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**CITY COUNCIL AGENDA
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET
WEDNESDAY, APRIL 1, 2009, 7:00 P.M.**

Call to Order

Pledge of Allegiance

Recognitions

Industry Awards for Visitor and Convention Bureau

Citizen Comments

***** CONSENT CALENDAR ***®**

1. **Setting a Hearing on an Amendment to Clarify the Functions and Duties of a Police Dog** [Attach 1](#)

Chapter 6, Section 6-5 of Article I of the City Code of Ordinances regarding injuring or meddling with police dogs is unclear in its description of the particular law enforcement functions or duties that a law enforcement dog performs. Legal staff seeks clarification of the current ordinance to better interpret and apply the law in the City of Grand Junction and to promote efficient monitoring and investigation of cases involving meddling with police dogs.

Proposed Ordinance Amending Chapter 6, Section 6-5 of Article I of the Grand Junction Code of Ordinances Relating to Injuring or Meddling with Police Dogs

*** Indicates New Item*

® Requires Roll Call Vote

REVISED

Action: *Introduction of Proposed Ordinance and Set a Hearing for April 15, 2009*

Staff presentation: John Shaver, City Attorney

2. **Setting a Hearing on Clarification of Speed Limit Zone Violations** [Attach 2](#)

The City Attorney recommends that an ordinance be adopted to clarify the specific violations that are covered in Section 1102 of the 2003 Model Traffic Code for Colorado, as adopted by the City of Grand Junction, regarding designated speed limits. Section 1102 grants authority to municipalities to reduce speed limits when reasonable under the traffic and road conditions without referencing the specific violations that may occur if the reduced limits are disregarded. This ordinance will connect Section 1102 to the relevant Model Traffic Code provisions where the specific violations are stated.

Proposed Ordinance Clarifying Speed Limit Zone Violations

Action: *Introduction of Proposed Ordinance and Set a Hearing for April 15, 2009*

Staff presentation: John Shaver, City Attorney

3. **Setting a Hearing on Vacating the 27 Road Public Right-of-Way, Located South of Caribbean Drive and North of H Road** [File #VR-2009-043] [Attach 3](#)

Applicant is requesting to vacate 0.62 acres of undeveloped right-of-way located south of Caribbean Drive and north of H Road, which is unnecessary for future roadway circulation and will allow the adjacent property owners to use and maintain the property.

Proposed Ordinance Vacating a Portion of 27 Road Right-of-Way Located South of Caribbean Drive and North of H Road

Action: *Introduction of a Proposed Ordinance and Set a Hearing for April 15, 2009*

Staff presentation: Greg Moberg, Planning Services Supervisor

4. **Vacation of a Portion of a Multi-Purpose, Trail and Drainage Easement (Lot 1, Canyon View Marketplace REI), Located at 649 Market Street** [File #SPR-2008-214] [Attach 4](#)

A request to vacate a portion of a Multi-Purpose, Trail and Drainage Easement for the benefit of the proposed next phase of development for Canyon View Marketplace – REI – that is to be located at 649 Market Street.

Resolution No. 36-09—A Resolution Vacating a Portion of a Multi-Purpose Trail and Drainage Easement, (Canyon View Marketplace - REI) Located at 649 Market Street

®Action: *Adopt Resolution No. 36-09*

Staff presentation: Scott D. Peterson, Senior Planner

5. **Setting a Hearing on Vacating the North/South Alley Right-of-Way Located East of South 7th Street, North of Winters Avenue** [File #VR-2008-089] [Attach 5](#)

Applicant is requesting to vacate the North/South alley right-of-way located east of South 7th Street, north of Winters Avenue. The alley is primarily used for circulation for the adjoining properties and the owners plan on using the additional land for additional parking for the business.

Proposed Ordinance Vacating the North South Alley Right-of-Way Located East of South 7th Street, North of Winters Avenue

Action: *Introduction of a Proposed Ordinance and Set a Hearing for April 15, 2009*

Staff presentation: Senta L. Costello, Senior Planner

6. **Revocable Permit for an Existing Building, Located at 946 South 7th Street** [File #VR-2008-089] [Attach 6](#)

Request for a revocable permit for a portion of the existing building which is within the Winters Avenue right-of-way.

Resolution No. 37-09—A Resolution Concerning the Issuance of a Revocable Permit to WYNSHP Enterprises LLC, Located at 946 South 7th Street

®Action: *Adopt Resolution No. 37-09*

Staff presentation: Senta L. Costello, Senior Planner

7. **Lease Agreement with New Cingular Wireless** [Attach 7](#)

The City owns real property located at 2057 South Broadway, Grand Junction which currently houses a radio antenna used to support Public Safety radio transmission. New Cingular Wireless PCS wishes to enter into a lease agreement for the purpose of building a radio tower capable of housing cellular communication equipment and antennas and the City's current and planned Public Safety antennas.

Resolution No. 38-09—A Resolution Authorizing and Ratifying a New Option and Lease Agreement between the City of Grand Junction and New Cingular Wireless PCS, LLC

®Action: *Adopt Resolution No. 38-09 which Authorizes the City Manager to Sign a Lease Agreement with New Cingular Wireless PCS for a Portion of Property Located at 2057 South Broadway*

Staff presentation: Rob Schoeber, Parks and Recreation Director

8. **Setting a Hearing on Appeal of a Planning Commission Decision on the Preliminary Development Plan, Phase II, Corner Square, Located at 1st and Patterson Road** [File #PP-2008-172] [Attach 8](#)

An appeal has been filed by Frances and Jim Baughman regarding the Planning Commission's decision to recommend approval of the Corner Square Phase II Apartments preliminary subdivision plan. The project is adjacent to property which the Baughmans own and reside.

Action: *Set a Hearing Date for April 15, 2009*

Staff presentation: Greg Moberg, Planning Services Supervisor

9. **Construction Contract for the 2009 Sanitary Sewer Replacement Project** [Attach 9](#)

The project consists of conventional replacement of 4800 lineal feet of 8" sanitary sewer and 2220 lineal feet of 6" sanitary sewer, as well as trenchless rehabilitation of 3876 lineal feet of 6" and 8" sanitary sewer. Also included are

replacement of 220 sewer taps, related surface restoration work, and construction of minor stormwater sewer inlets and laterals.

Action: Authorize the City Manager to Sign a Construction Contract for the 2009 Sanitary Sewer Replacement Project with Sorter Construction, Inc., in the Amount of \$1,299,027.00

Staff presentation: Tim Moore, Public Works and Planning Director

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

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

10. **Public Hearing – Reimer Annexation and Zoning, Located at 2751 Riverside Parkway** [File #ANX-2009-006] [Attach 10](#)

Request to annex and zone .64 acres, located at 2751 Riverside Parkway to I-1 (Light Industrial). The Reimer Annexation consists of one parcel and includes a portion of 27 ½ Road right-of-way.

a. Accepting Petition

Resolution No. 39-09— A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Reimer Annexation Located at 2751 Riverside Parkway and Including a Portion of 27 ½ Road Right-of-Way is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4341—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Reimer Annexation, Approximately .64 Acres, Located at 2751 Riverside Parkway and Including a Portion of 27 ½ Road Right-of-Way

c. Zoning Ordinance

Ordinance No. 4342—An Ordinance Zoning the Reimer Annexation to I-1 (Light Industrial), Located at 2751 Riverside Parkway

®Action: Adopt Resolution No. 38-09 and Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance Nos. 4341 and 4342

Staff presentation: Michelle Hoshide, Associate Planner

11. **Public Hearing – Accepting Improvements and Assessments Connected with Alley Improvement District No. ST-08** [Attach 11](#)

Improvements to the following alleys have been completed as petitioned by a majority of the property owners to be assessed:

- East/West Alley from 3rd to 4th, between Gunnison Avenue and Hill Avenue
- East/West Alley from 9th to 10th, between Teller Avenue and Belford Avenue
- North/South Alley from 14th to 15th, between Hall Avenue and Orchard Avenue

Ordinance No. 4343—An Ordinance Approving the Assessable Cost of the Improvements Made in and for Alley Improvement District No. ST-08 in the City of Grand Junction, Colorado, Pursuant to Ordinance No. 178, Adopted and Approved the 11th Day of June, 1910, as Amended; Approving the Apportionment of Said Cost to Each Lot or Tract of Land or Other Real Estate in Said Districts; Assessing the Share of Said Cost Against Each Lot or Tract of Land or Other Real Estate in Said Districts; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of Said Assessment

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4343

Staff presentation: Tim Moore, Public Works and Planning Director

12. **Appeal of the Planning Commission's Decision Regarding a Conditional Use Permit for a Bar/Nightclub** [File #CUP-2008-158] [Attach 12](#)

The appellant will be out of town on April 1, 2009 and would like City Council to continue the appeal hearing to April 15, 2009. An appeal has been filed regarding the Planning Commission's decision to approve 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: Consider Request for Continuance or Hear the Appeal

Staff presentation: Senta L. Costello, Senior Planner

13. **Non-Scheduled Citizens & Visitors**
14. **Other Business**
15. **Adjournment**

Attach 1

Setting a Hearing on an Amendment to Clarify the Functions and Duties of a Police Dog

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Clarify the Functions and Duties of a Police Dog		
File #	N/A		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	March 9, 2009		
Author Name & Title	DeLayne Merritt, Legal Staff		
Presenter Name & Title	John Shaver, City Attorney		

Summary: Chapter 6, Section 6-5 of Article I of the City Code of Ordinances regarding injuring or meddling with police dogs is unclear in its description of the particular law enforcement functions or duties that a law enforcement dog performs. Legal staff seeks clarification of the current ordinance to better interpret and apply the law in the City of Grand Junction and to promote efficient monitoring and investigation of cases involving meddling with police dogs.

Budget: There will be no direct budget line impact; however, approval of the amendment to the Ordinance may slightly increase the Municipal Court cases per year which will increase the fines collected annually.

Action Requested/Recommendation: Introduction of proposed Ordinance and setting a hearing for April 15, 2009.

Attachments: Proposed Ordinance with changes

Background Information: Currently, the Grand Junction Code of Ordinances describes unlawful actions against police dogs while the dog is performing law enforcement functions. The Code does not detail the specific duties of a police dog that may be protected.

Trained canine officers routinely utilize police dogs to perform duties inside and outside of a law enforcement vehicle. Police dogs are trained to watch and keep their attention on the officer while he/she is contacting person(s) during an investigation or stop. Officers have a remote door opener which will allow the officer, when necessary, to open the vehicle door and allow the dog to exit and be of assistance to the officer during the contact. Persons that are under investigation or bystanders present during a law enforcement contact should be prohibited from vocally or physically distracting a dog that is inside or outside of a police vehicle.

The proposed amendment will clarify the language of the current ordinance. It may increase the situations where officers may issue citations to individuals who are verbally or physically harassing police dogs both inside and outside of a law enforcement vehicle. This amendment will help law enforcement protect the health, safety and welfare of the citizens of Grand Junction.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-5 OF ARTICLE I
OF THE GRAND JUNCTION CODE OF ORDINANCES
RELATING TO INJURING OR MEDDLING WITH POLICE DOGS**

RECITALS:

The current City Code regarding injuring or meddling with police dogs is unclear in its description of the particular law enforcement functions or duties that a police dog performs. Clarification of the Code is needed for efficient prosecution of cases and administration of law by law enforcement officers.

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

Chapter 6, Section 6-5 of Article I of the City of Grand Junction, Colorado, Code of Ordinances is hereby amended to read as follows. (Additions are shown in underline; deletions are shown by strikethrough.)

Sec. 6-5 Injuring or meddling with police dogs.

It shall be unlawful for any person to willfully or maliciously torture, torment, beat, kick, mutilate, injure, disable or kill any dog, including a guard dog, used by a law enforcement agency within the City in the performance of the functions and duties of such agency, or to unwarrantedly interfere or meddle with any such dog while being used by such agency or any member thereof in the performance of any of the functions or duties of such law enforcement agency or of such members.

Interference or meddling with a law enforcement dog includes yelling, barking at, or otherwise distracting by noise, whether yelling or speaking to the canine while he is located inside or outside the law enforcement vehicle. Unsolicited physical touching or throwing objects at or near the dog shall also be included. These examples are inclusive but not limitations.

ALL OTHER PROVISIONS OF CHAPTER 6 SHALL REMAIN IN FULL FORCE AND EFFECT.

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

Gregg Palmer
President of the Council

Attest:

Stephanie Tuin
City Clerk

Attach 2

Setting a Hearing on Clarification of Speed Limit Zone Violations

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Clarification of Speed Limit Zone Violations		
File #			
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	March 9, 2009		
Author Name & Title	DeLayne Merritt, Legal Staff		
Presenter Name & Title	John Shaver, City Attorney		

Summary: The City Attorney recommends that an ordinance be adopted to clarify the specific violations that are covered in Section 1102 of the 2003 Model Traffic Code for Colorado, as adopted by the City of Grand Junction, regarding designated speed limits. Section 1102 grants authority to municipalities to reduce speed limits when reasonable under the traffic and road conditions without referencing the specific violations that may occur if the reduced limits are disregarded. This ordinance will connect Section 1102 to the relevant Model Traffic Code provisions where the specific violations are stated.

Budget: There is no direct budget impact from adoption of the Ordinance.

Action Requested/Recommendation: Introduction of proposed Ordinance and setting a hearing for April 15, 2009.

Attachments: Proposed Ordinance

Background Information: The City of Grand Junction has adopted the 2003 Model Traffic Code for Colorado. Speed regulations are referenced in Part II, Sections 1101 thru 1105.

Section 1101 requires vehicles to travel certain speeds in certain areas or streets. The Code takes into consideration the condition of the roadway and the locations of business and residential districts, open and four-lane roadways.

Section 1102 grants the authority to municipalities to alter speed limits when local authorities determine through a basic traffic investigation or survey that a speed greater or less than authorized under Section 1101 is necessary to promote safe and reasonable travel under the road and traffic conditions. Such locations include

construction and school zones. If local authorities determine that a reduced or increased speed limit is warranted, it is mandatory that appropriate traffic control signs are posted in the area to notify traffic of the altered speed limit.

By this Ordinance it will be perfectly clear that the proper section to cite for violation of a speed limit in a construction or school zone is Section 1102.

By clarifying that Section 1102 authorizes citation of altered speed zone violations under the language of Section 1101(2)(h), law enforcement officers and legal staff may efficiently administer the law for Municipal Court speed violations.

ORDINANCE NO. _____

AN ORDINANCE CLARIFYING SPEED LIMIT ZONE VIOLATIONS

RECITALS:

Section 1102 of the 2003 Model Traffic Code for Colorado, as adopted by the City of Grand Junction, regulates speed limits. That section addresses specific locations or conditions including construction zones, school zones and other locations requiring speeds greater or less than other road and traffic conditions. The efforts of the Grand Junction Police Department to enforce these locations are ongoing. An ordinance clarifying the type of violations that may be cited for these locations will assist officers and legal staff in effectively prosecuting speed violations.

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

Section 1102 in locations where the speed is altered because of road and traffic conditions is hereby amended. The new section shall read as follows:

When a reduced speed limit is authorized pursuant to Section 1102 of the 2003 Model Traffic Code, as adopted by the City of Grand Junction, a violation of the altered speed is a violation of the speed regulations in Section 1101(2)(h).

ALL OTHER PROVISIONS OF THE 2003 MODEL TRAFFIC CODE AS ADOPTED BY THE CITY OF GRAND JUNCTION SHALL REMAIN IN FULL FORCE AND EFFECT.

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

Gregg Palmer
President of the Council

Attest:

Stephanie Tuin
City Clerk

Attach 3

Setting a Hearing on Vacating the 27 Road Public ROW Located South of Caribbean Drive and North of H Road

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Vacation of the 27 Road Public Right-of-Way located south of Caribbean Drive and north of H Road		
File #	VR-2009-043		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	March 24, 2009		
Author Name & Title	Greg Moberg – Planning Services Supervisor		
Presenter Name & Title	Greg Moberg – Planning Services Supervisor		

Summary: Applicant is requesting to vacate 0.62 acres of undeveloped 27 Road right-of-way located south of Caribbean Drive and north of H Road, which is unnecessary for future roadway circulation and will allow the adjacent property owners to use and maintain the property.

Budget: N/A

Action Requested/Recommendation: Introduce a proposed vacation ordinance and set a public hearing for Wednesday, April 15, 2009.

Attachments:

Figure 1: Site Location Map
 Figure 2: Aerial Photo Map
 Figure 3: Future Land Use Map
 Figure 4: Existing City Zoning Map
 Ordinance

Background Information: See attached report

BACKGROUND INFORMATION			
Location:		South of Caribbean Drive and north of H Road	
Applicants:		Applicant: Janice Jones	
Existing Land Use:		Undeveloped right-of-way	
Proposed Land Use:		Extension of the adjoining residential property to the west and additional property for the park	
Surrounding Land Use:	North	Single Family Residential	
	South	Single Family Residential	
	East	Single Family Residential/Public Park	
	West	Single Family Residential/Public Park	
Existing Zoning:		N/A	
Proposed Zoning:		R-1 (Residential 1 du/ac)	
Surrounding Zoning:	North	R-4 (Residential 4 du/ac)	
	South	R-1 (Residential 1 du/ac) and R-2 (Residential 2 du/ac)	
	East	R-1 (Residential 1 du/ac)	
	West	R-4 (Residential 4 du/ac) CSR (Community Services and Recreation)	
Growth Plan Designation:		N/A	
Zoning within density range?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/> No

ANALYSIS

1. Background

The subject right-of-way was annexed in 1994 as part of the 563.20 acre Paradise Hills Annexation. Over the last several decades the properties in the area have completely developed out in a mixture of low and medium density residential. The portion of 27 Road under review has never been improved and serves as a driveway for 821 27 Road and as land adjacent to Paradise Hills Park. Therefore there is no potential for additional development along this portion of 27 Road.

In 1979 the Mesa County Board of County Commissioners vacated the west 30 feet of 27 Road. The Applicant is requesting the vacation of the remaining eastern 30 feet. If the vacation is approved, the southern half of the right-of-way would be

incorporated into Lot 1, Paradise Hills Park and the northern half would be incorporated into Lot 2, Paradise Hills Park.

2. Section 2.11.C of the Zoning and Development Code

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

- a. *The Growth Plan, Grand Valley Circulation Plan and other adopted plans and policies of the City.*

Vacation of the undeveloped portion of 27 Road right-of-way does not impact the Grand Valley Circulation Plan or policies adopted by the City of Grand Junction. Current traffic and street patterns in this area provide for adequate circulation and connectivity to all existing lots and parcels and vacating the right-of-way will not inhibit any access.

This undeveloped portion of 27 Road is not shown on the Urban Trails Map. Therefore the vacation of this right-of-way will not affect the Urban Trails Plan.

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

No parcel will be landlocked as a result of the vacation. All parcels abutting this right-of-way have other access to public streets.

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

Access will not be restricted to any parcel as a result of the vacation.

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

The vacation will not cause any adverse impacts on the health, safety or welfare of the general community or the quality of public facilities.

Services provided to any parcel of land will not be reduced if this portion of 27 Road right-of-way is vacated. Existing utility easements and improvements are to remain.

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

Adequate public facilities and services will not be inhibited to any property.
All existing utility easements will be reserved and retained.

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

The proposed vacation eliminates the need for any future maintenance requirements on the southern half of the right-of-way. The northern half will continue to be owned by the City and will be incorporated into Paradise Hills Park.

FINDINGS OF FACT/CONCLUSIONS

After reviewing the Jones Right-of-Way Vacation application, VR-2009-043 for the vacation of a public right-of-way, I make the following findings of fact and conclusions:

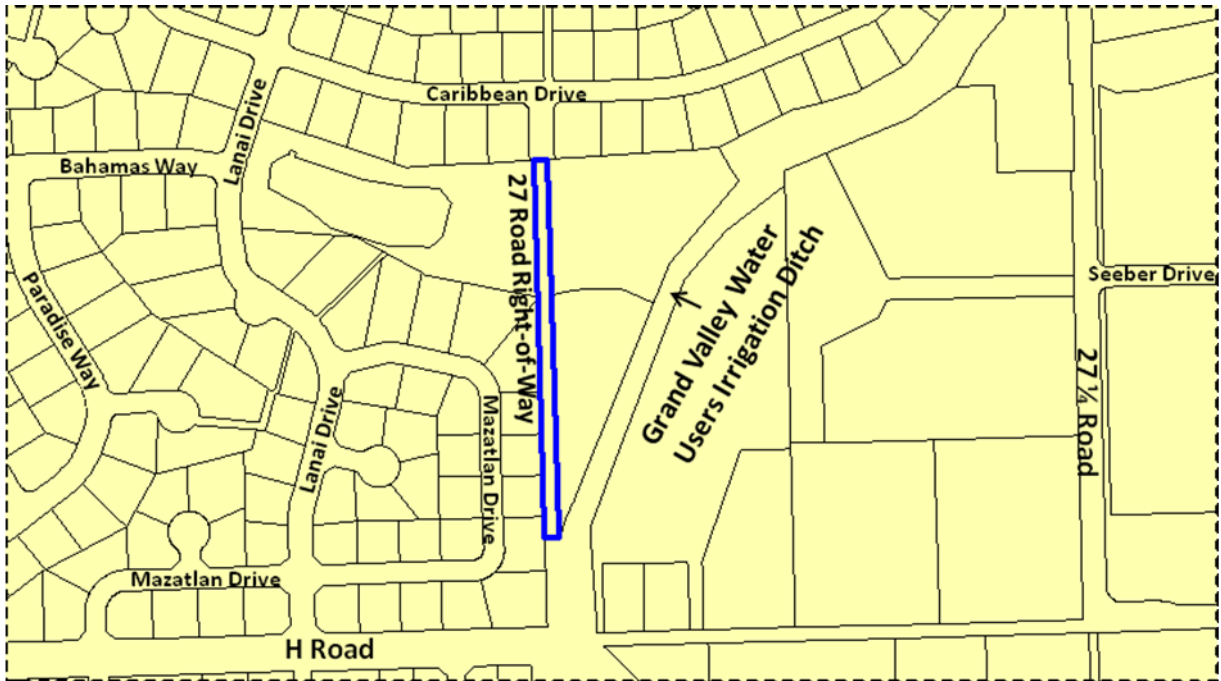
1. The requested right-of-way vacation is consistent with the Growth Plan.
2. The review criteria in Section 2.11.C of the Zoning and Development Code have all been met.

PLANNING COMMISSION RECOMMENDATION:

On April 14, 2009, the Planning Commission will review the requested right-of-way vacation, VR-2009-043, and will forward a recommendation to the City Council.

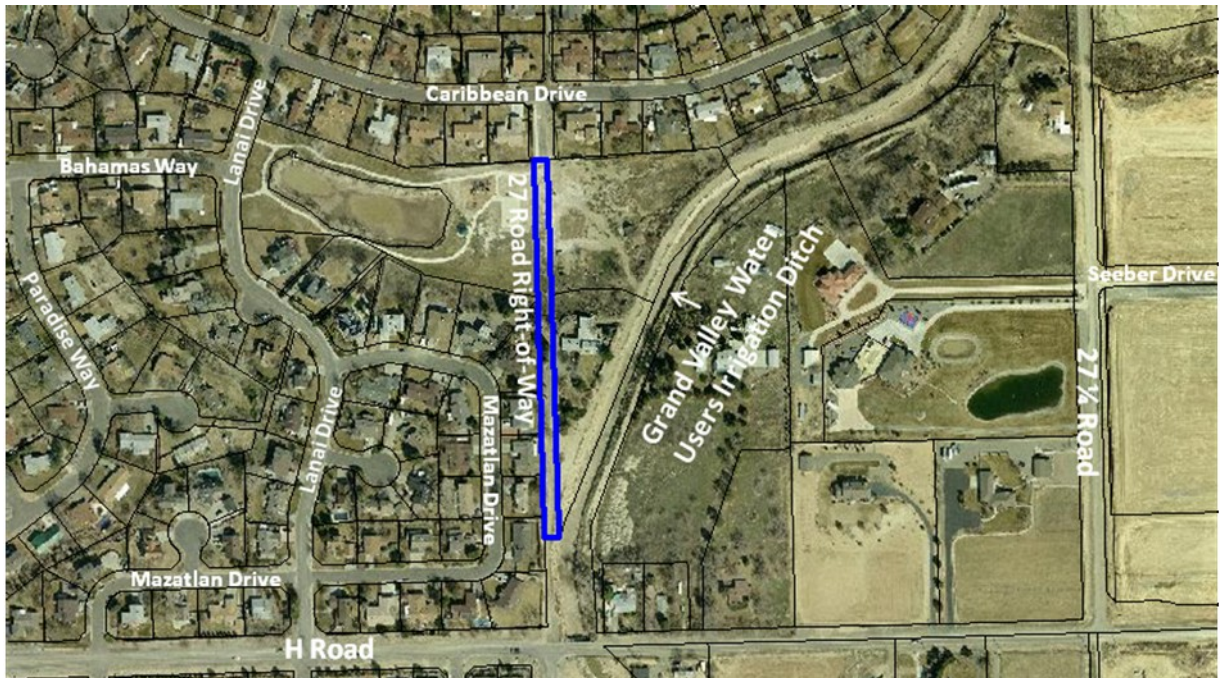
Site Location Map

Figure 1



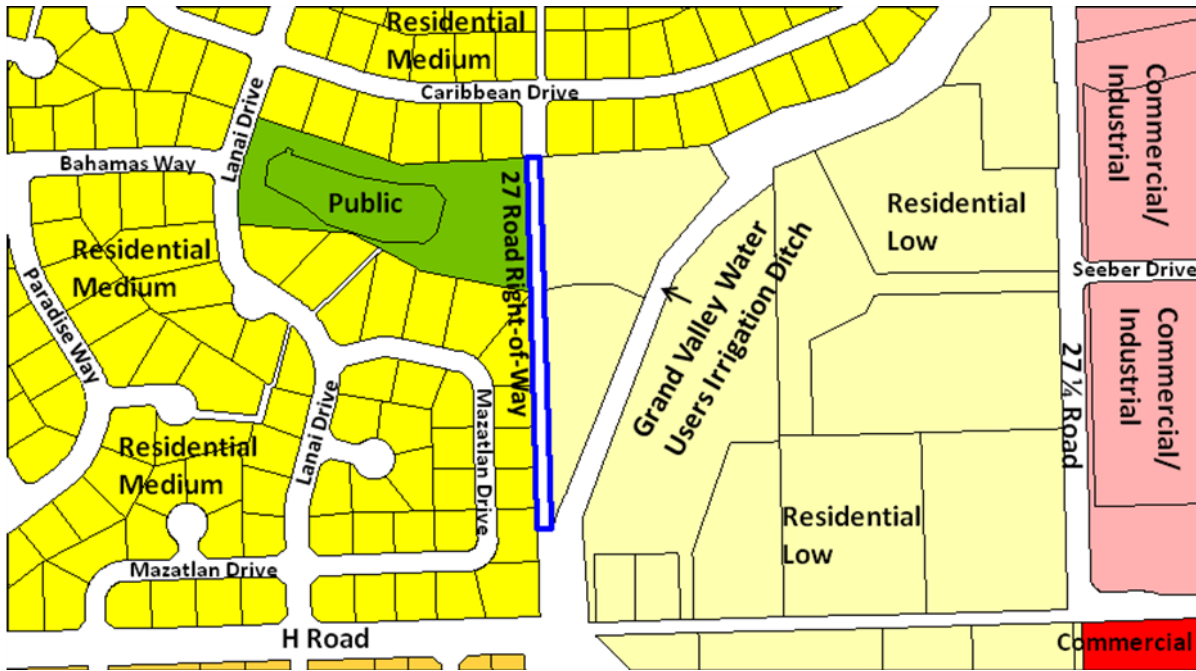
Aerial Photo Map

Figure 2



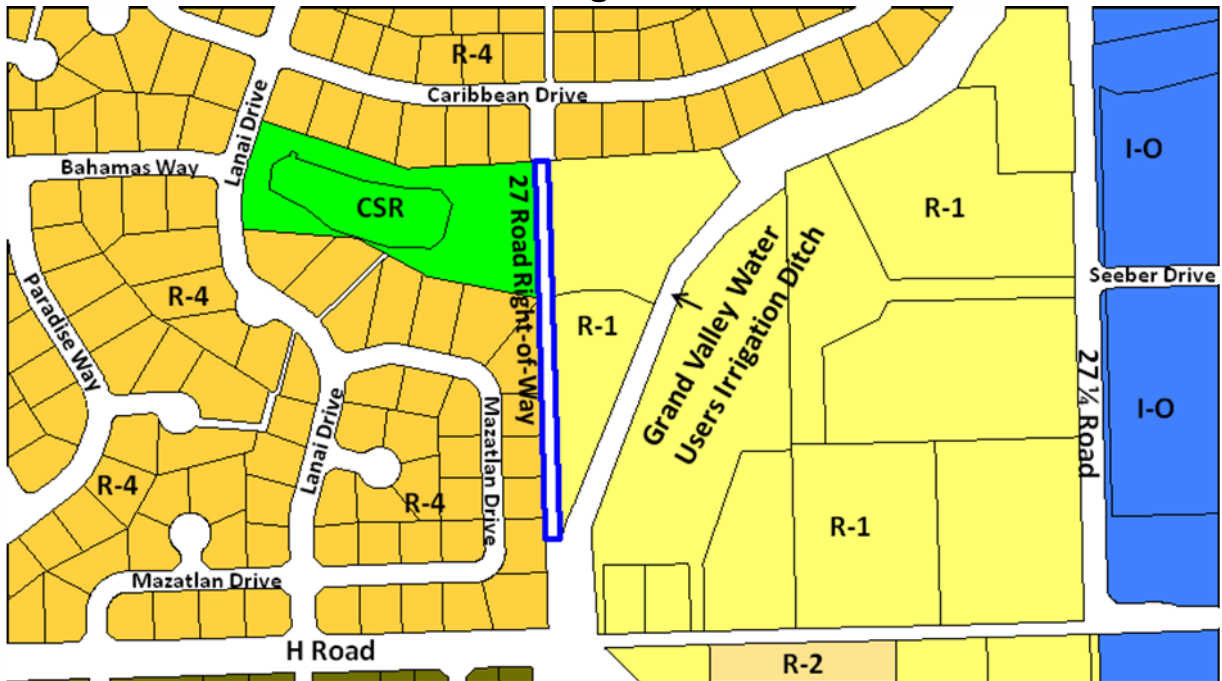
Future Land Use Map

Figure 3



Existing City Zoning

Figure 4



CITY OF GRAND JUNCTION

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF 27 ROAD RIGHT-OF-WAY LOCATED SOUTH OF CARIBBEAN DRIVE AND NORTH OF H ROAD

RECITALS:

A vacation of the dedicated right of way has been requested by the City of Grand Junction on behalf of an adjoining property owner. The City shall reserve and retain all existing utility easements on, along, over, under, through and across the entire area of the right-of-way to be vacated.

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

The Planning Commission, having heard and considered the request found the criteria of the Code to have been met, and recommends that the vacation be approved with the reservation of the utility easement.

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

The following described right-of-way is hereby vacated:

The following 27 Road right-of-way is shown on Exhibit A as part of this Vacation description:

A certain parcel of land lying in the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of Section 25, Township 1 North, Range 1 West of the Ute Principal Meridian, City of Grand Junction, County of Mesa, State of Colorado, being a portion of that certain 30.00 foot right of way for 27 Road, as described in Book 714, Page 534, Public Records of Mesa County, Colorado and being more particularly described as follows:

BEGINNING at the Northwest corner of Lot 2 of Paradise Hills Park, as same is recorded in Book 4634, Pages 413 and 414, Public Records of Mesa County, Colorado and assuming the West line of said Paradise Hills Park bears S 00°04'07" E with all other bearings mentioned herein in reference thereto; thence from said POINT OF BEGINNING, S 00°04'07" E along the West line of said Paradise Hills Park, a distance of 906.22 feet to a point being the Southwest corner of Lot 1, Paradise Hills Park; thence S 89°55'53" W, along a line perpendicular to the West line of the SW 1/4 SW 1/4 of said Section 25, a distance of 30.00 feet to a point on the West line of the SW 1/4 SW 1/4 of said Section 25; thence N 00°04'07" W along the West line of the SW

1/4 SW 1/4 of said Section 25, a distance of 905.18 feet, more or less, to a point on the South line of Paradise Hills Filing No. Four, as same is recorded in Plat Book 11, Page 164, Public Records of Mesa County, Colorado; thence N 87°56'37" E along said South line, a distance of 30.02 feet, more or less, to the Point of Beginning.

CONTAINING 27,173 Square Feet or 0.62 Acres, more or less, as described.

Introduced for first reading on this 1st day of April, 2009

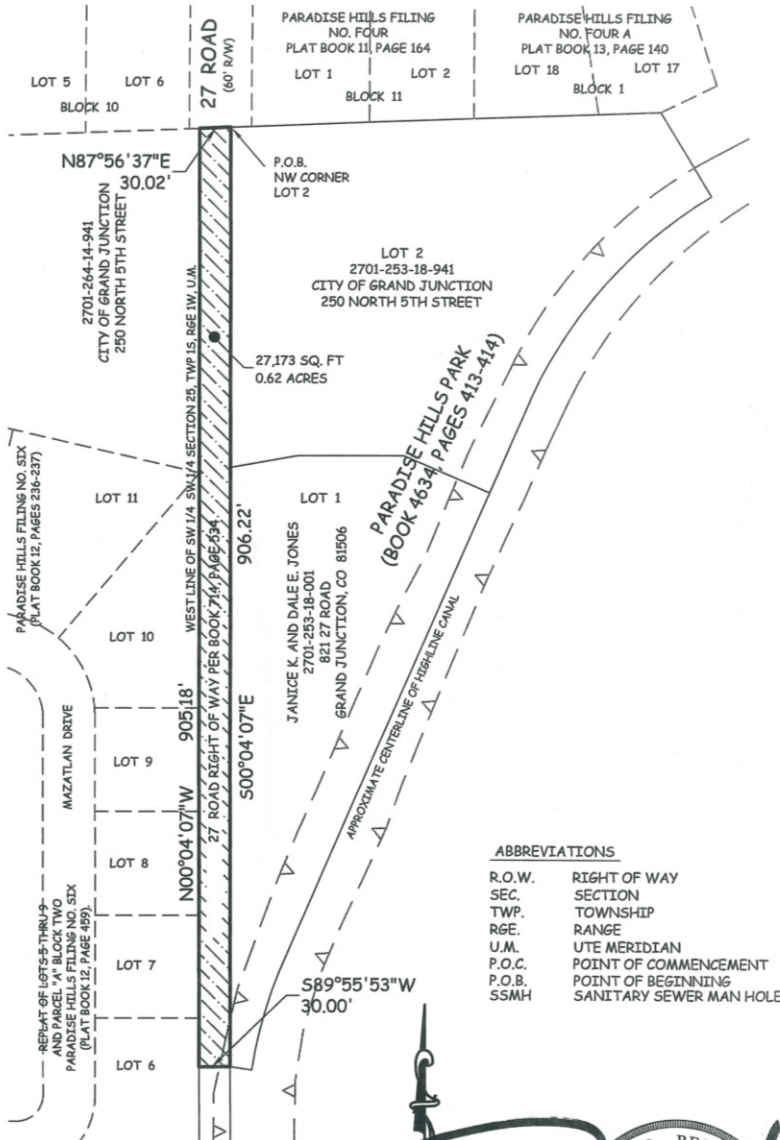
PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

President of City Council

City Clerk

EXHIBIT "A"

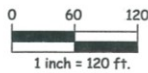


ABBREVIATIONS

R.O.W.	RIGHT OF WAY
SEC.	SECTION
TWP.	TOWNSHIP
RGE.	RANGE
U.M.	UTE MERIDIAN
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
SSMH	SANITARY SEWER MAN HOLE

THIS IS NOT A SURVEY

The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.



LINEAL UNITS = US SURVEY FOOT



DRAWN BY: PTK
 DATE: 3-06-09
 SCALE: 1" = 120'
 APPR. BY: PTK

27 ROAD RIGHT OF WAY VACATION
 WITHIN SW 1/4 SW 1/4 SECTION 25
 TWP 1 SOUTH, RGE 1 WEST, U.M.



Attach 4

Vacation of a Portion of a Multi-Purpose Trail and Drainage Easement (Lot 1, Canyon View Marketplace REI) Located at 649 Market Street

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Vacation of a portion of a Multi-Purpose, Trail and Drainage Easement (Lot 1, Canyon View Marketplace - REI) – Located at 649 Market Street		
File #	SPR-2008-214		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	March 25, 2009		
Author Name & Title	Scott D. Peterson, Senior Planner		
Presenter Name & Title	Scott D. Peterson, Senior Planner		

Summary: A request to vacate a portion of a Multi-Purpose, Trail and Drainage Easement for the benefit of the proposed next phase of development for Canyon View Marketplace – REI – that is to be located at 649 Market Street.

Budget: N/A.

Action Requested/Recommendation: Adopt Resolution.

Attachments:

1. Site Location Map / Aerial Photo Map
2. Future Land Use Map / City Zoning Map
3. Resolution

BACKGROUND INFORMATION				
Location:		649 Market Street		
Applicants:		WTN COEX RP LLC, Owners Gulf Coast Commercial, Representative		
Existing Land Use:		Vacant land		
Proposed Land Use:		Next phase of Canyon View Marketplace that will provide an additional 81,000 +/- sq. ft. of commercial retail space in a total of four (4) buildings with REI as the largest anchor store		
Surrounding Land Use:	North	Vacant land		
	South	Vacant land		
	East	Regal 14 Cinemas		
	West	Vacant land and commercial development		
Existing Zoning:		C-1, (Light Commercial)		
Proposed Zoning:		N/A		
Surrounding Zoning:	North	M-U, (Mixed Use)		
	South	C-1, (Light Commercial)		
	East	C-1, (Light Commercial)		
	West	C-2, General Commercial		
Growth Plan Designation:		Commercial		
Zoning within density range?		X	Yes	No

Staff Analysis:

The applicant, WTN COEX RP LLC, wishes to vacate a portion of an existing Multi-Purpose, Trail and Drainage Easement located at 649 Market Street in anticipation of the next phase of development for Canyon View Marketplace that is currently in the Site Plan Review process. The portion of the existing easement does not contain any utilities and was dedicated as part of the Canyon View Marketplace Subdivision in 2006. The request to officially vacate a portion of this easement is necessary so that the construction of a new building is not encumbered by this easement and to allow for the building construction. The portion of the easement requested to be vacated is not needed.

The Planning Commission recommended approval of the proposed Multi-Purpose, Trail and Drainage easement vacation at their March 24, 2009 meeting.

Consistency with the Growth Plan:

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

Section 2.11 C. of the Zoning and Development Code:

The applicant is requesting the vacation a portion of the existing Multi-Purpose Trail and Drainage Easement as identified on the recorded subdivision plat for Lot 1, Canyon View Marketplace. The vacation of the easement shall conform to the following:

- g. The Growth Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City.

Granting this request to vacate a portion of the existing Multi-Purpose, Trail and Drainage Easement does not conflict with the Growth Plan, Grand Valley Circulation Plan and other adopted plans and policies of the City of Grand Junction. The portion of the easement requested to be vacated does not contain any utilities.

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

No parcel will be landlocked as a result of this Multi-Purpose, Trail and Drainage Easement.

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

Access will not be restricted.

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

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

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

The provision of adequate public facilities and services will not be inhibited to any property as required in Chapter Six of the Zoning and Development Code as there are no utilities located within the requested easement vacation. No adverse comments were received from the utility review agencies.

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

The proposed Multi-Purpose, Trail and Drainage Easement vacation will remove an unnecessary portion of the easement from the property. No change in benefits to the City will be noticed as a result of the proposed vacation.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Canyon View Marketplace - REI application, SPR-2008-214 for the vacation of a portion of a Multi-Purpose, Trail and Drainage Easement, the Planning Commission makes the following findings of fact and conclusions:

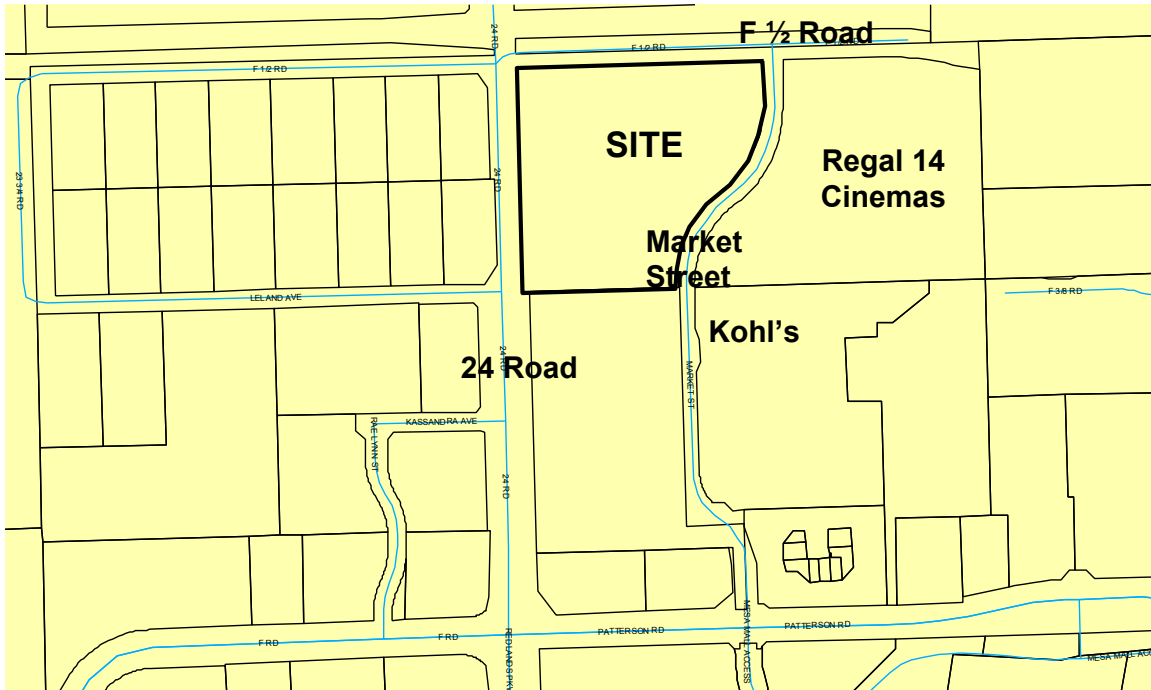
3. The requested easement vacation request is consistent with the goals and polices of the Growth Plan.
4. The review criteria in Section 2.11 C. of the Zoning and Development Code have all been met for the proposed easement vacation.

ACTION REQUESTED/RECOMMENDATION:

The Planning Commission recommends that the City Council approve the Resolution for the vacation of a portion of a Multi-Purpose, Trail and Drainage Easement located at 649 Market Street, finding the request consistent with the Growth Plan and Section 2.11 C. of the Zoning and Development Code.

Site Location Map

Figure 1



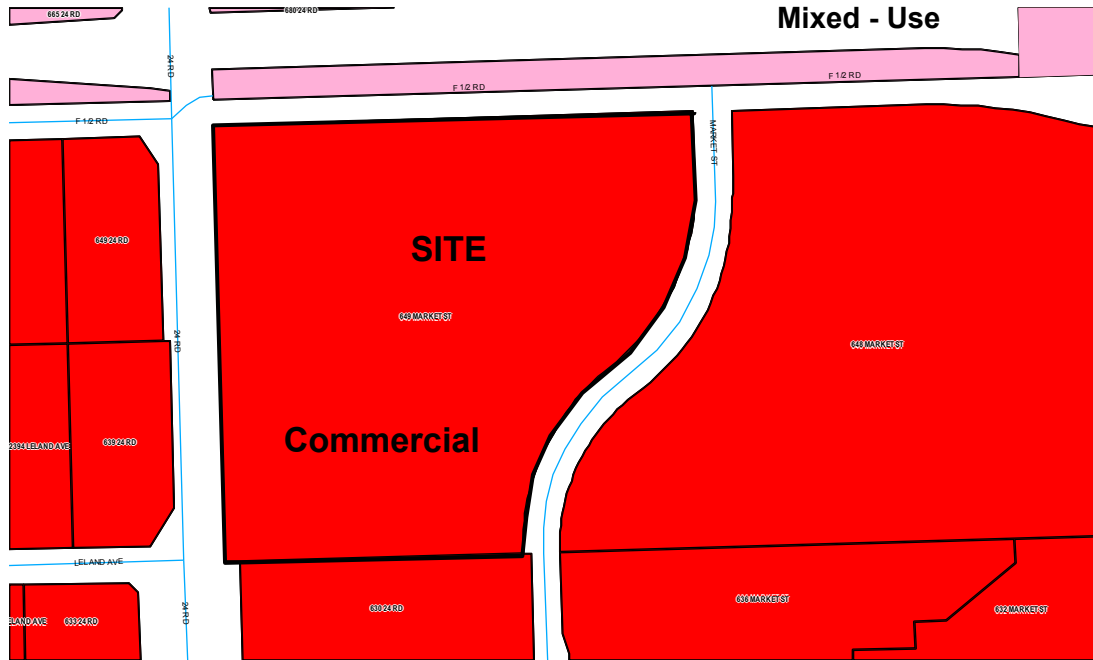
Aerial Photo Map

Figure 2



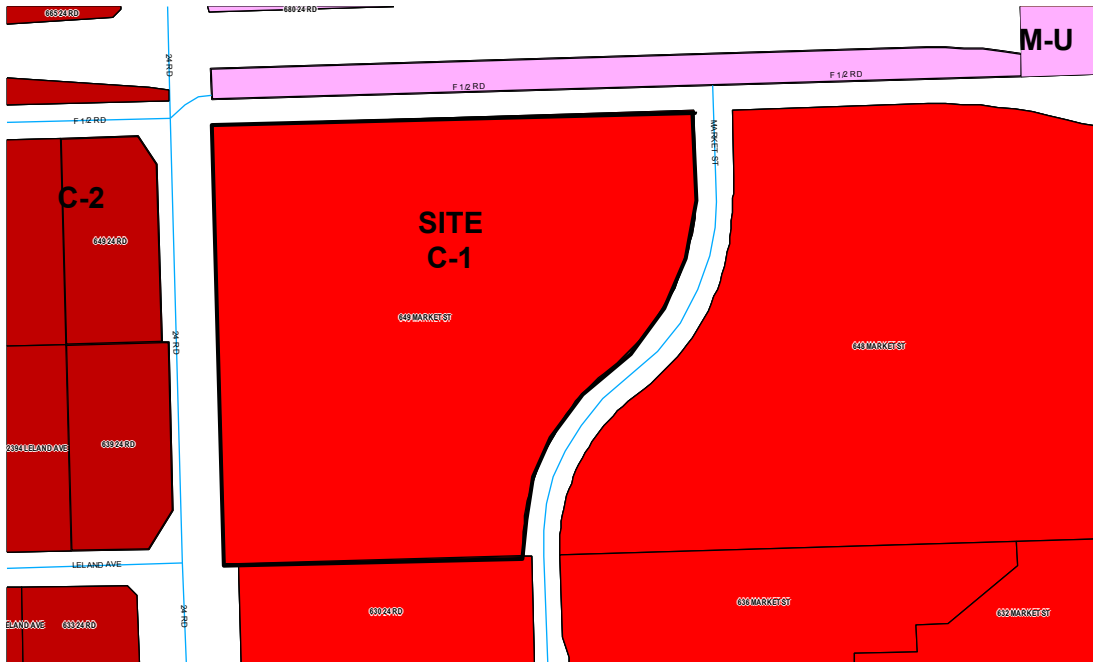
Future Land Use Map

Figure 3



Existing City Zoning

Figure 4



CITY OF GRAND JUNCTION

RESOLUTION NO.

**A RESOLUTION VACATING A PORTION OF A MULTI-PURPOSE, TRAIL AND
DRAINAGE EASEMENT
(CANYON VIEW MARKETPLACE – REI)**

LOCATED 649 MARKET STREET

RECITALS:

The applicant proposes to vacate a portion of a Multi-Purpose Trail and Drainage Easement located at 649 Market Street.

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

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

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

The following described Multi-Purpose Trail and Drainage Easement is hereby vacated subject to the listed conditions:

1. Applicants shall pay all recording/documentary fees for the Vacation Resolution.

The following easement vacation is shown on “Exhibit A” as part of this vacation of description.

That portion of a parcel of land being a Variable Width Multipurpose, Trail, and Drainage Easement across the Western portion of Lot 1, Canyon View Marketplace, as recorded in Book 4081, Page 326, Mesa County Clerk and Records records, and being more particularly described as follows:

Commencing at the Northwest corner of Lot 1 of said Canyon View Marketplace, whence the Northeast corner of said Lot 1 bears N89°54'52"E a distance of 686.58 feet and all bearings contained herein relative thereto; thence N89°54'52"E, 75.19 feet along the North line of said Lot 1; thence S21°33'43"W, 15.06 feet to the POINT OF BEGINNING; thence S21°33'43"W, 76.29 feet; thence N06°00'55"E 71.32 feet, to the North line of said Lot 1; thence N89°54'52"E, 20.57 feet along said North line of Lot 1 to the POINT OF BEGINNING.

Containing 0.02 acres as described.

PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

President of City Council

City Clerk

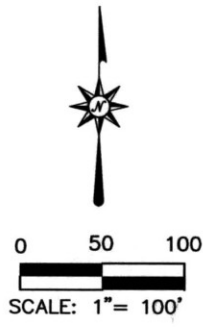
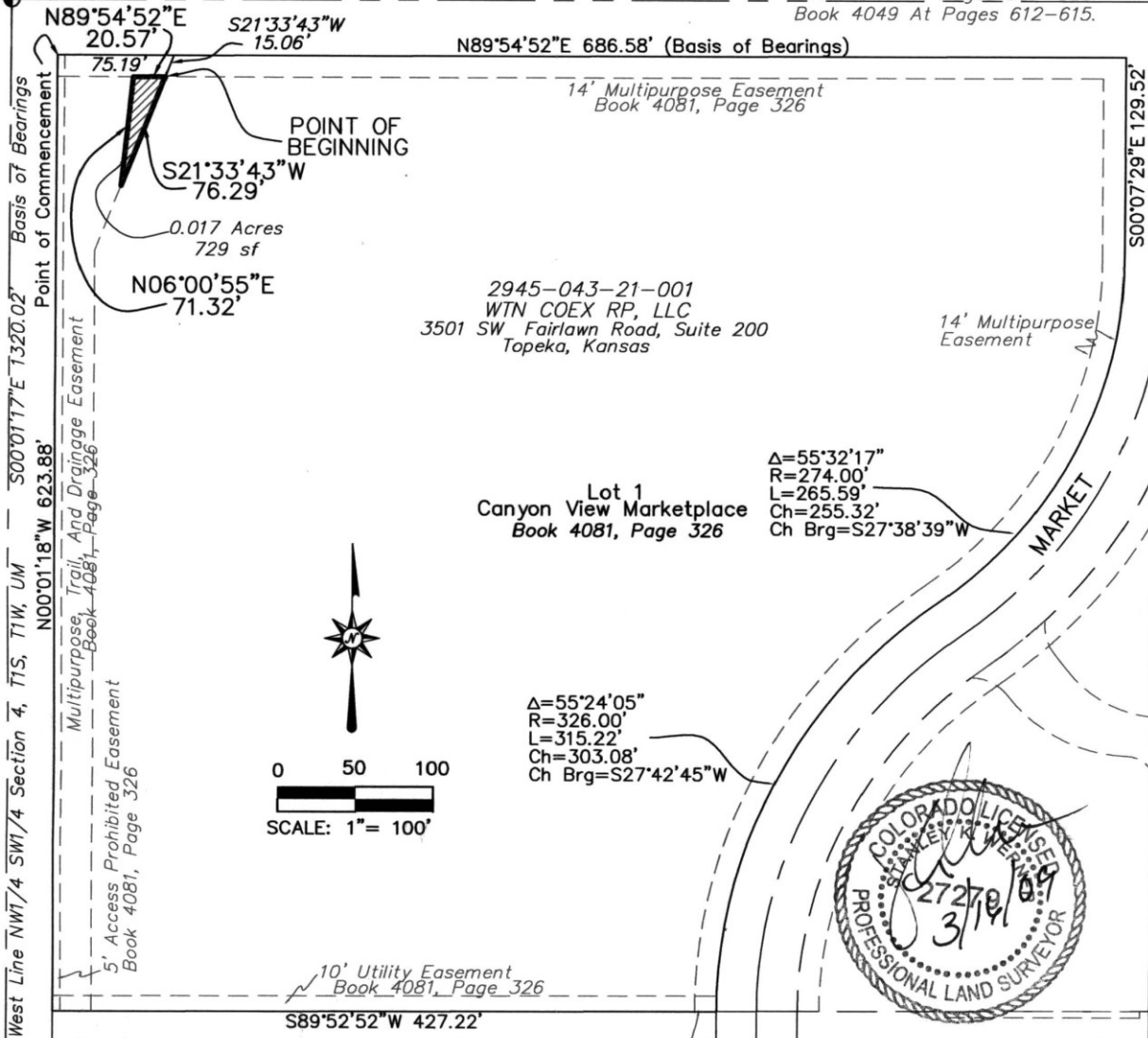
EXHIBIT A

John Usher
2945-042-00-167

W1/4 Corner
Section 4,
T1S, R1W, U.M.
BLM

F-1/2 ROAD
North Line NW1/4 SW1/4 Section 4, T1S, T1W, UM

50' Utility Easement In Favor
Of Public Service Co. Of Colorado
Book 1940 At Pages 987-989
Book 4049 At Pages 612-615.



20' Drainage, Utility And Irrigation Easement
Dillon Real Estate Co, Inc(Plat Book 15, Pages 37, 38 And 39)
630 24 Rd
2945-043-04-007

High Desert Surveying, LLC

1673 Highway 50 Unit C
Grand Junction, Colorado 81503
Tele: 970-254-8649 Fax: 970-240-0451

SW Corner
NW1/4 SW1/4
Section 4
T1S, R1W, UM
MCSM #4-2

PROJ. NO. 07-171	Drawn	APP'D	SHEET	OF
DATE: Sept. 12, 2008	skw	SKW	1	1

Attach 5

Setting a Hearing on Vacating the N/S Alley ROW Located East of South 7th Street,
North of Winters Avenue

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Vacation of the North/South alley right-of-way - Located east of South 7 th Street, north of Winters Avenue		
File #	VR-2008-089		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	February 18, 2009		
Author Name & Title	Senta L. Costello, Senior Planner		
Presenter Name & Title	Senta L. Costello, Senior Planner		

Summary: Applicant is requesting to vacate the North/South alley right-of-way located east of South 7th Street, north of Winters Avenue. The alley is primarily used for circulation for the adjoining properties and the owners plan on using the additional land for additional parking for the business.

Budget: N/A

Action Requested/Recommendation: Introduce a proposed Ordinance and set a public hearing for April 15, 2009.

Background Information: See attached Background Information

Attachments:

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

BACKGROUND INFORMATION			
Location:		North/South alley, east of South 7 th Street, North of Winters Avenue	
Applicants:		Wynshp Enterprises, LLC – Deborah Shipley	
Existing Land Use:		Alley right-of-way	
Proposed Land Use:		Private parking for businesses	
Surrounding Land Use:	North	Commercial	
	South	Commercial/Industrial	
	East	Vacant Industrial	
	West	Commercial	
Existing Zoning:		Not Applicable	
Proposed Zoning:		C-2 (General Commercial) / I-1 (Light Industrial)	
Surrounding Zoning:	North	C-2 (General Commercial) / I-2 (General Industrial)	
	South	I-1 (Light Industrial)	
	East	I-1 (Light Industrial)	
	West	C-2 (General Commercial)	
Growth Plan Designation:		Commercial; Commercial/Industrial	
Zoning within density range?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Yes	No

Staff Analysis:

1. Background

The alley was created in 1913 as a part of the Benton Canon’s First Subdivision Amended Plat. The properties in the area have developed and redeveloped into a mix of vacant, residential, commercial, and industrial sites.

The applicant wishes to vacate the alley in order to use the land for a parking and loading area for the adjacent business, allowing for better customer and public access to the area.

2. Section 2.11.c of the Zoning and Development Code

The vacation of the right-of-way shall conform to the following:

- m. The Growth Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City.

Response: Granting the right-of-way vacation does not conflict with applicable Sections of the Growth Plan, major street plan and/or any other adopted plans and policies of the City

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

Response: All adjacent properties have street frontage on either South 7th Street or Winters Avenue. Vacation of the alley will not land lock any parcels.

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

Response: All existing accesses for all properties will remain in the current configuration and will not be restricted.

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

Response: The adjoining properties are the primary users of the alley proposed to be vacated and the vacation will cause no adverse impacts on the health, safety and/or welfare of the community. Public facilities and services will not be affected.

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

Response: The vacation does not affect public facilities and services.

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

Response: If the alley is vacated, alley maintenance will become the responsibility of the property owner's who receive the land,

FINDINGS OF FACT/CONCLUSIONS

After reviewing the Wynshp Alley Vacation application, VR-2008-089 for the vacation of a public right-of-way, staff makes the following findings of fact and conclusions:

- 5. The requested right-of-way vacation is consistent with the Growth Plan.

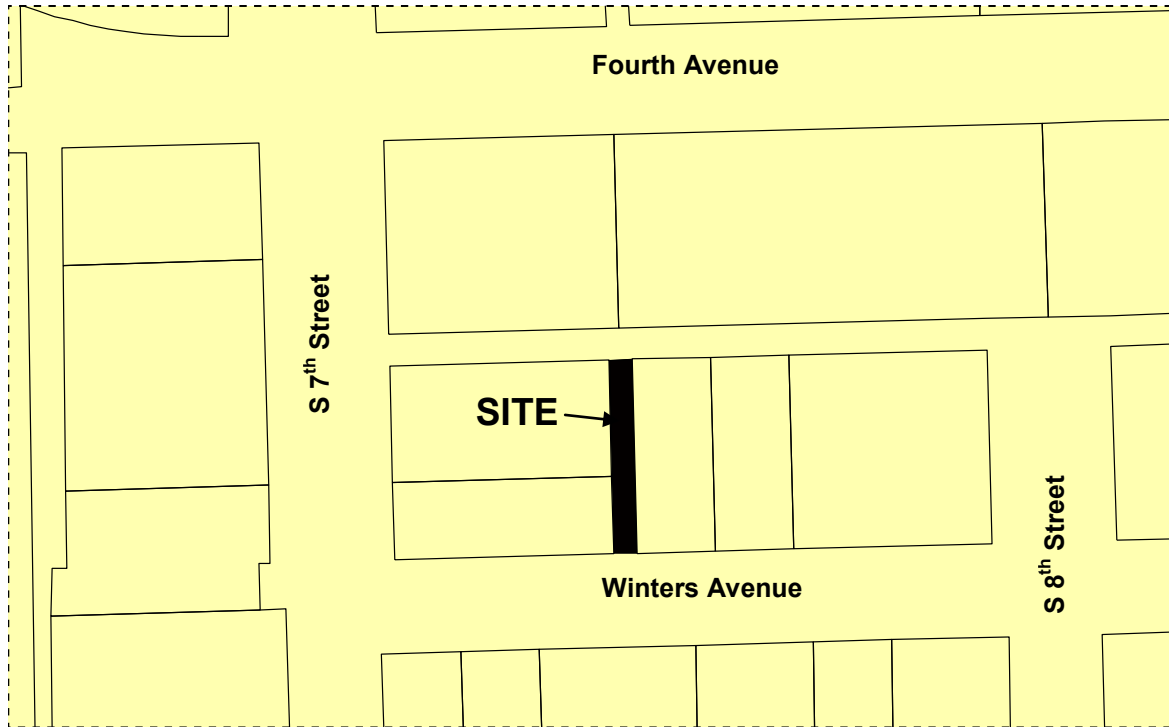
6. The review criteria in Section 2.11.C of the Zoning and Development Code have all been met.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission forwards a recommendation of approval to the City Council on the requested alley right-of-way vacation, with the findings and conclusions listed in the staff report.

Site Location Map

Figure 1



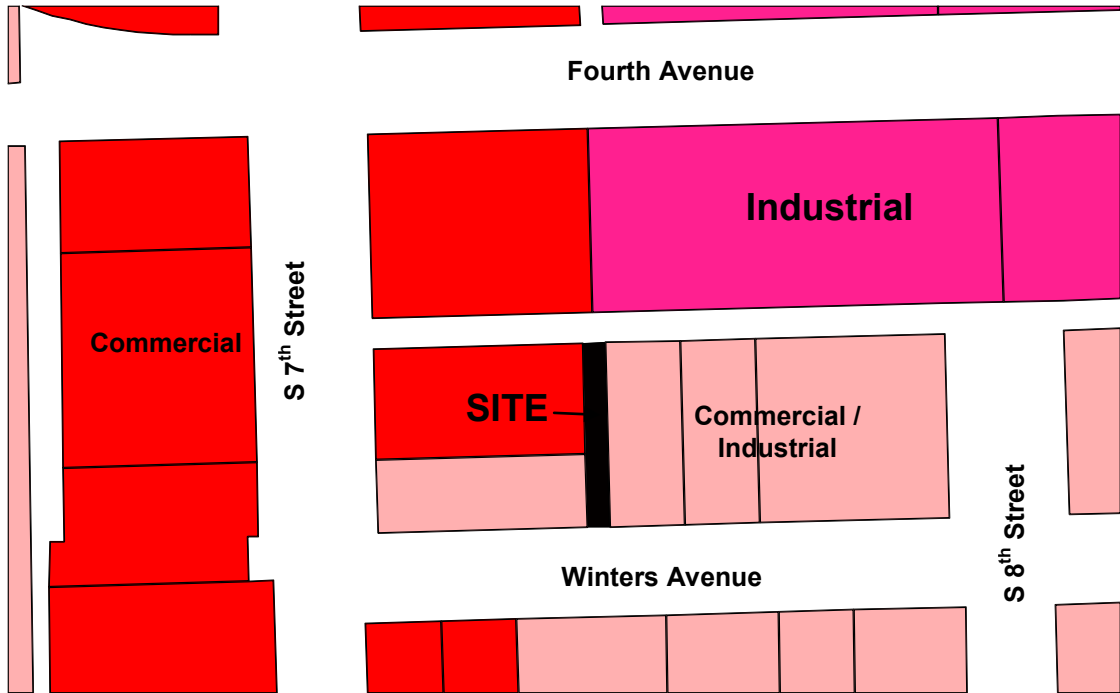
Aerial Photo Map

Figure 2



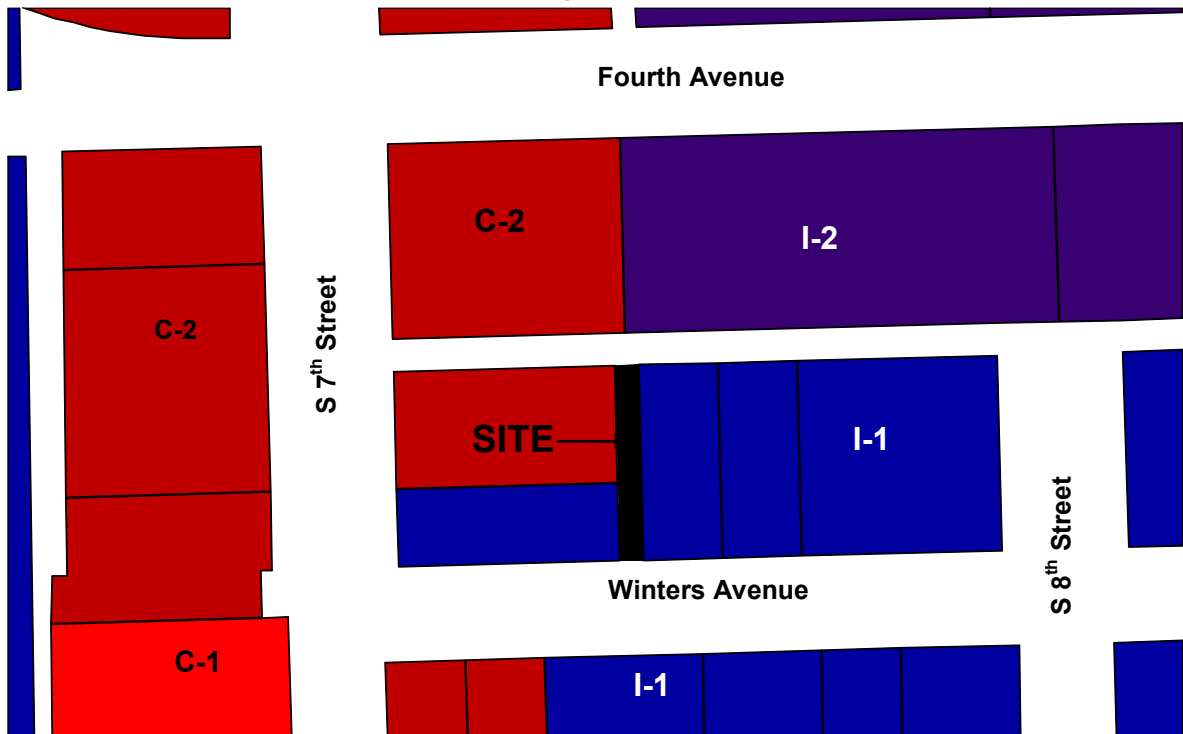
Future Land Use Map

Figure 3



Existing City Zoning Map

Figure 4



CITY OF GRAND JUNCTION

ORDINANCE NO.

**AN ORDINANCE VACATING RIGHT-OF-WAY FOR NORTH/SOUTH ALLEY
LOCATED EAST OF SOUTH 7TH STREET, NORTH OF WINTERS AVENUE**

RECITALS:

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

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

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

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

The following described dedicated right-of-way for is hereby vacated subject to the listed conditions:

2. Applicants shall pay all recording/documentary fees for the Vacation Ordinance, any easement documents and dedication documents.

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

Dedicated right-of-way to be vacated:

A portion of an alley situated in Block 2, Benton Canon's First Subdivision Amended to Grand Junction, CO in Section 23, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado, more particularly described as follows:

Beginning at the SE Corner of Lot 1, Block 2, Benton Canon's First Subdivision to Grand Junction, and considering the line between the Grand Junction City Monuments at the corner of the 4th Avenue and South 7th Street and 4th Avenue and South 8th Street to bear N89°56'15"E 456.53 feet and all bearings contained herein to be relative thereto; thence N00°04'10"W 124.03 feet to the NE Corner of Lot 5 of said Block 2; thence N89°59'02"E 15.00 feet to the NW Corner of Lot 28 of said Block 2; thence S00°04'10"E 124.04 feet to the SW Corner of said Lot 28; thence N89°58'10"W 15.00 feet to the point of beginning,

containing 0.04 acres as described.

Introduced for first reading on this ____ day of _____, 2009

PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

President of City Council

City Clerk

Exhibit "A"

DESCRIPTION

A portion of an alley situated in Block 2, Benton Canon's First Subdivision Amended to Grand Junction, CO in Section 23, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado, as recorded in Plat Bk. 1, Pg. 2 on May, 15, 1894.



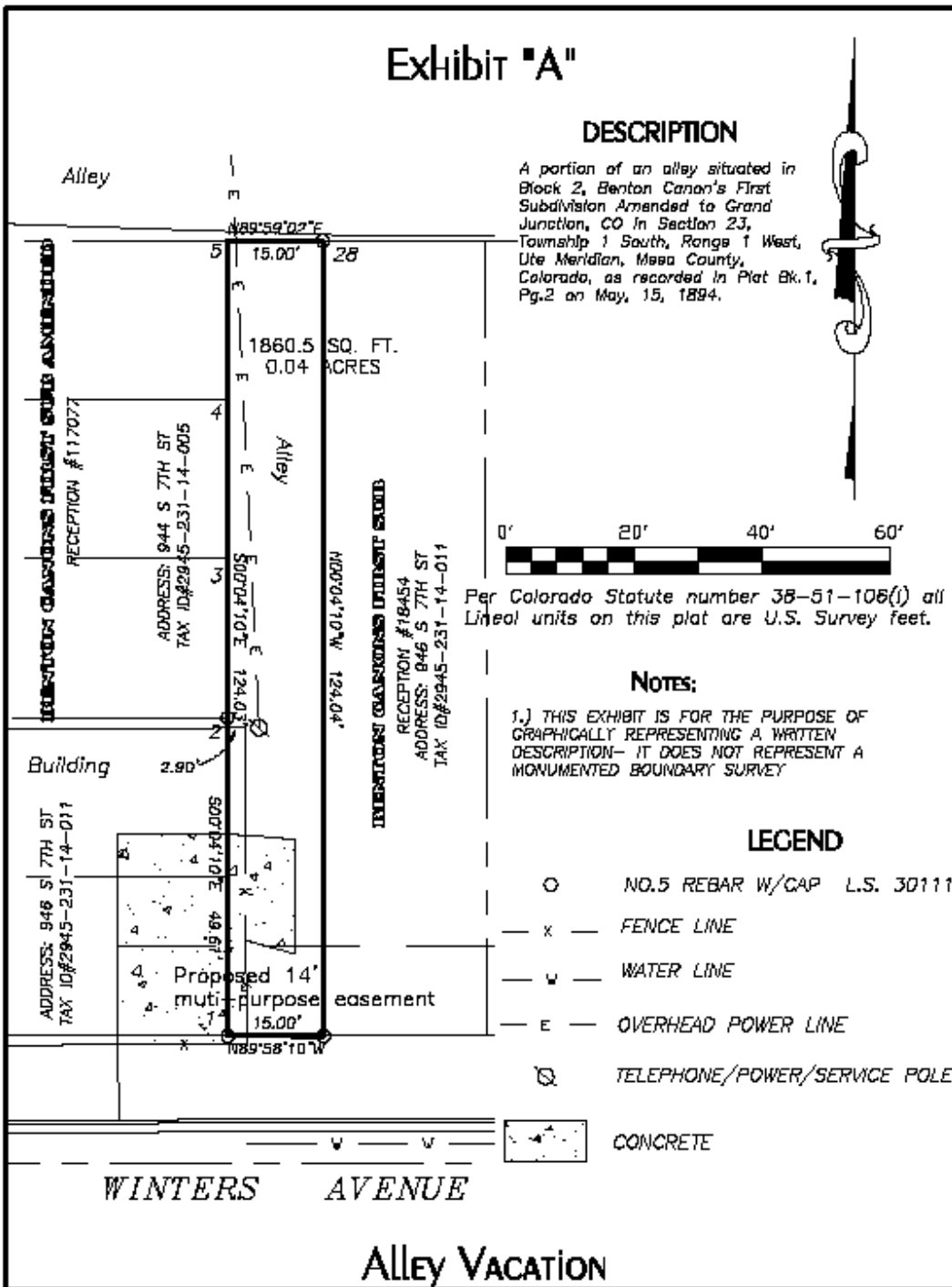
Per Colorado Statute number 38-51-106(i) all linear units on this plat are U.S. Survey feet.

NOTES:

1.) THIS EXHIBIT IS FOR THE PURPOSE OF GRAPHICALLY REPRESENTING A WRITTEN DESCRIPTION- IT DOES NOT REPRESENT A MONUMENTED BOUNDARY SURVEY

LEGEND

- NO.5 REBAR W/CAP L.S. 30111
- x — FENCE LINE
- v — WATER LINE
- E — OVERHEAD POWER LINE
- ⊗ TELEPHONE/POWER/SERVICE POLE
- ▨ CONCRETE



WINTERS AVENUE

Alley VACATION

SITUATED IN THE SW1/4 NE1/4 SECTION 23, T1S, R1W OF THE UTE MERIDIAN

FDR: LEE WYNNE	 <p><i>Surveying With a Twist Since 1979</i> Q.E.D. SURVEYING SYSTEMS, Inc. 1018 Colorado Ave Grand Junction, CO 81501-3521 (970) 241-2370 Fax: 241-7025</p>	SURVEYED BY: SB GP
ACAD ID: WYNNSHP VAC		DRAWN BY: RM
SCALE: 1" = 20'		CHECKED BY: MEM
DATE: 9/05/08		SHEET NO.
		FILE: 2007-306.03

Attach 6

Revocable Permit for an Existing Building, Located at 946 South 7th Street

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Revocable Permit for an existing building - Located at 946 South 7th Street		
File #	VR-2008-089		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	February 18, 2009		
Author Name & Title	Senta L. Costello, Senior Planner		
Presenter Name & Title	Senta L. Costello, Senior Planner		

Summary: Request for a revocable permit for a portion of the existing building which is within the Winters Avenue right-of-way.

Budget: N/A

Action Requested/Recommendation: Consideration of a Resolution granting the Revocable Permit.

Background Information: See attached staff report

Attachments:

1. Staff report/Background information
2. Site Location Map / Aerial Photo Map
3. Future Land Use Map / Existing City Zoning Map
4. Resolution
5. Revocable Permit
6. Agreement

BACKGROUND INFORMATION			
Location:		946 South 7th Street	
Applicants:		Wynshp Enterprises, LLC – Deborah Shipley	
Existing Land Use:		Merchandising business	
Proposed Land Use:		Merchandising business	
Surrounding Land Use:	North	Commercial	
	South	Commercial/Industrial	
	East	Vacant Industrial	
	West	Vacant Commercial	
Existing Zoning:		I-1(Light Industrial)	
Proposed Zoning:		I-1 (Light Industrial)	
Surrounding Zoning:	North	C-2 (General Commercial)	
	South	C-2 (General Commercial) / I-1 (Light Industrial)	
	East	I-1 (Light Industrial)	
	West	C-2 (General Commercial)	
Growth Plan Designation:		Commercial/Industrial	
Zoning within density range?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Yes	No

Project Analysis:

1. Background

The site was created in 1913 as a part of the Benton Canon’s First Subdivision Amended Plat. The properties in the area have developed and redeveloped into a mix of vacant, residential, commercial, and industrial sites.

The existing building was constructed on the property in 1976. A portion of the building along the southern edge was constructed within the Winters Avenue right-of-way. The encroachment varies from 1.39 feet on the east end to 1.92 feet on the west end.

2. Section 2.17.C of the Zoning and Development Code

Requests for a revocable permit must demonstrate compliance with all of the following criteria:

- a. There will be benefits derived by the community or area by granting the proposed revocable permit.

Response: Granting of the Revocable Permit will allow the existing business to remain at this location without interruption to their ability to do business.

- b. There is a community need for the private development use proposed for the City property.

Response: The current use is an established business at this location. The Revocable Permit will allow the business to remain without interruption and continue to be a positive contributing business to the neighborhood and the community.

- c. The City property is suitable for the proposed uses and no other uses or conflicting uses are anticipated for the property.

Response: The location of the building has not been a problem since its construction in 1976 and there are no foreseeable issues or conflicts in the future.

- d. The proposed use shall be compatible with the adjacent land uses.

Response: The existing building is compatible with the other commercial and industrial uses in the area.

- e. The proposed use shall not negatively impact access, traffic circulation, neighborhood stability or character, sensitive areas such as floodplains or natural hazard areas.

Response: The location of the building has not been a problem since its construction in 1976 and there are no foreseeable issues or conflicts in the future.

- f. The proposed use is in conformance with and in furtherance of the implementation of the goals, objectives and policies of the Growth Plan, other adopted plans and the policies, intents and requirements of this Code and other City policies.

Response: The existing use is in conformance with the Goals and Policies of the Growth Plan.

- g. The application complies with the submittal requirements as set forth in the Section 127 of the City Charter, this Chapter Two of the Zoning and Development Code and the SSID Manual.

Response: The application complies with the requirements of the City Charter, the Zoning and Development Code, and the SSID Manual.

FINDINGS OF FACT/CONCLUSIONS

After reviewing the Wynshp application, VR-2008-089 for the issuance of a revocable permit for an existing building, staff makes the following findings of fact and conclusions:

7. The review criteria in Section 2.17.C of the Zoning and Development Code have all been met.

STAFF RECOMMENDATION:

Staff recommends that the City Council approve the requested revocable permit for an existing building, VR-2008-089.

Site Location Map

Figure 1



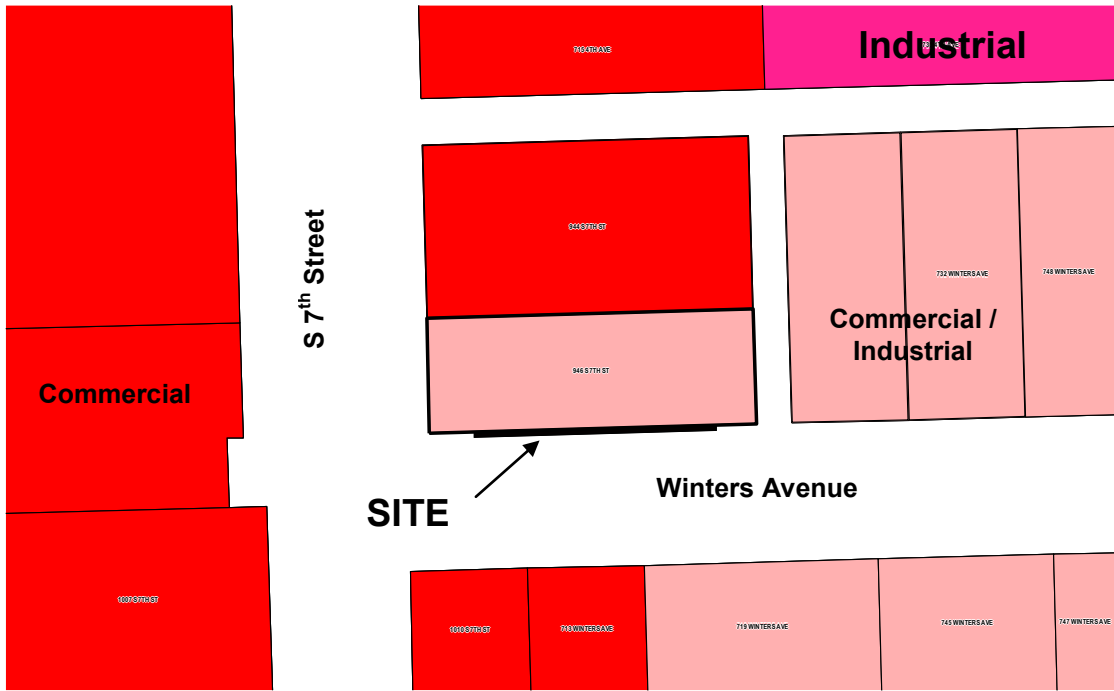
Aerial Photo Map

Figure 2



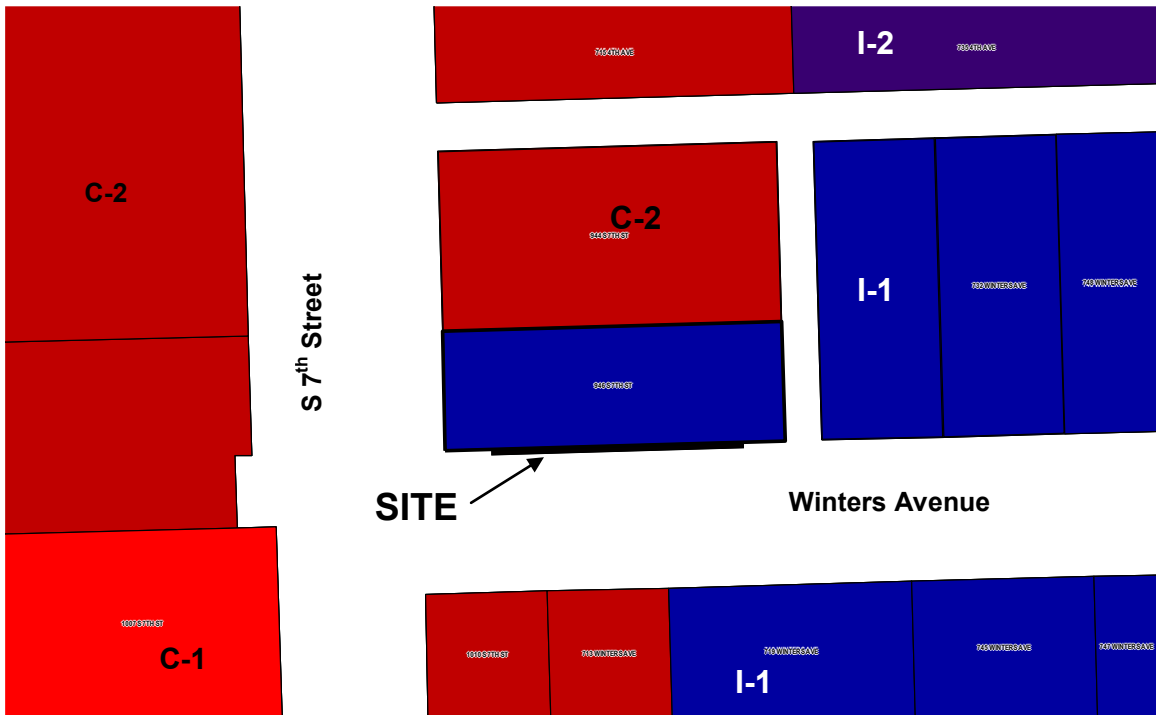
Future Land Use Map

Figure 3



Existing City Zoning Map

Figure 4



CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. _____

**CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
WYNSHP ENTERPRISES LLC**

Recitals.

A. Wynshp Enterprises, LLC, hereinafter referred to as the Petitioner, represent it is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lots 1 & 2 & 27 & 28 Blk 2 Benton Canon 1st Sub Sec 23 1S 1W and identified by Mesa County Tax Schedule Number 2945-231-14-011.

B. The Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to install, maintain and repair southern portion of the existing building within the following described public right-of-way:

A certain parcel of land situated adjacent to Lot 1 Block 2, Benton Canon's First Subdivision Amended to Grand Junction as recorded at Reception #117077 in Section 23, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado, more particularly described as follows:

Commencing at the SW Comer of Lot 1, Block 2, Benton Canon's First Subdivision Amended to Grand Junction, and considering the line between the Grand Junction City Monuments at the corner of the 4th Avenue and South 7th Street and 4th Avenue and South 8th Street to bear N89°56'15"E 456.53 feet and all bearings contained herein to be relative thereto; thence along the North right-of-way line for Winters Avenue, S89°58'10"E 20.22 feet to the point of beginning,

thence continuing along the North right-of-way line for Winters Avenue, S89°58'10"E 104.26 feet;

thence S00°15'28"E 1.39 feet to the SE corner of an existing building;

thence along said building, S89°44'32"W 104.26 feet;

thence N00°15'32"W 1.92 feet to the point of beginning.

See attached "Exhibit A"

C. Relying on the information supplied by the Petitioner and contained in File No. VR-2008-089 in the office of the City's Community Development Department, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

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

1. That the City Manager is hereby authorized and directed to issue the attached Revocable Permit to the above-named Petitioner for the purpose aforescribed and within the limits of the public right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this _____ day of _____, 2009.

Attest:

President of the City Council

City Clerk

REVOCABLE PERMIT

Recitals.

A. Wynshp Enterprises, LLC, hereinafter referred to as the Petitioner, represent it is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lots 1 & 2 & 27 & 28 Blk 2 Benton Canon 1st Sub Sec 23 1S 1W and identified by Mesa County Tax Schedule Number 2945-231-14-011.

B. The Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to install, maintain and repair southern portion of the existing building within the following described public right-of-way:

A certain parcel of land situated adjacent to Lot 1 Block 2, Benton Canon's First Subdivision Amended to Grand Junction as recorded at Reception #117077 in Section 23, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado, more particularly described as follows:

Commencing at the SW Comer of Lot 1, Block 2, Benton Canon's First Subdivision Amended to Grand Junction, and considering the line between the Grand Junction City Monuments at the corner of the 4th Avenue and South 7th Street and 4th Avenue and South 8th Street to bear N89°56'15"E 456.53 feet and all bearings contained herein to be relative thereto; thence along the North right-of-way line for Winters Avenue, S89°58'10"E 20.22 feet to the point of beginning,

thence continuing along the North right-of-way line for Winters Avenue, S89°58'10"E 104.26 feet;

thence S00°15'28"E 1.39 feet to the SE corner of an existing building;

thence along said building, S89°44'32"W 104.26 feet;

thence N00°15'32"W 1.92 feet to the point of beginning.

See attached "Exhibit A"

C. Relying on the information supplied by the Petitioner and contained in File No. VR-2008-089 in the office of the City's Community Development Department, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby issued to the above-named Petitioner a Revocable Permit for the purpose aforescribed and within the limits of the public right-of-way aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following terms and conditions:

1. The Petitioner's use and occupancy of the public right-of-way as authorized pursuant to this Permit shall be performed with due care or any other higher standard of care as may be required to avoid creating hazardous or dangerous situations and to avoid damaging public improvements and public utilities or any other facilities presently existing or which may in the future exist in said right-of-way.

2. The City hereby reserves and retains a perpetual right to utilize all or any portion of the aforescribed public right-of-way for any purpose whatsoever. The City further reserves and retains the right to revoke this Permit at any time and for any reason.

3. The Petitioner, for itself and for its successors, assigns and for all persons claiming through the Petitioner, agrees that it shall defend all efforts and claims to hold, or attempt to hold, the City of Grand Junction, its officers, employees and agents, liable for damages caused to any property of the Petitioner or any other party, as a result of the Petitioner's occupancy, possession or use of said public right-of-way or as a result of any City activity or use thereof or as a result of the installation, operation, maintenance, repair and replacement of public improvements.

4. The Petitioner agrees that it shall at all times keep the above described public right-of-way in good condition and repair.

5. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioner of an agreement that the Petitioner and the Petitioner's successors and assigns shall save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, with respect to any claim or cause of action however stated arising out of, or in any way related to, the encroachment or use permitted, and that upon revocation of this Permit by the City the Petitioner shall, at the sole cost and expense of the Petitioner, within thirty (30) days of notice of revocation (which may occur by mailing a first class letter to the last known address), peaceably surrender said public right-of-way and, at its own expense, remove any encroachment so as to make the aforescribed public right-of-way available for use by the City or the general public. The provisions concerning holding harmless and indemnity shall survive the expiration, revocation, termination or other ending of this Permit.

6. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner, at the Petitioner's expense, in the office of the Mesa County Clerk and Recorder.

Dated this _____ day of _____, 2009.

Attest:

The City of Grand Junction,
a Colorado home rule municipality

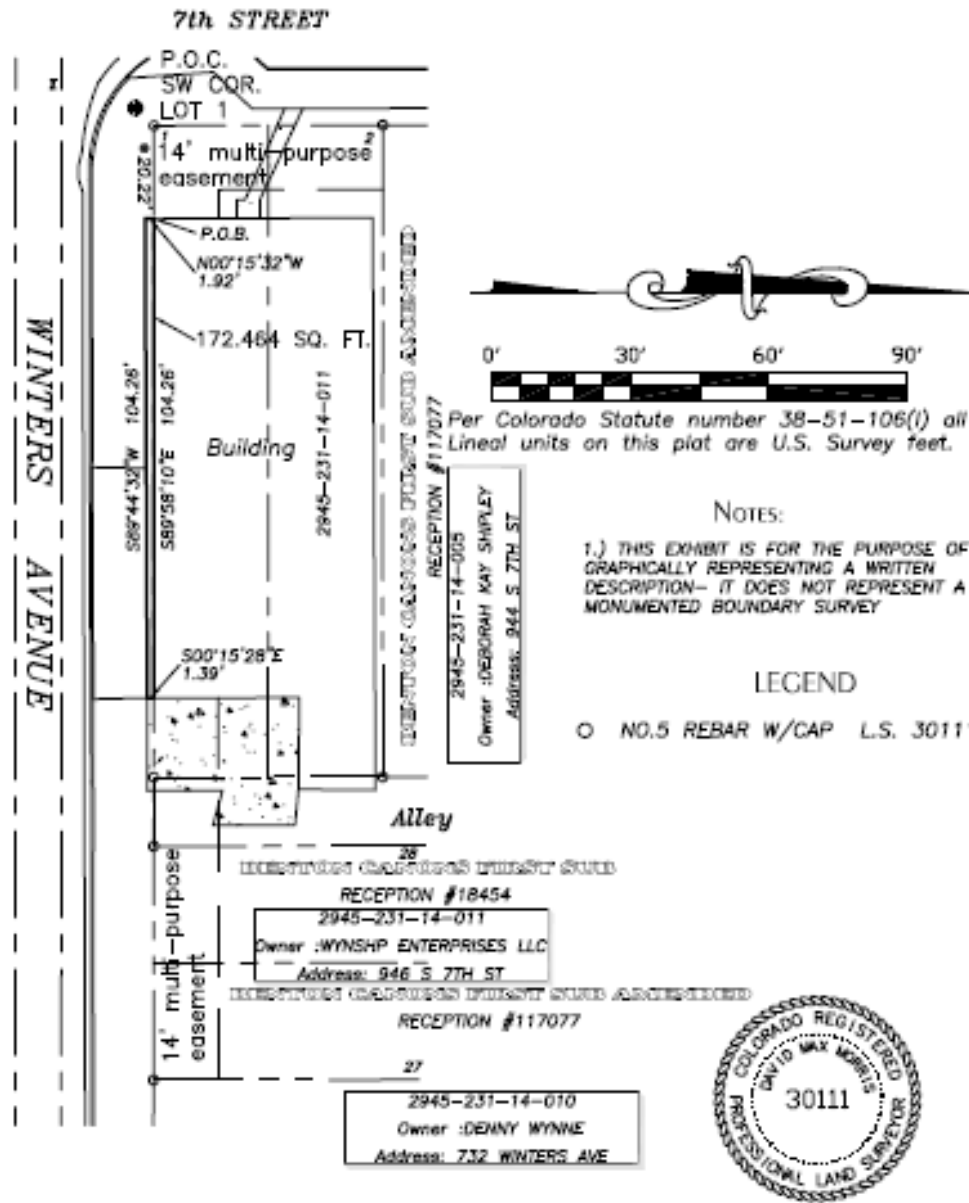
City Clerk

City Manager

Acceptance by the Petitioner:

Wynshp Enterprises LLC

Exhibit "A"



Building EASEMENT

SITUATED IN THE SW1/4 NE1/4 SECTION 23, T1S, R1W OF THE UTE MERIDIAN

FOR: LEE WYNNE	 <p>Surveying Western Colorado Since 1979</p> <p>Q.E.D. SURVEYING SYSTEMS, Inc.</p> <p>1018 Colorado Ave Grand Junction, CO 81501-3521 (970) 241-2370 Fax: 241-7025</p>	SURVEYED BY: SB GP
ACAD ID: WYNSHP VAC		DRAWN BY: RM
SCALE: 1" = 30'		CHECKED BY: MEM
DATE: 1/20/09		SHEET NO.
		FILE: 2007-306.03

Attach 7

Lease Agreement with New Cingular Wireless

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Lease Agreement with New Cingular Wireless for a portion of City property located at 2057 South Broadway		
File #			
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	March 24, 2009		
Author Name & Title	Jim Finlayson, IS Manager		
Presenter Name & Title	Rob Schoeber, Parks and Recreation Director		

Summary: The City owns real property located at 2057 South Broadway, Grand Junction which currently houses a radio antenna used to support Public Safety radio transmission. New Cingular Wireless PCS wishes to enter into a lease agreement for the purpose of building a radio tower capable of housing cellular communication equipment and antennas and the City's current and planned Public Safety antennas.

Budget: The City will receive \$9,000 per year in revenue through the Lease Agreement that will go toward capital improvements at Tiara Rado Golf Course.

Action Requested/Recommendation: Adopt resolution which authorizes the City Manager to sign a Lease Agreement with New Cingular Wireless PCS for a portion of property located at 2057 South Broadway.

Attachments: Resolution
Proposed Lease Agreement

Background Information:

The City has maintained a sixty-two foot Public Safety radio antenna at the west side of the Tiara Rado Golf Course for many years. The proposed Lease Agreement will provide New Cingular Wireless with access to 275 square feet of property to construct a new sixty foot radio tower and the supporting communication equipment. The new tower is of sturdier construction and will be capable of housing the current Public Safety antenna, as well as planned 800 MHz radio and 4.9 GHz and 900 MHz data radio antennas for use by Public Safety.

The tower will be constructed at no cost to the City and be a shared resource for the City and New Cingular Wireless customers in the area. The estimated cost for the City to replace the current antenna in support of Public Safety radio needs would be in excess of \$28,000.

RESOLUTION NO. _____ -09

**A Resolution Authorizing and Ratifying a new Option and Lease Agreement
between the City of Grand Junction and New Cingular Wireless PCS, LLC**

Recitals:

The City owns real property located at 2057 South Broadway, Grand Junction, more specifically known as the Tiara Rado Golf Course. The property currently houses a radio antenna used to support Public Safety radio transmission.

New Cingular Wireless PCS wishes to enter into an Option and Lease Agreement for the purpose of building a radio tower capable of housing cellular communication equipment and antennas and has agreed to house the City's current and planned Public Safety antennas.

The City has agreed to lease the Property to New Cingular Wireless PCS ("Tenant") and Tenant has agreed to lease the Property from the City, pursuant to the terms, covenants and conditions of the Option and Lease Agreement.

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 Option and Lease Agreement with New Cingular Wireless PCS, LLC.

PASSED AND APPROVED this _____ of April, 2009

Gregg Palmer

President of the Council

ATTEST:

Stephanie Tuin
City Clerk

Market: Colorado
Cell Site Number: DNVRCO4634
Cell Site Name: Redlands 2
Fixed Asset Number: 10123003

OPTION AND LEASE AGREEMENT

THIS OPTION AND LEASE AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by The City of Grand Junction, a Colorado home rule municipality, having a mailing address of 250 North 5th Street, Grand Junction, CO 81501 (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30009, Georgia 30009 (hereinafter referred to as "**Tenant**").

Landlord owns that certain plot, parcel or tract of land, together with all rights and privileges arising in connection therewith, located at 2057 South Broadway, Grand Junction, in the County of Mesa, State of Colorado (collectively, the "**Property**"). Tenant desires to use a portion of the Property in connection with its federally licensed communications business. Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. OPTION TO LEASE.

(a) Landlord grants to Tenant an option (the "**Option**") to lease a certain portion of the Property containing approximately 275 square feet including the air space above such ground space as described on attached **Exhibit 1**, together with access for Tenant's uses from the nearest public right-of-way along the Property to the Premises as described on the attached **Exhibit 1** (collectively, the "**Premises**").

(b) During the Option period and any extension thereof, and during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Premises (collectively, the "**Tests**"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include, without limitation, applications for special use permits, and construction permits (collectively, the "**Government Approvals**"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord's title to the Property and the feasibility or suitability of the Property for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term (as defined below). In addition, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or claims arising directly out of Tenant's Tests.

(c) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of Six Hundred and No/100 Dollars (\$ 600.00) within thirty (30) business days

of the Effective Date. The Option will be for a term of six (6) months commencing on the Effective Date (the "**Initial Option Term**") and may be renewed by Tenant for an additional six (6) months upon written notification to Landlord and the payment of an additional Six Hundred and No/100 Dollars (\$ 600.00) no later than ten (10) days prior to the expiration date of the Initial Option Term.

(d) The Option may be sold, assigned or transferred at any time by Tenant to Tenant's parent company or member if Tenant is a limited liability company or any affiliate or subsidiary of, or partner in, Tenant or its parent company or member, or to any third party agreeing to be subject to the terms hereof. Otherwise, the Option may not be sold, assigned or transferred without the written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. From and after the date the Option has been sold, assigned or transferred by Tenant to a third party agreeing to be subject to the terms hereof, Tenant shall immediately be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action.

(e) During the Initial Option Term and any extension thereof, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option then Landlord leases the Premises to the Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option during the Initial Option Term or any extension thereof, this Agreement will terminate and the parties will have no further liability to each other.

(f) Any sale of the Property shall be subject to Tenant's rights under this Agreement. Landlord agrees that during the Initial Option Term or any extension thereof, or during the Term of this Agreement if the Option is exercised, Landlord shall not initiate or consent to any change in the zoning of the Premises, Property or Surrounding Property or impose or consent to any other restriction that would prevent or limit Tenant from using the Premises for the uses intended by Tenant as hereinafter set forth in this Agreement.

2. PERMITTED USE. Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (collectively, the "**Communication Facility**"), as well as the right to test, survey and review title on the Premises, subject, however, to the City's right to review and approve plans and specifications for initial construction of the site, as well as for subsequent modifications. Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Tenant or Landlord (collectively, the "**Permitted Use**"). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of Landlord's contiguous, adjoining or Surrounding Property as described on **Exhibit 1** as may reasonably be required during construction and installation of the Communications Facility. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the main entry point to the equipment shelter or cabinet, and to make Property improvements,

alterations, upgrades or additions appropriate for Tenant's use ("**Tenant Changes**"). Tenant Changes include the right, subject to all local permitting, to construct a fence around the Premises and undertake any other appropriate means to secure the Premises at Tenant's expense. Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations, relating to its use of the Communication Facility on the Property. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, increase the number of antennas or relocate the Communication Facility within the Premises at any time during the term of this Agreement. Tenant will be allowed to make such alterations to the Property in order to accomplish Tenant's Changes or to ensure that Tenant's Communication Facility complies with all applicable federal, state or local laws, rules or regulations.

3. TERM.

(a) The initial lease term will be five (5) years ("**Initial Term**"), commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of the Option (the "**Term Commencement Date**"). The Initial Term will terminate on the fifth (5th) annual anniversary of the Term Commencement Date.

(b) This Agreement will automatically renew, unless terminated in accord with Paragraph 6 for three (3) additional five (5) year term(s) (each five (5) year term shall be defined as the "**Extension Term**"), upon the same terms and conditions unless the Tenant notifies the Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the existing Term.

(c) If, at least sixty (60) days prior to the end of the third (3rd) extended term, either Landlord or Tenant has not given the other written notice of its desire that the term of this Agreement end at the expiration of the third (3rd) extended term, then upon the expiration of the third (3rd) extended term this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such annual term. Monthly rental during such annual terms shall be equal to the rent paid for the last month of the third (3rd) extended term. If Tenant remains in possession of the Premises after the termination of this Agreement then Tenant will be deemed to be occupying the Premises on a month to month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, the Extension Term and the Holdover Term are collectively referred to as the Term ("**Term**").

4. RENT.

(a) Commencing on the first day of the month following the date that Tenant commences construction (the "**Rent Commencement Date**"), Tenant will pay the Landlord an annual rental payment of Nine Thousand and No/100 Dollars (\$9,000.00) ("**Rent**"), at the address set forth above, on January 1 of each year and payable by January tenth (10th). In partial year occurring after the Rent Commencement Date, Rent will be prorated to January 1. The initial Rent payment will be forwarded by Tenant to Landlord within thirty (30) days after the Rent Commencement Date.

(b) In year one (1) of each Extension Term, the monthly Rent will increase by seven and one-half percent (7 ½ %) over the Rent paid during the previous Term.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges

were incurred; any charges beyond such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly rent which is due and payable without a requirement that it be billed by Landlord. The provisions of the foregoing sentence shall survive the termination or expiration of this Agreement.

5. APPROVALS.

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises for Tenant's Permitted Use and Tenant's ability to obtain and maintain all Government Approvals. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for Tenant's Permitted Use under this Agreement including, but not limited to approvals by the Landlord as a Government Agency.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Premises surveyed by a surveyor of Tenant's choice. In the event Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory, Tenant will have the right to terminate this Agreement upon notice to Landlord.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Premises, necessary to determine if the Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals.

6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Paragraph 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines in its sole discretion that the cost of obtaining or retaining the same is commercially unreasonable;

(c) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; or

(d) by Tenant upon sixty (60) days prior written notice to Landlord for any reason, so long as Tenant pays Landlord a termination fee equal to three (3) months Rent, at the then current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any one or more of Paragraphs 5(b), 6(a), 6(b), 6(c), 8, 11(d), 18, 19 or 23(j) of this Agreement.

(e) By Landlord if a majority of the City Council by Council Resolution does not renew the Agreement. It is the City's intent to renew this Agreement as per the terms stated in No. 3, however, we cannot commit future City Councils to any future act.

7. INSURANCE.

Tenant will carry during the Term, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of Two Million Five Hundred Thousand

Dollars \$2,500,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (iii) Workers' Compensation Insurance as required by law. The coverage afforded by Tenant's commercial general liability insurance shall apply to Landlord as an additional insured, but only with respect to Landlord's liability arising out of its interest in the Property.

8. INTERFERENCE.

(a) Where there are existing radio frequency user(s) on the Property, the Landlord will provide Tenant with a list of all existing radio frequency user(s) on the Property to allow Tenant to evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with existing radio frequency user(s) on the Property so disclosed by Landlord, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party for the use of the Property, if such use may in any way adversely affect or interfere with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property in any way which unreasonably interferes with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such unreasonable interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such unreasonable interference does not cease within the aforementioned cure period then the parties acknowledge that Tenant will suffer irreparable injury, and therefore, Tenant will have the right, in addition to any other rights that it may have at law or in equity, for Landlord's breach of this Agreement, to elect to enjoin such interference or to terminate this Agreement upon notice to Landlord.

9. INDEMNIFICATION.

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, agents or independent contractors.

(b) Landlord intends to rely on the Colorado Governmental Immunity Act regarding any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord or its employees or agents, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) Notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages.

10. WARRANTIES.

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents and warrants that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is not encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises; (iv) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on the Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will provide promptly to Tenant a mutually agreeable Subordination, Non-Disturbance and Attornment Agreement.

11. ENVIRONMENTAL.

(a) Landlord represents that, to the best of its knowledge without having examined, studied or reviewed the Property that the Property is free of hazardous substances as of the date of this Agreement, and, to the best of Landlord's knowledge, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities, including the Landlord, regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) the indemnifying party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property and activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

(c) The indemnifications of this Paragraph 11 specifically includes reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Paragraph 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental or industrial hygiene condition or matter relating to the Property that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of government action, intervention or third-party liability, Tenant will have

the right, in addition to any other rights it may have at law or in equity, to terminate the Agreement upon notice to Landlord.

12. ACCESS. At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access to and over the Property, from an agreed upon location to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. Landlord grants to Tenant an easement for such access. If Landlord fails to provide the access granted by this Paragraph 12, such failure shall be a default under this Lease. In connection with such default, in addition to any other rights or remedies available to Tenant under this Lease or at law or equity, Tenant may assert a claim not to exceed, \$500.00 per day in consideration of Tenant's damages, including, but not limited to, its lost profits, until Landlord cures such default. Landlord and Tenant agree that Tenant's damages if any, will be determined by a court of competent jurisdiction. Upon Tenant's request, Landlord will execute a separate recordable easement evidencing its right of entry. In the event any public utility is unable to use the access or easement provided to Tenant then the Landlord agrees to grant additional access or an easement either to Tenant or to the public utility, for the benefit of Tenant, at no cost to Tenant.

13. REMOVAL/RESTORATION. All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of the Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of the Tenant and may be removed by Tenant at any time during the Term. Within seventy-five (75) days of the termination of this Agreement, Tenant will remove all of Tenant's above-ground improvements and Tenant will, restore the Premises to its condition at the commencement of the Agreement, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation, nor will Tenant be required to remove from the Premises or the Property any structural steel or any foundations or underground utilities.

14. MAINTENANCE/UTILITIES.

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements.

(b) Tenant will be responsible for the installation of its own metered electrical supply and for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to submeter from the Landlord. When submetering is required under this Agreement, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Landlord agrees that it will not include a markup on the utility charges. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within thirty days of receipt of the usage data and required forms. Failure by Landlord to perform this

function will limit utility fee recovery by Landlord to a 12-month period. If Tenant submeters electricity from Landlord, Landlord agrees to give Tenant at least 24 hours advanced notice of any planned interruptions of said electricity. Landlord acknowledges that Tenant provides a communication service which requires electrical power to operate and must operate twenty-four (24) hour per day, seven (7) day per week. If the interruption is for an extended period of time, in Tenant's reasonable determination, the Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will fully cooperate with any utility company requesting an easement over, under and across the Property in order for the utility company to provide service to the Tenant. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

15. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) failure to provide access to the Premises or to cure an access interference problem (as described in Paragraph No. 8) within forty-eight (48)hours after receipt of written notice of such default; or (ii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have the right to exercise any and all rights available to it under law and equity, including the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant.

16. ASSIGNMENT/SUBLEASE. Tenant will have the right to assign this Agreement or sublease the Premises and its rights herein, in whole or in part, without Landlord's consent. Upon notification to Landlord of such assignment, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement.

17. NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Tenant: New Cingular Wireless PCS, LLC
 Attn: Network Real Estate Administration
 Re: Cell Site #DNVRCO4364; Cell Site Name: Redlands 2 (CO)

Fixed Asset #: 10123003
12555 Cingular Way, Suite 1300
Alpharetta, GA 30009

With a copy required to:

For Certified Mail

New Cingular Wireless PCS, LLC

Attn: Legal Department

Re: Cell Site #DNVRCO4364; Cell Site Name:

Redlands 2 (CO)

Fixed Asset #: 10123003

Redmond, WA 98073-9761

OR

For Overnight Mail

New Cingular Wireless PCS, LLC

Attn: Legal Department

Re: Cell Site #DNVRCO4364; Cell Site Name:

Redlands 2 (CO)

Fixed Asset #: 10123003

Redmond, WA 98052

If to Landlord:

City of Grand Junction

Attn: Rob Schoeber

Director of Parks and Recreation

1330 Grand Avenue

Grand Junction, CO 81501

With a copy to

City of Grand Junction
Attn: City Attorney
250 North 5th Street
Grand Junction, CO 81501

City of Grand Junction
Attn: Real Estate Manager
250 North 5th Street
Grand Junction, CO 81501

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

(b) This property is held by the City of Grand Junction as designated Park lands and as such may not be sold without the vote of the people of the City of Grand Junction affirming such sale. However, in the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord will send the below documents (in section 17(b)(i) to Tenant. In the event Tenant does not receive such appropriate documents, Tenant shall not be responsible for any failure to pay the current landlord

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New W-9
- vi. New Payment Direction Form
- vii. Full contact information for new Landlord including all phone numbers

18. CONDEMNATION. In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide written notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses, provided that any award to Tenant will not diminish Landlord's recovery. Tenant will be entitled to reimbursement for any prepaid Rent on a prorata basis.

19. CASUALTY. Landlord will provide notice to Tenant of any casualty affecting the Property within forty-eight (48) hours of the casualty. If any part of the Communication Facility or Property is damaged by fire or other casualty so as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to the Landlord, which termination will be effective as of the date of such damage or destruction. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a prorata basis. If notice of termination is given, or if Landlord or Tenant undertake to rebuild the Communications Facility, Landlord agrees to use its reasonable efforts to permit Tenant to place temporary transmission and reception facilities on the Property at no additional Rent until such time as Tenant is able to activate a replacement transmission facility at another location or the reconstruction of the Communication Facility is completed.

20. WAIVER OF LANDLORD'S LIENS. Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law, and Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

21. TAXES. See C.R.S 39-3 for governing law. Tenant shall be responsible for all taxes levied upon Tenant's leasehold improvements (including Tenant's equipment building and tower) on the Premises. Tenant's address shall be provided to Mesa County Assessor for this purpose.

22. SALE OF PROPERTY.

If Landlord, at any time during the Term of this Agreement, decides to sell, subdivide or rezone any of the Premises, all or any part of the Property or Surrounding Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such sale, subdivision or rezoning shall be subject to this Agreement and Tenant's rights hereunder. Landlord agrees not to sell, lease or use any areas of the Property or Surrounding Property for the installation, operation or maintenance of other wireless communications facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion, any such testing to be at the expense of Landlord or Landlord's prospective purchaser, and not Tenant. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord shall be prohibited from selling, leasing or using any areas of the Property or the Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communications facility or equipment. Landlord shall not be prohibited from the selling, leasing or use of any of the Property or the Surrounding Property for non-wireless communication use. In the event the Property is transferred, the new landlord shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in Rent to the new landlord. The provisions of this Paragraph 22 shall in no way limit or impair the obligations of Landlord under Paragraph 8 above.

23. MISCELLANEOUS.

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of the Tenant. No provision may be waived except in a writing signed by both parties.

(b) **Memorandum/Short Form Lease.** Either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form of Lease. Either party may record this Memorandum or Short Form of Lease at any time, in its absolute discretion.

(c) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(d) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement.

(e) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law. Venue for any action arising out of or under this Agreement shall be in Mesa County, Colorado.

(f) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of the Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; and (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement.

(g) **Estoppel.** Either party will, at any time upon twenty (20) business days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Agreement, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrance of the Premises. The requested party's failure to deliver such a statement within such time will be conclusively relied upon by the requesting party that (i) this Agreement is in full force and effect, without modification except as may be properly represented by the requesting party, (ii) there are no uncured defaults in either party's performance, and (iii) no more than one month's Rent has been paid in advance.

(h) **W-9.** Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant.

(i) **No Electronic Signature/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(j) **Severability.** If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either party on ten (10) business days' prior written notice to the other party hereto.

(k) **Counterparts.** This Agreement may be executed in two (2) or more counterparts, all of which shall be considered on and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties; it being understood that all parties need not sign the same counterpart.

[SIGNATURES APPEAR ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

"LANDLORD"

City of Grand Junction

By: _____
Print Name: Laurie M. Kadrach
Its: City Manager
Date: _____

TENANT"

New Cingular Wireless PCS, LLC,
By: AT&T Mobility Corporation
Its Manager

By: _____
Print Name: Dennis Neal
Its: Real Estate & Construction Manager
Date: _____

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

"LANDLORD"

City of Grand Junction
a Colorado home rule municipality

By: _____

Name: Laurie M. Kadrich

Title: City Manager

STATE OF COLORADO
COUNTY OF MESA

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Laurie M. Kadrich, City Manager of the City of Grand Junction, Colorado, a Colorado home rule municipality, on behalf of the City of Grand Junction.

Name: _____

Notary Public

[NOTARIAL SEAL]

My

Commission Expires: _____

"TENANT"

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Dennis Neal, Real Estate & Construction Manager of New Cingular Wireless PCS LLC, a Delaware limited liability company, on behalf of the limited liability company.

Name: _____

Notary Public

[NOTARIAL SEAL]

Serial No.: _____

My

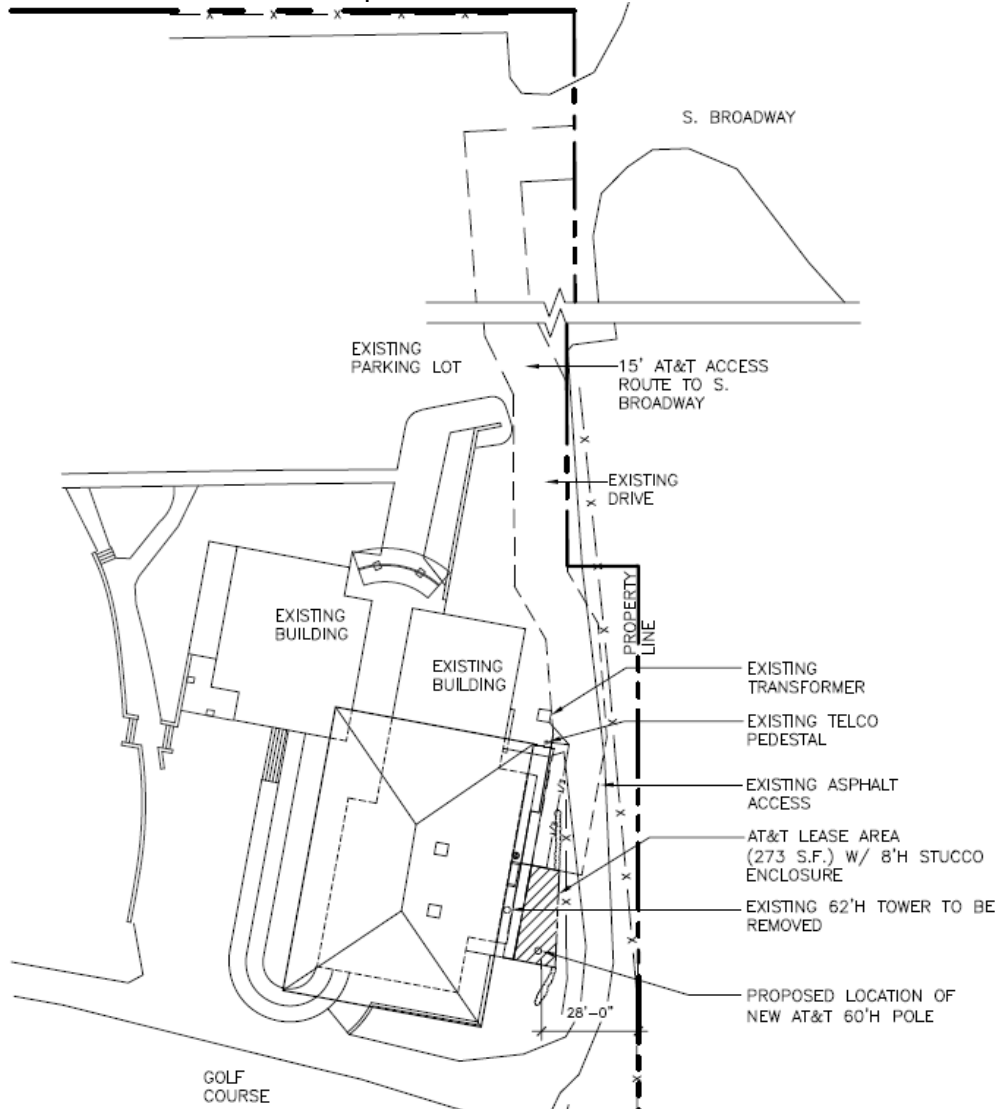
Commission Expires: _____

DESCRIPTION OF PREMISES

Page ___ of ___

to the Agreement dated _____, 2009, by and between The City of Grand Junction, a Colorado Home rule municipality, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Premises are described and/or depicted as follows:



SITE DIAGRAM

NOT TO SCALE



Notes:

1. This Exhibit may be replaced by a land survey and/or construction drawings of the Premises once received by Tenant.
2. Any setback of the Premises from the Property's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers and mounting positions may vary from what is shown above.

Attach 8

Setting a Hearing on Appeal of a Planning Commission Decision on the Preliminary Development Plan, Phase II, corner Square, Located at 1st and Patterson Road

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Appeal of the Planning Commission Decision Recommending Approval of the Corner Square Phase II Apartments – Preliminary Subdivision Plan		
File #	PP-2008-172		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	March 26, 2009		
Author Name & Title	Mary Lynn Kirsch, Paralegal		
Presenter Name & Title	John Shaver, City Attorney		

Summary:

An appeal has been filed by Frances and Jim Baughman regarding the Planning Commission's decision to recommend approval of the Corner Square Phase II Apartments preliminary subdivision plan. The project is adjacent to property which the Baughmans own and reside.

Budget: N/A

Action Requested/Recommendation: Set a hearing for April 15, 2009, to consider the appeal.

Attachments: Notice of Appeal Letter

Background Information: A record of the Planning Commission hearing is being certified and will be made available to the City Council as soon as it is completed.

Copies

**COLEMAN WILLIAMS & WILSON
ATTORNEYS AT LAW**

Joseph Coleman
Dan E. Wilson

2454 Patterson Road, Suite 210
Grand Junction, CO 85105

Telephone
(970)242-3311
Facsimile
(970)242-1893

Whitman Robinson

March 19, 2009

Via Facsimile (970) 256-4031
Greg Moberg
Planning Department
City of Grand Junction
250 North Fifth Street
Grand Junction, CO 81501

NOTICE OF APPEAL

Re: Corner Square, Phase II Apartments – Preliminary subdivision plan
Planning file: PP-2008-172
March 10, 2009 Planning Commission approval

Dear Mr. Moberg:

Please accept this letter as request for appeal, pursuant to Section 2.18.E of the City of Grand Junction's Zoning and Development Code, of the March 10, 2009 Planning Commission decision recommending approval of the Corner Square, Phase II Apartments – Preliminary subdivision plan. This appeal does not include the tie vote (which designates denial) of the request to open 25 ¼ Road, such denial being proper and consistent with code provisions.

This appeal is requested by my clients, Mrs. Frances Baughman, 2579 Patterson Road, Grand Junction, CO 81505 and Mr. Jim Baughman, 2581 Patterson Road, Grand Junction, CO 81505. The Baughmans own property and live adjacent to the planned subdivision. They are aggrieved and negatively impacted to the extent the Corner Square project creates unsafe traffic conditions in the area. Mrs. Baughman and Jim Baughman's signatures, confirming this request for appeal, are found on page 3 of this letter.

Mrs. Baughman and Jim Baughman, along with other Baughman family members, attended the March 10, 2009 hearing and offered comments in opposition to the proposed project. Also part of the Planning Commission's record is my letter and appendix thereto dated January 23, 2009, wherein I identified inconsistent actions and decisions on behalf of the developer and the City Staff that violate various Code provisions, TEDS guidelines and other standards promulgated by the City. Please consider both the live testimony of all Baughman family members on March 10, 2009 and my January 23, 2009 letter and

appendix, and the Applicant's own traffic study as evidence in support of this Notice of Appeal.

Baughmans appeal the Planning Commission approval of the Apartment phase of the project because the Planning Commission should not have approved this application without first requiring Applicant to present a traffic study proving the existing roads, intersections and traffic status are adequate to serve the Corner Square development and the proposed added apartments, such that this phase and future phases will not adversely affect the existing use and safety of the roads, intersections and traffic status.

The Applicant's own traffic study proves that the project's proposed density **will cause a failure of the road system** at 1st Street and Park Avenue and at 1st Street and Patterson Road. Appendix 1 to this Notice is the relevant admission in the Traffic Analysis, Corner Square Mixed Use Development, December 1, 2008, TurnKey Consulting, LLC. Therefore, approval of Applicant's proposed density, which the Applicant's own traffic engineer admits will cause multiple intersection failures by 2009 and 2015 respectively, and which will inevitably lead to traffic accidents and public safety concerns at these intersections, cannot be allowed. The Planning Commission erred in either overlooking the anticipated intersection failures or in approving a project knowing of the resulting intersection failures and the resulting public safety problems.

Baughmans currently have a historic and single access to their properties. To the extent the Applicant advocates a project which will knowingly result in intersection failures; such failures will threaten the continued utility of Baughmans' historic driveway access. If the City knowingly approves a project which the City knows will result in intersection failures (one failure being at a major City intersection, 1st Street and Patterson), the City is effectively forcing itself into the position of having to condemn Baughmans' historic driveway simply to allow the Applicant to proceed with a development the City and Applicant know cannot be served by existing roads and intersections. Should Baughmans' driveway access hereafter be altered to "resolve" the intersection failure the City knows it is creating by approving this application, the City is effectively choosing a course of inverse condemnation of Baughmans' rights simply to help Applicant's private interests which cause the intersection failures. This appeal affords the City an opportunity to adhere to its Zoning and Development Code, prevent intersection failures and avoid the prospects of litigation over inverse condemnation issues. This appeal affords all parties with an opportunity to consider the consequences of the Planning Commission approving the Applicant's plan. With Applicant admitting intersection failures, the record from the Planning Commission will not support an approval of their decision. The City should not allow Applicant to create a problem which the City, at great expense, would have to resolve in the future by condemning Baughman's right to use their historic driveway access. Therefore, simply apply the Code per its terms and conditions and recognize that Applicant's admission of intersection failures prove that the application cannot be approved.

March 19, 2009
Page 3

As an aside, I understand that you will be presenting to City Council on April 1, 2009 the matter of 25 ¾ Road. Thank you for your offer to forward to me a copy of your staff report prior to the hearing.

I enclose herewith a check in the amount of \$250.00, which you indicated is the appeal fee. As I understand you will be arranging for verbatim minutes of the March 10, 2009 hearing. Please let me know if you require fees in addition to the enclosed amount. Please direct all correspondence on this appeal to me at the email address or mailing address listed above. Thank you.

COLEMAN, WILLIAMS & WILSON

cc Coleman by DSW
Joseph Coleman
joe@cwlaw.com
[Signature]

Frances Baughman

Frances Baughman

James R. (Jim) Baughman

Jim Baughman

xc: Baughman family
Rich Livingston, attorney for Corner Square
John Shaver, City Attorney

7 Comparison to Conditions with 25³/₄ Road Connection to Patterson Road

As previously mentioned, TurnKey Consulting prepared a report in September that provided analysis of Project Phase 1 & 2. It assumed that the Project access configuration would include a full movement connection to Patterson Road at the 25³/₄ Road alignment. The results of the previous analysis can be used to determine if the 25³/₄ Road connection to Patterson Road would solve the operational and safety issues identified in this study.

The key location is the intersection of 1st Street/Park Avenue in the PM condition. From the September study, we know that the outbound PM traffic volume at this intersection would be 68 vph (for Project Phases 1 & 2). Assuming a 10% increase for additional traffic from Phases 3 & 4, the highest outbound volume would be 75 vph. The gap table on page 8 shows that there would be 97 acceptable gaps in the year 2021 (Scenario #7). This means that there would be an adequate number of acceptable gaps in 1st Street traffic if 25³/₄ Road was connected to Patterson Road.

The September study also shows that the 2028 eastbound queue at the 1st Street/Park Avenue intersection would be less than 130-ft long. Therefore, the 25³/₄ Road connection to Patterson Road would solve both of the safety and operational issues.

8 Summary & Conclusions

This report documents the supplemental traffic analysis for the proposed Corner Square Mixed Use Development (Project) in the City of Grand Junction. This Study provides a respond to the City's review comment on the TurnKey study dated 8/808, for Project Phases 1 & 2. The analysis is this Study focused on the analysis of the impacts to two existing intersections. It answers the question, "what happens to the intersections of 1st Street/Patterson and 1st Street/Park Avenue if Project traffic cannot use 25³/₄ Road to access Patterson Road."

This question was answered in terms of the AM and PM peak hour traffic conditions for various traffic scenarios. The approved Methodology included performance measures that were used to identify the definition of "failure." This included two measures for the signalized intersection of 1st Street & Patterson Road, and two measures for the unsignalized intersection of 1st Street & Park Ave. This Study determined that the traffic operations at these two intersections would be unacceptable under the conditions described below.

1st Street & Patterson Road

This intersection fails to operate well by Scenario #5 (Year 2015 with traffic from all 4 Project Phases). The westbound left turn lane has 210-ft of vehicle storage and it would not have enough capacity to accommodate the amount of traffic making the left turn movement. By Scenario #5, the 90th percentile queue length for the westbound turn lane

would exceed 210-ft.

1st Street & Park Ave

This intersection fails to operate well by Scenario #2 (Year 2009 with traffic from 3 Project Phases). This conclusion is based on both of the performance measure that defined failure.

In addition, the September study shows that there would be an adequate number of acceptable gaps in 1st Street traffic if 25th Road was connected to Patterson Road. The September study also shows that the 2028 eastbound queues at the 1st Street/Park Avenue intersection would be less than 130-ft long. Therefore, the 25th Road connection to Patterson Road would solve both of the safety and operational issues.

In summary, the 25th Road connection to Patterson Road should be included as part of Project Phase 3 construction. This would prevent unsafe traffic conditions from occurring at the intersection of 1st Street/Park Ave, and from occurring within the Project.

Attach 9

Construction Contract for the 2009 Sanitary Sewer Replacement Project

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	2009 Sewer Line Replacement Project Contract Award		
File #			
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	March 25, 2009		
Author Name & Title	David Donohue, Project Engineer		
Presenter Name & Title	Tim Moore, Public Works and Planning Director		

Summary: The project consists of conventional replacement of 4800 lineal feet of 8" sanitary sewer and 2220 lineal feet of 6" sanitary sewer, as well as trenchless rehabilitation of 3876 lineal feet of 6" and 8" sanitary sewer. Also included are replacement of 220 sewer taps, related surface restoration work, and construction of minor stormwater sewer inlets and laterals.

Budget: Project No. 902-F001600

\$1,250,000 is budgeted in 2009 for sewer line replacement projects. We do have additional funds needed to complete the project in the fund balance. We will transfer the additional funds with the supplemental appropriations to the 2009 budget this fall.

Action Requested/Recommendation: Authorize the City Manager to sign a Construction Contract for the **2009 Sanitary Sewer Replacement Project** with **Sorter Construction, Inc.** in the amount of **\$ 1,299,027.00.**

Background Information: Bids were received on March 24 from the following:

Sorter Construction, Inc.	Grand Junction, CO	\$ 1,299,027.00
Mendez, Inc.	Grand Junction, CO	\$ 1,338,639.60
M.A. Concrete Construction	Grand Junction, CO	\$ 1,471,998.38
KR Swedfeger Construction	Pueblo, CO	\$ 1,833,905.00
Engineers Estimate		\$ 1,691,379.00

Sorter Construction is a locally owned company located in Grand Junction since 1953. Sorter employs 15 people that live in Mesa County. Sorter Construction has completed

13 projects for the City since 2001 totaling approximately \$7.1 million. The main supplier for this project is Grand Junction Pipe and Supply. Staff has no reservations regarding capability or workmanship with this contractor.

This project allows for rehabilitation or replacement of existing vitrified clay and concrete sewer lines. The concrete sewer lines have been damaged by hydrogen sulfide gases that are naturally occurring in raw sewage. The vitrified clay lines are deteriorating due to age-related weathering, settlement, and stress cracking associated with surface loads and repeated exposure resulting from excavation associated with installation of new taps, abandonment of old taps, and disturbance from installation of other utilities.

Attach 10

Public Hearing – Reimer Annexation and Zoning, Located at 2751 Riverside Parkway

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Reimer Annexation located at 2751 Riverside Parkway		
File #	ANX-2009-006		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	March 18, 2009		
Author Name & Title	Michelle Hoshide – Associate Planner		
Presenter Name & Title	Michelle Hoshide – Associate Planner		

Summary: Request to annex and zone .64 acres, located at 2751 Riverside Parkway to I-1 (Light Industrial). The Reimer Annexation consists of one (1) parcel and a portion of 27 ½ Road Right-of-Way.

Budget: N/A

Action Requested/Recommendation: Adopt Resolution accepting the petition for the Reimer Annexation and hold a public hearing and consider final passage of the annexation ordinance and zoning ordinance.

Attachments:

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

Background Information: See attached Staff Report/Background Information

STAFF REPORT / BACKGROUND INFORMATION			
Location:		2751 Riverside Parkway	
Applicants:		Owners: Ryan and Chelsi Reimer	
Existing Land Use:		Residential Single Family	
Proposed Land Use:		Industrial Trade Shop	
Surrounding Land Use:	North	Union Pacific Railroad Company	
	South	Residential Single Family	
	East	Residential Single Family	
	West	Residential Single Family	
Existing Zoning:		RSF-R (Residential Single Family Rural)	
Proposed Zoning:		I-1 (Light Industrial)	
Surrounding Zoning:	North	I-1(Light Industrial)	
	South	RSF-R (Residential Single Family Rural)	
	East	RSF-R (Residential Single Family Rural)	
	West	RSF-R (Residential Single Family Rural)	
Growth Plan Designation:		Industrial	
Zoning within density range?	X	Yes	No

Staff Analysis:

ANNEXATION:

This annexation area consists of .64 acres of land and is comprised of 1 parcel. The property owners have requested annexation into the City to allow for development of a Contractor and Trade Shop. Under the 1998 Persigo Agreement all proposed development within the Persigo Wastewater Treatment boundary requires annexation and processing in the City.

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

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;
- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;

- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners' consent.

The following annexation and zoning schedule is being proposed.

<u>ANNEXATION SCHEDULE</u>	
February 18, 2009	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
February 24, 2009	Planning Commission considers Zone of Annexation
March 18, 2009	Introduction Of A Proposed Ordinance on Zoning by City Council
April 1, 2009	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
May 3, 2009	Effective date of Annexation and Zoning

REIMER ANNEXATION SUMMARY	
File Number:	ANX-2009-006
Location:	2751 Riverside Parkway
Tax ID Number:	2945-241-00-024
Parcels:	1
Estimated Population:	0
# of Parcels (owner occupied):	0
# of Dwelling Units:	0
Acres land annexed:	.64 acres
Developable Acres Remaining:	.38 acres
Right-of-way in Annexation:	11,170.20 square feet
Previous County Zoning:	RSF-R (Residential Single Family Residential
Proposed City Zoning:	I-1 (Light Industrial
Current Land Use:	Residential Single Family
Future Land Use:	Industrial Trade Shop
Values:	Assessed: =\$8,750
	Actual: =\$110,010
Address Ranges:	2751 Riverside Parkway
Special Districts:	Water: Ute Water
	Sewer: Central Grand Valley
	Fire: Grand Junction Fire Rural
	Irrigation: Grand Valley Irrigation/ Grand Valley Drainage
	School: District 51
	Pest: Grand Valley Pest Control District and Grand Valley Mosquito District

Staff Analysis:

Zone of Annexation: The requested zone of annexation to the I-1 (Light Industrial) district is consistent with the Growth Plan zoning of Industrial. The existing County zoning is RSF-R (Residential Single Family Rural). 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 I-1 (Light Industrial) zoning district is consistent with the Growth Plan. The Future Growth plan designation is Industrial 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 I-1 (Light Industrial) 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.

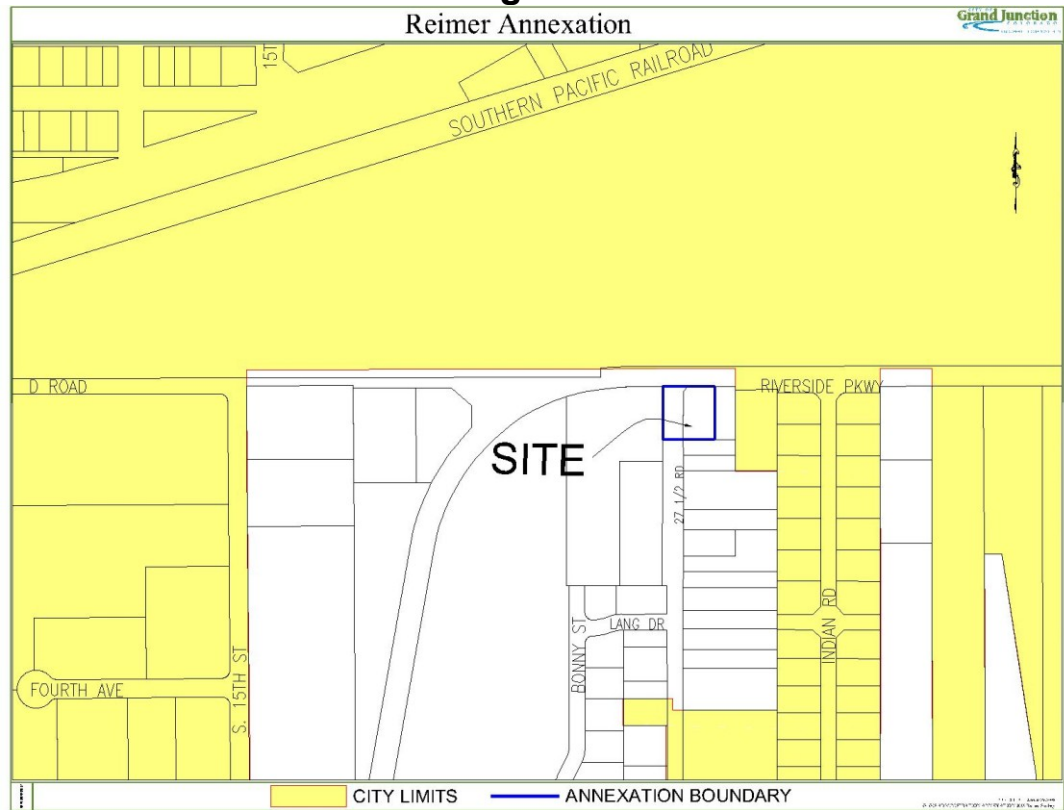
- a. I-O (Industrial Office)
- b. I-2 (General Industrial)

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 February 24, 2009, finding the zoning to the I-1 (Light Industrial) zone 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



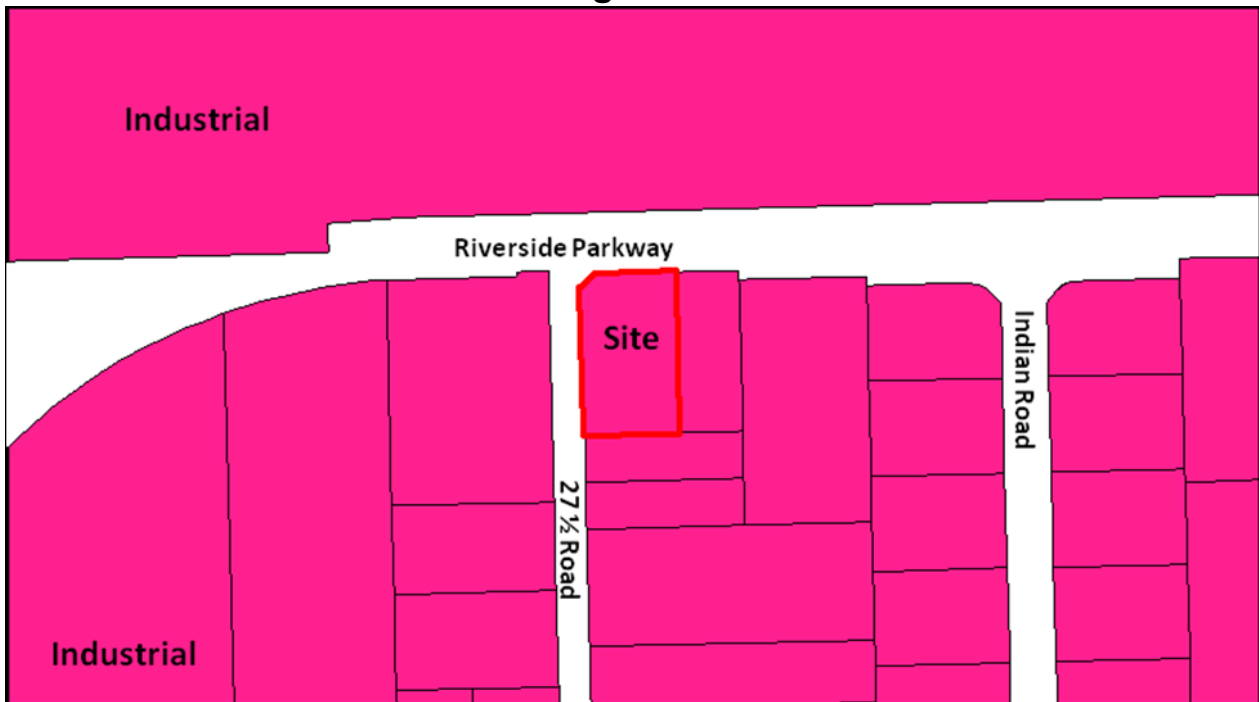
Aerial Photo Map

Figure 2



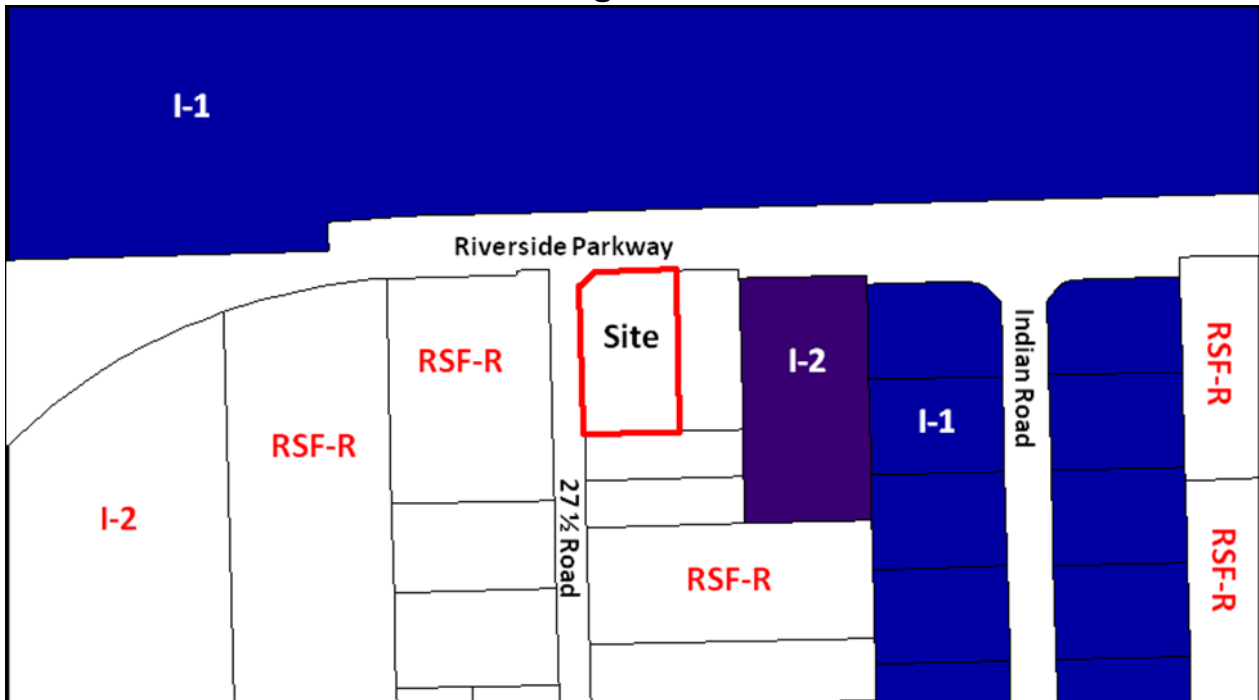
Future Land Use Map

Figure 3



Existing City and County Zoning

Figure 4



CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. _____

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

REIMER ANNEXATION

**LOCATED AT 2751 RIVERSIDE PARKWAY AND INCLUDING A PORTION OF 27 ½
ROAD RIGHT-OF-WAY**

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 18th day of February, 2009, a petition was referred to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

REIMER ANNEXATION

A certain parcel of land located in the Northwest Quarter (NW 1/4) and the Northeast Quarter (NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northwest corner of the NW 1/4 NE 1/4 of said Section 24 and assuming the West line of the NW 1/4 NE 1/4 of said Section 24 to bear S00°08'44"W with all bearings contained herein relative thereto; thence S00°08'44"W a distance of 30.00 feet along the West line of the NW 1/4 NE 1/4 of said Section 24 to the Point of Beginning; thence S89°59'19"E a distance of 131.99 feet along a line being 30.00 feet South of and parallel with the North line of the NW 1/4 NE 1/4 of said Section 24, said line also being the Southerly line of Riverside Parkway Annexation No. 1, Ordinance No. 4319, City of Grand Junction; thence S00°00'41"W a distance of 168.00 feet; thence N89°58'41"W a distance of 165.39 feet; thence N00°08'44"E a distance of 167.97 feet along a line being 33.00 feet West of and parallel with the West line of the NW 1/4 NE 1/4 of said Section 24 to a point on the Southerly line of said Riverside Parkway Annexation No. 1; thence S89°59'19"E a distance of 33.00 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 24, said line also being the Southerly line of said Riverside Parkway Annexation No. 1 to the Point of Beginning.

Said parcel contains 0.64 acres (27,749.34 sq. ft.), more or less, as described.

WHEREAS, a hearing on the petition was duly held after proper notice on the 1st of April, 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 this ____ day of _____, 2008.

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**

REIMER ANNEXATION

APPROXIMATELY .64 ACRES

**LOCATED AT 2751 RIVERSIDE PARKWAY AND INCLUDING A PORTION OF 27 ½
ROAD RIGHT-OF-WAY**

WHEREAS, on the 18th day of February, 2009, 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 1st day of April, 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 Northwest Quarter (NW 1/4) and the Northeast Quarter (NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northwest corner of the NW 1/4 NE 1/4 of said Section 24 and assuming the West line of the NW 1/4 NE 1/4 of said Section 24 to bear S00°08'44"W with all bearings contained herein relative thereto; thence S00°08'44"W a distance of 30.00 feet along the West line of the NW 1/4 NE 1/4 of said Section 24 to the Point of Beginning; thence S89°59'19"E a distance of 131.99 feet along a line being 30.00 feet South of and parallel with the North line of the NW 1/4 NE 1/4 of said Section 24, said line also being the Southerly line of Riverside Parkway Annexation No. 1, Ordinance No. 4319, City of Grand Junction; thence S00°00'41"W a distance of 168.00 feet; thence N89°58'41"W a distance of 165.39 feet; thence N00°08'44"E a distance of 167.97 feet along a line being 33.00 feet West of and parallel with the West line of the NW 1/4 NE 1/4 of said Section 24 to a point on the Southerly line of said Riverside Parkway Annexation No. 1; thence S89°59'19"E a distance of 33.00 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 24, said line also being the Southerly line of said Riverside Parkway Annexation No. 1 to the Point of Beginning.

Said parcel contains 0.64 acres (27,749.34 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 18th day of February, 2009 and ordered published.

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

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

AN ORDINANCE ZONING THE REIMER ANNEXATION TO I-1 (LIGHT INDUSTRIAL)

LOCATED AT

2751 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 Reimer Annexation to the I-1 (Light Industrial) 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 I-1 (Light Industrial) 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 I-1 (Light Industrial)

REIMER ANNEXATION

A certain parcel of land located in the Northwest Quarter (NW 1/4) and the Northeast Quarter (NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northwest corner of the NW 1/4 NE 1/4 of said Section 24 and assuming the West line of the NW 1/4 NE 1/4 of said Section 24 to bear S00°08'44"W with all bearings contained herein relative thereto; thence S00°08'44"W a distance of 30.00 feet along the West line of the NW 1/4 NE 1/4 of said Section 24 to the Point of Beginning; thence S89°59'19"E a distance of 131.99 feet along a line being 30.00 feet South of and parallel with the North line of the NW 1/4 NE 1/4 of said Section 24, said line also being the Southerly line of Riverside Parkway Annexation No. 1, Ordinance No. 4319, City of Grand Junction; thence S00°00'41"W a distance of 168.00 feet; thence N89°58'41"W a distance of 165.39 feet; thence N00°08'44"E a distance of 167.97 feet along a line being 33.00 feet West of and parallel with the West line of the NW 1/4 NE 1/4 of said Section 24 to a point on the Southerly line of said Riverside Parkway Annexation No. 1; thence S89°59'19"E a distance of 33.00 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 24, said line also being the Southerly line of said Riverside Parkway Annexation No. 1 to the Point of Beginning.

Said parcel contains 0.64 acres (27,749.34 sq. ft.), more or less, as described.

INTRODUCED on first reading the 18th day of February, 2009 and ordered published.

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

ATTEST:

President of the Council

City Clerk

Attach 11

Public Hearing – Accepting Improvements and Assessments Connected with Alley Improvement District No. ST-08

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Improvements and Assessments for Alley Improvement District No. ST-08		
File #			
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent		Individual x
Date Prepared	March 20, 2009		
Author Name & Title	Michael Grizenko, Real Estate Technician		
Presenter Name & Title	Tim Moore, Public Works and Planning Director		

Summary: Improvements to the following alleys have been completed as petitioned by a majority of the property owners to be assessed:

- East/West Alley from 3rd to 4th, between Gunnison Avenue and Hill Avenue
- East/West Alley from 9th to 10th, between Teller Avenue and Belford Avenue
- North/South Alley from 14th to 15th, between Hall Avenue and Orchard Avenue

A public hearing is scheduled for April 1, 2009.

Budget:

E/W 3rd-4th, Gunnison to Hill	800	\$ 89,627	\$ 10,037	\$ 55,963	11%
E/W 9th-10th, Teller to Belford	800	\$ 89,620	\$ 7,800	\$ 58,200	9%
N/S 14th-15th, Hall to Orchard	406	\$ 46,858	\$ 3,280	\$ 43,578	7%
Totals	2006	\$ 226,105	\$ 21,117	\$ 157,741	9%
2008 Alley Budget (Adjusted)		\$ 228,111			
Estimated cost to construct 2008 Alleys		\$ 226,106			
Estimated Balance		\$ 2,005			

Action Requested/Recommendation: Conduct a Public Hearing and adopt proposed Assessing Ordinance on Second Reading for Alley Improvement District ST-08.

Attachments:

1. Summary Sheets
2. Maps
3. Proposed Ordinance

Background Information: People's Ordinance No. 33 gives the City Council authority to create improvement districts and levy assessments when requested by a majority of the property owners to be assessed. These alleys were petitioned for reconstruction by more than 50% of the property owners. The proposed assessments are based on the rates stated in the petition, as follows: \$8 per abutting foot for residential single-family properties, \$15 per abutting foot for residential multi-family properties, and \$31.50 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.
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 the first reading of the proposed Assessing Ordinance.
7. ► Council conducts a public hearing and second reading of the proposed Assessing Ordinance.
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.

The published assessable costs include a one-time charge of 6% for costs of collection and other incidentals. This fee will be deducted for assessments paid in full by May 4, 2009. Assessments not paid in full will be turned over to the Mesa County Treasurer for collection under a 10-year amortization schedule with simple interest at the rate of 8% accruing against the declining balance.

SUMMARY SHEET

ALLEY IMPROVEMENT DISTRICT 9TH STREET TO 10TH STREET TELLER AVENUE TO BELFORD AVENUE

OWNER	FOOTAGE	COST/FOOT	ASSESSMENT
Neva I Else	125	8.00	1,000.00
• Jose F Lucero, Jr.	50	8.00	400.00
James M. Thomson	37.5	8.00	300.00
Sarah E Oliver	62.5	8.00	500.00
• Robert G Lucas	50	15.00	750.00
• Robert G. Lucas	50	8.00	400.00
Patrick James Bennett	50	8.00	400.00
• Baughman Family Trust	50	8.00	400.00
• Daniel A Wilkenson	50	8.00	400.00
• Robin S. Gerald	50	8.00	400.00
Stancyn Enterprises LLC	50	15.00	750.00
• Robert & Jacqueline V Johnson	100	15.00	1,500.00
Desire N & Laura B Hamilton	<u>50</u>	8.00	<u>400.00</u>
ASSESSABLE FOOTAGE TOTAL	800		7,800.00

Estimated Cost to Construct	\$ 66,000.00
Absolute Cost to Owners	<u>\$ 7,800.00</u>
Estimated Cost to City	\$ 58,200.00

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

- Indicates owners in favor of improvements are 7/13 or 54% and 50% of assessable footage

SUMMARY SHEET

ALLEY IMPROVEMENT DISTRICT 14TH STREET TO 15TH STREET HALL AVENUE TO ORCHARD AVENUE

OWNER	FOOTAGE	COST/FOOT	ASSESSMENT
• Lester A. & Dorothy A. Beard	81.5	8.00	652.00
• Ophelia M. Church Trust	101.5	8.00	812.00
• Kathleen M. & Joseph Viso	101.5	8.00	812.00
• Danny & Bonnie Kirkpatrick	60.75	8.00	486.00
Nora E. Harms, etal	<u>60.75</u>	8.00	<u>486.00</u>
ASSESSABLE FOOTAGE TOTAL	406		3,248.00

Estimated Cost to Construct	\$ 34,500.00
Absolute Cost to Owners	<u>\$ 3,248.00</u>
Estimated Cost to City	\$ 31,252.00

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

- Indicates owners in favor of improvements are 4/5 or 80% and 85% of the assessable footage.

ALLEY IMPROVEMENT DISTRICT 3RD STREET TO 4TH STREET GUNNISON AVENUE TO HILL AVENUE



ALLEY IMPROVEMENT DISTRICT

**9TH STREET TO 10TH STREET
TELLER AVENUE TO BELFORD AVENUE**



**ALLEY IMPROVEMENT DISTRICT
14TH STREET TO 15TH STREET
HALL AVENUE TO ORCHARD AVENUE**



ORDINANCE NO. ____

AN ORDINANCE APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR ALLEY IMPROVEMENT DISTRICT NO. ST-08 IN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO ORDINANCE NO. 178, ADOPTED AND APPROVED THE 11TH DAY OF JUNE, 1910, AS AMENDED; APPROVING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICTS; ASSESSING THE SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICTS; APPROVING THE APPORTIONMENT OF SAID COST AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENT.

WHEREAS, the City Council and the Municipal Officers of the City of Grand Junction, in the State of Colorado, have complied with all the provisions of law relating to certain improvements in Alley Improvement District No. ST-08 in the City of Grand Junction, pursuant to Ordinance No.178 of said City, adopted and approved June 11, 1910, as amended, being Chapter 28 of the Code of Ordinances of the City of Grand Junction, Colorado, and pursuant to the various resolutions, orders and proceedings taken under said Ordinance; and

WHEREAS, the City Council has heretofore caused to be published the Notice of Completion of said local improvements in said Alley Improvement District No. ST-08 and the apportionment of the cost thereof to all persons interested and to the owners of real estate which is described therein, said real estate comprising the district of land known as Alley Improvement District No. ST-08 in the City of Grand Junction, Colorado, which said Notice was caused to be published in The Daily Sentinel, the official newspaper of the City of Grand Junction (the first publication thereof appearing on February 20, 2009, and the last publication thereof appearing on February 22, 2009); and

WHEREAS, said Notice recited the share to be apportioned to and upon each lot or tract of land within said Districts assessable for said improvements, and recited that complaints or objections might be made in writing to the Council and filed with the Clerk within thirty (30) days from the first publication of said Notice, and that such complaints would be heard and determined by the Council at its first regular meeting after the said thirty (30) days and before the passage of any ordinance assessing the cost of said improvements; and

WHEREAS, no written complaints or objections have been made or filed with the City Clerk as set forth in said Notice; and

WHEREAS, the City Council has fully confirmed the statement prepared by the City Engineer and certified by the President of the Council showing the assessable cost of said improvements and the apportionment thereof heretofore made as contained in that certain Notice to property owners in Alley Improvement District No.

ST-08 duly published in the Daily Sentinel, the official newspaper of the City, and has duly ordered that the cost of said improvements in said Alley Improvement District No. ST-08 be assessed and apportioned against all of the real estate in said District in the portions contained in the aforesaid Notice; and

WHEREAS, from the statement made and filed with the City Clerk by the City Engineer, it appears that the assessable cost of the said improvements is \$22,138.62; and

WHEREAS, from said statement it also appears the City Engineer has apportioned a share of the assessable cost to each lot or tract of land in said District in the following proportions and amounts, severally, to wit:

ALLEY 3RD STREET TO 4TH STREET, GUNNISON AVENUE TO HILL AVENUE		
TAX SCHEDULE NO.	LEGAL DESCRIPTION	ASSESSMENT
2945-142-22-001	Lot 1 & the West 2/3 of Lot 2, Block 36, City of Grand Junction	\$ 353.33
2945-142-22-002	The East 1/3 Lot 2, all of Lot 3 & the West 1/3 of Lot 4, Block 36, City of Grand Junction	\$ 353.33
2945-142-22-003	Lot 5 & the East 2/3 of Lot 4, Block 36, City of Grand Junction	\$ 353.33
2945-142-22-004	Lots 6 & 7, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-005	Lots 8 & 9, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-008	Lots 17 & 18, Block 36, City of Grand Junction	\$ 795.00
2945-142-22-009	Lots 19 & 20, Block 36, City of Grand Junction	\$ 795.00
2945-142-22-010	Lots 21 & 22, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-011	Lots 23 & 24, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-012	Lots 25 & 26, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-013	Lots 27 & 28, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-014	Lots 29 & 30, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-015	Lots 31 & 32, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-019	Lots 12 & 13, Block 36, City of Grand Junction	\$ 424.00
2945-142-22-951	Lots 14 through 16, inclusive, Block 36,	\$2,504.25

	City of Grand Junction	
2945-142-22-958	Lots 10 & 11, Block 36, City of Grand Junction	\$1,669.50

ALLEY 10TH STREET TO 11TH STREET, TELLER AVENUE TO BELFORD AVENUE

TAX SCHEDULE NO.	LEGAL DESCRIPTION	ASSESSMENT
2945-141-09-002	South 41.72 feet of Lots 1 through 5, inclusive, Block 20, City of Grand Junction	\$1,060.00
2945-141-09-004	Lots 6 & 7, Block 20, City of Grand Junction	\$ 424.00
2945-141-09-005	Lot 8 & the West ½ of Lot 9, Block 20, City of Grand Junction	\$ 318.00
2945-141-09-006	East 1/2 of Lot 9 and all of Lots 10 & 11, Block 20, City of Grand Junction	\$ 530.00
2945-141-09-007	Lots 12 & 13, Block 20, City of Grand Junction	\$ 795.00
2945-141-09-008	Lots 14, 15 & 16, Block 20, City of Grand Junction	\$ 424.00
2945-141-09-009	Lots 31 & 32, Block 20, City of Grand Junction	\$ 424.00
2945-141-09-010	Lots 27 & 28, Block 20, City of Grand Junction	\$ 424.00
2945-141-09-011	Lots 25 & 26, Block 20, City of Grand Junction	\$ 424.00
2945-141-09-012	Lots 23 & 24, Block 20, City of Grand Junction	\$ 424.00
2945-141-09-013	Lots 21 & 22, Block 20, City of Grand Junction	\$ 795.00
2945-141-09-014	Lots 17 through 20 inclusive, Block 20, City of Grand Junction	\$1,590.00
2945-141-09-015	Lots 29 & 30, Block 20, City of Grand Junction	\$ 424.00

ALLEY 14TH STREET TO 15TH STREET, HALL AVENUE TO ORCHARD AVENUE

TAX SCHEDULE NO.	LEGAL DESCRIPTION	ASSESSMENT
2945-123-02-001	Lot 9 & the North 30.75 feet of Lot 10, Block 1, Eastholme-in-Grandview	\$ 691.12
2945-123-02-002	Lot 8, Block 1, Eastholme-in-Grandview	\$ 860.72
2945-123-02-012	Lot 13, Block 1, Eastholme-in-Grandview	\$ 860.72
2945-123-02-013	South 20 feet of Lot 10 & all of Lot 11, except the South 10 feet thereof, Block 1, Eastholme-in-Grandview	\$ 515.16
2945-123-02-014	South 10 feet Lot 11 & all of Lot 12, Block 1, Eastholme-in-Grandview	\$ 515.16

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

Section 1. That the assessable cost and apportionment of the same, as hereinabove set forth, is hereby assessed against all the real estate in said District, and to and upon each lot or tract of land within said District, and against such persons in the portions and amounts which are severally hereinbefore set forth and described.

Section 2. That said assessments, together with all interests and penalties for default in payment thereof, and all cost of collecting the same, shall from the time of final publication of this Ordinance, constitute a perpetual lien against each lot of land herein described, on a parity with the tax lien for general, State, County, City and school taxes, and no sale of such property to enforce any general, State, County, City or school tax or other lien shall extinguish the perpetual lien of such assessment.

Section 3. That said assessment shall be due and payable within thirty (30) days after the final publication of this Ordinance without demand; provided that all such assessments may, at the election of the owner, be paid in installments with interest as hereinafter provided. Failure to pay the whole assessment within the said period of thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments shall be conclusively considered and held as consenting to said improvements, and such election shall be conclusively considered and held as a waiver of any and all rights to question the power and jurisdiction of the City to construct the improvements, the quality of the work and the regularity or sufficiency of the proceedings, or the validity or correctness of the assessment.

Section 4. That in case of such election to pay in installments, the assessments shall be payable in ten (10) equal annual installments of the principal. The first of said installments of principal 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.

Section 5. That the failure to pay any installments, whether of principal or interest, as herein provided, when due, shall cause the whole unpaid principal to become due and payable immediately and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of 8 percent per annum until the day of sale, as by law provided; but at any time prior to the date of sale, the owner may pay the amount of such delinquent installment or installments, with interest at 8 percent per annum as aforesaid, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any piece of real estate not in default as to any installments may at any time pay the whole of the unpaid principal with interest accrued.

Section 6. That payment may be made to the City Finance Director at any time within thirty days after the final publication of this Ordinance, and an allowance of the six percent added for cost of collection and other incidentals shall be made on all payments made during said period of thirty days.

Section 7. That the monies remaining in the hands of the City Finance Director as the result of the operation and payments under Alley Improvement District No. ST-08 shall be retained by the Finance Director and shall be used thereafter for the purpose of further funding of past or subsequent improvement districts which may be or may become in default.

Section 8. That all provisions of Ordinance No. 178 of the City of Grand Junction, as amended, being Chapter 28 of the Code of Ordinances of the City of Grand Junction, Colorado, shall govern and be taken to be a part of this Ordinance with respect to the creation of said Alley Improvement District No. ST-08, the construction of the improvements therein, the apportionment and assessment of the cost thereof and the collection of such assessments.

Section 9. That this Ordinance, after its introduction and first reading shall be published once in full in the Daily Sentinel, the official newspaper of the City, at least ten days before its final passage, and after its final passage, it shall be numbered and recorded in the City ordinance record, and a certificate of such adoption and publication shall be authenticated by the certificate of the publisher and the signature of the President of the Council and the City Clerk, and shall be in full force and effect on and after the date of such final publication, except as otherwise provided by the Charter of the City of Grand Junction.

Introduced on First Reading this 18th day of February, 2009.

Passed and Adopted on the _____ day of _____, 2009

Attest:

City Clerk
President of the Council

Attach 12

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		
File #	CUP-2008-158		
Meeting Day, Date	Wednesday, April 1, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	March 17, 2009		
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 approve 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:

- Planning Commission Staff Report of February 24, 2009
- Minutes of the Planning Commission meeting of February 24, 2009
- Citizen's Appeal Letter
- Applicant's Rebuttal Letter

Background Information:

Please see the following and the attached staff report.

FACTUAL BACKGROUND

The property under consideration was annexed in 1992 (Grand Junction West Annexation) and is part of the High Desert Commercial Park Subdivision recorded in 2006. The applicant proposes 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, with the two sites sharing parking with 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.

PROCEDURAL BACKGROUND

This application for a Conditional Use Permit for a bar/nightclub in a Light Industrial (I-1) zone comes before the Planning Commission on a second remand from the City Council.¹ After reviewing the record on appeal, the City Council found that the record is insufficient to support the denial of the Conditional Use Permit and has directed the Planning Commission to:

- (1) consider “neighborhood” in accord with the definition of “neighborhood” in Chapter Nine of the Zoning and Development Code rather than as the entire community or city;
- (2) base its decision on the use that triggers the requirement of a Conditional Use Permit (namely, the bar/nightclub operation, rather than the adult entertainment, which is a use by right in this zone district);
- (3) articulate site-specific reasons supporting its determination(s); and
- (4) address the Code criteria with specificity as a basis for its decision.

At the November 25, 2009 hearing, two of the three Commissioners voting to deny the Conditional Use Permit found that a bar/nightclub use is not compatible with the I-1 zone in general, and also not compatible with the residential use adjacent to the east. City Council has, on remand, directed the Planning Commission to state specifically, using examples specific to the particular site, the conflict(s) with the residential use to the east, and to provide a site-specific factual basis for its finding that there are conflicts between the commercial bar/nightclub use and industrial uses.

¹ First public hearing by the Planning Commission occurred on August 12, 2008; the CUP was denied and the applicant appealed. City Council reviewed the record on appeal and remanded the application to the Commission, which again denied the CUP at a public hearing on November 25, 2008. Applicant appealed again and the City Council remanded a second time. Planning Commission approved the CUP request at the February 24, 2009 hearing. The approval has been appealed to City Council by a citizen.

Planning Commission heard the remanded request at the February 24, 2009 public hearing and approved the Conditional Use Permit, based on the findings and conclusions in the staff report.

DISCUSSION OF APPLICABLE CODE PROVISIONS

“Neighborhood” is defined in the Zoning and Development Code as “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.”

The Zoning and Development Code legislates three broad classifications of uses within specific zone districts: (1) not allowed, (2) allowed by right, and (3) conditionally allowed. Uses not allowed have been determined by the City Council to be inappropriate and therefore not permitted within a specific zone district. Uses allowed by right have been determined to be similar enough in nature to other uses in the same zone district so as to be allowed without special consideration.

A conditional use is one that has the potential to be detrimental to permitted uses in a given zone district. Such use may be permitted, however, under certain circumstances **particular to the proposed location**, and where conditions can provide protection from potentially adverse effects to adjacent land uses. The specific criteria the Planning Commission must address are discussed in more detail below.

Some allowed uses are subject to specific “performance” or “use-specific” standards. Adult entertainment is one of these uses. There is only one use-specific standard for adult entertainment establishments: the establishment must be at least one-thousand feet from any church, school, park, playground, public building or residentially zoned property. There is no church, school, park, playground, public building or residentially zoned property within one thousand feet of the site. Although there is a non-conforming residential use adjacent to the east property line of the site, the property itself is zoned Light Industrial (I-1).

The purpose of the I-1 zone district is to provide areas for manufacturing, office, and commercial type uses. It allows a wide variety of uses **by right**, including medical and dental clinics, church, indoor animal clinic/boarding, **adult entertainment**, car wash, contractor/trade shops) and allows other uses conditionally, including business residence, museums/theaters, jail, general office, health club/skating rink, outdoor animal clinic/boarding, retail, bars/nightclubs.

A bar/nightclub is allowed with a Conditional Use Permit in the B-1, B-2, C-1, C-2, I-O, I-1, and M-U zone districts. Potential conflicts with neighboring properties are most likely in the B-1, B-2, and C-1 zone districts as they allow residential uses and/or are more likely to be located next to residential zoning. The applicant’s property is surrounded by I-1 zoned properties to the north, east, and west, and C-2 property to the south. The

hours of operation for the bar/nightclub will be offset of most of the other businesses in the area.

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: Approval of the Bar/Nightclub Conditional Use Permit.

FACTUAL BACKGROUND

The property under consideration was annexed in 1992 (Grand Junction West Annexation) and is part of the High Desert Commercial Park Subdivision recorded in 2006. The applicant proposes 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, with the two sites sharing parking with 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.

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- (5) consider “neighborhood” in accord with the definition of “neighborhood” in Chapter Nine of the Zoning and Development Code rather than as the entire community or city;
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- (7) articulate site-specific reasons supporting its determination(s); and
- (8) address the Code criteria with specificity as a basis for its decision.

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DISCUSSION OF APPLICABLE CODE PROVISIONS

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The purpose of the I-1 zone district is to provide areas for manufacturing, office, and commercial type uses. It allows a wide variety of uses **by right**, including medical and dental clinics, church, indoor animal clinic/boarding, **adult entertainment**, car wash, contractor/trade shops) and allows other uses conditionally, including business residence, museums/theaters, jail, general office, health club/skating rink, outdoor animal clinic/boarding, retail, bars/nightclubs.

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REVIEW CRITERIA

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.

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. There are no other conditions of approval outstanding.

- 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 (i.e. setbacks, floor area ratio, maximum lot coverage, maximum building height), parking, landscaping and buffering have all been met or exceeded.

- 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 specific use subject to standards of Chapter Three and Four is Adult Entertainment. All of these standards are met by the proposal. Chapter 4 requires that Adult Entertainment establishments be located 1000' or more away from any other Adult Entertainment business, any church (nearest River of Life Alliance Church – 1.82 mi.), school (Appleton Elementary – 1.33 mi; new high school site – 1.14 mi), park (nearest Canyon View Park - 1.42 mi), playground (at Appleton Elementary), public building (nearest Persigo Waste Water Treatment Facility – 1.15 mi), or residentially zoned property (nearest 2,600 ft away, north of I-70). The proposed location meets all requirements as described above.

Chapter 4 of the Zoning and Development Code also requires a sign package be approved as part of the Conditional Use Permit in order for the site to have signage. The applicant has not submitted a specific sign package and is only requesting signage as allowed by the Sign Code.

- 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. To the northwest, southwest, and east, there are multiple office/warehouse and manufacturing facilities are established; the Acorn Truck Stop and Westgate Inn are located approximately 1/4 mile to the west.

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

- 1) Protection of privacy

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 neighboring property to the east has historically been used residentially. However, both houses on the property have been vacant for several months and the property is currently for sale, being marketed as industrial land, consistent with its present zone designation.

- 2) Protection of use and enjoyment

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. The neighboring property to the east has historically been used residentially. However, both houses on the property have been vacant for several months and the property is currently for sale, being marketed as industrial land, consistent with its present zone designation. The Police Department has reviewed the plan thoroughly and suggested modifications to reduce secondary effects and prevent crime in the neighborhood. The modifications, which have all been incorporated into the plan by the applicant, include different shrub heights in some areas that may be prone to loitering in order to provide better visibility to those areas and defensive landscaping to discourage any attempts to access or travel through certain areas.

At the August 12, 2008 Planning Commission hearing, the owner of Western Slope Auto expressed concerns about having a bar across the street from his property. I believe the following effectively mitigate this property owner's concerns. The Code requires a buffer of either a 25' landscape strip or a fence between and I-1 development and an adjacent C-2 zoned property. When a right-of-way other than a local or collector street separates the zone districts, buffer requirements can be waived if the buffering objectives are met without them. The proposed bar site is approximately 90' from the Western Slope property, separated by G Road which is classified as a Minor Arterial. The subdivision provided a 6' wood privacy fence and a 14' landscape tract along the southern property line, which serves as a buffer to the C-2 property to the south and exceeds the buffer requirements of the Code. The site will also have internal parking lot landscaping and security lighting to maintain safe light levels within the parking lot. The Western Slope site also already has a 6' chain-link perimeter fence with 3 strands of barb wire along the top.

3) Compatible design and integration

The proposed building and site layout are consistent with the surrounding commercial industrial park. The hours of operation are offset from the business hours of most other properties in the area, appropriate defensive and safe level landscaping, and security lighting should mitigate any potential secondary effects to the neighboring properties. Attached is a spreadsheet showing other businesses permitted to serve alcohol for consumption on premises and zone districts in which they are located. Although there are no I-1 zone districts represented on the spreadsheet, most of the businesses have elected to locate in the areas shown, but could have made application for opening their business in an I-1 zone district; however, no requests for a Conditional Use Permit for a bar/nightclub have been requested for any I-1 zoned properties.

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:

8. The requested Conditional Use Permit is consistent with the Growth Plan.
9. The review criteria in Section 2.13.C of the Zoning and Development Code have all been met.

STAFF RECOMMENDATION:

I recommend 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:

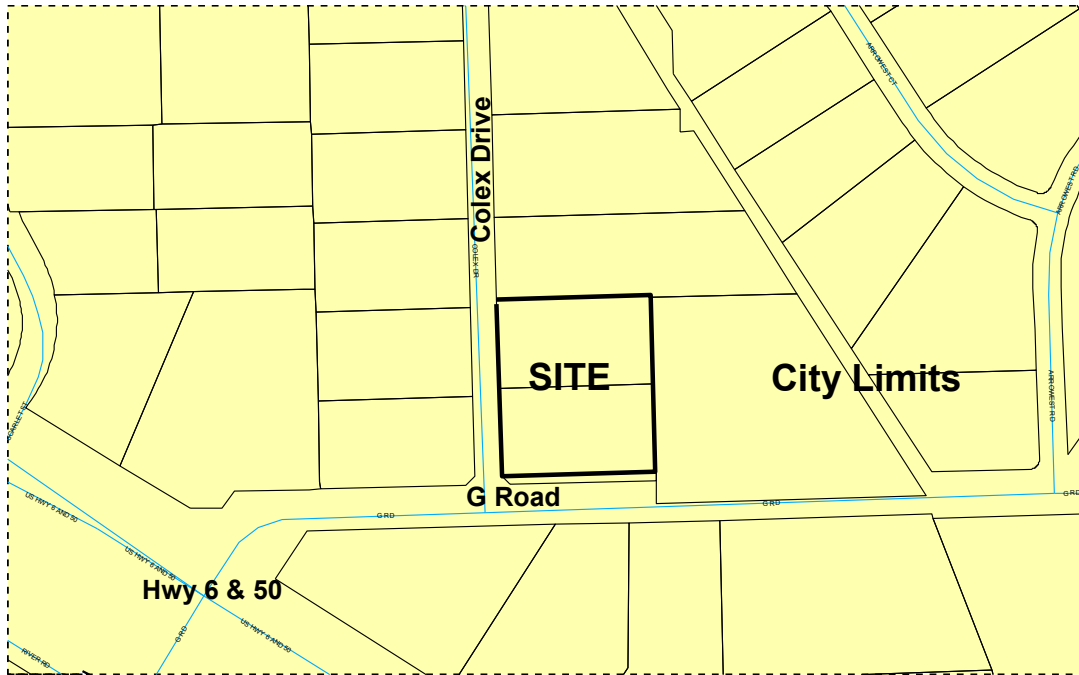
Mr. Chairman, on Bar/Nightclub Conditional Use Permit, CUP-2008-158 I move that the Planning Commission approve of the Conditional Use Permit with the facts and conclusions listed in the staff report.

Attachments:

Site Location Map / Aerial Photo Map
Future Land Use Map / Existing City Zoning Map
Proposed Site Plan
Proposed Landscape Plan
Map showing 1000' radius
Existing Licensed Locations Spreadsheet
Citizen letters prior to August 12, 2008 Planning Commission meeting
Planning Commission verbatim minutes – 8/12/08
Applicant's 1st letter of appeal
November 5, 2008 City Council Minutes
Citizen letters after August 12, 2008 Planning Commission meeting
Planning Commission verbatim minutes 11/25/08
Applicant's 2nd letter of appeal
Citizen letters after November 25, 2008
January 21, 2009 City Council Minutes

Site Location Map

Figure 1



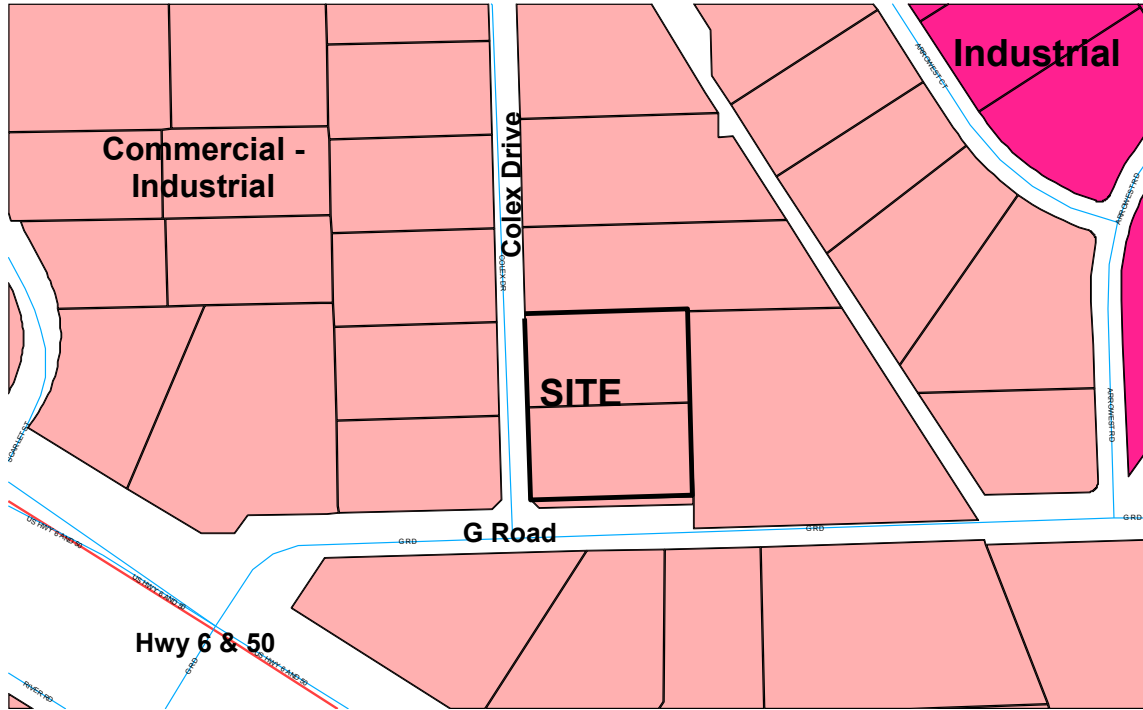
Aerial Photo Map

Figure 2



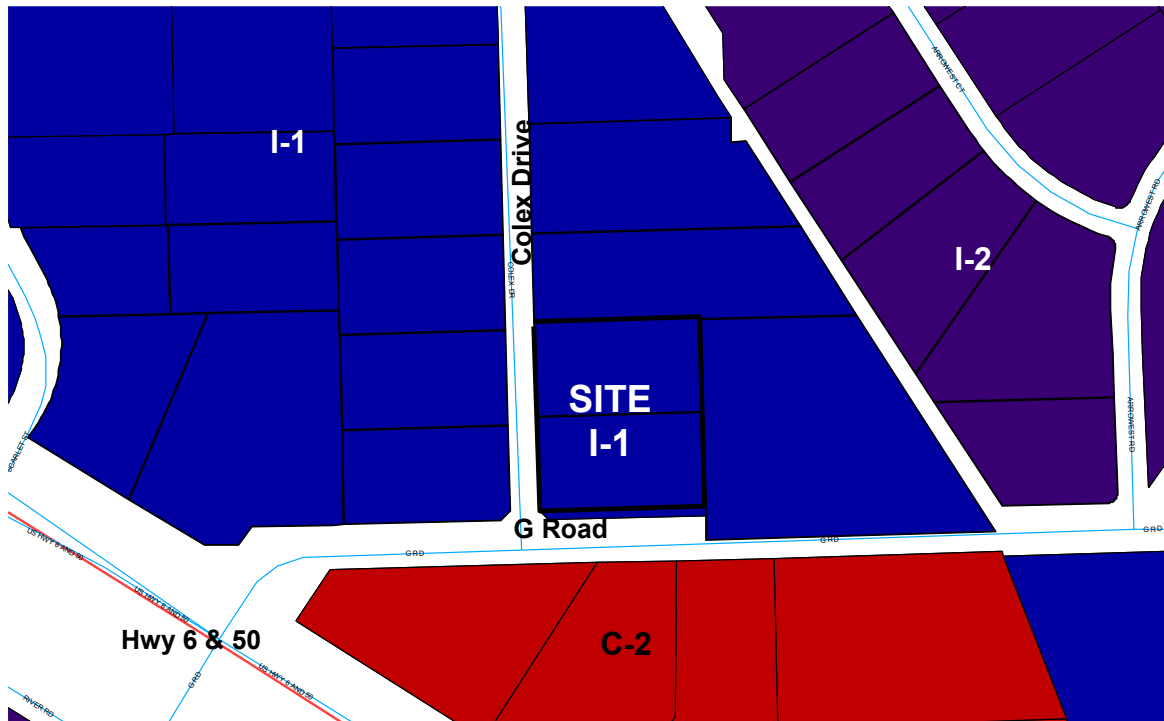
Future Land Use Map

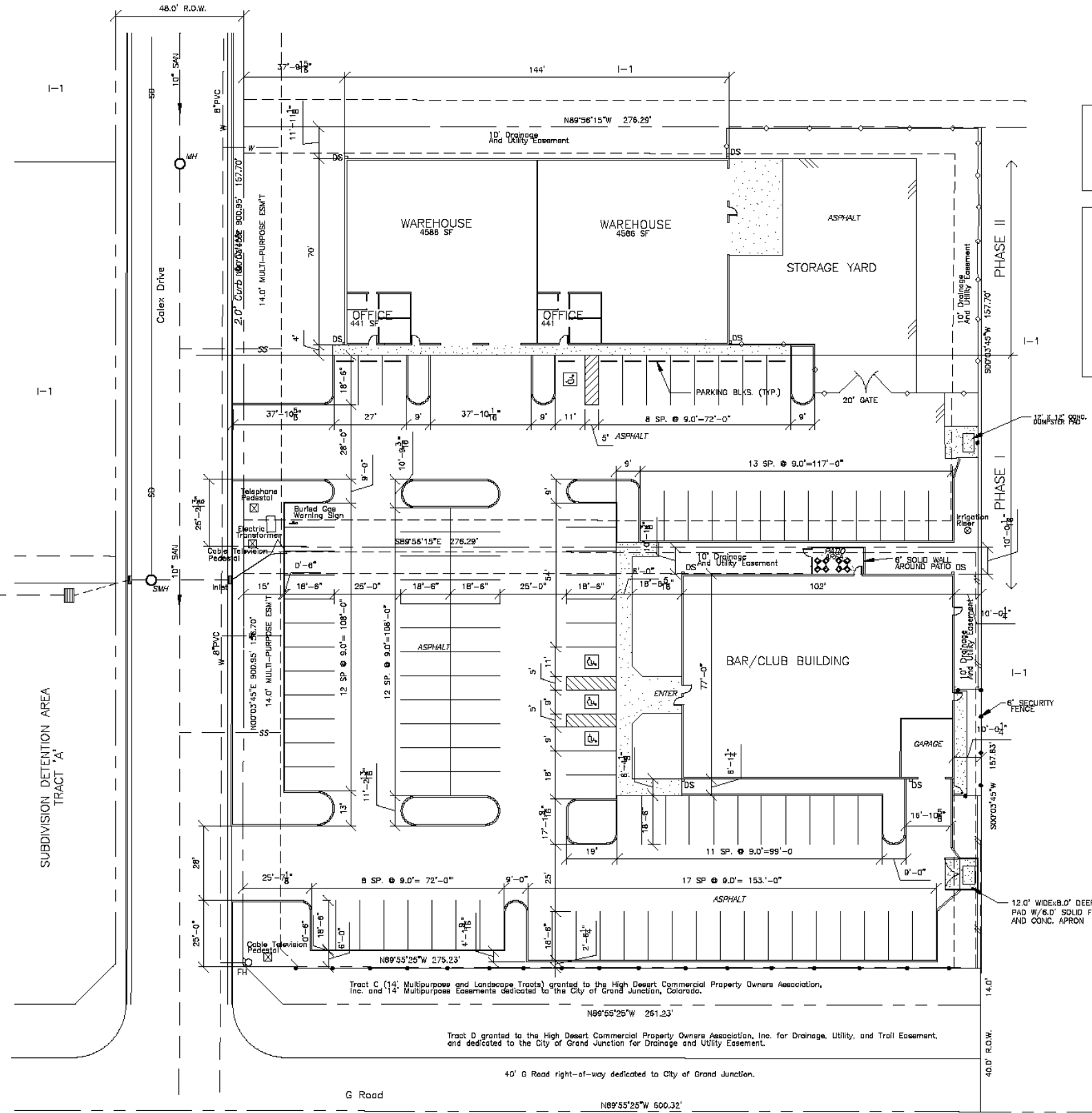
Figure 3



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.

PARKING REQUIREMENTS-Phases 1 and 2
 PARKING REQUIRED:
 PER CITY PLANNING - 185 OCCUPANCY FOR CLUB
 1 SPACE PER 2 PEOPLE = 185/2 = 92.5 = 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 - 882 SF/300 = 2.94 = 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 = 108 SPACES

LAND USE BREAKDOWN-LOT 1
 DEVELOPED AREA LOT 1 - 1.001 Ac = 43,572 SF
 BUILDING - 7,854 SF = 18.0%
 ASPHALT/CONCRETE = 27,386 SF = 62.8%
 LANDSCAPING = 8,359 SF = 19.2%
 TOTAL = 100%

LAND USE BREAKDOWN-LOT 2
 DEVELOPED AREA LOT 2 - 1.000 Ac = 43,572 SF
 BUILDING - 10,054 SF = 23.1%
 ASPHALT/CONCRETE = 22,480 SF = 51.6%
 ROADBASE = 3,190 SF = 7.3%
 LANDSCAPING = 7,848 SF = 18.0%
 TOTAL = 100%

LEGEND

---	PROPERTY LINE
- - - -	LINE OF UTILITY EASEMENT
— 8" SAN —	SANITARY SEWER MAIN LINE
SS	SANITARY SEWER SERVICE
G 2" MW	GAS LINE MAIN
G	GAS LINE SERVICE
W 6" PVC	WATER LINE MAIN
W	WATER LINE SERVICE
SD	STORM DRAIN LINE
MH	MANHOLE
SMH	STORM MANHOLE
///	EDGE OF NEW ASPHALT
[CONCRETE]	CONCRETE
Q FH	FIRE HYDRANT
U	NEW EXTERIOR DOOR
— o — o — o — o —	CHAINLINK FENCE
— ● — ● — ● — ● —	EXISTING WOOD FENCE
— // — // — // —	EXISTING WIRE FENCE
— [] —	NEW BUILDING FOOTPRINT
DS	NEW DOWNSPOUT (APPROX. LOCATIONS)

ABBREVIATIONS

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

APPROVED FOR CONSTRUCTION
 CITY OF GRAND JUNCTION - ENGINEER
 DATE
 CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT
 DATE

ACCEPTED AS CONSTRUCTED FOR ONE YEAR FROM THIS DATE
 CITY OF GRAND JUNCTION - ENGINEER
 DATE
 CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT
 DATE

** Indicates New
 ® Requires Roll

SITE PLAN
 SCALE: 1"=20'-0"
 NORTH

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

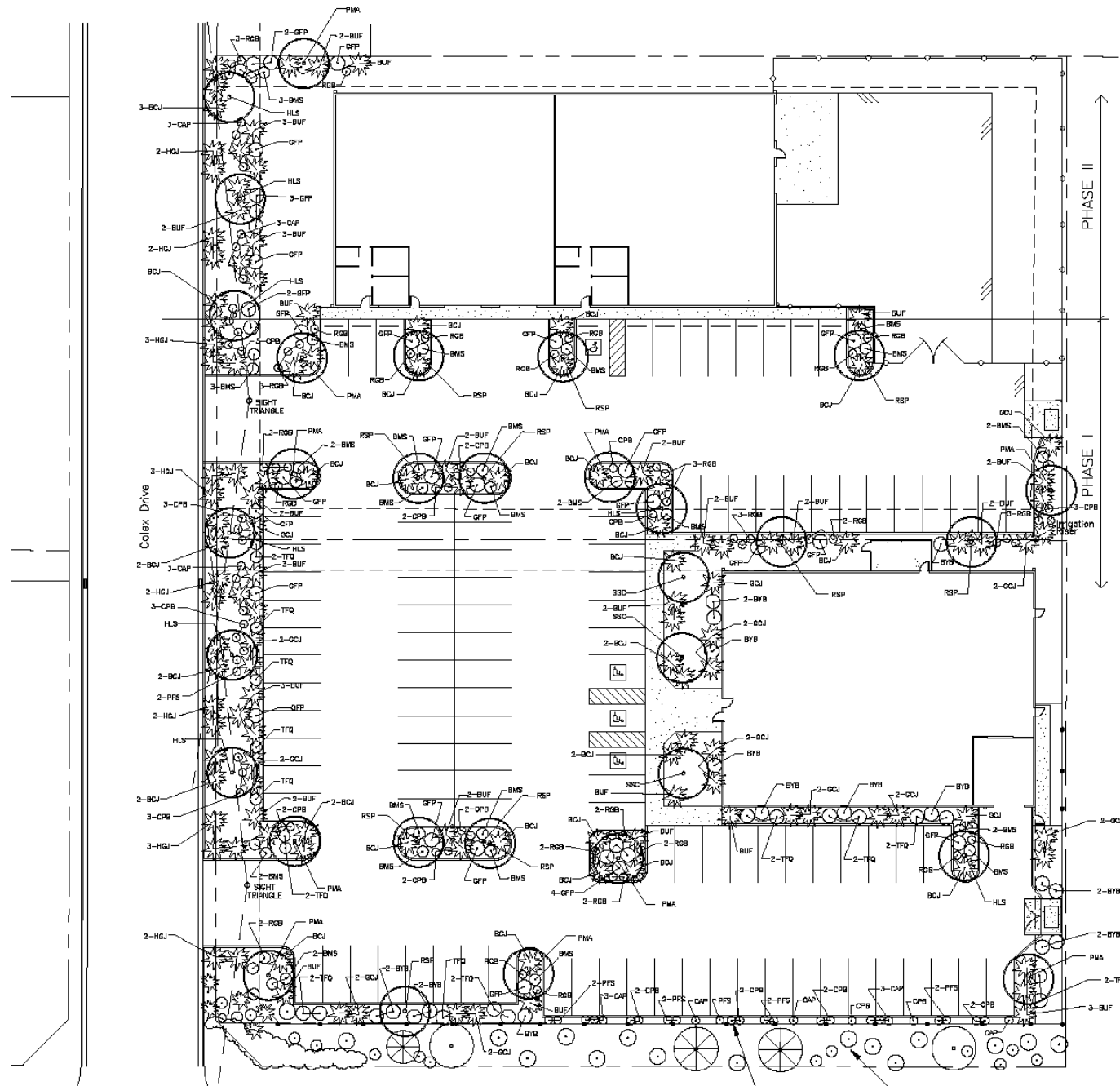
NO. DATE REVISIONS
 1 1/21/17
 2 2/2/17
 3 2/2/17

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

design specialists

PROJECT TITLE: TITL1
 TITL2
 TITL3
 SHEET TITLE: DWGNAME1
 DWGNAME2

DRAWING
SDN1
 SHEET SHT OF OF



**PHASE I
LANDSCAPE CALCULATIONS - I-1 Zone**
(DEVELOPED AREA = 0.350 AC = 15,638 SF)

LANDSCAPING REQUIRED:

TREES - 1 PER 6 PARKING SPACES
108 SPACES = 108/6 = 18 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

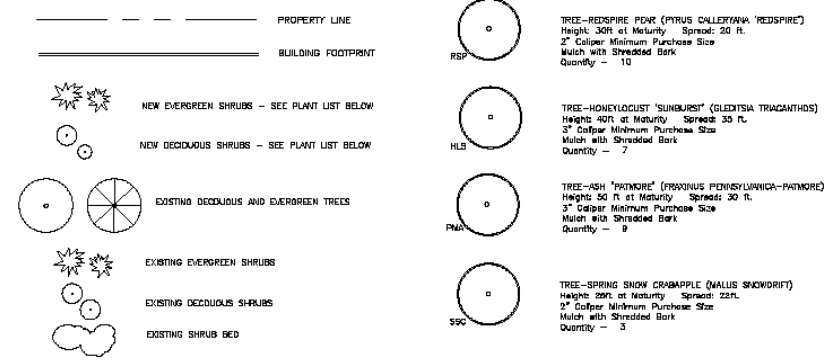
**PHASE II
LANDSCAPE CALCULATIONS - I-1 Zone**
(DEVELOPED AREA = 0.350 AC = 15,638 SF)

LANDSCAPING REQUIRED:

TREES - 1 PER 6 PARKING SPACES
0 SPACES = 0 TREES (incl. In Phase I)
- 1 TREE/40 LINEAR FEET STREET FRONTAGE (EXCLUDING CURB CUTS)
86' FRONTAGE = 86/40 = 2.15 = 3 TREES
- 1 TREE/50 LINEAR FEET SIDE YARD
SIDE YARD = 1 TREE
TOTAL TREES REQUIRED = 4
TOTAL TREES PROVIDED = 4

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

LEGEND - PHASES I and 2



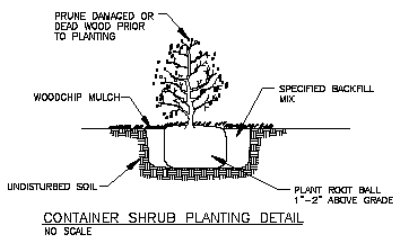
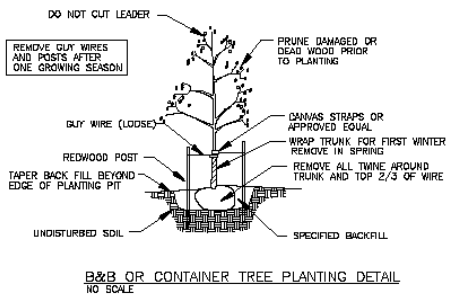
DEVELOPMENT LANDSCAPING - PHASE I

KEY	COMMON NAME	BOTANICAL NAME	MIN. SIZE	MATURE SPREAD	MATURE HEIGHT	QTY.
SHRUBS: EVERGREEN						
OCJ	JUNIPER 'OLD COAST'	JUNIPERUS CHINENSIS 'OLD COAST'	5 GAL	3-5'	3-5'	24
BCJ	BLUE CHIP JUNIPER	JUNIPERUS HORIZONTALIS 'BLUE CHIP'	5 GAL	6-8'	5-11'	34
BUF	BUFFALO JUNIPER	JUNIPERUS SABINA 'BUFFALO'	5 GAL	6-8'	1-1.5'	36
HJL	HUGHES JUNIPER	JUNIPERUS HORIZONTALIS 'HUGHES'	5 GAL	4-6'	5-11'	15
SUB-TOTAL						108
SHRUBS: DECIDUOUS						
RGB	ROSE GLOW BARBERRY	BERBERIS THUNBERGI 'ROSY GLOW'	5 GAL	2-3'	3'	38
BMS	BLUE MIST SPIREA	CARYOPHTERIS SPP.	5 GAL	2-3'	2'	30
GFP	GOLDFINGER POTENTILLA	POTENTILLA FRUTICOSA	5 GAL	3'	3-4'	24
TFQ	TEXAS SCARLET FLOWERING QUINCE	CHORONEMES JAPONICA 'TEXAS SCARLET'	5 GAL	3-4'	3'	21
PFS	SUNSET CINQUEFOIL	POTENTILLA FRUTICOSA 'SUNSET'	5 GAL	2'	2'	11
CAP	EARLY COTONWEASTER	COTONWEASTER ADPRESSUS 'PRAECOX'	5 GAL	2'	2'	11
CPB	CRIMSON PINKY BARBERRY	BERBERIS T. 'ATROPURPUREA NANA'	5 GAL	2-3'	2'	38
BYB	BUTTERFLY BUSH	BUBBLEA DWARF	5 GAL	4-5'	4-8'	17
SUB-TOTAL						191
TOTAL						298

DEVELOPMENT LANDSCAPING - PHASE II

KEY	COMMON NAME	BOTANICAL NAME	MIN. SIZE	MATURE SPREAD	MATURE HEIGHT	QTY.
SHRUBS: EVERGREEN						
HJL	HUGHES JUNIPER	JUNIPERUS HORIZONTALIS 'HUGHES'	5 GAL	4-6'	5-11'	4
BCJ	BLUE CHIP JUNIPER	JUNIPERUS HORIZONTALIS 'BLUE CHIP'	5 GAL	6-8'	5-11'	4
BUF	BUFFALO JUNIPER	JUNIPERUS SABINA 'BUFFALO'	5 GAL	6-8'	1-1.5'	12
SUB-TOTAL						20
SHRUBS: DECIDUOUS						
RGB	ROSE GLOW BARBERRY	BERBERIS THUNBERGI 'ROSY GLOW'	5 GAL	2-3'	3'	4
BMS	BLUE MIST SPIREA	CARYOPHTERIS SPP.	5 GAL	2-3'	2'	3
GFP	GOLDFINGER POTENTILLA	POTENTILLA FRUTICOSA	5 GAL	3'	3-4'	9
CAP	EARLY COTONWEASTER	COTONWEASTER ADPRESSUS 'PRAECOX'	5 GAL	2'	2'	6
CPB	CRIMSON PINKY BARBERRY	BERBERIS T. 'ATROPURPUREA NANA'	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 8' HT. DECIDUOUS TREES ARE TO BE 2" MIN. CALIPER. SHRUBS TO BE 5 GAL. MIN.
3. ALL SPECIFIED 1 GAL. GROUND COVER MATERIAL 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. MTL. EDGING.
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

ACCEPTED AS CONSTRUCTED FOR ONE YEAR FROM THIS DATE

CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT

CITY OF GRAND JUNCTION - COMMUNITY DEVELOPMENT

DATE

DATE

NO. DATE REVISIONS

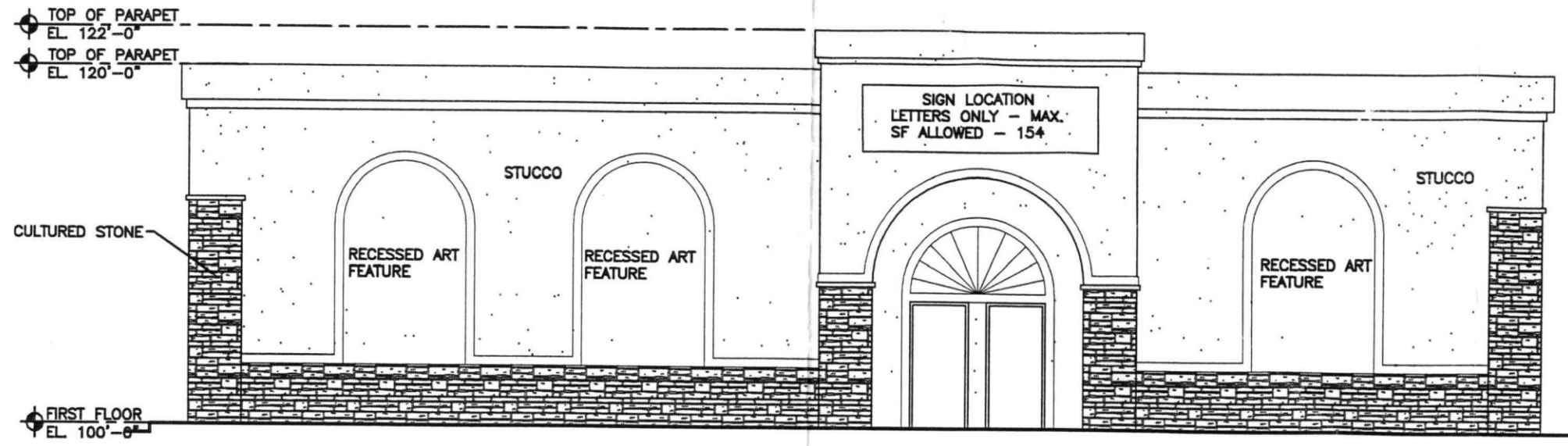
ARCHITECTS AND PLANNERS
917 MAIN STREET
GRAND JUNCTION
COLORADO 81501
(970) 241-1905

design specialists

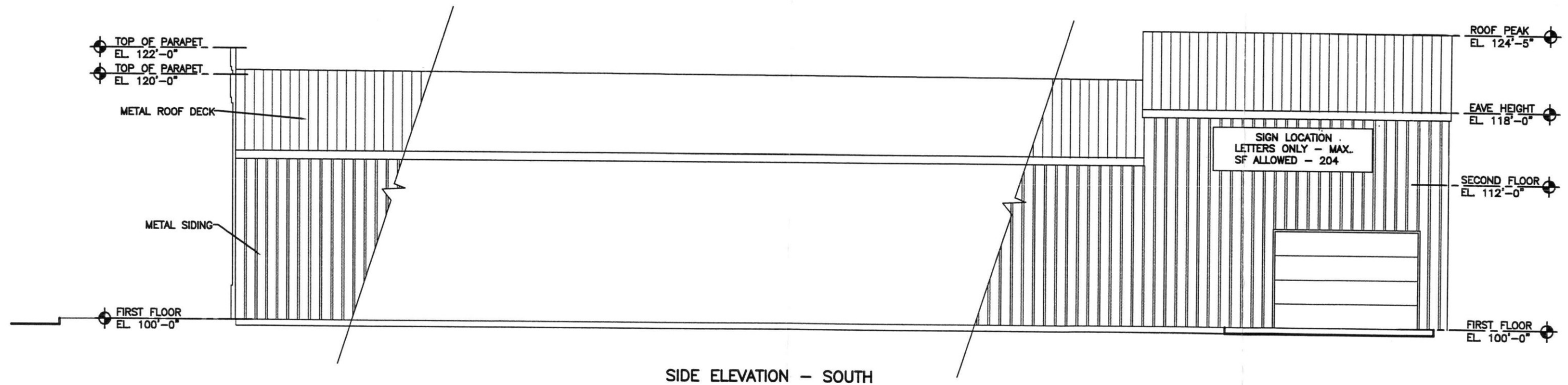
PROJECT TITLE: TITL1
TITL2
TITL3

SHEET TITLE: DWGNAME1
DWGNAME2

DRAWING
LSA1
SHEET SHT OF OF



FRONT ELEVATION - WEST



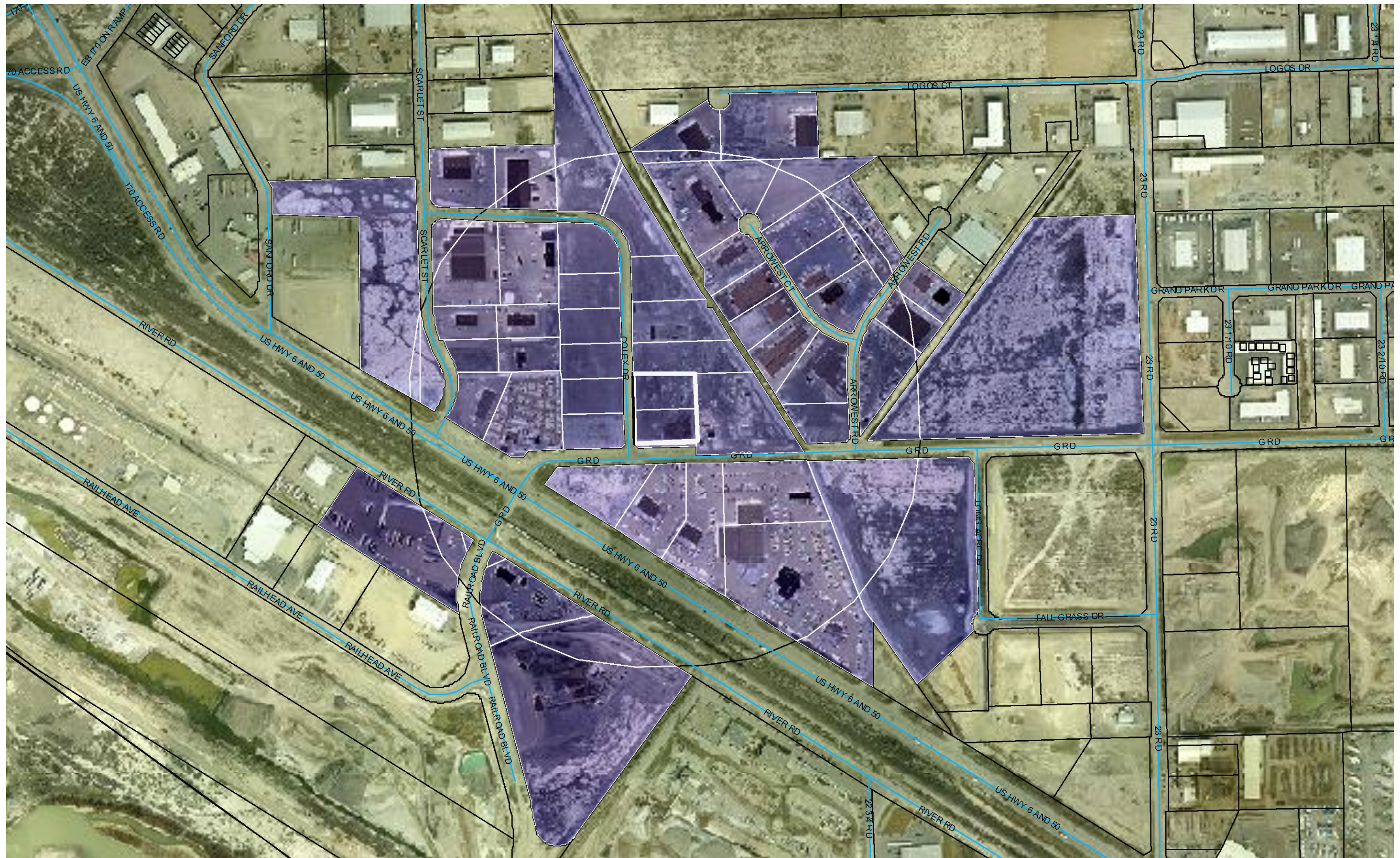
SIDE ELEVATION - SOUTH

** Indicates New
© Requires Rol.

Gentlemen's Club Proposed Building Elevations



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



Zoning and Development Code Definitions:

Bar – Premises primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption as an accessory use. An establishment that serves both food and alcoholic beverages shall be categorized as a bar if the sale of said beverages comprises more than 25% of the gross receipts.

Nightclub – A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which music, dancing or live entertainment is conducted. An establishment that serves both food and alcoholic beverages shall be categorized as a bar/nightclub if the sale of said beverages comprises more than 25% of the gross receipts.

Taverns – Permits the sale to the public of alcohol for consumption on the premises. Light snacks, sandwiches, pizza, etc. must be available during hours of service.

Tradename	Street #	Street Name	Expiration date	File No	Zoning	Adjacent Zoning				Neighboring uses
						N	E	S	W	
Bank 8 Billiards	2460	F Road, Suite #3	5/1/2009	CUP-2004-273	C-1	Res PD	C-1	C-1/C-2	C-1	Commercial/Industrial Park, Residential, Restaurants, Offices, Retail
Boomers	436	Main	1/6/2009	CUP-2002-117	B-2	B-2	B-2	B-2	B-2	Residential, Restaurants, Offices, Retail
Brass Rail Lounge	476	28 Road	6/11/2009	Legal Non-Conforming	C-1	C-1	Res PD	C-1	R-24	Residential, Nat'l Guard, Retail
Bub's Field Sports Pub	715	Horizon Dr, Ste 100	1/26/2010	CUP-2006-055 CUP-2005-308	C-1	C-1	C-1	C-1	CSR	Restaurants, Hotels, Offices, Retail, Country Club
Chupiro's Place	122	South 5th Street	6/27/2009	CUP-1993-060	B-2	B-2	B-2	B-2	B-2	Restaurants, Bars/Nightclubs, Offices, Retail
Country Inns of America	718	Horizon Drive	7/17/2009	< 25%	C-1	C-1	R-5	C-1	C-1	Residential, Restaurants, Hotels, Offices, Retail
Courtyard by Marriott Grand Junction	765	Horizon Drive	10/15/2009	CUP-2004-136	I-O	I-O	C-1	C-1	I-O	Industrial Park, Hotels, Restaurants, Offices
Fast Eddy's	2650	North Ave #108-110	2/6/2009	CUP-2000-217	C-1	R-8	C-1	C-1	C-1	Residential, Restaurants, Retail, Offices
Freeway Bowling	1900	Main Street	11/2/2009	< 25%	C-2	R-8	R-24/C-2	C-2	C-2	Residential, Retail, Office/Warehouse, Auto Repair
GJ Scores	2445	F 3/4 Road	10/18/2009	SPR-2004-095	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Offices
Grand Junction Athletic Club	2515	Foresight Circle	5/24/2009	< 25%	I-O	I-O	I-O	C-1/C-2	I-O	Industrial Park, Retail, Offices, Commercial/Industrial subdivision
Junction Indoor Tennis Center	535	25 1/2 Road	9/28/2009	< 25%	C-2	C-2	C-1	C-2	C-2	Residential, Retail, Offices
Mesa Theater & Club	538	Main Street	8/16/2009	CUP-1998-047	B-2	B-2	B-2	B-2	B-2	Residential, Theaters, Bars/Nightclubs, Restaurants, Offices, Retail
Quincy Bar & Grill	609	Main Street	11/26/2009	CUP-2008-263	B-2	B-2	B-2	B-2	B-2	Residential, Theaters, Bars/Nightclubs, Restaurants, Offices, Retail
Residence Inn by Marriott	767	Horizon Drive	6/10/2009	CUP-2004-136	I-O	I-O	C-1	C-1	I-O	Industrial Park, Hotels, Restaurants, Offices
Snowflake, The	539	Colorado Avenue	9/15/2009	Legal Non-Conforming	B-2	B-2	B-2	B-2	B-2	Restaurants, Offices, Retail
Tavern on the Point	2938	North Avenue	3/28/2009	CUP-2006-007	C-1	RMF-8 (Co)	C-2 (Co)	C-2 (Co)	C-1	Residential, Restaurants, Offices, Retail
Thunder Mountain Tavern	2701	Highway 50	11/12/2009	Legal Non-Conforming	C-1	C-1	C-1	C-1	C-1	Residential, Restaurants, Offices, Retail
VFW Post 1247	1404	Ute Avenue	12/31/2008	Legal Non-Conforming	C-1	C-1	C-1	CSR/C-2	R-O/C-1	Residential, Offices, Retail

Whiskey River	490	28 1/4 Road	11/6/2009	Legal Non-Conforming	C-1	C-1	Res PD/C-1	Res PD	Res PD/C-1	Residential, Restaurants, Offices, Retail
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Beer & Wine – License permits the sale of malt/vinous liquors only to the public for consumption on the premises. Must have light snacks available during hours of service.

Tradename	Street #	Street Name	Expiration date	File No	Zoning	Adjacent Zoning				Neighboring uses
						N	E	S	W	
Bamboo City	2472	F Road #2	9/19/2009	< 25%	C-1	Res PD	C-1	C-2	C-1	Commercial/Industrial Park, Residential, Restaurants, Offices, Retail
Black Bear Diner	624	Rae Lynn Road	9/6/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office, Industrial Storage Yards
Diorio's on Horizon	759	Horizon Dr Unit #N	1/11/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Hotels, Offices, Retail, Country Club
Kuniko's Teriyaki Grill	1133	Patterson Rd. #11	7/17/2009	< 25%	B-1	PD Medical	B-1	B-1	B-1	Residential, Restaurants, Retail, Office, Medical, Church
New Dragon Wall Chinese Buffet Rest	2839	North Avenue	8/5/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Residential, Restaurants, Retail, Office
Pablo's Pizza	319	Main Street	10/18/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
Thai Chili Restaurant	2536	Rimrock Dr, Ste 700	4/11/2009	< 25%	C-2	C-2	C-2	C-2	C-2	Restaurants, Retail, Car sales, Auto repair, Light Manufacturing

Brew Pub – License allows for sale/consumption on premises of alcohol & permits the manufacture of malt liquor on the premises. Malt liquor made on site may be sold for consumption on site, to an independent wholesaler, or to the public in labeled “to go” containers. Required to sell food (meals) as part of their on-site business. Food sales must constitute 15% of the gross on-site food & drink income.

Tradename	Street #	Street Name	Expiration date	File No	Zoning	Adjacent Zoning				Neighboring uses
						N	E	S	W	
Kannah Creek Brewing Company	1960	North 12th Street	9/26/2009	< 25%	B-1	B-1	R-8	B-1	PD Medical	Residential, Restaurants, Retail, Offices, Medical
Rockslide Brew Pub	401	Main Street	8/18/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail

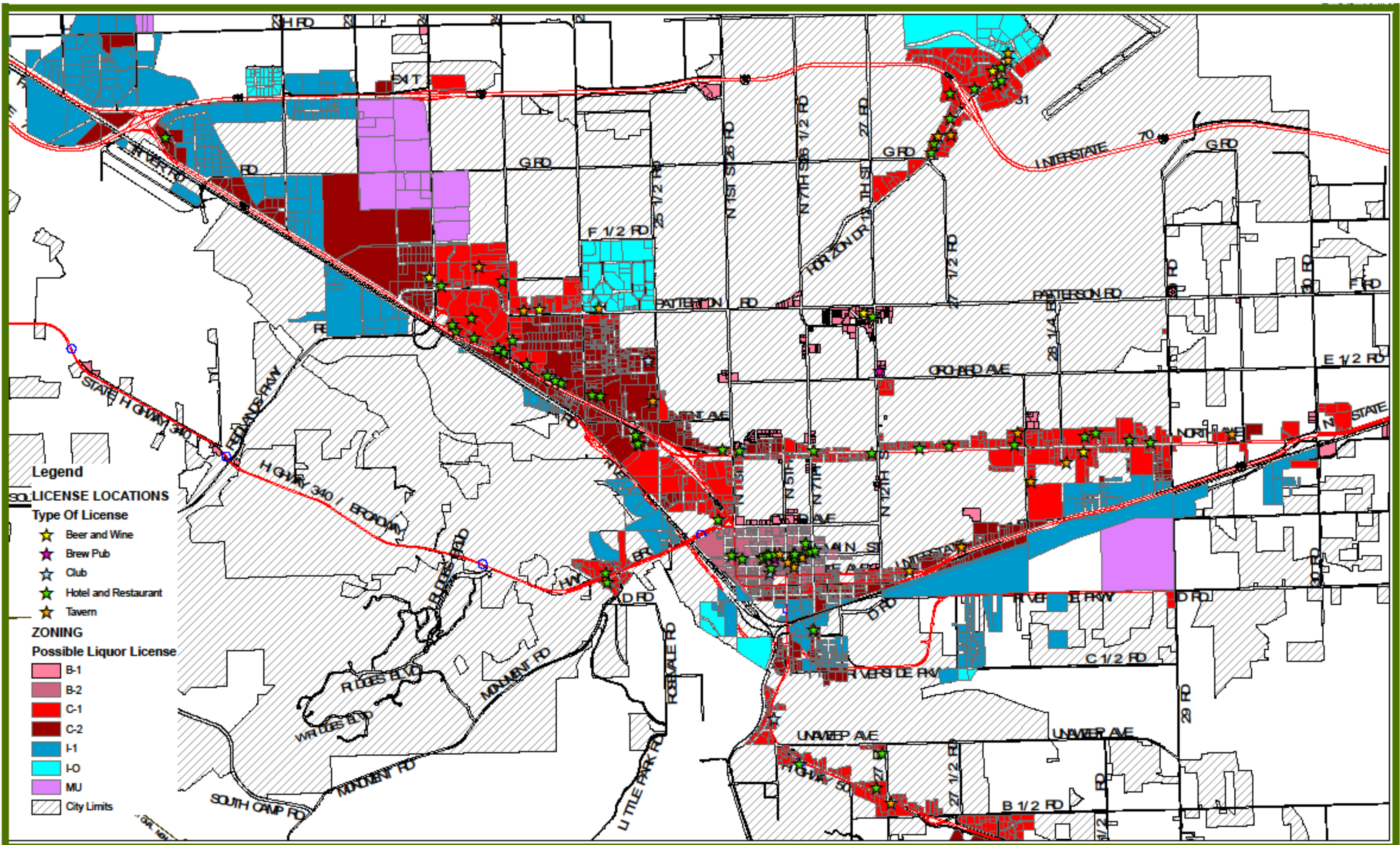
Club – License permits qualifying non-profit corporations to sell alcohol to members and their guests for consumption on the premises.

Tradename	Street #	Street Name	Expiration date	File No	Zoning	Adjacent Zoning				Neighboring uses
						N	E	S	W	
BPO Elks No. 575	249	S 4 th St	12/31/2008	Non-Public	B-2	B-2	B-2	B-2	B-2	Residential, Restaurants, Museum, Park, Offices, Retail
Fraternal Order Of Eagles 595	1674	U S Highway 50	12/31/2008	Non-Public	C-1	C-1	R-8	C-1	C-1	Residential, Park, Offices, Retail, Commercial

Loyal Order of Moose	567	25 1/2 Road	5/18/2009	Non-Public	C-2	C-2	CSR	C-2	C-2	Pomona Elementary, Park, Residential, Office/Warehouse, Contractor shops
Hotel & Restaurant – License permits restaurants, and hotels with restaurant facilities, to sell alcohol to the public for consumption within the licensed premises. Must have full meals available until 8 p.m. After 8 p.m. must have light snacks available. Food sales must provide at least 25% of the gross income from the sale of food and										
Tradename	Street #	Street Name	Expiration date	File No	Zoning	Adjacent Zoning				Neighboring uses
						N	E	S	W	
626 On Road - Modern American Cuisine & Wine Bar	626	Rood Avenue	8/2/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Bars/Nightclubs, Restaurants, Offices, Retail
Applebee's Neighborhood Grill & Bar	711	Horizon Drive	11/28/2009	< 25%	C-1	C-1	C-1	C-1	CSR	Restaurants, Hotels, Offices, Retail, Country Club
Aztecas Family Mexican Restaurant	603	Highway 50	12/7/2009	< 25%	C-1	C-1	Res PD	Res PD	C-1	Residential, Restaurants, Retail, Office
Bin 707	707	Horizon Drive	9/19/2009	< 25%	C-1	C-1	C-1	C-1	CSR	Restaurants, Hotels, Offices, Retail, Country Club
Blue Moon Bar & Grille	120	North 7th Street	6/22/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Theater, Restaurant, Office, Retail,
Bookcliff Country Club	2730	G Road	12/31/2008	< 25%	CSR	R-2/C-1	C-1	Res PD/C-1	R-4/Res PD	Residential, Restaurants, Hotels, Retail, Office
Boston's The Gourmet Pizza	2404	Patterson Road	2/19/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office
Breckenridge Ale House	2531	North 12th Street	3/8/2009	< 25%	B-1	B-1	B-1	B-1	B-1	Residential, Restaurants, Retail, Office, Medical, Church
Carino's Italian	2480	Highway 6 & 50	4/2/2009	< 25%	C-2	C-2	C-2	C-2	C-2	Restaurants, Retail, Office, Contractor yards, Sand/gravel operation
Cavett House Grille & Pub	359	Colorado Ave, Ste 2	4/4/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Elk's Lodge, Park, Museum, Restaurants, Office, Retail
Chili's Grill & Bar	584	24 1/2 Road	2/11/2009	< 25%	C-1	C-1	C-1/C-2	C-1	C-1	Theater, Restaurants, Offices, Retail
Chipotle Mexican Grill	2504	Hwy 6 & 50 Ste 300	3/20/2009	< 25%	C-2	C-2	C-2	C-2	C-2	Restaurants, Retail, Office, Contractor shops & yards, Car sales
Chuck E Cheese's	2424	US Hwy 6 & 50	8/18/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office
Coco's Bakery Restaurant	755	Horizon Drive	7/8/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Hotels, Retail, Office, Country Club, Industrial Park
Conchita's Mexican Restaurant	625	24 1/2 Road	11/14/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Residential, Restaurants, Retail, Goodwill
Dolce Vita II	336	Main St 101-104	12/15/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
Dos Hombres Restaurant	421	Brach Drive	10/14/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Hotels, Offices, Retail, Country Club
Doubletree - Grand Junction	743	Horizon Drive	4/20/2009	< 25%	C-1	C-1	C-1	C-1	CSR	Restaurants, Hotels, Offices, Retail, Country Club

EC's Asian Station	509	28 1/2 Road	7/8/2009	< 25%	C-1	Res PD/R-8	C-1	C-1	C-1	Residential, Restaurants, Retail, Office
El Tapatio	1145	North Avenue	8/1/2009	< 25%	C-1	C-1	C-1/CSR	C-1	C-1	Residential, Restaurants, Retail, College, Lincoln Park
Famous Dave's Bar B Que	2440	U.S. Hwy. 6 & 50	11/26/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office, Contractor yards, Railroad
Fiesta Guadalajara-GJ	710	North Avenue	3/23/2009	< 25%	C-1	B-1/C-1	C-1	C-1	C-1	Residential, Restaurants, Retail, High School
Fly'n Roosters	200	W Grand Ave Ste 4&5	7/6/2009	< 25%	C-1	C-1	B-1	B-2	R-8	Residential, Restaurants, Retail, Park, Office, Justice Center, Sheriff station/jail
Genghis Grill	2474	Hwy. 6 & 50	8/10/2009	< 25%	C-2	C-2	C-2	C-2	C-2	Restaurants, Retail, Office, Contractor yards, Sand/gravel operation
Good Pastures	733	Horizon Drive	7/14/2009	< 25%	C-1	C-1	C-1	C-1	CSR	Restaurants, Hotels, Offices, Retail, Country Club
Grand International Buffet	2504	HWY 6&50, #500	9/16/2009	< 25%	C-2	C-2	C-2	C-2	C-2	Restaurants, Retail, Office, Contractor shops & yards, Car sales
Grand Vista Hotel	2790	Crossroads Blvd	9/18/2009	< 25%	C-1	I-O	C-1	C-1	C-1	Restaurants, Hotels, Retail, Office, Industrial Park
Il Bistro Italiano	400	Main Street	12/1/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
Junct'n Square Pizza	119	N. 7th Street	4/18/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
La Bamba	546	Main Street	1/26/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
Las 2 Margaritas Grill Mexican Restaurant	2516	Broadway	11/18/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Residential, Restaurants, Retail, Office, Commercial Distribution Center
Las Marias Inc	2692	Hwy 50 Sp E & G	11/18/2009	< 25%	C-1	R-16	R-8	C-1	C-1	Residential, Restaurants, Bar/Nightclub, Office, Retail, Commercial/Industrial Storage
Las Palmas Restaurant	752 1/2	Horizon Drive	7/17/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Hotels, Offices, Retail, Country Club
Le Moulin Rouge	317	Main Street	2/3/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
Los Reyes Restaurant	811	South 7th Street	2/13/2009	< 25%	C-2	C-2	C-2	C-2	I-1	Residential, Mesa Feed, Contractor shops/yards, Light manufacturing
Nepal Restaurant	356	Main Street	5/15/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
No Coast Sushi	1119	N 1st St, Unit A	4/17/2009	< 25%	C-1	R-24/R-O	C-1	C-1	C-2	Residential, Restaurants, Retail, Office, Parks, Car sales
Old Chicago	120	North Avenue	1/11/2009	< 25%	C-1	B-1	C-2	C-1	C-1	Residential, Restaurants, Retail, Office, Parks, Car sales
Olive Garden Italian Restaurant #1580 The	2416	US Hwy 6 & 50	1/2/2010	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office, Contractor yards, Railroad

Orchard Mesa Lanes	295	27 Road	12/7/2009	< 25%	C-1	C-1	Res PD	Ind PD	Ind PD	Residential, Retail, Office, Park, Light manufacturing
Outback Steakhouse	2432	Highway 6 & 50	8/4/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office, Contractor yards, Railroad
Qdoba Mexican Grill	2536	Rimrock Ave Ste 100	9/6/2009	< 25%	C-2	C-2	C-2	C-2	C-2	Restaurants, Retail, Car sales, Auto repair, Light Manufacturing
Red Lobster #685	575	24 1/2 Road	3/7/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office, Contractor yards, Railroad
Red Robin America's Gourmet Burgers & Spirits	2530	Rimrock Avenue	6/4/2009	< 25%	C-2	C-2	C-2	C-2	C-2	Restaurants, Retail, Car sales, Auto repair, Light Manufacturing
Rib City Grille	2830	North Avenue	11/24/2009	< 25%	C-1	Res PD/R-8/R-O	C-1	C-1	C-1	Residential, Restaurants, Retail, Office
Smuggler's Brewpub & Grille	2412	Highway 6 & 50	11/9/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office, Contractor yards, Railroad
Suehiro Japanese Restaurant	541	Main Street	11/13/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Bars/Nightclubs, Restaurants, Offices, Retail
Tequila's	2560	North Avenue	7/26/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Residential, Restaurants, Retail, Office
Tequila's Mexican Family Restaurant	2454	Highway 6 & 50	12/5/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Retail, Office, Contractor yards, Sand & gravel operation
Texas Roadhouse	2870	North Avenue	8/26/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Residential, Restaurants, Retail, Office
Two Rivers Convention Center	159	Main Street	3/30/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Hotels, Restaurants, Offices, Retail
W.W. Peppers LTD	753	Horizon Drive	10/1/2009	< 25%	C-1	C-1	C-1	C-1	C-1	Restaurants, Hotels, Offices, Retail
Weavers' Tavern	103	North 1st Street	10/4/2009	CUP-2000-210	B-2	B-2	B-2	B-2	B-2	Hotels, Convention Center, Justice Center, Restaurants, Offices, Retail
West Gate Inn	2210	Highway 6 & 50	1/31/2009	< 25%	C-2	I-1	C-2/I-1	C-2/RSF-R (Co)	C-2	Retail, Industrial storage yards, Contractor shops/yards, Railroad
Winery, The	642	Main Street	9/7/2009	< 25%	B-2	B-2	B-2	B-2	B-2	Residential, Theaters, Bars/Nightclubs, Restaurants, Offices, Retail
Wrigley Field	1810	North Avenue	3/17/2009	< 25%	C-1	R-8	C-1	CSR	C-1	Residential, Restaurants, Retail, Office, Park
Xian Wei	1530	North Avenue	1/16/2009	< 25%	C-1	C-1	C-1	CSR	C-1	Residential, Restaurants, Retail, Office, Park
Zen Garden	2886	North Avenue	11/16/2009	< 25%	C-1	R-8/C-1	C-1	C-1	C-1	Residential, Restaurants, Retail, Office, Park



Legend

LIQUOR LICENSE LOCATIONS

Type Of License

- ★ Beer and Wine
- ★ Brew Pub
- ★ Club
- ★ Hotel and Restaurant
- ★ Tavern

ZONING

Possible Liquor License

- B-1
- B-2
- C-1
- C-2
- H-1
- I-O
- MU
- ▨ City Limits

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.

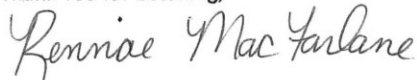
The nature of a "gentleman's club" is anything but that of a gentleman. I desire to raise my children and grandchildren in a community that respects women, displays modesty, and has an overall wholesome environment they can thrive in. I desire my descendants to be true Ladies and Gentlemen in the purest 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.

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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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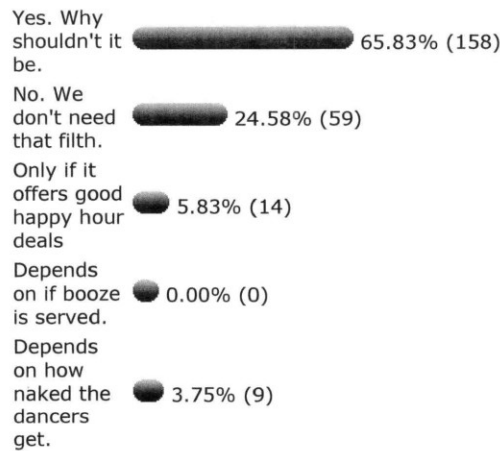
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Current Poll Results

Should a strip club be allowed to open in Grand Junction?



Total Votes: 240

[[Voting Booth](#) | [Other Polls](#)]

"Should a strip club be allowed to open in Grand Junction?" | [Login / Create Account](#) | **0** comments

Thread Oldest First

We ask that you register to improve the communication among our on community.

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](#)



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You may remain anonymous by registering.

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Grand Junction Free Press - 145 N. 4th Street - Grand Junction, CO 81501

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. J. J.
We have enough problems in our
beautiful City now with allowing
another one.

I have lived in G. J. J.
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,

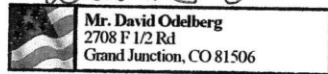
Considering myself a gentleman and being a native of Grand Junction, I am very much concerned about the health of our Community in matters that deteriorates Family Values, Morals and the like.

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.

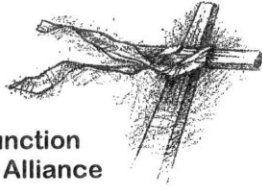
Our Police and Sheriff's Department are understaffed now and bringing an element into our valley that would create more problems is not what we want. The money gained for taxes can not over come the harm that will be done to our children. We should be concerned about making this a more family oriented 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

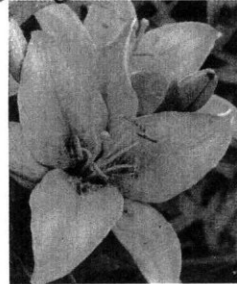
RECEIVED FEB 29 2008

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,

Mary 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 Thomas

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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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.

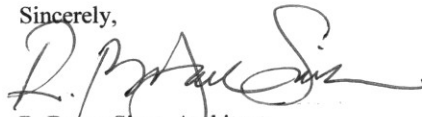
The proposed business is an allowed usage and meets all the criteria established in Chapter 3, Table 3.5 and Chapter 4, Section 4.B of the Zoning and Development Code. In addition, the form of entertainment is an allowed use by right. We believe the decision to deny the application was based on the type 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:

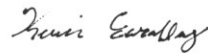
- (5) In addition to one (1) or more of the above findings, the appellate body shall find the appellant was present at the hearing during which the original decision was made or was otherwise on the official record concerning the development application.

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 its 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 roundabout 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

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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

do 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 working family community. The people that run these places think only of themselves and not what is right for everyone else.

Sincerely,

Suzanne D. Cantrell
Jill 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. Ronlin 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. Finley
2813 Cottage Ln
Grand Junction CO.

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OCT 27 08

Two whom it may concern
I am a concerned citizen and
I don't believe we need a
strip club in Grand Jet we
have enough of that kind of
stuff on TV and all around us

Sincerely a Concerned Citizen
of Mesa County

RECEIVED

Oct. 28; 08

RECEIVED OCT 29 2008

Honorable, Jim Doady,
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 31 2008

October 29, 2008

RECEIVED

OCT 31 2008

Honorable Mayor Jim Doady
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

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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.

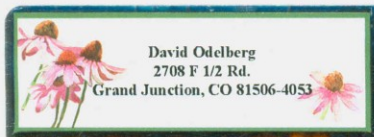
Becoming aware that an appeal of the decision denying
the application for the introduction of a so-called "gentleman's Club"
to be opened in Grand Junction, I still very strongly believe
that the original denial of the application was in the best
interests of the city as a whole as well as present and 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 don't 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

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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.

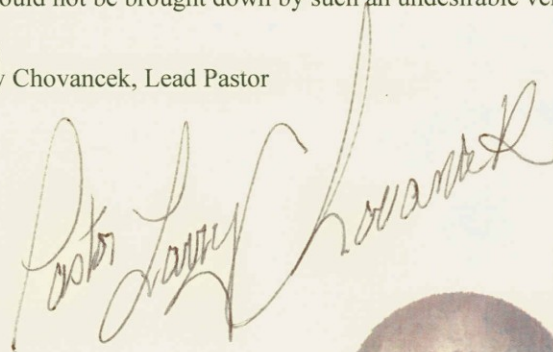
Therefore, I believe an amendment to the city requirements for adult entertainment venues of this type should be incorporated. Instead of the requirements being that no adult entertainment venue be permitted within 1,000 of homes, schools, churches etc. The requirement for such adult entertainment venues 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,

Kelnd D. Waltr

3017 Milburn Dr

Grand Junction, CO 81504

cc.: Mayor Pro Tem
Bonnie Beabstein

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,
Jala 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

607-255-1111

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

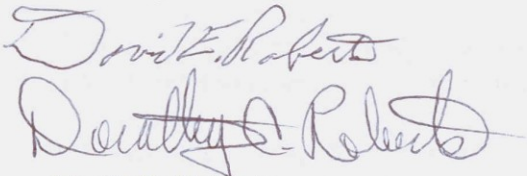
Dear Sirs:

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 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 alcohol & 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. Walsh
3017 Milburn Dr
Grand Junction, CO 81504

RECEIVED

October 30, 2008

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:

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

Mayor Palmer;

Sentz C.
Laurie K.

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 isa need for a sexual deviants club. I will NOT be decieved andcall 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 activitiy associated with the club can be established. Experience suggests such club invite orientel 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 encourag their girlfreinds to be party to that addiciton. Not one of them had a healthy--or normal sexual relationship. I see no difference between oyr "gentlemans Club" Sexual deviants club-- and other establishments that all are related to sexual exploitaiton. The Soveit Communist had a policy of introducing such behaviors into societies they wished to overcome. Yet the busnessmen? 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 clientel. 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 in 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.

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,

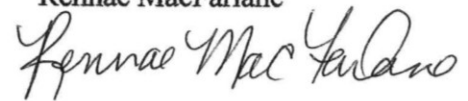
B. Hines

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".

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

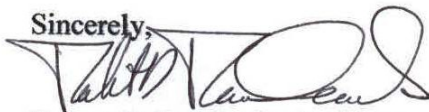
Which brings us to item (5) of the criteria:

- (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

>>> On 11/26/2008 at 12:16 PM, in message <009701c94ffb\$7aa5c680\$de1cae48@DH7J5R51>, "Venus Adams" <venus1130@bresnan.net> wrote:

Honorable Mayor	Jim Doody
Mayor Pro Tem	Bonnie Beckstein
Councilmember	Bruce Hill
Councilmember	Linda Romer Todd
Councilmember	Teresa Coons
Councilmember	Doug Thompson

It is with real concern for our community and constituents that I write this letter to you, our elected leaders.

I have just become aware that an appeal of a decision which denied the application for a "Gentleman's Club". I personally know this is just a (socially acceptable way of saying "strip club") to be opened in Grand Junction. I applaud the Council for denying the original application. I am sure this was best for the city and for the entire county and community.

I could personally attest to the negative and moral impact upon our community if such were accepted. I have lived in communities where such existed and the costs for policing the areas and the drug and sex crimes treatment are extensive and the added costs to the community are not acceptable. This is also a very destructable reality to the families of those who work in or support such establishments/ I know this first hand.

I am proud of the community where we live and families are being raised, a great local collegee andd a great h istory and culture in our city. Please, let us not lower the excellence that has been established for our community. Again I applaud you, as elected leaders of the City Council for your leadership and the family and personal morals you have exhibited upon the city and surrounding areas.

Sincerely,

Venus M. Adams

>>> "Mike MacFarlane" <macjehu@gmail.com> 11/28/2008 2:10 PM >>>

Dear Commission,

Now that the gentleman's club has been turned down twice do they have any other appeal process we should be looking for or is that it? If there are other avenues for them what are they so we can be watching? Thanks, Mike!

>>> On 12/23/2008 at 10:07 AM, in message <33268297-ECEC-4119-8F23-266E518E2E39@aol.com>, Roberta Sivils <rssozo@aol.com> wrote:
City Council Member,

Please oppose the entry of this gentleman's club/bar and all of it's problems into our city.

Protect the children/people of this city from further immorality. Would we want our children or grandchildren to be "involved" in this sort of thing? - No, I would hope not. So how else can this city council protect them, then by standing for what is right? And there is nothing "right" about this sort of "business."

We have programs to deal with children and adults who have been abused or have been damaged in some way by immoral actions. Whether it's physical, sexual or negligence, it still leaves an impact on their lives. We spend thousands of dollars to try to "repair" their lives "after" they've been through such despicable acts and yet, would consider leaving those who are vulnerable in our city unprotected from the effects of these immoral "businesses" that would bring this to their very doorstep?We need more policemen to control the crime, we need more jail space, we need more abuse counselors etc. Why? - because these seemingly harmless things have been allowed in and with it comes the abuse, drunken negligence and people's lives and families are destroyed. All because someone wanted to have a little "fun".....?

How could it even be considered? Who is responsible for these horrible crimes against the children/people of this community? If the city government doesn't stand for them and uphold family values within their area of influence, how can they be protected?

The protection starts with our national government, state, county and city. What will they "allow" and what will they stand against? Will they uphold the values that this great country was meant to uphold? Will they do what is right and protect the people of this city?

I truly believe we can protect the children of this city by upholding honorable standards and making conscientious decisions for that which is right.

Thank you for your time and for upholding right standards to protect this community for all who live here.

Roberta Sivils

>>> On 12/23/2008 at 8:53 AM, in message <ED4C288206E4C644AB21609285D80BC003469ECA@LS-E.mactec.com>, "McDonald, Michael" <MPMCDONALD@mactec.com> wrote:
City Council Member,

I would like to take a minute to express my hope and concern in regards to the gentleman's club/bar that will be coming before you to review.

The United States Supreme Court and the lower courts have repeatedly confirmed that the Government can regulate the activities of these businesses. So long as the restrictions are protective, and not based upon the Government's disagreement with the message conveyed, they are deemed consistent with the First Amendment.

The planning commission was installed by the city council as those who were competent and knowledgeable. We the city, do trust in, and employ the skills, talents, expertise and insight of these commissioners to insure the codes of our city are followed accurately. They study the code and it's applications to be sure they fairly enforced. They have twice looked at this issue and found it to be incompatible with the goals stated in our city code. It is interesting to note that there has been a turnover of commissioners since the first hearing, and they still came to the same conclusion. Doesn't that lead you to believe they both groups have made the right choice?

I will not go into all the facts they used to come to their conclusion for you already know and understand this, however, what can be concluded is that they listened to the evidence and made their choice based on the facts. With this care taken to make sure the codes were followed, we can conclude with a high level of confidence that we are on solid ground constitutionally. The planning commission's job is to follow the letter of the code and I believe they have done their job.

Your job as a council member goes way beyond just the codes. Your responsibility to the city is to look out for it's over all health and well being. That means you must ask yourselves the tough questions that go beyond understanding and following the code. Will allowing this business to be a part of our community improve the quality of life in our community? And although there are always positives that come from bringing new business to town, will these positives out weighing the negatives in this case?

Do not fear the legal threats that will be accused. There is plenty of case law to support either side of this argument, and therefore, we must concern ourselves with doing what is right for the community. Supreme Court justice Scalia, in rendering judgment in support of the City of Erie vs. Pap's a.m., states: "The traditional power of Government to foster good morals, and the acceptability of the traditional judgment that nude public dancing itself is immoral, have not been repealed by the First Amendment." The following cited cases are just a couple examples of decisions that were made against such establishments and were upheld by the Supreme Court.

1. City of Erie vs. Pap's a.m.
U.S. 2000 -#98-1161

2. United States vs. O'Brien 391
#367.88 Ct. 1673,206 ed 2nd 672

3. Barnes vs. Glen Theatre
501 u.s. 560,11 S. Ct 2456,115 L ed 2nd 504

It is time to put this thing to rest once and for all. Hearing this at the planning commission level twice is enough.

Please, make a stand and do what is right for the future of our community and stop this business.

Thank You,

Mike McDonald
751 Horizon Ct.
Grand Junction, CO 81506
970.270.5314

>>> On 1/1/2009 at 2:00 PM, in message <355E4C15824547DFA899FCD83C647D2F@yourus67pi6luv>, <denisec55@bresnan.net> wrote:

Dear Council Members,

It recently came to my attention that the application for the strip bar is still an issue, and that perhaps you are seeking citizen input. I strongly oppose this establishment and want to voice my opposition to you in the hopes that this business application will continue to be declined. It is not in the best interest of the community, and would not positively contribute to the quality of life, family values, and low crime rates we enjoy in the GJ area.

Thank you for the job you do, and in preserving the integrity of our family-oriented style of living here on the western slope. Your consideration in this matter is greatly appreciated.

Denise Clark

>>> On 1/5/2009 at 9:35 AM, in message <15e14a880901050835m4ac0d565m1ee8b0b175a9c97a@mail.gmail.com>, "Mike MacFarlane" <macjehu@gmail.com> wrote:

Dear City Council Member,

I would like to take a minute to express my hopes concerning the strip club issue and what I believe to be public opinion as well.

My hope is that you take this issue and end it once and for all. It is time for this thing to be put to rest. Our planning commission has twice found this to be incompatible with the goals set in the city codes. I believe this should weigh heavy in your decision. I think the cost for more police patrols, the crime issues for the immediate "neighborhood", the traffic safety issues and the effect on future industrial growth in that "neighborhood" all speak of the incompatibility of this business and should be found as substantial reason for denial of the conditional use permit. All these issues and others not mentioned give you Constitutional rights to deny this business on community protection grounds rather than moral standards. Not to say that moral standards are not enough. According to Supreme Court Justice Scalia, nude dancing is not a protected freedom.

I understand that the city is hoping to avoid a court showdown over this issue. I also appreciate that you consider this when looking at this issue but in the end it really comes down to doing the right thing. Sometimes we must do what is right no matter the cost. Look at the cost involved in maintaining a city council. That is not cheap, but we do it so we can maintain the high ideals and standards of this community. We gladly cover the cost because the return on investment is a beautiful city that is a safe and wholesome environment to raise our families. This is no different! It will be worth the cost to maintain the standard of living we enjoy in Grand Junction. There are also community watch organizations that are currently keeping their eye on this situation that would be willing to talk with us about defending the city should it come down to litigation. They are well versed in these type of legal situations and have incredible track records protecting cities. Don't let fear cause you to make the wrong decision. There is no right way or right reason to make the wrong choice.

Finally, we as a city elected you to watch out for our best interest and to represent our concerns as we would if we were in office. I read no less than six comments in the Daily Sentinel's "You Said It"

section this weekend that expressed an opposition to the strip club (and yes, it is a strip club not a gentleman's club). I did not see one person stand up for the club at the last planning commission hearing. The public response has been overwhelmingly against this business. Your position as a council member is to represent us. If we do not want this, and it is clear we do not, I believe you have an obligation to stop this business and stop it now, or we will have to find those who WILL represent us in the next election cycle.

Please end this now so we can move forward in building a great city. Thank you for listening. I know you will make the right choice!

Thank You, Mike MacFarlane
2808 Bookcliff ave.
Grand Junction, CO 81501
970-255-6707 Home
970-270-3205 Cell

>>> On 1/6/2009 at 8:24 AM, in message <BAY118-DS9815D02C7B036EA969330D4DE0@phx.gbl>, "STEVE BAILEY" <palisadefamily@msn.com> wrote:

To the Grand Junction City Council:

We are asking you to rule against allowing the "Gentleman's Club" or any other such strip club in our valley. Please protect our standard of life here by not catering to the baser instincts of humanity. We rely on you to guide the community; saying NO is sometimes very necessary.

Thank you.

Steve and Elizabeth Bailey
PO Box 72
Palisade, CO 81526

970-464-4936

Just wanted to give you my input on the Gentleman's club. I think it is a bad idea, we have enough crime in GJ, and I do believe it will cause more. If people that live here don't want it, why isn't it put to a vote? I read an article written by a woman who danced in those type of clubs, and she said indeed, it does cause crime. That will drive good people out of town, it would be like the wild west. We need to get stable businesses in our town, if we are to grow and succeed.

Thank you for listening.

Bobbi Freshcorn

>>> On 1/11/2009 at 3:44 PM, in message <d57.17138d88.369bd04d@aol.com>, <StrasserFam@aol.com> wrote:

Dear Grand Junction City Council Members,

My name is Amber Strasser, a student attending Central High School, and I am writing concerning the decision of having the strip club. I personally think that the idea of having this night club is just wrong and it degrades women and it does not belong here in this city. If the idea was even approved, it would increase the crime rate. I have seen in the news that in Denver at one time at a bar, there was a shooting with a guy killing 5 people. Honestly, if you want to keep Grand Junction a clean and safe environment, then I prayerfully hope you make a rightful decision and not approve of this hazard. We do not need any more sexual predators on the loose because of this club and going after young girls such as me or even younger like at the age of 13 years old. Thank you for your time and may God bless you all.

Sincerely,
Amber Strasser

Mike,

Thank you for including me in your email, although it wasn't really necessary.

I wanted to let you know that any emails received by a City employee are public record and that they are made a part of the file for the project. As such, this email has been forwarded to the project manager so a copy will be in the Gentlemen's Club file.

Just thought you should know.

Pat

Pat Dunlap
Planning Tech
City of Grand Junction
(970) 256-4030

>>> "Mike MacFarlane" <macjehu@gmail.com> 1/8/2009 5:52 PM >>>

Hello Everybody,

I just want to take a minute to thank everyone that sacrificed to stand in the cold out side the City Hall last night in protest of the gentleman's club. It was a successful night. We had several people out there.

The Daily Sentinel put an article in about the protest with a large picture and channel 11 News also did a piece at 10:00 pm last night. Both were well done and I am sure caught the interest of the public. That was our goal!

We now have until November 21st to help our city council find legal ground to make a stand against this business. If there is any one that has specific knowledge or skills to help with this please contact us asap.

Pray that truth prevails and the lies of the enemy are exposed. This will play an important part in the attempt to stop this business.

We will be contacting you again soon as to how you can help be a part of this great victory. Until then keep the night of the 21st open so you can attend the hearing at city hall. This should be the final time the issue comes before the council.

As always, please forward this to everyone possible.

Again, thank you all for your help and support, Mike & Rennae!

Ms Strasser,

Thank you for taking time to write to your City Council. This is a very difficult community issue, and receiving input from our citizens is vital to us. What is often misunderstood is that this is an allowable use, we are not free to ban this type of club. The Supreme court has ruled repeatedly that we are not free to outlaw expressions because we do not like them. It is a guarantee in the first amendment. What we can do is firmly regulate them, and most of the discussion has been about a conditional use permit, which allows for alcohol sales, but places other harsh restrictions on this establishment.

Please know that I speak for the entire Council when I tell you that our citizens safety is the most important consideration we have. We will always do everything in our power to ensure the strictest compliance with every law and code relevant to this type of operation, but it goes well beyond that. Know that we extend our concern for your safety to include safer schools with resource officers, safer streets, with our traffic patrol units, and safer events with your City youth council. We will always make our communities safety the most important consideration. We want you to always feel safe in your City. I appreciate hearing from you, and I wish you good luck in the rest of your school term. Thanks for writing us.

Gregg Palmer
Mayor
City of Grand Junction

>>> Tina Dickey 1/12/2009 10:52 am >>>

This email message was received from the city web link on 01-11-09 at 15:44 p.m.

>>> On 1/11/2009 at 3:44 PM, in message <d57.17138d88.369bd04d@aol.com>, <StrasserFam@aol.com> wrote:

Dear Grand Junction City Council Members,

My name is Amber Strasser, a student attending Central High School, and I am writing concerning the decision of having the strip club. I personally think that the idea of having this night club is just wrong and it degrades women and it does not belong here in this city. If the idea was even approved, it would increase the crime rate. I have seen in the news that in Denver at one time at a bar, there was a shooting with a guy killing 5 people. Honestly, if you want to keep Grand Junction a clean and safe environment, then I prayerfully hope you make a rightful decision and not approve of this hazard. We do not need any more sexual predators on the loose because of this club and going after young girls such as me or even younger like at the age of 13 years old. Thank you for your time and may God bless you all.

Sincerely,
Amber Strasser

>>> On 1/17/2009 at 6:58 AM, in message <495849.67023.qm@web57707.mail.re3.yahoo.com>, larry dixon <meter4u@yahoo.com> wrote:

To whom it may concern,

With all the negative input you probably have been getting, I would like to voice my support for Mr. Kevin Eardley's request to open his business as long as he has met the requirements for the liquor license. I don't know this man, and probably would never set foot in this business. And those who oppose it don't have to either. It will be located in an out of the way area that shouldn't affect many people.

Thank you
Lawrence Dixon

>>> On 1/21/2009 at 11:53 AM, in message
<15e14a880901211053s47dc0213p98a7bed4ce3130ff@mail.gmail.com>, Mike MacFarlane
<macjehu@gmail.com> wrote:

Dear Council,

In the commitment you made to this city when you took office you pledged to lead this community in the way that was best for the city. I pray that you will live up to that promise today when you make your decision concerning the strip club.

Some have argued that it is not your decision but the truth of the matter is that if you uphold the planning commissions two decisions this business will have to operate with out the income of liquor. This would severely hamper its potential profitability and no business can stay long without a profit.

Some would say that they will open with out the liquor and be totally nude and this would be worse than partially clothed. Is that the case? Would they open or are they bluffing? Would they take us to court or are they trying to put fear in our hearts? Do we know for sure? How would any of this be worse? Will the women involved have better lives if they only bare their breasts?

Women will be equally destroyed in both scenarios. Men will still be aroused either way with no outlet and will seek a release either with a willing partner, an unwilling partner or possibly a massage parlor. They will find a way, but take the intoxication factor out of the mix and some men will be more sensible in their choice of outlet.

Take the liquor out of the equation and crime will decrease around this establishment and the traffic to the business would be less. To go out for a drink at a place like this can be written off as someone just going out for a drink and decided to check it out but to go into a place that only sells a "view" would limit who would be willing to attend. Limit the potential customers and you limit the impact on the community even if it does open.

Less business means less crime and fewer dispatched calls to burden the police department with. Crime around Cheers dropped 8% when they closed. Do we really want that type of increase if this were to open?

The direct cost of resources to this community would far exceed the cost of an attorney and the cost would be with out end. Pay the legal costs once and be done. The indirect cost of this would be beyond the scope of numeric value and it is worth any price to stop this.

This brings me to my final point. I realize you have had council that says we would not win in court and I can only speculate as to why they feel they could not succeed. Maybe they side with the business or possibly come at this from the position that their job is to keep us our of law suits. Possibly they researched this from an opinion that they could not win and therefore only found case law to support that position rather than a mind set that says we have to find a way to win. We all know how our starting mind set can alter our view and perception of what we see. I can only speculate. What I do know is that we have been in contact with the Alliance Defense Fund and they have been watching this case and believe we can legally stop this and even win in court if it progresses to that point.

The Alliance Defense Fund is an organization that specializes in cases like this that involve morality issues. They have successfully defended thousands of cases. They are not alone. There are others that do the same thing and have won at the Supreme Court level. They are well schooled in these cases. It compares to seeking the advise of an Oncologist rather than a family doctor when you have cancer. Is it possible our city's legal council is not as schooled in the specifics as others who have successfully defeated these businesses?

If we know the effects of this business will reach into the future of this community without end is it not wisdom to do everything we can now to stop it? How much is the future of Grand Junction worth to you? Can you really say you have protected the cities best interest and let this in? Will you have lived up to your oath to serve us faithfully if you overturn the planning commissions decision?

Please, do what is right.

Thank You for Your Service,

Mike MacFarlane

2808 Bookcliff ave.

Grand Junction, CO 81501

970-255-6707 home

970-270-3205 cell

January 24, 2009

Dear Grand Junction City Council:

I am not in favor of the strip club, strip club serving alcohol or non alcoholic beverages. The owner needs a One Way Bus Ticket out of Grand Junction, CO.

I am new resident as of 6 weeks and a native of California ashamed to say. My background has been in community awareness against Child Abuse and Molestation Prevention. In fact more than I would like, there has been times I have provided abuse counseling to women who have been in the stripping business.

While reviewing the article on the strip club topic. I started to feel insulted by, Kevin Eardley's demands and threats. According to a geography map Grand Junction, is two state's away from California no rules, same sex marriages, what are morals and family values, state! Have "WE" Americans not seen enough debauchery eroding communities throughout states?

Where is the benefit: Newspaper ad promising big money, flexible hours, no experience necessary, 18 above applies. The common underlying element in strip clubs is that male customers, managers, staff, and owners use diverse methods of harassment, manipulation, exploitation, and abuse to control female strippers. On top of the abuse story line & nudity Mr. Eardley want's to be granted a liquor license. In all due respect, GJ City Council and Planning Commission are you all out of your minds?

In a typical hiring scenario women respond in person to a strip audition the club manager asks the applicants to perform on amateur night or bikini night, both of which are particularly popular with customers who hope to see girl-next-door types rather than seasoned strippers.

The manager will make a job offer based on physical attributes and number of women already on the schedule. Clubs portray the job requirements as very flexible. Women are told that they will not be forced to do anything they do not want to do, but clubs overbook women so they are forced to compete with each other, *often gradually engaging in more explicit activities in order to earn tips.*

In Sacramento, CA the few strip clubs featured a variety of attractions including topless dancing, nude dancing, table dancing, couch dancing, lap dancing, wall dancing, shower dancing, and bed dancing. In addition, some clubs had peepshows, female boxing and wrestling with customers, offered photographs of the dancers, or hired pornography models and actresses as headliners. Strip club owners, managers, pimps and the media portray stripping as a glamorous way to earn big money fast and use this strategy to lure young women into stripping. Where is the pride in those head lines? What is the message we are sending to our children and grandchildren.

Despite the common perception that a woman can dance there way through school, many strippers report that their jobs take over their lives. Long and late hours, fatigue, drug and alcohol problems, and out of town bookings make it difficult to switch gears.

Although strip clubs are considered legal forms of entertainment, people not associated with the industry are unaware of the emotional, physical, and sexual abuse inherent in the industry. Look there still will be drinking any way you look at it. Most dancer perform under the influence to numb them selves because it degrading work. Men will come with alcohol or drugs in their system to supporting there unacceptable acting out behavior in those environments. Please GJ Council Members get your head out of the sand. This town has enough drug abusers, manufactures and torn apart family units.

Despite claims from management aka (Kevin Eardley) "glorified pimp" customers are prohibited from touching the women, this rule is consistently violated. Furthermore, stripping usually involves prostitution. The overwhelming trend for violence against women in strip clubs was committed by customers of the establishments, I was informed and almost all of the perpetrators suffered no consequence whatsoever for their actions.

Men associated with strip clubs use force and coercion to establish sexual contact with women in stripping, proposition women for prostitution, intentionally inflict bodily harm upon the women, and expose themselves to the women. These actions are prohibited by law, yet when these crimes are committed against women in strip clubs, the general attitude that strippers deserve what they get prevails. Women's complaints of abuse are met with contempt and are dismissed by owners, managers, and staff.

Women are customarily told to ignore abuse, can you *just imagine your daughter or neighbor's daughter who has been rebuffed with "Go bend over and do your job" and "You have to expect a certain amount of that."* in the case of women in stripping, enduring sexual violence is part of her job description. Women in stripping are expected to endure these abuses, degradations, and humiliations with a smile and a "Thank You".

The degree of sexual violence perpetrated against strippers explodes the myths about stripping as harmless entertainment. Poll your local Sheriff's and Police Department on their professional opinion on such environment and future increase in crime. The verbal harassment, physical and sexual abuse, and financial exploitation women suffer in strip clubs is unparalleled in any other legitimate workplace.

Women in stripping are subject to actions that would be perceived as assaultive or a least unwanted in any other context or were directed against other women. Strip clubs allow men to use and abuse women in a manner that is not tolerated in any other business..go view for your self. Must we still continue and degrade. The organization and conditions of strip clubs not only produce and reproduce gender inequality but facilitate and normalize men's violence against women.

Sexual violence has been normalized, institutionalized, and legalized in the strip club industry as socially sanctioned male behavior. Strip clubs and the men associated with strip clubs have turned acts of violence into entertainment and tied male sexual pleasure to victimizing and exploiting. Strip clubs are structured according to male domination and control, and are inherently violent. My position is not to demean either sex or denounce our sexuality as human beings. There is a correct place for healthy sexual expression and it not in granting a bully the space or permit to serve liquor. I think you would agree the reality this atmosphere offers does nothing to increase pride in living here in Grand Junction nor applauds our young adults to walk towards a future that benefit's society as a whole.

Fact it is impossible to set up strip clubs without sexual violence, alcoholism and drug use. An explanation beyond any revenue generated by the means of approving Kevin Eardley's purposed strip club and or license to sell alcohol requires *Moral Scrutiny*. I ask you do you have any morality left with in your self to say No More and be proud for the future being shaped daily.

Thank you in advance for your support.
Very truly,

Natalie R. Curry
Grand Junction, Co 81504
916-628-6253 cell

CC: Council
Sent

January 12, 2009

A Gentlemen's Club?? Right!? I wonder, what is the definition of a gentleman? According to the World Book Dictionary a gentleman is:

1. 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 gentleman to say he is one who never inflicts pain.)
2. A man of good family and social position.

I wonder if the "Gentlemen" who want this club so badly could be classified as Gentlemen? Are they good husbands, fathers, and sons? If they are single, are they caring of their girlfriends? Do they respect women and love them? Are they family men who do not want to spend their hard earned money on selfish entertainment? Are they with their families and being a good example for their children? If they are family men who love and care for their women folk, then they will think twice about becoming involved in a club that promotes selfish, lustful desires, an environment which puts women up as "sex objects," clearly there for one purpose and one purpose only.

My deepest concern is that this "Gentlemen's Club" will possibly promote immorality and it will likely be a fraudulent cover for possible prostitution. The police just shut down the "Massage Parlor" on Horizon Drive for the very same reasons. Why allow this club to cause that much more trouble for lawmakers, the police and the city as a whole.

There were many letters read at the second meeting of the County Commissioners on November 25, 2008. These letters stated many concerns of the citizens of this town regarding the negative effect this club will have. It was repeated many times over; most of the citizens of this town do not want it here! How much plainer can that be? Thanks to the three County Commissioners who voted against it!

I am requesting that the County Commissioners and the City Council dismiss the appeal that is coming up regarding this club. If you don't want it in your town, be at the City Council meeting on January 21st to voice your objections. Don't leave it to the few!!

Dee Hines
Grand Junction

Gerri L. Anderson
255 W. Kennedy Ave., Grand Junction, CO 81505

CC: Council
Hemming
John Shaden

RECEIVED

JAN 20 2009

January 20, 2009

The Honorable City Council
Grand Junction, CO 81501

Dear Honorable City Counselors:

I urge you to stay the course. A gentlemen's club would not be good for the neighborhood in question, nor for our City as a whole. We do not need a place that would likely be a magnet for further undesirable activities. We have a family-centered town. We do not need further locations that suggest degrading treatment of women nor that may encourage prostitution. Let's keep our City a place for wholesome business and solid family life.

Please continue the course set so far and deny the request for a gentlemen's club in our City.

We thank you for your courage in this matter.

Sincerely yours,



Gerri Anderson

RECEIVED DEC 29 2008

cc: Council
S. C. / Palmer

RECEIVED

December 28, 2008

Mayor Gregg Palmer,

DEC 31 2008

Re: The Gentleman's Club

COMMUNITY DEVELOPMENT
DEPT.

I would like to thank you for being willing to do the thing that is best for our city and vicinity. That is what we would expect of you as a leader in our city. I would like to encourage you to be a man that is not afraid of what others may say or do.

Please vote against the so called gentleman's club for the following reasons:

Places like this require more policeman hours. A good way to support our local police officers is to stop establishments that make their work harder. Look at the added work they had to do when the clubs like Cheers, The Rose and Rum Bay were open. Often we have seen officers working hard in places like this. Instead of raising taxes to pay for the law enforcement, let's stop these establishments that create the need for more policemen. That is more efficient City Government and use of our tax dollars.

It tears down the moral fiber of our entire area. A former dancer of one of these clubs spoke at the city meeting of how this was a conduit for drugs and prostitution. Do we want our daughter's degraded in this way? When a husband goes to one of these places it tears down his wife and children. It leaves him frustrated and in more need of complete fulfillment. Do we want our families to be torn up in this way? Do we want prostitution, drugs and DUI's to increase just because we were afraid to say no? We have too much back bone for that.

Has the person that wants to open this establishment offered to pay for the added burden on our city and people? Is he going to pay for the policeman hours, Lawyer fees for broken marriages and DUI's. Is he more concerned with his own profit? Will the city have to pick up the tab?

We have already had enough traffic accidents in this area and do not want another liquor license issued in this area where G road connects with 6&50. We need to consider future school needs for this area.

Respectfully,

Phillip L Brant

Phillip L. Brant

Phone 242-8190

Council to consider strip club appeal Jan. 21

By MIKE WIGGINS
 Mike.Wiggins@sentinel.com

Twice the Grand Junction Planning Commission has rejected a permit for a proposed strip club. Twice the would-be business owner has appealed the decision. Twice the Grand Junction City Council will consider the appeal.

Council members agreed Wednesday to take up the latest appeal on Jan. 21, even as protesters gathered before the council meeting in hopes of persuading the council to fall in line with the Planning Commission.

Nearly 20 people stood outside City Hall for an hour and a half in 20-degree weather, waving signs and receiving car honks from passers-by.

New Day Ministries pastor Mike MacFarlane said the group staged the protest to let the public know about the issue.

"We believe there's grounds to stop (the club), and we want to convince (council members) to reject it," he said.

Local businessman Kevin Eardley is seeking to build the club at 2258 Colex Drive in northwest Grand Junction. He needs a conditional-use permit to serve alcohol there.

The Planning Commission in August rejected the permit, arguing it was incompatible with the neighborhood while defining the neighborhood as the entire city. Eardley's representative, Rob Rowlands, filed an appeal of the broad definition, and the City Council remanded the issue back to the Planning Commission with instructions to narrow its interpretation.

Planning commissioners, however, rejected the permit again in December, this time contending the club didn't fit into the industrial area and could discourage other businesses from moving there.

Rowlands dismissed that reason as speculation and claimed several bars and nightclubs throughout the city are located within and next to industrial and commercial zones.

The City Council can uphold the Planning Commission's decision, reverse it or remand the issue back to the board.



CHRISTOPHER TOMLINSON/The Daily Sentinel

RENNAE MACFARLANE, LEFT, was one of about 12 demonstrators protesting a possible strip club in Grand Junction. The protesters gathered in front of the Grand Junction City Hall before the start of the City Council meeting.

FREE PRESS



PAUL SHOCKLEY/FREE PRESS

A group five including (far left to right) Rennae McFarlane, Amber Sterasser and Phillip Brant, turned up at Fifth and Rood in front of Grand Junction City Hall around 6 p.m. Wednesday.

Owner says club's a go, with or without booze

BY MARJIA B. VADER
FREE PRESS STAFF WRITER

If the city prohibits a gentleman's club in north Grand Junction from serving alcohol, the owner said he'll follow state law and allow women to dance fully nude and invite patrons 18 and older to watch.

Without alcohol, the rules change, said owner Kevin Eardley.

They become less restrictive.

"That's not the way I want to go, but if that's the way they want me to go, I will," he said.

Eardley has a name for his club: Fantasy.

The Grand Junction City Council Wednesday set the date of Jan. 21 for the fourth public hearing before city

leaders. Eardley wants a liquor license for Fantasy, proposed for 2256 and 2258 Colex Drive, what is now a dirt field in a light industrial zone district in north Grand Junction.

The city's Planning Commission has heard the issue twice. This is the second time before the City Council.

After the Jan. 21 hearing, the council could send it back to the Planning Commission, approve it or deny it.

"If he weren't allowed to serve alcohol, he could build it," said Senta Costello, a city planner.

"It's essentially approved. It's the bar component the planning commission has denied."

If council approves the license, anyone opposed to the club could

appeal the city's decision to district court.

If council denies the license, "I will sue the city" in district court, Eardley said.

He doesn't anticipate that, though.

"I do feel optimistic. There's no reason I should be getting turned down."

He said he's getting turned down because it's a strip club, not because of the liquor license component of his application.

"It's not the government's position to tell anyone what their form of entertainment can be, if it's legal," Eardley said.

Nude dancing is legal, he said, if no alcohol is served.

Reach Marjia B. Vader at mvader@gjfreepress.com.

Strip club liquor license considered tonight

BY MARIJA B. VADER
FREE PRESS STAFF WRITER

The Grand Junction City Council tonight will again consider a liquor license for Fantasy, a strip club proposed by Kevin Eardley for an industrial north Grand Junction neighborhood.

The meeting begins at 7 p.m. at City Hall, and the item is listed toward the end of a long agenda.

At tonight's meeting, the council will either ratify the Planning Commission's denial, overturn it or send the issue back to the Planning Commission for further study and another decision by that board.

If the city denies the liquor license, Eardley said he will still build the business at 2256 and 2258 Colex Drive.

It would take on a different tone, he said, because state law allows nude dancers, and without a liquor license, he would be able to lower the age of his patrons to 18.

At the same time, he said he will sue the city for the right to serve alcohol.

This is the second time the City Council has considered the issue. The last time, the council sent the issue back to the Planning Commission.

Reach Marija B. Vader at mvader@gjfreepress.com.

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

January 21, 2009

The City Council of the City of Grand Junction convened into regular session on the 21st day of January 2009 at 7:03 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 Doody led in the Pledge of Allegiance followed by an invocation by Pastor Paul McGinnett, Central Orchard Mesa Community Church.

Citizen Comments

There were none.

Council Comments

Council President Palmer expressed his appreciation for the job City Clerk Stephanie Tuin did on the consideration of the Brady Trucking petition issue. He praised the way she handled a situation that she was not especially comfortable with.

City Manager's Report

This was removed from the agenda.

CONSENT CALENDAR

Councilmember Hill read the Consent Calendar and then moved to approve consent items #1 through #9. Councilmember Thomason seconded the motion. Motion carried by roll call vote.

1. **Minutes of Previous Meetings**

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**

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.

Proposed Ordinance Regulating and Licensing Massage Parlors

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

3. **Lease Agreement with MBC Grand Broadcasting Inc.**

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

4. **Energy and Mineral Impact Grant for Planning Software Upgrade**

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

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

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 Thereby Increasing the Contract by \$352,198

6. **Intent to Create Alley Improvement District 2009, Phase B**

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

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

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

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

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]

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

ITEMS NEEDING INDIVIDUAL CONSIDERATION

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

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.

The public hearing was opened at 7:10 p.m.

Ivy Williams, Development Services Supervisor, presented this item. She described the site as all right-of-way and advised the reason for the request. She asked that the Staff Report and attachments be entered into the record. The annexation meets all the annexation criteria. The applicant is the City of Grand Junction.

There were no public comments.

The public hearing was closed at 7:11 p.m.

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

Councilmember Thomason moved to adopt Resolution No. 11-09 and Ordinance No. 4318 and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

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]

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.

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

Ivy Williams, Development Services Supervisor, presented this item. She described the site as all right-of-way and advised the reason for the request. She asked that the Staff Report and attachments be entered into the record. The annexation meets all the annexation criteria. The applicant is the City of Grand Junction.

There were no public comments.

The public hearing was closed at 7:14 p.m.

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

Councilmember Coons moved to adopt Resolution No. 12-09 and Ordinance No. 4319 and ordered it published. Councilmember Hill seconded the motion. Motion carried by roll call vote.

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]

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.

Councilmember Teresa Coons recused herself as she still has ties with St. Mary’s Hospital. She left the dais and the meeting room.

The public hearing was opened at 7:15 p.m.

Scott D. Peterson, Senior Planner, presented this item. Mr. Peterson described the request, the site, and the location. The request is to change the zoning of the property to include the Rose Hill Hospitality House in St. Mary’s Hospital’s Master Plan Planned

Development District. Approval of the request will bring the property into conformance with the use.

The applicant was present but did not wish to add anything.

There were no public comments.

The public hearing was closed at 7:21 p.m.

Councilmember Hill reviewed the Growth Plan Amendment criteria and agreed there was an error in designation but that the request also met the other criteria for a Growth Plan Amendment.

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

Councilmember Doody moved to adopt Resolution No. 13-09 and Ordinance No. 4320 and ordered it published. Councilmember Hill seconded the motion. Motion carried by roll call vote.

Councilmember Coons returned to the meeting and took her place on the dais.

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.

The hearing was opened at 7:28 p.m.

City Attorney John Shaver explained the process for the issue on the agenda. He explained that this review is separate from the prior review and that the prior record is not relevant to the matter before them. The record they are to review is the testimony heard by the Planning Commission on November 25, 2008 and the Planning Commission's consideration of the matter. The Council is to look at the Planning Commission's consideration, not to substitute their opinion for the Planning Commission's. Mr. Shaver then explained the purpose of a Conditional Use Permit and why a CUP is required. The City Council is not reviewing the entertainment aspect of the establishment. The Council is free to comment on the evidence but it is not a public

hearing at this meeting. He advised Staff can address the Council on the application and can answer questions relative to the Code and the review but Staff does not have a presentation. The record provided to the City Council includes a DVD copy of the proceedings, the Staff Report, and the verbatim minutes from the Planning Commission hearing.

Council President Palmer reiterated that the Council acts as the appellant body and it is not a public hearing so no new testimony will be solicited.

Councilmember Beckstein asked City Attorney Shaver to list the City Council's options. City Attorney Shaver stated the Council may remand the matter back to the Planning Commission, they could remand the matter back to Planning Commission with direction, or they may deny the appeal.

Councilmember Coons asked about the residentially used property and the fact that the property is not residentially zoned. City Attorney Shaver stated that the Code rather than regulating the activity itself, regulates the location. The Code says adult entertainment cannot be within 1,000 feet of residentially zoned property. However, that means the Planning Commission is considering the use, adult entertainment specifically, rather than the liquor licensing of the establishment.

Councilmember Coons asked about the Code provision for liquor establishments in that zone district. City Attorney Shaver replied that is not an issue in this situation. City Attorney Shaver stated that Conditional Use Permits are required for all bar and nightclub establishments based upon alcohol usage. A Conditional Use Permit looks at the compatibility criteria. The Conditional Use Permit is also scrutinized at a higher level under the City Code because of the proposed liquor service with adjacent land uses.

Councilmember Thomason asked at what point will the application not keep going back and forth from City Council to Planning Commission.

City Attorney Shaver advised due process ensures the rules are consistent and consistently applied. The Council and Planning Commission may not like the law but changing the law midstream is a concern to him. The matter stops when the Council says it stops. If the Council denies the appeal, it stops at this level. It may go to another process. The other way it would stop would be if the City Council remands back to the Planning Commission and they make another decision that is consistent with the Code.

City Attorney Shaver said he would not recommend any change to the law until this application is resolved.

Council President Palmer asked if adult entertainment can be outlawed. City Attorney Shaver stated that the laws that are upheld are laws that address the secondary effects of such activity such as increase in criminal activity or increase in police calls. Trying to outlaw that specific activity would be an issue under the Constitution. Dance has been defined as free speech and is protected under the First Amendment.

Councilmember Coons asked if the City regulates the secondary effects of liquor licensed establishments. City Attorney Shaver answered not specifically, but the record of every liquor licensed establishment is reviewed annually and there could be sanctions for unlawful conduct of the establishment.

Councilmember Beckstein asked about the requirement for the needs and desires of the neighborhood for a liquor license. City Attorney Shaver said that is required and the City uses a petition process to gather that information. That is not the only consideration when reviewing a license application but certainly the Hearing Officer takes that into consideration.

Councilmember Beckstein asked if it can be assumed that since those businesses in the neighborhood that spoke out against the establishment at the Planning Commission are against it in their neighborhood, then the Planning Commission did act correctly? City Attorney Shaver did not comment specifically on the question but instead cautioned the City Council that the two processes are separate.

Councilmember Coons asked how the neighborhood is defined in the liquor licensing process. City Attorney Shaver said generally it is a square mile but in the case where there are few inhabitants that area may be expanded. The applicant has not yet applied for a liquor license.

Councilmember Doody asked for a restatement of what the direction was previously given to the Planning Commission. City Attorney Shaver said the direction was for the Planning Commission to define the neighborhood other than the entire City.

Council President Palmer noted the non-conforming residential use was discussed. Also, in the planning discussion regarding alcohol service in various industrial zones, City Attorney Shaver could not recall a specific licensee, but the Code does allow for these types of establishments in industrial zone districts. Council President Palmer asked if it was appropriate for the Planning Commission to look forward in making their decision based on speculation about future land use or business activity regarding Conditional Use Permits. City Attorney Shaver advised that Council would not want the Planning Commission to speculate, but instead to follow Code.

The City Council declined the need for any additional information from Senta L. Costello, Senior Planner.

Councilmember Hill read an excerpt from the minutes, a statement by Assistant City Attorney Jamie Beard where she stated that this activity is covered by the First Amendment as free speech. He then noted that even though there is a residential use in the neighborhood, the Code is specific to the zone district. He said he thought the intent was to disallow this activity next door to a residential component. Another Planning Commissioner (Abbott) comments were very specific to the bar/nightclub that he did not feel alcohol use in the area was compatible. Councilmember Hill then looked to the criteria to uphold the appeal. He said he does not find anything that supports the appeal. He has reasons he can support denial of the appeal. He does not believe the Planning Commission was acting erroneously or inconsistently for the Council to make a finding to uphold the appeal and remand it back.

Councilmember Beckstein said she agreed and she does not believe the application will be successful in that neighborhood and it is a residential area even if the long range plan is to change the use in the area. She will not support the appeal.

Councilmember Thomason said he is not quite ready to sign off on the denial as he reads the Code. It is clearly a hot button issue for the community but it still boils down to the Code. The CUP application for the sale of alcohol should go back to the Planning Commission so the letter of the Code can be followed.

Councilmember Doody supported statements from Dr. Paul Dibble in the record. Even though the activity should not be considered, it was and caused this appeal. Therefore he agrees with Councilmember Thomason.

Councilmember Coons said the City Council and Planning Commission are charged with following the Code and although she hears Councilmember Hill's arguments, she thinks the Commissioners may have stretched the argument. She felt there are probably a lot of liquor licenses in industrial and commercial areas so she thinks the Commissioners' decision expressed their dislike for this activity through their denial. She agreed that if the community wants to address this issue it should be addressed but it is unfair to change the Code in the middle of the process. She cannot support the denial of the appeal.

Councilmember Hill clarified that the residential use is in relation to the adult activity, not the liquor license; the Code is silent on that.

Council President Palmer thanked the Council for their comments. The community should see that the Council takes these issues very seriously. Their charge is to be the appellant body of the Planning Commission regardless of their personal opinion. He did not feel it is supportable that the residential use is a factor for denial. He also cannot support the finding that it is not compatible with the industrial zone. He cannot support denial of the appeal.

Councilmember Thomason asked what the shaded area is as indicated on the site drawing. City Attorney Shaver responded that is the 1,000 foot radius. Councilmember Thomason asked if that is the area for surveying for the liquor licensing. City Attorney Shaver said that would generally be a square mile, or perhaps expanded if needed to incorporate inhabitants.

The hearing was closed at 8:13 p.m.

Councilmember Hill moved to support the appeal of the Planning Commission's decision regarding a Conditional Use Permit for a bar/nightclub at 2256 and 2258 Colex Drive. Councilmember Coons seconded the motion. Motion carried by roll call vote with Councilmembers Beckstein and Hill voting NO.

The City Council then discussed how the issue will be remanded back to the Planning Commission either by defining the error or not, that is with or without direction.

Councilmember Hill said he does not find the Planning Commission acted in error but he wished there was more support for their findings. He asked that the Planning

Commission be more specific. He agreed that they did focus on the bar/nightclub issue.

Councilmember Coons agreed and asked that further justification regarding the commercial/industrial conflict be included in Planning Commission's findings.

City Attorney Shaver noted that if Council wants to give specific direction to the Planning Commission, a motion would be preferred but certainly the Planning Commission will see the record of the discussion and know what the City Council is asking.

Councilmember Hill suggested the Planning Commission members need to be more verbal as to what their position is. There was a lack of that in the record.

Council President Palmer called a recess at 8:21 p.m.

The meeting reconvened at 8:29 p.m.

Public Hearing - 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.

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

John Shaver, City Attorney, presented this item. He explained that the ordinance will classify substance abuse offenses as one category so that if a violator gets an alcohol offense and then a marijuana offense, they would not be considered a first offense of each; rather one would be a second offense. It will allow the court more opportunity to make a difference in kids' lives.

Councilmember Doody asked if Staff worked with the Municipal Judge on this. City Attorney Shaver said they did and had prepared the ordinance last fall but had not yet brought it forward.

Council President Palmer agreed it will help address the problem as a combination problem.

Councilmember Coons noted that in many cases the two are not separate behaviors.

Mesa County Partners Director Joe Higgins spoke in favor the proposed ordinance. His program works hand in hand with the juvenile courts for offenses which the majority are minor in possession cases. They do see repeat offenders. They do have them do community service and take a class on substance abuse. It is predictive behavior. He feels the change will help. It will allow the court to give tougher sentences.

There were no other public comments.

The public hearing was closed at 8:36 p.m.

Councilmember Hill supported the ordinance and agreed with Councilmember Doody's comment about closing the loop hole.

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

Councilmember Beckstein moved to adopt Ordinance No. 4321 and ordered it published. Councilmember Doody seconded the motion. Motion carried by roll call vote.

Council President Palmer praised the work by Municipal Court Judge McInnis in working with juveniles.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

Councilmember Coons said it strikes her that with the growth of the community, it puts Council in a position to deal with issues that they did not have to deal with in the past. She suggested a community-wide discussion on how to deal with some of these issues. Citizens could take a look at what it would mean to change the Code and requirements, not only the changes, but what are the ramifications.

Councilmember Beckstein added that the vision is the "Best in the West by 2025" and she suggested sharing that with the community and have them discuss how they can make it the best in the west. It does include tolerance and acceptance of things they do not have control over but ways they may lessen the negative experience.

Council President Palmer noted the Council should have a retreat following the election and perhaps that can be discussed further in that setting.

Councilmember Coons said that the pros and cons need to be discussed in public.

Councilmember Beckstein said getting community involvement is being explored more and more by Councils in other formats that is more inclusive and less burdensome on the individuals.

Councilmember Doody noted the investment in parks and recreation, school resource officers, the college and St. Mary's, and he encouraged the Council to discuss it in their retreat. He said he would like to be part of that discussion from the "other side" (as a citizen).

There was no other business.

Adjournment

The meeting was adjourned at 8:43 p.m.

Stephanie Tuin, MMC
City Clerk

February 24, 2009 Planning Commission Verbatim Minutes

CHAIRMAN COLE: The first item on the hearing agenda tonight is a bar nightclub and office warehouse conditional use permit. Request approval of a conditional use permit for a bar/nightclub in an I-1, Light Industrial, zone district. This was remanded back by City Council at the January 21st, 2009 meeting. In the interest of full disclosure, I received a personal letter from one of the adversaries of this application and this...it was primarily concerning my candidacy for City Council. During the conversation this item did come up and he did...we did talk a little bit about it. He presented no new evidence. At the end of it I believe I could honestly say we agreed to disagree and...and that's the way it was and if...if the applicant has a problem with me participating in this hearing, why please indicate so. Okay, we'll move on with...with this item. It's item number 6. Well, wait a minute, no. It isn't either. I'm sorry. Is it?

MS. COX: Yes, it's item number 6.

CHAIRMAN COLE: It is item 6, yes. Okay, we...let me just say before we get started we have a very thick book here of items that have been discussed for this...this particular application. We have the verbatim transcripts from the meetings that have been held previously concerning this item. We have letters that have been sent from the time this item began to be considered and we have all the recent letters as well. I guess my question would be what else can be said. We would ask that you when you come forward to testify when we get to that point that you try to give us new evidence that we haven't already heard before. So with that, Senta, are you going to make the presentation to begin with or is the applicant?

MS. BEARD: Mr. Chairman, if I may I wanted to speak just a few comments before we got started.

CHAIRMAN COLE: Okay.

MS. BEARD: Good evening. I'm Jamie Beard, the Assistant City Attorney, and just wanted to talk a little bit simply because these matters don't come back to us this often usually. This is unusual circumstances; however, I wanted to remind that when an appeal is done in an application process the appeal that went to City Council was not for City Council to make a ruling on whether or not this C-U-P was to have been granted. When the appeal is done what City Council's job is is to look at the decision that was made by the Planning Commissioners and say was there enough information, testimony and evidence on the record for the Planning Commission to have made the decision that they made and is it clear based on the record what they relied on in making their decision. And when they remanded this matter back to you this time what they were looking at was...when they reviewed it was to say that they felt that some of that information on the record was missing.

Even though there were some commissioners that had denied the application and some that approved it particularly in those in this instance when it was a denial, they were hard pressed to find some of the information in there to say okay, this is the criteria on which they relied on in saying that the application should not be approved because that criteria was not met.

So we would ask this evening to keep in mind when you're listening to all the testimony and when you're making your decisions that you look back to the criteria that must be met for granting a conditional use permit and decide on your own...in your own minds has each of the criteria been met. And if they haven't been met then indicate to us what it is that hasn't been met and why in your opinion that it hasn't been met.

City Council has not asked you to make a decision one way or the other. What they've done is ask you to follow the criteria and then give us the information or give to City Council if there would be another appeal what that information is, what that evidence is, that you relied on or what the lack of evidence was that made you decide that the criteria has not been met. So please keep in mind, I won't go through a listing again what the criteria is. I know you've heard it before. You had it in your staff report and I believe that Senta Costello, the planner, will be telling you again here this evening what it is. But if you have any questions or concerns throughout the meeting in regards to that, please question one of the staff members or ask me if there's anything that we might be able to help to clarify for you when making those decisions. Thank you.

CHAIRMAN COLE: Thank you. Okay, Senta? You can see she has a pretty good file there too.

COMMISSIONER PUTNAM: You need a forklift.

MS. COSTELLO: Good evening, members of the Planning Commission, Chairman. Senta Costello, Public Works and Planning Department. This item as stated is a request for a bar nightclub. The site where the request is located is the northeast corner of G Road and Colex Drive. The specific address is 2256 Colex Drive. Let's see. The existing site as you can see by the aerial is currently vacant as are a majority of the surrounding properties to the north and west. The Future Land Use designation for the property is Commercial Industrial as are the surrounding properties and the existing zoning on the property is 1. The properties to the north, west and east are also zoned I-1 and the property to the south is zoned C-2.

I'd like to start off the presentation after showing those slides with a little history on how we got to the hearing tonight and then I'll go through some of the

specific code requirements that were reviewed for whether this property was suitable for this type of use and whether the code requirements had been met.

The first time that Planning Commission saw this request was at its August 12th Planning Commission hearing. At that hearing Planning Commission did deny the request based on the definition of a neighborhood and incompatibility with the neighborhood and the definition for neighborhood being basically the entire city. At the November 5th, 2008 City Council hearing that was held in response to the applicant's appeal of the August 12th denial, City Council remanded the request back to Planning Commission with the instructions to narrow the scope of the definition of neighborhood to that as defined by the Zoning and Development Code.

The item was then again heard before Planning Commission on November 25th and denied again based on incompatibility with surrounding properties being the reason given. The applicant again appealed that decision to City Council and at its January 21st, 2009 meeting remanded it back to Planning Commission with the instructions to give more specific reasons why this particular project at this particular site was incompatible with the surrounding properties.

With that, I'd like to go into a little bit of the code requirements and the review that was done for this project. There are three classifications within the Zoning and Development Code for how we look at uses and whether they're allowed, not allowed, et cetera. They are - - not allowed which are uses which are determined to be inappropriate in specific zone districts; uses that are allowed by right. Those uses have been determined by Council as being uses that are similar enough to each other that they don't need special consideration. And then uses which are considered...I'm sorry...conditionally allowed. Those uses have been determined to be potentially detrimental to allowed uses within the zone district. Under certain circumstances they

can be allowed with consideration to their particular location, the conditions that are provided for within the request and then the specific conditional use permit criteria that the request is reviewed against.

There are also uses in the Zoning and Development Code which have performance standards which must be met in addition to the other code requirements. Adult entertainment is one of those uses that has performance standards. The performance standard that an adult entertainment establishment must meet is that it has to be greater than a thousand feet from any church, school, park, playground, publicly owned property or residentially zoned land. And in reviewing this request it does meet all of those spacing requirements.

There are many uses in an I-1 zone district which are allowed uses by right - - medical, dental clinics, for example, churches, indoor animal clinics and boarding, and adult entertainment. The I-1 zone district also has uses which are allowed with the issuance of a conditional use permit. Some examples of those are business residences, museums and theaters, jails, offices, outdoor animal clinics and boarding, and bars and nightclubs.

A bar nightclub is allowed with a conditional use permit in B-1, B-2, C-1, C-2, I-O and a Mixed Use zone district with a conditional use permit required for all of those zone districts. One of the things that as staff we look at when a request for any kind of conditional use permit comes before us is potential conflicts with the neighboring properties. In looking at a request for a bar nightclub, the potential for conflicts tends to be higher in a B-1, B-2 and C-1 zone districts, primarily because they are zone districts which allow residential uses by right. They're more likely to be located near existing residential uses or proposed residential uses and they're located in zone districts that

are more likely to have similar business hours and, therefore, the potential conflict for traffic and noise and those types of issues.

The primary, in addition to compliance with the Growth Plan Amendment, site plan review standards, performance standards, we also look at compatibility of a potential request with the surrounding properties. This particular property is surrounded on the north, west and east by industrial zoned properties. Many of those properties in the area are vacant. There are a few new industrial properties that are under construction but primarily at least all the ones along Colex Drive which are the immediate neighbors are currently vacant. The property to the east which has been discussed in prior hearings has been historically used residentially; however, it is zoned industrial. It was annexed into the city as industrial zoned property and has not been used as a residential use for several months and is currently for sale by the owner.

The property to the south which is zoned C-2 is owned by Western Slope Ford. The owner came forward at the August 12th hearing and expressed concerns with potential impacts to his property, specifically looked at whether this request site had mitigated potential impacts to that neighboring property owner as they were required to do by code. They are separated from the car sales lot by G Road. There is a 6 foot privacy fence that was installed along the south side of G...or the south side of this property adjacent to G Road with the approval of the subdivision that the property sits in. There is also a 14 foot landscape strip adjacent to the right-of-way. There's approximately 90 feet between this requested site and the Western Slope property south of G Road.

The applicant is also providing internal parking lot landscaping, security lighting on the property. The sales lot has also got a 6 foot security fence along their property with 3 strands of barb wire along the top. The other compatibility issues that

we looked at was the offset hours of this proposed use compared to the surrounding businesses. They have proposed defensive landscaping in order to mitigate any potential for trespassing onto neighboring properties through the adjoining property lines.

I've also included in your staff report a spreadsheet that details all of the existing establishments within the city that are licensed for distributing alcohol for consumption on the property. That spreadsheet shows a variety of types of those establishments. They include restaurants, pool halls, hotels, health clubs, spas, and bar nightclubs. They exist in a variety of zone districts and they exist with a variety of neighboring uses including residential, retail, office and neighboring industrial parks.

That concludes my presentation. Do you have any questions for me at this time?

CHAIRMAN COLE: Senta, I have one...one question that I would ask you to...to repeat. You covered it alright. Would you repeat the...the uses by right and the uses...the conditional use possibilities?

MS. COSTELLO: The uses that I had listed just for examples were uses by right were medical and dental clinics, churches, indoor animal clinics and boarding and the adult entertainment and if you would like more examples I...I can pull those out of our zoning matrix. Zone districts or uses that require a conditional use permit in the I-1 zone district - examples of those uses are business residences, museums, theaters, jails, offices, outdoor animal clinics and boarding and bars and nightclubs. I just tried to give you a kind of a...a broad spectrum of what potential uses...

COMMISSIONER So in your conclusions then you...you took into account these things and they can use the adult entertainment right now without a

conditional use permit and so tonight our...our consideration is for the bar and nightclub?

MS. COSTELLO: Correct.

CHAIRMAN COLE: Is that correct?

MS. COSTELLO: Correct.

CHAIRMAN COLE: Okay. Any other questions of staff?

COMMISSIONER ABBOTT: I...I have a couple questions.

One is you mentioned the applicant is offsetting the hours so they won't impact the surrounding businesses. What are those hours proposed to be?

MS. COSTELLO: If I remember correctly the hours of operation, and the applicant is here and can correct me if my memory doesn't serve, are 5 to 2.

COMMISSIONER ABBOTT: And then in your spreadsheet that you gave us I noticed, I went through it pretty meticulously, and I see there are 3 establishments in I-O that are currently using an alcohol permit and there are none in...in I-1. Did I miss something or...?

MS. COSTELLO: No, that is correct. We have had actually no applications for anything in an I-1 zone district or a Mixed Use zone district as far back as...as the records go concerning the existing uses.

CHAIRMAN COLE: Any further questions? Okay, thank you, Senta. Does the applicant have anything that they would like to...to add to Senta's summary of the application?

MR. MOORE: Good evening. My name's Drew Moore and I'm here on behalf of the applicant and I will be brief. The first thing I'd like to do is go back to the question you just asked. The applicant actually would like to have the hours of operation from 11 a.m. to 2 a.m. to account for lunches and the applicant still feels

that that will accommodate the business already existing. As far as the brief additional points the applicant would like to make in consideration has already...has been touched on by Senta. There's no one living in the properties at all at this point and that's been the case apparently for several months. In any event, the properties were zoned industrial and so it would be different if it was a home or residential but it's not and that point's already been very well made by Miss Costello.

The next thing is just to reiterate what's already been said for the third time now - - the issue isn't adult entertainment. The issue is whether or not he can get a conditional use permit to seek an alcohol license. That's it. On the adult entertainment aspect of it has nothing to do and we just want to reiterate that we're not here today to defend or discuss or otherwise the adult entertainment aspect of it. We feel it's completely irrelevant and, therefore, we don't discuss it much. The only thing the applicant would offer is that in a poll that was done by the Free Press approximately a year ago, more of the people posting a response were in favor of this seeing no reason why it should not be allowed to go into business. This is America and nobody's asking Mr....or Mr. Eardley's not asking that he receive a bailout. He just wants a chance to go into business and see who will actually patronize him.

The final thing the applicant would like just to be heard on and made aware...make you aware of is this has been very long and arduous for him the process started really quite some time ago. I believe the first hearing was in August of last year and this is multiple times before this Commission and the applicant just wants you to know it's been very time consuming, it's been stressful to him and it's been financially a hardship to him. So he just asked that you consider all of that and just make the decision as suggested and that you find that he has met the code for purposes of issuing the conditional use permit. Thank you.

CHAIRMAN COLE: Is that it?

MR. MOORE: That was everything.

CHAIRMAN COLE: Okay. Any questions of the applicant?

COMMISSIONER ABBOTT: So...so you're going to propose that we change...he's going to change the hours from 5 to 11 a.m.?

MR. MOORE: Whatever it is in the application is what we're here for. I spoke with Mr. Eardley who said he would like it to consider lunch. Instead of doing that now we would just suggest that we go with the hours as originally proposed which is 5 to 2 and we can seek additional authority later to get the lunch.

COMMISSIONER ABBOTT: Okay.

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

MR. MOORE: Thank you.

CHAIRMAN COLE: We will now open it to the public to give their...their input on this item. We'll first ask for those who would like to speak in favor of it. I would ask that you keep your comments to 3 minutes if possible. I'll be looking at the watch and asking you to do that. I would just...just say that you can say a lot in...in three minutes or less. I would point out that the Gettysburg Address was done in less than 3 minutes and President Lincoln said a lot in that address.

So...so I would ask that you keep your comments within that time limit. First I'll ask those who would speak...want to speak in favor of this application. Anyone who would like to speak in favor of the application? Yes, sir? Give us your name and address.

MR. MOSBY: Don Mosby, 3348½ B and a quarter Road in Clifton. It's more of a question – can I ask a question?

CHAIRMAN COLE: You can ask and we'll try to answer it later.

MR. MOSBY: Does this meet all the criteria?

CHAIRMAN COLE: That's for us to determine.

MR. MOSBY: But for the planning department, does it meet all the criteria?

CHAIRMAN COLE: It has been recommended for approval.

MR. MOSBY: Okay. I'm here in favor of the conditional use permit.

CHAIRMAN COLE: Okay.

MR. MOSBY: Thank you.

CHAIRMAN COLE: Someone else who'd like to speak in favor?

MR. HALTINER: My name's Justin Haltiner. I live at 303 Beldon Court in Fruita, Colorado. I am in favor of the approved measure.

CHAIRMAN COLE: Okay. If you haven't signed up I would ask that you sign the...the roster. Is it back at the back, Senta?

MS. COSTELLO: There is one available up here. I believe there is one in the back.

CHAIRMAN COLE: There's one in back and up here as well so if you'd sign that if you're going to testify we'd appreciate it. Yes, sir?

MR. BROWN: My name is Rick Brown. Court. I'm in favor of Mr. Eardley's project and would it be easier if everybody that was just in favor to stand up?

CHAIRMAN COLE: That would be alright. We can do that. Can we get a count of those for the record? I get 20. Okay, yes, sir, you want to speak?

MR. PE'A: My name is Phillip Pe'a, 795 Joslyn Court. I'd just like to ask the planning committee just to not legislate morality, just to stick to the criteria that's in front of you and I think you should approve. Thank you.

CHAIRMAN COLE: Anyone else who would like to speak in favor? Okay, we will now move to those who would like to speak in opposition to this application. Who would like to be first here? Yes, sir?

MR. LONG: Hello. My name is Milton Long. My address is 237 White Avenue, Apartment B. Some years ago I was at Disneyland. Lots of adults go to Disneyland besides kids and...and you see a lot of people on nice summer days in southern California. There's something wholesome about it. In Disneyland you do not have alcohol. Alcoholic beverages cannot be sold in Disneyland. So there is relaxation you don't have to worry about someone getting fresh or looking at you in a bad sort of way. I like to see beautiful girls. I see a lot of them but it's better to keep alcohol separate from...from beauty.

CHAIRMAN COLE: Thank you. Someone else who'd like to speak? Yes, sir?

MR. STRASSER: Good evening. My name is Michael Strasser. I'm an employee at AmeriGas Propane which is directly across the I-70 Business Loop and as an employee of AmeriGas we...we operate 24 7. We have propane trucks coming in, coming out 24 hours a day. There are bobtails that go out to residential homes and a lot of times at 2 o'clock at night...11 o'clock at night. That intersection there's...the intersection we use primarily to exit out of our..our facility. If they're going to allow...if you're going to allow alcohol to be served there we already see many, numerous accidents there...daily accidents. If you...if you add alcohol into the mix of coming...of people coming out of Colex Road onto G Road onto the I-70 Business Loop

there's going to multiple accidents there and multiple fatalities there and I'd hate to see one of our...my fellow Grand Junction residents injured in an accident more or less injured in an accident concerning our propane truck. When our trucks leave the yard they're usually full of propane so the chances of a severe accident involving a propane truck are very, very dangerous. Okay, that's pretty much all I have to say. Thank you.

CHAIRMAN COLE: Thank you. Someone else?

MR. PITTS: Mr. Chairman, council...or commission, pardon me. On January 13 there was almost 40 minutes of testimony on GPA 2008-05 which you approved additional industrial use and commercial use at I and...at 860 21 Road which is quite a ways out in the country. We have presently a C-1 zoning...a commercial zoning on the proposed project and it's been quite obvious through the real estate industry and the community that industrial and commercial use is in short supply. I suggest or I submit that it's been regrettable that the City Council can't distinguish between a neighborhood and compatibility. I drive through this area will immediately let you know that this is not an area for a nightclub or a bar operation. It's a commercial use. That's what was designated by the...by the council and by the city a good number of years ago and with that in mind to use...dispense alcohol in this commercial and industrial...this type of product in this area is inappropriate. We have a lack of this type of property in the county or in the city and I request that you deny this application.

CHAIRMAN COLE: Thank you. Someone else?

MR. McFARLANE: My name is Mike McFarlane and I live at 2808 Bookcliff Avenue and I want to talk about the conditional use permit. In chapter 2.13 where it says that all elements of a plan should co-exist in a harmonious manner – harmony meaning a counterpart or a support or compliment to a melody – and in this case the industry being the melody and harmony meaning a support or compliment.

Now the question is does a bar compliment or support industry? I don't think it does. Do you? It says it needs to be harmonious with existing and anticipated development. Now existing...there is a residence there. I know it's unoccupied at the present time but it has the right to remain a residence and so that brings it into play. Now at the last meeting it was brought up that it's a non-conforming use but in here it does not mention that it only has to be harmonious with conforming uses and so that does bring that residence into play and makes it a...a real consideration, wouldn't you think?

The next thing is anticipated development. The last meeting we said that we could only consider what's there now but the code clearly says what's anticipated to be there. I don't know about you but I don't think that a bar promotes industry coming into this neighborhood. I believe that it would hinder. When the planning of this area and the zoning of industry was derived it was determined that this is something that should be done in our city so that our city can thrive. We need industry in the city to survive and if a bar keeps other industry from coming in that hinders the ability for this community to thrive. Don't you think? And so we can legitimately look at the anticipated affect of this bar on the future development of this industrial site and I think with that thought in mind...I don't know about you but I don't think that this is right for this area. Thank you.

CHAIRMAN COLE: Thank you. Someone else?

MS. STRASSER: Good evening. My name is Amber Strasser and I live at 485 31 and a quarter Road. I would like all you guys to imagine with me a family of 4 with 2 children between the ages of 5 and 7. This family took ownership of the house next to the land where the bar would be built and within 3 months this business opened. What kind of influence could this be on the children or even on the businesses that surround it? This business could ruin how businesses run

harmoniously with others and it could destroy the business both financially and the location that it surrounds. As it is our economy is not doing so hot and we don't need that surrounded...the bar to close down because of the bar and the fact that drunk people could be walking around destroying other businesses and even the house located next door. Thank you.

CHAIRMAN COLE: Thank you. Someone else. Yes, sir...or yes, ma'am, I'm sorry.

MS. STRASSER: Hi. My name is Sarah Strasser and I live at 485 31¼ Road. Most of you guys know Cactus Canyon out in Clifton. I work right next door to Cactus at Qdoba and I'm the manager over there and on multiple occasions we have so many issues with drunk people coming out. They've attacked some of our employees, threw 'em in their car. I've had people come up to me and try to get me to do stuff and try to get me in my car and take me away and this has happened on multiple occasions. We've had people thrown rocks in through our window because they were drunk and it's just...it's a scary thing and I don't know about you guys but I wouldn't be able to walk across the street without having to worry about some drunk guy coming after me. Thank you.

CHAIRMAN COLE: Thank you. Someone else?

MS. HUDON-DEAL: My name's Milana Hudon-Deal. I live at 1313 North 18th Street. The gentleman that stood up at the very beginning and cited the Free Press saying that people would like to have this type of business in our community, I would ask that maybe we should take a vote of the real people who vote in this state or in this community to see if they really want this in their community. And another thing we had everybody opposed, could we have everybody...or for stand up, can we have people stand up for the opposing side?

CHAIRMAN COLE: I haven't asked for that yet. I want you to complete your testimony.

MS. HUDON-DEAL: I'm done.

CHAIRMAN COLE: Okay, thank you.

MS. HUDON-DEAL: Thank you.

CHAIRMAN COLE: Someone else who'd like to speak? Yes, ma'am?

MS. McFARLANE: I was...my name is Renee McFarlane, 2808 Bookcliff Avenue. I was looking through this on conditional use permits, 5.B., it says protection of use and enjoyment. All elements of the proposed plan shall be designed and arranged to have a minimal negative impact of the use and enjoyment of the adjoining property. I just can't see this as not having a negative impact on the adjoining property and also the...it says the enjoyment of the adjoining property. I don't know too many businesses that would enjoy...and it's specifically in the code or the conditional use permit says enjoyment. I just don't see people enjoying having their cars busted into, windows busted out, people throwing up on their property. And then also it says in C, compatible design and integration. It talks about the different things that are built but it also talks about noise and I do think if they...I mean right now if they're saying 5 o'clock to 2 but if they change that to 11 o'clock people will be...and there aren't a lot of businesses that people work late so the noise factor is something to consider – people out there in the parking lot because people don't just stay in bars once they have a few drinks they're out making noise in the parking lot. So I think we should take that into consideration. Thank you.

CHAIRMAN COLE: Thank you. Someone else? Yes, sir.

MR. SMITH: My name's Dave Smith. I live at 541 29½ Road and I would just like to remind the Commission that as of right now there is no bar nightclub in an I-1 zoned area and there are other zonings where this is not only appropriate but approved and if you approve this tonight you will be setting precedent for this to happen in the future and for other bar nightclubs to begin to infiltrate the industrial zoned areas of Grand Junction and if we look ahead I don't believe that that is a precedent that it would behoove us to set tonight or ever in that...in that...or forever.

CHAIRMAN COLE: Okay, thank you, sir.

MR. SMITH: Thank you.

CHAIRMAN COLE: Someone else?

MR. OSWALD: My name is Otis Oswald. I live at 516 33½ Road. You know I'm also an ex-veteran of the United States Army so I...I understand the freedom of speech because I fought for that right. I don't understand how they can say that adult entertainment is not a morality issue or this before the Commission is not a morality issue. It clearly is and I just want to thank you all for holding us to a higher standard. Thank you.

CHAIRMAN COLE: Someone else? Okay, seeing none, in the interest of fairness, I will ask those who are opposed to this to stand. If we can get a count, please. I get 26. Okay, thank you. Is there anyone else who would like to testify?

MR. CHAVANCEK: Thank you, Commissioners. My name is Larry Chavancek. I live at 2929 Whitney Lane, Grand Junction. I believe and agree with the gentleman who spoke earlier about the fact that this is an inappropriate use of this zoned site. Industrial land is not being easily added to this valley and to allow precedent to change where an I-1 can become an industry of selling alcohol and

whatever entertainment it will be detrimental in the long run. You are being asked to make decisions that are not only in relation to this item. Earlier someone said it is not your job to uphold morality. No – but it is your job to uphold the better good of this community and the use of its land for its development is one of the very primary aspects of planning and I think that's why this commission is called planning. I appreciate your listening and understanding the importance of the decisions. I...I feel almost sorry for you that it has been remanded back to you so many times. Somebody's not listening, sorry.

CHAIRMAN COLE: Anyone else who'd like to testify? Seeing none, let me just express my appreciation for those of you who have testified this morning or this evening and have kept on the subject of the bar nightclub. I appreciate that and haven't let other items enter into your discussion. I appreciate your keeping on target for that. With that, we'll ask the applicant if they would...if they have anything additional that they'd like to say.

MR. MOORE: Thank you again. Just very briefly to clarify the hours we asked earlier. It is 5 to 2. If the applicant wants to change that, that will be in the future. Right now the pending application is from 5 to 2. There's no change to that. Also the applicant would just like to note that there are so many bars in this area. This one is certainly not intrusive. Contrary to some of the testimony it would appear to be in a relatively well placed spot much more out of the way than others and the applicant would just ask that you consider once again the code and whether or not he's met the code absent any consideration of the adult entertainment aspect and also the applicant would like to thank you for your time.

CHAIRMAN COLE: Thank you. With that we will close the public hearing and bring it back to the Commission for discussion and we'll open that up now.

COMMISSIONER PUTNAM: Mr. Chairman.

CHAIRMAN COLE: Yes.

COMMISSIONER PUTNAM: I'd like to say first that it is my judgment that having an establishment such as is being contemplated in this hearing will not be beautifying to the City of Grand Junction. But it is also my judgment that we must obey the law. I participated in the hearing in August of 2008 and listened carefully to the presentations of the city staff, the applicant and the public. I was not present at the second hearing in November 2008 but I have read the verbatim minutes of that hearing as well as the earlier one. And what has been presented tonight added only marginally if at all to what was heard in the two hearings and in voluminous correspondence. The legal staff of the city has both the education and the resources to examine this statutory law and case law on the subject or subjects before us tonight. Thus I urge that their judgment be relied upon rather than the isolated and anecdotal citations of court decisions offered by several correspondents. We have been advised that governmental entities must allow adult entertainment within their jurisdictions. It is allowed by the Zoning and Development Code as a use by right in I-1 zones. Public consumption of alcoholic...excuse me, public consumption of alcoholic beverages in properly permitted establishments is also allowed in I-1 as well as other zones. Speculation about the dire consequences of adult entertainment and alcoholic beverage consumption is not proper grounds for Planning Commission actions and certainly no credible evidence has been presented to conclude that public consumption of alcoholic beverage, beverages will result in more undesirable drunken behavior in industrial zones than in business or commercial zones. I agree with the conclusions of the staff report. Emphasize that. That the applicant has met or exceeded the conditions for the award of a conditional use permit and urge my fellow commissioners

to approve the permit. I would like to add observations and arguments pertinent to the subject of this hearing.

First, the attempt to define the entire city as a neighborhood was a ploy to apply growth plan language to this issue. Even if the entire city were a neighborhood which it obviously is not, that would not matter because the Zoning and Development Code – not the growth plan – is our guiding document and has the force of law. To contend that alcoholic beverage consumption should not be...should not be allowed in this I-1 zone is disingenuous. It is allowed with conditional use permits in I-1 and other zones. No convincing argument has been presented that what will happen inside the proposed establishment will make the normally permitted alcohol consumption not appropriate in this specific instance.

In fact on January 27th, 2009 this commission approved without comment a conditional use permit for alcoholic beverage consumption in a bar and grill at 1224 North 25th Street. There are residences nearby, some in a residentially zoned location and others non-conforming in a C-1 zone. But with this recent action I can only conclude that opposition to the issue before us must be based on moral judgments about the nature of the proposed establishment rather than on alcoholic beverage consumption. I will conclude with the observation that sex and alcohol are explosive issues that lead us as a society to tie ourselves in knots over their regulation. We insist on telling all people on how they must think and what they must do or not do in regard to these things. How much simpler it would be to adopt the position that if you don't like it, don't go there. However, we get involved in possible self-contradictory laws, rules and regulations. I submit that neither the Planning Commission nor the City Council should deny a conditional use permit for legally permitted activities. Let us follow the law, vote aye and put this issue behind us.

CHAIRMAN COLE: Okay, anyone else?

COMMISSIONER CARLOW: I would concur with Mr. Putnam's comments.

CHAIRMAN COLE: Okay.

COMMISSIONER WALL: That's a tough act to follow. In the last hearing I...I think this is only my second. This has been before us now this is the third time and my second time hearing this and I will admit that I thought that City Council should have made a decision but after further discussion with...with legal, especially with Jamie – she opened my eyes to what the reasons why they didn't make a decision. I'm glad they didn't make the decision. This process has been very eye-opening for me. I'm sure the applicant, Mr. Eardley, it is costing you time and money and for that I apologize. But I have said in the last meeting that a bar in an industrial zone is not compatible for safety reasons. I also said in the last meeting that opening a bar first in an undeveloped industrial area could deter other businesses from developing. I will refer to the type of establishment just for reasons of...of basing my opinion. In chapter 4.3.B. our City Council has stated and these are words that I copied directly from...from our code - - our City Council has stated that a concentration of adult entertainment establishments in cities tends to result in both the blighting and deterioration of the areas of such concentration. Now I don't believe that's the goal of the applicant but this is what's written in our code. Accordingly, it is necessarily...necessary that these establishments be regulated in a manner as to prevent the erosion of the character of affected neighborhoods. No adult entertainment establishment as defined here shall be permitted within the City of Grand Junction except as provided in this code. The code states that an adult entertainment facility cannot operate in an industrial zone. We understand that. That's not the argument. If they can open, that is not the argument.

The question here tonight is can they serve alcohol and that is it. Plain and simple. If they're denied, they can still open up the establishment and...and...and run their business. I want to make that very clear that I...I understand that. It also states that to serve alcohol they need a conditional use permit. So according to conditional use permits I know we've heard this but the purpose of a conditional use review is to provide an opportunity to utilize property for an activity which under usual circumstances could be detrimental to other permitted uses and which normally is not permitted within the same district. It's an I-1 zone a bar. The conditional use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A conditional use is not a use by right and one that is otherwise prohibited without approval of a conditional use permit. The applicability of a conditional use permit shall be required prior to the establishment of any conditional use identified in chapters 3 and 4 or elsewhere in this code. And to approve the criteria the application shall demonstrate that the proposed development will comply with the following: site plan standards – not an issue. There's not an issue with the site plan. District standards, underlying zoning standards established in chapters 3, except density – things like that – not an issue. The uses specific standards established in chapters 3 and 4, unless you read chapters 3 and 4 – but not an issue. Availability of complimentary uses, other uses complimentary to and supportive of the proposed project shall be available including, but not limited to, schools, parks, hospitals, businesses and commercial facilities and transportation facilities. Compatibility with adjoining properties, compatibility with and protection of neighboring properties through measures such as protection of privacy – design is there. Protection of use and enjoyment. All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of

adjoining property. The plan shall be...and let me read this again, shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property. In my humble opinion I don't know of a design that could prevent any secondary effects from any bar whatsoever. Based on these factors I will vote to deny this C-U-P application based on chapters 4.3.B., chapter 2.13.C.4 which is availability of complimentary uses which states other uses complimentary to and supportive of the proposed project shall be available including, but not limited to, schools, parks, hospitals, businesses and commercial facilities and transportation facilities, and 2.3.C.5 – compatibility with adjoining properties most notably section B. – protection of use and enjoyment which states all elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of the adjoining properties.

I do not think that a bar in an industrial neighborhood meets all of these qualifications based on those three things right there. That's my opinion. I do believe that the applicant wants to open up a business, to make a living and he wants it to be a respectable business. I do believe that it is the Planning Commission's duty to look at the business and to help protect that applicant from...from failing. I think based on that, it's important for us to look at what do we think will happen and could happen based off other bars in the area - - not that area but in the city - - most notably, what is it Cactus Canyon or whatever...those secondary...those type of secondary effects? I think it's more important for us to protect the applicant in that respect versus going ahead and allowing a bar in that neighborhood to open up because I think if a bar opens up in that neighborhood based off my criteria of what I've read it would be detrimental to...to our city.

CHAIRMAN COLE: Someone else?

COMMISSIONER ESLAMI: Mr. Chairman, I would like to make a few points why we should grant this C-U-P request. One – at this time the city code allows this nightclub restaurant serving alcohol in an industrial zone. Two, as the staff has said I agree that the applicant has met all the code criteria. As commissioners we must follow the code.

CHAIRMAN COLE: Speak into the mic a little better, would you?

COMMISSIONER ESLAMI: As a commissioner we must follow the code rules the same as the city and staff. If this issue ends up in the court there is an 80 to 90 percent or maybe even higher that the judge would grant the C-U-P anyway. Therefore, we will be wasting taxpayer's money fighting and maybe even having to pay to buy their property. I cannot agree to do this. Fourth, the alternative of opening the nightclub without alcohol would be the worst possible result. We all know they can open without our permission if they do not serve alcohol. If they do and any person no matter how old can get in. Plus I believe people will drink legally outside and inside and this will create more trouble, law enforcement's time will be wasted. Dealing with the...all when we need the police to do real police work. With a liquor license they have to check the door carefully and they have to make the parking lot safe or their liquor license won't be renewed or it will be revoked. Believe me I have a lot of experience on that. Five, our job is to follow the code. It is up to the City Council to change it. Until they do we should approve this C-U-P. Thank you.

CHAIRMAN COLE: Someone else?

COMMISSIONER ABBOTT: Mr. Chairman, you know, quite frankly, I do believe there is a strong probability that this will end up in court and I do believe that more likely than not a judge will overturn a negative response from this commission. That being said, quite frankly I have stated all along that I do not believe

that a bar should be in an industrial zoned property. I have asked for the staff to make a change to that. I understand that it's under review and admit it may take several months because of just timing.

The other thing that...that frankly probably has turned my vote against it tonight, even though I did vote against it before was that the applicant stated that more likely than not that down the road they're going to be looking to change their hours of operations to an 11 o'clock start. Even though at this time they are looking at 5 o'clock. I think the...the idea that they will not go through and request an 11 o'clock opening time, I...I don't see that happening. I...I presume that they...they more than likely will ask for an 11 o'clock. I do have a problem with alcohol being served in industrial zoning. I have a problem with people having the availability to walk to this site from their jobs that are across the street and then more likely than not having more than just a few drinks and then going back to their site and causing a problem. Yes, I understand that people can drive to Westgate Inn or they can drive to the mall and they can get what they want to drink. The likelihood of them being in an infraction or being caught by our local law enforcement officers is greater once they're own the road. If you're walking across the street, you know what, you're probably not going to get caught and heaven forbid something should happen in an industrial zone where there can be explosives, there can be all kinds of things taking place and I understand that we're not supposed to regulate morality and trust me I do have an issue with property owners being told here's the set of rules, this is what you need to play by and then along comes someone else to change the rules. I have a problem with that. I really do. My biggest concern though at this point in time is...is the realism that they're going to ask to change their hours to 11 a.m. Therefore, I am going to vote no on this measure.

CHAIRMAN COLE: Pat, you made your comments agreeing with Mr. Putnam, is that right?

COMMISSIONER CARLOW: Yes.

CHAIRMAN COLE: Okay. Well, I can judge by the simple survey that we took here a little bit ago of those for and those against it that there are more against than for here. There are a lot of people here in this town that I am sure are absolutely opposed to this type of establishment. There are people here that are opposed to having a bar nightclub in an industrial zone area. However, previous councils have chosen to say that this is a use by condition that can go in an industrial zone area. So that is not a determination for this board to make here this evening. The code has to be changed in order for us to use that as a criteria for denying this and so with that in mind I have to say that it has met that portion of the code. I believe that it has met the other portions of the code. I...I happen to agree that staff has done a good job in looking at the code and exploring the code and while personally I am opposed to this I pledged to uphold the law as I sit up here and the other thing is that I as a commissioner part of my responsibility is to do my best to keep the city from court action. I have a feeling that regardless of which way this goes there may be court action. Nevertheless, I am going to have to vote in favor of this tonight and I am only voting in favor of the bar nightclub. I...I do not approve of the entertainment that is planned to have there. I...I find it repulsive. Nevertheless, I feel like I have to abide by the law that I pledged to uphold and so I'll be voting in favor of this this evening.

APPLAUSE. No, never mind. We will not have applause. So with that we are ready for a motion.

COMMISSIONER WALL: Mr. Chairman, on bar nightclub conditional use permit, C-U-P 2008-158, I move that the Planning Commission approve of the conditional use permit with the facts and conclusions listed in the staff report.

CHAIRMAN COLE: Okay, I will ask for a roll call vote.

MS. SINGER: Commissioner Abbott...

COMMISSIONER PUTNAM: Second.

CHAIRMAN COLE: Okay, yes we have a second here.

MS. SINGER: Commissioner Abbott?

COMMISSIONER ABBOTT: No.

MS. SINGER: Commissioner Eslami?

COMMISSIONER ESLAMI: Yes.

MS. SINGER: Chairman Cole?

CHAIRMAN COLE: Yes.

MS. SINGER: Commissioner Putnam?

COMMISSIONER PUTNAM: Aye.

MS. SINGER: Commissioner Wall?

COMMISSIONER WALL: No.

MS. SINGER: Commissioner Carlow?

COMMISSIONER CARLOW: Yes.

CHAIRMAN COLE: The motion carries. With that we will take a...a recess and resume at 5 minutes after.

APPEAL OF PLANNING COMMISSION DECISION
CONCERNING GENTLEMAN'S CLUB

FILE #: CUP-2008-158

PETITIONER: Kevin Eardley

LOCATION: 2256, 2258 Colex Dr

RECEIVED

MAR 4 2009

COMMUNITY DEVELOPMENT
DEPT.

I, Michael A. MacFarlane, of 2808 Bookcliff ave. Grand Junction, having been present at the February 24th planning commission meeting, as evidenced by testifying during the public hearing, and finding myself aggrieved by decision of the commission, bring this appeal to the city of Grand Junction for consideration. I request that the city of Grand Junction overturn the decision made by the planning commission for the reasons following.

1. Two of the commissioners in rendering their decision read a pre-prepared statement. Not only does this make a mockery of a "public hearing" but states that the commissioners planned to ignore both the public and the evidence presented during the hearing. At best this is highly inappropriate and I believe "the decision-maker acted arbitrarily, acted capriciously, and/or abused its discretion".
2. One commissioner stated that if the club opened with out a CUP they would end up with liquor inside and outside the building causing a burden for the police. If he does not believe this establishment can handle liquor in a legal manner where in the code does he find that this is grounds to grant a CUP? In this they acted "inconsistent with the provisions of this Code".
3. One commissioner in rendering his decision stated that if this CUP is denied and we end up in litigation the city could be potentially forced to acquire the property. The issue before the

commission is not potential litigation but adherence with the existing codes. This finding is therefore both an “erroneous finding” and is “inconsistent with the provisions of this code.” as the code does not address the issue of potential litigation.

4. One commissioner in rendering his decision stated that if this business opened with out the CUP then people of any age would be able to enter and that would not be acceptable. Minors would not be able to enter so this decision was made on “erroneous findings of fact” and does not line up with “this Code or other applicable local, state or federal law.”

5. One commissioner stated at the beginning of the meeting that he had conversation with an opponent of the club and “agreed to disagree” with him. Stating your position, that you are in favor of granting the CUP, before hearing the evidence presented, shows that all evidence during the hearing will be, and indeed has been ignored. I find that “The decision-maker may have acted arbitrarily, acted capriciously, and/or abused its discretion” in deciding before the facts were presented that he was for the club attaining it’s CUP. Also “The decision-maker may have made erroneous findings of fact based on the evidence and testimony on the record.”

6. One commissioner stated in rendering his decision that a portion of his decision was based on the burden that this process has put on the applicant. This is not a concern of the commission. The code does not say to take into account the cost to the applicant but rather to apply the codes to the use, structures etc. of this businesses plan. Therefore “The decision maker may have acted in a manner inconsistent with the provisions of this Code.”

7. One Commissioner in rendering his decision stated that he did not believe that this bar would have a bigger impact than any other

bar. This implies that he believes that bars in general would have a “negative impact.” His job is not to determine impact of bars in relation to each other but whether the impact of this bar could “coexist in a harmonious manner with nearby existing and anticipated development” and “have a minimal negative impact on the use and enjoyment of adjoining property.” In measuring this business against other bars rather than the code he “acted in a manner inconsistent with the provisions of this Code.”

8. Four of the commissioners in rendering their decisions cited the potential litigation as a basis for their actions. It is not the job of the commission to consider such threats nor to ponder the possible outcome of these threats. Decisions are to be made in reference to existing codes not by who pushes hardest. In this I find that “The decision-maker may have acted in a manner inconsistent with the provisions of this Code” and “may have acted arbitrarily, acted capriciously, and/or abused its discretion.”

9. The reason for this hearing was to find the basis for each commissioner's decision because the last hearing they were not clear in the basis for their decision. Those opposed cited specific codes they feel were not met. The standard for identifying how this business does or does not meet the criteria of the code applies to all. For or against, every commissioner must give specifics connected to the code he based his decision on. The four that voted for the CUP all stated that they believed the applicant met the criteria. This is very vague. Not one cited a specific action by the applicant or a particular code for the basis of their decision. Neither did they mention why they believe the applicant implemented “mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance.” They did not mention how the applicant intended to “have minimal negative impact on the use and enjoyment of adjoining properties.” They did not discuss how “All elements of a

plan shall coexists in a harmonious manner with nearby existing and anticipated development.” Identifying the standard they used for their decision was the whole purpose for this matter being remanded in the first place. With out specific codes cited and how they were addressed by the applicant I find that the commissioners were unclear in the basis of their decision and “may have acted in a manner inconsistent with the provisions of this code” and “may have made erroneous findings of fact based on the evidence and testimony on the record” and “may have acted arbitrarily, acted capriciously, and/or abused its discretion.”

10. One commissioner mentioned in rendering his decision that a particular “Bar & Grill” just received a liquor license. He is comparing apples to oranges. This is not a restaurant that serves liquor, it is an nightclub whose first source of income is liquor not food. This was a hearing for a CUP not a liquor license. The Bar and Grill was located in commercial zoning not industrial. I feel “The decision maker may have made erroneous findings of fact based on the evidence and testimony on the record.”

11. One commissioner stated in rendering his decision stated that the consequences of alcohol consumption are not proper grounds for planning commission action. The code says under the “Protection of Use and Enjoyment” section that the plan should “have minimal negative impact on the use and enjoyment of adjoining property” His lack of code knowledge have caused him to “have acted in a manner inconsistent with the provisions of this Code” and he “may have made erroneous findings of fact” and “may have acted arbitrarily, acted capriciously, and/or abused its discretion.”

For the reasons stated in this appeal I call for the city council to overturn the decision of the planning commission.

Michael MacFarlane

A handwritten signature in black ink that reads "Michael MacFarlane". The signature is written in a cursive style with a large, looping initial "M" and "F".

2808 Bookcliff ave.

Grand Junction, CO 81501

970-255-6707



March 9, 2009

Director of Community Planning
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

RECEIVED

MAR 10 2009

COMMUNITY DEVELOPMENT
DEPT.

Re: Response to Appeal
File No.: CUP-2008-158
Bar/Nightclub Conditional Use Permit
2258 Colex Drive

The following is in response to the appeal filed by Mr. Michael A. MacFarlane with regards to the Planning Commission's Decision of approval for the Conditional Use Permit for the above Project. Mr. MacFarlane's commentary is shown in italics with the response following.

Mr. MacFarlane states the following;

1. *Two of the commissioners in rendering their decision read a pre-prepared statement. Not only does this make a mockery of a "public hearing" but states that the commissioners planned to ignore both the public and the evidence presented during the hearing. At best this is highly inappropriate and I believe "the decision-maker acted arbitrarily, acted capriciously, and/or abused its discretion".*

Response: This project has been heard twice in the past with evidence heard each time. No new evidence was presented which would of swayed the commissioner's decision to present otherwise.

2. *One commissioner stated that if the club opened with out a CUP they would end up with liquor inside and outside the building causing a burden for the police. If he does not believe this establishment can handle liquor in a legal manner where in the code does he find that this is grounds to grant a CUP: In this they acted "inconsistent with the provisions of this Code".*

Response: Approval was granted because all approval criteria of the Zoning and Development Code were met as stated in the Staff reports. Enforcement by local law enforcement will be required in either situation, with liquor service, the property owner has culpability.

3. *One commissioner in rendering his decision stated that if this CUP is denied and we end up in litigation the city could be potentially forced to acquire the property. The issue before the commission is not potential litigation but adherence with the existing codes. This finding is therefore both an “erroneous finding” and is “inconsistent with the provisions of this code.” As the code does not address the issue of potential litigation.*

Response: Again this was an opinion of Mr. MacFarlane’s and not the basis for the decision of Commissioner’s approval of the CUP. Staff’s expert testimony found the application adheres to the Code.

4. *One commissioner in rendering his decision stated that if this business opened without the CUP then people of any age would be able to enter and that would not be acceptable. Minors would not be able to enter so this decision was made on “erroneous findings of fact” and does not line up with “this Code or other applicable local, state or federal law.”*

Response: Again this was also an opinion and not the basis for the decision of the Commissioner. With liquor service, admission is strictly controlled.

5. *One commissioner stated at the beginning of the meeting that he had conversations with an opponent of the club and “agreed to disagree” with him. Stating your position, you are in favor of granting the CUP, before hearing the evidence presented, shows that all evidence during the hearing will be, and indeed has been ignored. I find that “The decision-maker may have acted arbitrarily, acted capriciously, and/or abused its discretion” in deciding before the facts were presented that he was for the club attaining it’s CUP. Also “The decision-maker may have made erroneous findings of fact based on the evidence and testimony on the record.”*

Response: Again, this project has been heard twice in the past with evidence heard each time. No new evidence was presented which would of swayed the commissioner’s decision. His decision was based strictly on the Code. Had new evidence been presented, the Commissioner has the prerogative to amend his statement.

6. *One commissioner stated in rendering his decision that a portion of his decision was based on the burden that this process has put on the applicant. This is not a concern of the commission. The code does not say to take into account the cost to the applicant but rather to apply the codes to the use, structures etc. of this business plan. Therefore “The decision maker may have acted in a manner inconsistent with the provisions of this Code.”*

Response: The Commissioner acted within the provisions of the Code. Again, the decision of approval was based strictly on the Code being met.

7. *One Commissioner in rendering his decision stated that he did not believe that this bar would have a bigger impact than any other bar. This implies that he believes that bars in general would have a “negative impact.” His job is not to determine impact of bars in relation to each other but weather the impact of this bar could “coexist in a harmonious manner with nearby existing and anticipated development” and “have a minimal negative impact on the use and enjoyment of adjoining property.” In measuring this business against other bars rather than the code he “acted in a manner inconsistent with the provisions of the Code.”*

Response: As stated in the Staff Report, all conditions for approval for a CUP have been met. We endorse the Commissioner’s opinion and believe it is appropriate to draw comparisons to establish similar nature.

8. *Four of the commissioners in rendering their decisions cited the potential litigation a basis for their actions. It is not the job of the commission to consider such threats nor to ponder the possible out come of these threats. Decisions are to be made in reference to existing codes not by who pushes hardest. In this I find that “The decision-maker may have acted in a manner inconsistent with the provisions of this Code” and “may have acted arbitrarily, acted capriciously, and/or abused its discretion.”*

Response: Ligation was certainly a possibility in this case. However, all conditions for approval for a CUP were met leaving the City open to ligation if not approved. This is a justifiable concern.

9. *The reason for this hearing was to find the basis for each commissioner’s decision because the last hearing they were not clear in the basis for their decision. Those opposed cited specific codes they feel were not met. The standard for identifying how this business does or does not meet the criteria of the code applies to all. For or against, every commissioner must give specifics connected to the code he based his decision on. The four that voted for the CUP all stated that they believed the applicant met the criteria. This is very vague. Not one cited a specific action by the applicant or a particular code for this basis of their decision. Neither did they mention why they believe the applicant implemented “mitigation measures or revisions offered by the applicant that would have brought the proposed project into compliance.” They did not mention how the applicant intended to “have minimal negative impact on the use and enjoyment of adjoining properties.” They did not discuss how “All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development.” Identifying the standard they used for their decision was the whole purpose for this matter being remanded in the first place. With out specific codes cited and how they were addressed by the applicant I find that the commissioners were unclear in the basis of their decision and “may have acted in a manner inconsistent with the provisions of this code” and “may have made erroneous findings of fact based on the evidence and testimony on the record” and “may have acted arbitrarily, acted capriciously, and/or abused its discretion.”*

Response: The Staff report clearly states how the conditions of approval for a CUP were met. Exhibits for the application have been previously reviewed and approved. The commissioner's who voted for approval agreed with the staff report and did not need to revisit these Criteria again.

10. *One commissioner mentioned in rendering his decision that a particular "Bar & Grill" just received a liquor license. He is comparing apples to oranges. This is not a restaurant that serves liquor; it is a nightclub whose first source of income is liquor not food. This was a hearing for a CUP not a liquor license. The Bar and Grill was located in commercial zoning not industrial. I feel "The decision maker may have made erroneous findings of fact based on the evidence and testimony on the record."*

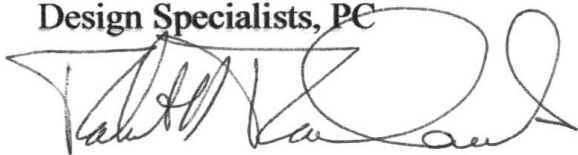
Response: I believe that the commissioner intended to say that the particular "Bar and Grill" received a CUP not a liquor license. If this "Bar and Grill" received a CUP then there is no reason that the applicant should not receive one also as long as the same criteria has been met.

11. *One commissioner stated in rendering his decision stated that the consequences of alcohol consumption are not proper grounds for planning commission action. The code says under the "Protection of Use and Enjoyment" section that the plan should "have minimal negative impact on the use and enjoyment of adjoining property" His lack of code knowledge have caused him to "have acted in a manner inconsistent with the provisions of this Code" and he "may have made erroneous findings of fact" and "may have acted arbitrarily, acted capriciously, and/or abused its discretion."*

Response: The review criteria stated above has been determined by City Staff to be met. Therefore, the consequence of alcohol consumption has no bearing on the decision of approval and therefore is irrelevant in the appeal process.

In conclusion, based on the testimony and evidence provided, the property in question meets all the criteria for a Conditional Use Permit and should be approved.

Sincerely,
Design Specialists, PC



Robert D. Rowlands, Architect
Owner's Representative



Kevin Eardley, Owner