motor vehicle offense(s) involving the use of alcohol and drugs; and
- (d) lack of cooperation by the defendant, including poor attitude and/or aggressive or hostile demeanor.

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado this 5th day of January, 2009.

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

President of the Council

ATTEST:

City Clerk