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

MONDAY, AUGUST 16, 2010, 7:00 P.M.

Call to Order

Pledge of Allegiance

Invocation – Pastor Harry Butler, Certain Place of Seventh Day Handy Chapel

[The invocation is offered for the use and benefit of the City Council. The invocation is intended to solemnize the occasion of the meeting, express confidence in the future and encourage recognition of what is worthy of appreciation in our society. During the invocation you may choose to sit, stand or leave the room.]

Proclamations

Proclaiming August 24, 2010 as “Soka Gakkai International-USA Day” in the City of Grand Junction

Proclaiming August 25, 2010 as “Grand Junction Crime Stoppers Day” in the City of Grand Junction

Presentation/Recognitions

An Award to the City of Grand Junction for the “2010 APA Colorado Excellence Award” in the Category of Outstanding Planning Project for their Work on the Comprehensive Plan

The "City of Grand Junction Municipal Watershed Team Award" to the City of Grand Junction and US Forest Service, Grand Valley Ranger District

"Ensuring Our National Forests and Private Working Lands are conserved, restored and made more resilient to climate change, while enhancing our water resources" The City

*** Indicates Changed Item*

**** Indicates New Item*

® Requires Roll Call Vote

and the Team are honored for "For outstanding community collaboration and accomplishment of the forest health-related activities vital to the protection of municipal watersheds".

Certificates of Appointments

To the Urban Trails Committee

To the Riverfront Commission

Council Comments

Citizen Comments

***** CONSENT CALENDAR *****

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

Action: Approve the Minutes of the August 2, 2010 and the August 4, 2010 Regular Meetings

2. **Watershed Memorandum of Understanding with United States Forest Service** [Attach 2](#)

The City of Grand Junction and the United States Department of Agriculture Forest Service, Grand Valley Ranger District (Forest Service) are renewing a Memorandum of Understanding (MOU) for five (5) years towards a partnership that will ensure protection of the quality and quantity of the City's municipal water supply.

Action: Authorize the Mayor to Sign the Memorandum of Understanding with the United States Department of Agriculture Forest Service Grand Valley Ranger District

Staff presentation: Greg Trainor, Director of Streets, Facilities, and Utilities

3. **Agreement with Mesa County Elections for the November 2, 2010 Election** [Attach 3](#)

In order to place the City's ballot question(s) regarding retail sales of medical marijuana on the November 2, 2010 ballot, an intergovernmental agreement setting forth the responsibilities of the City and the County in relation to the election is required. The agreement will be null and void if the City Council decides not to place a question(s) on the ballot.

Action: Authorize the City Clerk to Enter into an Intergovernmental Agreement with Mesa County Elections for the Conduct of the City's Special Election to be Coordinated with the General Election to be held on November 2, 2010

Staff presentation: Stephanie Tuin, City Clerk

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

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

4. **Public Hearing—Heritage Villas Rezone, Located at 606 ½ 29 Road, from R-4 to R-8** [File #RZ-2010-062] [Attach 4](#)

A request to rezone 1.6 acres, located at 606 ½ 29 Road, from R-4 (Residential – 4 units per acre) zone district to R-8 (Residential – 8 units per acre) zone district. The proposed project is to provide a retirement village consisting of 10 units and a single family residence for the owner of the property.

Ordinance No. 4432—An Ordinance Rezoning Heritage Villas from R-4 (Residential 4 Units per Acre) to R-8 (Residential 8 Units per Acre) Located at 606 ½ 29 Road

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4432

Staff presentation: Lori V. Bowers, Senior Planner

5. **Public Hearing—Lee/Bell Rezone, Located at 315 Ouray Avenue from R-O to B-2** [File #RZ-2010-066] [Attach 5](#)

A request to rezone 0.14 acres, located at 315 Ouray Avenue, from R-O (Residential Office) zone district to B-2 (Downtown Business) zone district to allow retail sales in a gallery within the home.

Ordinance No. 4433—An Ordinance Rezoning the Lee/Bell Property from R-O (Residential Office) to B-2 (Downtown Commercial), Located at 315 Ouray

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4433*

Staff presentation: Lori V. Bowers, Senior Planner

6. **Great Outdoors Colorado (GOCO) Grant Application for Stadium Re-development** [Attach 6](#)

The Parks and Recreation Department is seeking approval to apply for grant funding through Great Outdoors Colorado (GOCO) for assistance with the re-development project at Suplizio Field and Stocker Stadium. A resolution from the governing entity must be approved and attached prior to grant submission. This grant application is due August 27th with awards scheduled to be announced in December 2010.

During this upcoming grant cycle, GOCO is offering a ‘Special Opportunities Grant’ for park renovation projects. The maximum award for this grant is \$700,000.00.

Resolution No. 32-10—A Resolution Supporting the Grant Application for a Special Opportunity Local Parks and Outdoor Recreation Grant from the State Board of the Great Outdoors Colorado for the Suplizio Field/Stocker Stadium Re-Development Project

®Action: *Adopt Resolution No. 32-10*

Staff presentation: Rob Schoeber, Director of Parks and Recreation

7. **Amending Ambulance Transportation Fees** [Attach 7](#)

The Fire Department is requesting Council adopt a resolution allowing the City to charge the most recently established Mesa County ambulance transport fees when providing ambulance transport services.

Resolution No. 33-10—A Resolution Amending Ambulance Fees in the City of Grand Junction, Colorado and Creating a Mechanism for Those Fees to Increase as Increases are Approved by Mesa County

®Action: *Adopt Resolution No. 33-10*

Staff presentation: Ken Watkins, Fire Chief

8. **Ratification of a Contract for the Sale of Property at 635 Grand Avenue**

[Attach 8](#)

The City has entered into a contract with Salon Capelli LLC for the sale of the real property (vacant) located at 635 Grand Avenue. The City has owned the property since 1996 and is no longer using the property. Sale of the property will allow a commercial use of the property.

Resolution No. 34-10—A Resolution Authorizing the Sale by the City of Grand Junction, Colorado, of Certain Real Property; Ratifying Actions Heretofore Taken in Connection Therewith, Located at 635 Grand Avenue

®Action: *Adopt Resolution No. 34-10*

Staff presentation: John Shaver, City Attorney

9. **Non-Scheduled Citizens & Visitors**

10. **Other Business**

11. **Adjournment**

Attach 1
Minutes of Previous Meetings

GRAND JUNCTION CITY COUNCIL
MINUTES OF THE REGULAR MEETING

August 2, 2010

The City Council of the City of Grand Junction convened into regular session on the 2nd day of August 2010 at 7:02 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Bruce Hill, Tom Kenyon, Gregg Palmer, Bill Pitts, Sam Susuras, and Council President Teresa Coons. Also present were City Manager Laurie Kadrach, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Coons called the meeting to order. Councilmember Pitts led the Pledge of Allegiance followed by a moment of silence.

Appointments

Councilmember Kenyon moved to reappoint Ken Henry from Fruita and Katie Steele for three year terms expiring June 2013 and appoint Leila Reilly and Mary Ann Cooper to serve three year terms to expire June 2013, all to the Riverfront Commission. Councilmember Palmer seconded the motion. Motion carried.

Certificates of Appointment

Craig Richardson was not present to receive his certificate of appointment to the Urban Trails Committee.

Council Comments

There were none.

Citizen Comments

There were none.

CONSENT CALENDAR

Councilmember Hill read the Consent Calendar and then moved that the Consent Calendar Items #1 through #5 be adopted. Councilmember Susuras seconded the motion. Motion carried by roll call vote.

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the July 19, 2010 Regular Meeting

2. **Setting a Hearing on the Heritage Villas Rezone, Located at 606 ½ 29 Road, from R-4 to R-8** [File #RZ-2010-062]

A request to rezone 1.6 acres, located at 606 ½ 29 Road, from R-4 (Residential – 4 units per acre) zone district to R-8 (Residential – 8 units per acre) zone district. The proposed project is to provide a retirement village consisting of 10 units and a single family residence for the owner of the property.

Proposed Ordinance Rezoning Heritage Villas from R-4 (Residential 4 Units per Acre) to R-8 (Residential 8 Units per Acre) Located at 606 ½ 29 Road

Action: Introduction of Proposed Ordinance and Set a Hearing for August 16, 2010

3. **Setting a Hearing on the Lee/Bell Rezone, Located at 315 Ouray Avenue from R-O to B-2** [File #RZ-2010-066]

A request to rezone 0.14 acres, located at 315 Ouray Avenue, from R-O (Residential Office) zone district to B-2 (Downtown Business) zone district to allow retail sales in a gallery in the home.

Proposed Ordinance Rezoning the Lee/Bell Property from R-O (Residential Office) to B-2 (Downtown Commercial), Located at 315 Ouray

Action: Introduction of Proposed Ordinance and Set a Hearing for August 16, 2010

4. **Emergency Services Fiber Optic Installation Contract**

This contract consists of installing a new fiber optic ring linking the Police Department, City Hall and the Mesa County Sheriff's Office. This is a second link and will serve as back up to ensure the availability of public safety systems to E-911, police, fire, and sheriff as they deliver public safety services to the community. This is a part of the larger project to implement a public safety network that will provide integrated criminal justice records, corrections management, and computer aided dispatch across all law enforcement agencies in Mesa County.

Action: Authorize the City Purchasing Division to Sign a Construction Contract for the Emergency Services Fiber Optic Installation Project with Sturgeon Electric in the Amount of \$108,555

5. **Construction Contract for Compressed Natural Gas Slow-Fill Station, Located at the Municipal Campus, 333 West Avenue**

The project consists of installation of a new Compressed Natural Gas (CNG) Slow-Fill Station. This slow-fill station will provide a fueling point for the four new solid waste trash trucks that were purchased earlier this year, and expected to provide two fueling bays to be used for Grand Valley Transit buses.

Action: Authorize the City Purchasing Division to Sign a Construction Contract for the CNG Slow-Fill Station Project with Gas Energy Systems, Inc. in the Amount of \$555,086

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing—Mesa State College Right-of-Way Vacations [File # VR-2010-068]

Mesa State College is requesting to vacate portions of Texas, Elm, Houston and Bunting Avenues and associated alleys in anticipation of current and future building and parking lot expansions for the campus.

The public hearing was opened at 7:08 p.m.

Greg Moberg, Planning Services Supervisor, presented this item. The applicant is Mesa State College and they are present. The area in question was displayed by plat and by aerial photo. The Comprehensive Plan identifies the College as mixed use. The zoning is currently R-8, the Mesa State zoning is Community Services and Recreation (CSR). The area owned by Mesa State was displayed and the parcels not in Mesa State's ownership were identified. The vacations are along Houston, Texas, Elm, and Bunting Avenues. There will be reserved areas until access to the privately owned properties is provided. The additional areas requested to be vacated will be released by the City Manager when those access easements are no longer needed. The requested vacations are consistent with the Comprehensive Plan and the Zoning and Development Code criteria for right-of-way vacations has been met. The Planning Commission recommends approval.

Councilmember Palmer asked if the utility relocations are being paid for by Mesa State. Mr. Moberg said that is correct.

Councilmember Palmer asked if the temporary access is to provide access to the private homes. Mr. Moberg said what is being proposed is that access will be maintained along some of the areas requested until the access is no longer needed and then the City Manager can release those easements.

Council President Coons asked Mr. Moberg what the criteria would be for the City Manager to determine the access is no longer needed. Mr. Moberg said the property owners would make the determination and then present their agreement to the City Manager.

President of Mesa State College Tim Foster, 1100 North Avenue, provided a little history of the growth of the college. Over time, the College has been closing streets and acquiring properties in order to expand. The community and the College decided some time ago the College would expand from 7th Street to 12th Street and from North Avenue to Orchard Avenue. Mr. Foster said the College, the County, and the City have a unique and supportive relationship. The College has purchased 95 houses in the last five years which has allowed the institution to grow. They have worked very hard with the surrounding neighbors to provide access easements and informative meetings. They are currently in the process of building another residence hall. Mesa State

believes that the details should be left to City Staff and the Council should look at the overall policy.

Kent Marsh, Director of Facility Services at Mesa State College, elaborated on locations of temporary parking, dust mitigation, and response to complaints from neighbors and citizens. Usually when homes are purchased and torn down, the lot is used for temporary parking but that is not their final use. Once Mesa State purchases a home they tear down the home and then prepare the site for temporary parking. The College's dust mitigation plan includes running a water truck through the parking lots, applying magnesium chloride to the temporary lots, brooms on college equipment that are used to sweep adjacent City streets, and lastly traffic calming by adding signage, moveable rubber bumper blocks, and reducing the travel lanes.

Council President Coons asked if the overhead lighting is 24 hour lighting. Mr. Marsh said the lighting is on timers for the safety of the students and prevention of vandalism.

Mr. Foster stated that the lighting stays on all night because of public safety.

Darrell Miller, 1315 Houston Avenue, said he opposes the right-of-way vacations. He felt that the vacations violated City Code and he identified each of those specific violations. He felt that having only temporary access to his property devalues his property. He had plat drawings to show the areas in question. He noted that the proposed ordinance states the access easement will be asphalt or other surface materials. He questioned if dirt easements are allowed anywhere else in the City. He was also upset with the noise levels and demonstrated the noise with a video clip. He felt that Mesa State College had not been truthful in what they have said they will do. It makes it difficult for his son to ride his bike or his wife to wheel their stroller down the alley as gravel from the parking lots are dragged into the alley from traffic. He noted the loss of infrastructure in the removal of the streets. He asked that the vacations be postponed to reopen discussions to come to a safe and non code violating mutual agreement concerning all easements.

Clark Carroll, 1240 Cannell, said he discussed the matter with Derek Wagner of Mesa State College. He was told his idea wouldn't work because the College is planning a new building. He was just made aware of this most recent proposal. He asked the City Council to deny the request so it can be discussed with the private property owners. He read the following statement:

"Mesa State College has developed an exciting expanding campus that will serve benefits to the current and future administrators, students, faculty and staff. It will be a cornerstone of our community, indeed a diamond to be proud of. Our current President, Tim Foster has guided this expansion. Mr. Foster has been successful in competing for local, state, national and student dollars while successfully navigating through the political highway. His dedication and commitment is second to none other. His commitment to this community, the betterment of it is admirable. The benefits the college provides to the community both locally and regionally would be difficult to encompass, and many of us here today have received benefits from our participation after college. MSC (Mesa State College) has had challenges in this expansion process, Mesa has attempted to expand not necessarily knowing at what point what money will come to direct development so it may have been difficult for Mesa to develop what many may consider an organized development plan. This may also contributed to some levels of chaos for the college,

neighborhoods, state and local governments often the pace of development being rapid may have contributed to some levels of chaos and disorganization experienced by more than a few. Planned acquisition and use for college expansion has had challenges for the College, private property owners, and the City. Discussions of development codes land use codes, etc. can become blurred due to the separation of City and State. Some may find it difficult to identify what codes are applicable for this type of development, even though the State, City, and County have adopted standardized codes, the enforcement of codes (which Darrell brings up a lot) and ordinances can remain long ranging problems contributing to additional costs and inconveniences to the City. Although this is impressed by Mesa College to acquire more land through street acquisition it may speak to a bigger issue regarding orderly growth and development that generate win win scenarios for all the community. The City, by declining this vacation as it is written, speaks to the influence, to autonomous governing body not regulated by the contortion of colleges not necessarily subject to the policies of others. If approval vacation is granted, there is concern that once it becomes Mesa State property, they may or could invoke their autonomous philosophy. Basically, the City may or could lose some level of ability to govern, influence or enforce conditions of the proposed ordinance or the ability to influence future expansion to the west. Legal access and easement rights for both the City, College, and private property owners are in question and have not been resolved. Having consulted with others for more than a few hours regarding this vacation, I felt strongly that Mesa and I were close to an agreement until all the plans changed. Mesa State changed the plan last Thursday by the addition of the new dorm section north of my location, allowing for only ten feet of access to the back of my property for parking. Besides Mesa, no one I have talked to believes this is reasonable access. I request for Council to decline this vacation because we have a new deal. Local residents have not had an equal time to work on new agreements with the College coupled with the violations of public property takings by Mesa College, the residents affected and impacted have not had a reasonable time to even tackle the issues, let alone make intelligent decisions on important land access scenarios. Decline this request, send the parties back to the table to hash out the differences to present a complete workable plan that has not changed at the last minute for a next day vote. The proposed vacation does not take into account the totality of variables involved with this development and the affect upon impact on private property owners, the City, State, and the general public. A yes vote could indicate acceptance and approval of questionable developmental practices and ordinances. A no vote does not indicate Council is not on board with the College or in disagreement with current philosophy of our community. It does mean that Council stands firm on not building on public rights-of-ways until the established orderly planning process is used as intended. That pulling away, established easements from private property owners will not be tolerated until a meeting of the minds has occurred or acceptable formal process allows it. A no vote indicates it is time for the College to address and solve potential violations of federal clean air and water standards which the City may have some level of responsibility to ensure these standards are met. A no vote will indicate that future proposed ordinances presented to Council by Mesa State College should be complete and thorough thus supporting proper decisions based on reasonable fairness and a complete set of facts for the Council. The Planning Department has, in its assessment of facts, indicated an opinion in the financial impact budget section as not being applicable. If MSC has created traffic, air, and water issues, then the burden to fix these problems may become the financial responsibility of the City. This current or future burden may place stress on even tighter future budgets. The City should encourage while it has the chance that the issues be addressed now. Resolve by serving notice to the autonomous governing body of Mesa State College that they are subject to outside influences by others when it comes to property acquisition and federal standards. Mention is made by the Planning Department in the legal issues section conditions exist in regards to reservations in grants of the easements and access and I would agree. Planning perhaps

should also indicate to Council that as it stands now, parties are not in agreement. Planning could have indicated, although resolution was forwarded to Council for hearing, that it lists three of the four Planning Commissioners expressed concerns for environmental factors, nature of easements while one Planning Commissioner indicated potential major league problems with this vacation. Planning also indicated in the other issue section that no other issues exist and I disagree with this evaluation. Planning in error has mentioned in the background analysis section that five impacted parcels are owned by one owner. A thorough analysis would have identified few other owners in this five parcel impacted area (and I think they brought that up). The Planning Department makes no indication of appropriate buffers between two differing zones of land. The Council should consider in its decision what is better for the general community while not forgetting our blurring property rights granted by the Constitution. I would suggest that autonomous developments that blight neighborhoods place residents in fear devalue property, decrease enjoyment of private property, restrict access, invoke other methods of psychological stress that could encourage some of our community to just give up and conclude there is nothing they can do, cannot be tolerated at any level. A no vote will indicate agreement that these behaviors or attitudes are not acceptable and most likely not necessary in the first place.”

President of the Council Coons interjected and asked that Mr. Carroll sum up his presentation as some of what he read had already been spoken; she asked for Mr. Carroll to be more concise. Mr. Carroll continued.

“Before I begin my analysis I would like to paraphrase a quote from Jerry Garcia that states “when somebody has do to something, its just pathetic it has to be me.” Mr. Carroll said I think the important thing for me here is that this access that we’re talking about, this touches my property. I have the right to enter that alley and access Bunting, that was taken away from me. The access that was given to me was dictated to me by the College. If we would have at least had some discussions on that, now some of the proposal, at least not in this one, narrows me down to ten feet north of my residence. In other words, the access that I had was a permanent part and attached to my properties. Currently, the City Manager is going to be in control of the temporary access and easements. I’m comfortable with this City Council here, and the City Manager, but what about the new City Council, what about the new City Manager? What might they decide is temporary? Some discussion was made here tonight about that. Ok.....that’s basically what I had here. I’d like to bring this to your attention too. Although I have no concerns with Goal 12 with the Comprehensive Plan, I note that the goals 1, 2, 4, 5, 7, 9, and 11 are not included. Goal 7 suggests buffering between new development and existing development. Goal 9 asks for a recommendation for a vacation request, speaks to developing a well balanced transportation system. There has not been a traffic study performed in that area since 2005. If I were a developer and I went to double the use of the street by thousands of people, I’m sure or I think that Planning Department probably would require me to do a traffic study. In other words, I would have to fix these potential problems now, if I don’t fix those problems, then the burden to fix those problems is gonna fall upon the City. Planning also suggests in section C that access shall not be restricted and makes no mention to the devaluing of the property, lets explore this more. First of all, I used to have a 40 foot wide paved street and a 20 foot wide paved alley to access the use of my property which formerly nobody was allowed to build upon. We looked at the access and that involved 20 feet”.

Mr. Carroll then asked Council if they had any questions in order to sum up his presentation. Councilmember Coons asked if he had any pictures. Mr. Carroll replied that he was not sure that he could bring them up on the overhead. He mentioned that

at Council's recent workshop on pollution in the City which is what he believes is happening with the Mesa State parking lots. He then showed on screen the dirt parking lots at Mesa State. The dirt parking lots contain a lot of dirt drainage which he believes goes straight into the river. Mr. Carroll showed a number of other pictures and talked about a letter from the Department of Public Health Clean Air Division.

President of the Council Coons again asked Mr. Carroll to sum up his presentation.

Mr. Carroll summed his presentation up by saying he would like to see this go back to Planning for more discussion.

There were no other public comments.

The public hearing was closed at 8:07 p.m.

Council President Coons asked the applicant if they would like to speak to any of the issues that were brought up.

Kent Marsh, Facilities Director, clarified that the letter referred to by Mr. Carroll from Ms. Marley Vain with the Department of Public Health Clean Air Division, was prior to the Health Departments review of all the facts and most of the issues have been corrected. He assured the Council that all private properties will have access.

Councilmember Pitts asked what the definition of temporary is. Mr. Marsh said it could be a couple of months up to a year, two years, or three years. There are other things planned for those lots.

Councilmember Palmer asked the City Attorney to explain Mesa State's exemption to following City regulations. City Attorney Shaver said as a State institution they are not subject to the City Codes and other jurisdictional requirements. The City and the College have a unique relationship because the College does voluntarily comply with the City's regulations.

Councilmember Hill asked City Manager Kadrich's opinion of the proposal before the City Council. He asked how the City and private property owners are protected.

City Manager Kadrich stated that the broader vacation was a request from Staff instead of piecemealing the vacations and for Council to see the College's Master Plan. The City will ensure that the homeowners continue to have access.

Councilmember Beckstein said despite the great relationship with the College she would like to see a clear picture of how these homeowners will have access to their property, and how the other concerns will be addressed.

City Attorney Shaver said, as the author of the Ordinance, he and his Staff have tried to balance the rights of the two, the College and the property owners. Only specific areas will be vacated immediately to utility easements. The other grayed areas would be vacated but would have a reserved access easement and the property owners will continue to be able to use those streets and alleys to access their properties. The City

Manager would need to determine if the access remains reasonable. They would need to comply with the other regulations to provide dust control, etc. Councilmember Palmer asked about previous vacations that have limited access. He asked what guarantees there will be for the citizens if they are dissatisfied with the outcome. City Attorney Shaver said that with the help of the City planners and engineering, the City Manager would have the decision-making authority.

Council President Coons noted the citizen concerns about the loss of alley access. City Attorney Shaver stated the law says the jurisdiction cannot restrict reasonable access. If an owner disagrees with the reasonableness, he can file an action which is the reason for wanting to balance the rights of each. Alleys, like streets, are public property and the City Council determines the disposition of that property.

Councilmember Beckstein asked about taking without due process and noted Mesa State College has worked with the Planning Department but there is an expectation that these properties will have access, can the Council exercise that authority to ensure that these owners retain access?

City Attorney Shaver advised that is the purpose of the hearing. On one side there are private property owners in the middle of a college campus where there usually aren't public streets and alleys. There are six criteria of approving a vacation in the Zoning and Development Code and the Council can consider all of those criteria.

Councilmember Palmer noted in the past, the vacations have been done in incremental steps and he sees why Staff wanted to do an overall proposal, but asked if the most critical portions are known at this time. Greg Moberg, Planning Services Supervisor, did ask Mesa State for an entire request so they could see the whole plan. He noted that leaving the right-of-way in place at the Miller property would make it difficult for the College to continue with their development plan.

Councilmember Hill acknowledged that this proposal was to allow for a more global picture but it does create some clumsiness because the College does not own all the properties. However, the way the ordinance is written, it allows the City Manager to implement this under the guidelines of the City Code. He is comfortable with going forward.

Councilmember Pitts said it allows the City Manager to use balance and addresses the situation.

Councilmember Susuras agreed with Councilmember Hill that the ordinance is well written and the access will be provided.

Councilmember Beckstein said the Council has worked for years to develop a strong working relationship with the College and she is proud the City is part of that growth and development of the College. She is in favor of keeping students off of North Avenue and 12th Avenue by providing housing on campus. She asked that the lines of communications with these property owners stay open.

Councilmember Kenyon said the policy side is pretty easy as this is the direction decided long ago. The issues the existing homeowners are facing is unfortunate. He is

not too concerned with the violations (dust, water, noise) as there are entities following up on the situation. He is in favor of moving forward.

Councilmember Palmer agreed with Councilmember Kenyon about the policy decision being clear. His concern is the timing. He would have preferred the incremental approach that allowed for more communication with the homeowners. It is disturbing to him about vacating access to private homes. He is also concerned about delegating decisions to someone else when they should be City Council's decision which leaves the door open to the citizens for redress. He says this is a big step and it isn't smooth.

Council President Coons compared the situation with the development of the Comprehensive Plan that avoided incremental and perhaps haphazard decisions. It gave citizens a clear vision and the ability to plan for the future. She appreciated looking at the bigger picture.

City Attorney Shaver made a correction to the ordinance before the question was called.

Ordinance No. 4431—An Ordinance Vacating Portions of Texas, Elm, Houston and Bunting Avenues and Associated Alley Rights-of-Way in the Mesa State College Area

Councilmember Hill moved to adopt Ordinance No. 4431, with the correction given to the Clerk by the City Attorney, and ordered it published. Councilmember Susuras seconded the motion. Motion carried by roll call vote.

Council President Coons called a recess at 8:44 p.m.

The meeting reconvened at 8:55 p.m.

Appeal of the Planning Commission's Decision Regarding the Schooley-Weaver Partnership Conditional Use Permit for a Gravel Extraction Facility, Located at 104 29 ¾ Road [File #CUP-2010-008]

An appeal has been filed regarding the Planning Commission's decision to deny a conditional use permit for a Gravel Extraction Facility, located at 104 29 ¾ Road.

The Conditional Use Permit was considered under the provisions of the 2000 Zoning and Development Code; therefore, the appeal was filed in accordance with Section 2.18.E of the 2000 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.

Council President Coons explained the City Council is acting as a court of appeals and the Council will not be looking at the merit of the decision but will be looking at the evidence that was presented at the Planning Commission meeting and determine if there was evidence sufficient for the decision the Planning Commission made.

City Attorney Shaver added that the letter of appeal is not part of the record and the arguments contained in that letter are not to be considered by the City Council.

Councilmember Kenyon noted that a number of Planning Commissioners talked about safety as their main reason of concern but he was not sure if the safety issues were clearly outlined. No safety concerns were found by the City Staff or City Engineers or outside agencies according to the Staff Report.

Brian Rusche, Senior Planner, noted that verbatim minutes were provided and that was the extent of the discussion.

Councilmember Kenyon wondered about bus stops and were there concerns in the record?

Mr. Rusche said that was relative to the time of operations and the applicant did offer a modification of those times. Regarding the bus stops there was nothing in the application and he does not recall any other information about bus stops.

Council President Coons asked if there were other questions to clarify the record.

There were no questions.

Councilmember Hill said that appeals are always interesting and little bit clumsy as the City Council convenes into what is perceived as a public hearing, but it's not really. Council is looking back on the record and what was given to the Planning Commission and the decisions they made. He said he has read it, listened to it, and the piece that he has concerns with, and he has seen it happen before, is where a Commissioner weighing the so called public safety versus private property rights. He didn't know where the public safety piece came in. It's a perception that having heavy industrial trucks in a residential neighborhood doesn't sound safe at all. He thinks it is forgotten that the driver of that vehicle has a family too. These are skilled and professional licensed drivers operating that piece equipment and whether they are on the interstate or on a smaller public road they have concerns about the public in their mind. He didn't see anything that was a foundation to create a safety criteria; that couldn't be mitigated or hadn't been addressed. He looked at the approval criteria, and said he did not see any foundation for a safety issue consideration but he could understand the thought process. He then addressed the approval criteria of the appeal and felt that one might accidentally make a decision that did not have a factual basis in the record. He therefore recommends the matter be remanded back to the Planning Commission to either find criteria to match the decision or make a decision based on the facts.

Councilmember Susuras stated that the Planning Commission did not ask the proper questions and agreed with Councilmember Hill that it should be remanded back to the Planning Commission.

Councilmember Kenyon said he agrees since safety issues were the basis for the denial but they did not provide a factual or informational basis so that the applicant could address those concerns.

Councilmember Palmer read from the record where one Planning Commissioner projected a discussion between a CDOT permit and the City that had not happened yet in making their decision so he agreed in remanding the matter back to the Planning Commission.

Councilmember Beckstein agreed, the discussions referred to are not in the record.

Councilmember Pitts stated the evidence presented doesn't support the reasons given and he agrees with sending the matter back to the Planning Commission.

Council President Coons agreed and did not think they acted arbitrarily or capriciously but rather projected their own emotions into the decision.

Councilmember Hill moved to remand the matter to the Planning Commission to rehear with the City Council's rationale as stated previously and direct the Planning Commission to provide a fact-based rationale on the safety concerns or redetermine the matter based on the facts presented. Councilmember Beckstein seconded the motion. Motion carried.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting adjourned at 9:10 p.m.

Stephanie Tuin, MMC
City Clerk

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

August 4, 2010

The City Council of the City of Grand Junction convened into regular session on the 4th day of August 2010 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Bruce Hill, Tom Kenyon, Gregg Palmer, Bill Pitts, Sam Susuras, and Council President Teresa Coons. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Coons called the meeting to order.

Public Forum on Medical Marijuana

Council President Coons announced the purpose and the format of the meeting. She explained how she will solicit comments. There is one topic, the retail sales of medical marijuana and marijuana infused products. The subject of the Constitution or those rights under the Constitution is not something the City Council is looking at affecting. The recent legislation gave local jurisdictions the ability to decide whether or not to allow the retail sales and how to regulate them if allowed. The City Council will eventually have the opportunity to make a decision to either ban, to allow but regulate or refer the issue to the ballot and ask the citizens. The decision will not be made tonight but rather the purpose is to gather input and this is the first of two public forums.

As far as ground rules, there are sign in sheets, and she asked speakers to limit comments to three to five minutes so the Council can hear from as many people as possible. There will be a short break every hour. She asked that cell phones please be silenced.

The public forum was opened at 7:07 p.m.

Kirk Rider, 872 Quail Run, present as an attorney at 200 Grand Avenue, representing a provider, said that not long ago he would have been surprised to be speaking on medical marijuana. About three months ago he began to help a client and he has learned there are many legitimate patients and many legitimate doctors that believe in administration of medical marijuana and there are some reputable people in the business. Mr. Rider pointed out several representatives of the business and their patients and said they can answer questions. He conceded that there are some people in the business that he would not have as clients. There are a broad range of providers. This does call for regulation. This is not something for the ballot. The caregiver option is unrealistic, the restrictions are so severe. The restrictions do not allow any profit, so he questioned who is going to do it?

Don Pacini, a cardiologist, stated that allowing medical marijuana is just a thin excuse for legalizing marijuana. Medical marijuana has been available as Marinol for a long time. There is no medical reason for marijuana. The reason Marinol is not used is it is not all that effective; it is used to increase appetite for AIDS patients and to alleviate nausea with

chemotherapy. How desperately ill patients are treated is one thing. He urged that these dispensaries need to be shut down. If it is decided to be dispensed, then dispense it through a pharmacy. It has a high addiction potential.

Cristin Groves, owner of a center, distributed prepared packets for the Council. Since the new bill, Council can decide whether to allow and regulate it or ban the centers. The City of Centennial tried to ban marijuana and a judge determined that was unconstitutional. If it gets banned, what kind of legal issues will that create for the City? The other thing is if it is banned, what does that mean for the City? The Health Department will be responsible for regulating the caregivers, not the City, and they won't get any revenue. In cities that are banning medical marijuana, there is a potential for bad things to happen because there are no regulations.

Brian Groves, co-owner of a center with his wife Cristin, would like to reiterate not being able to control or regulate caregivers and how they operate especially in residential areas. By having centers, there are regulations. Many hours were spent last week to comply with the State requirements in which each had to provide a lot of information to the State. His feeling is it will be very difficult to regulate caregivers. There are currently centers operating and they have been operating for about a year with no problems. There are some that give the centers a bad name, but most are trying to help their patients and do the best they can.

Karie Morris, Fruita, works at a center, and is a legal marijuana user for her arthritis and for pain in her back. She is extremely grateful that she can obtain her marijuana from a well-lit, well-informed environment. There are 66 cannabinoids in the plant and it takes all of them to provide the analgesic and anti-inflammatory properties. The regulations apply to centers but those regulations don't apply to caregivers. It took her seven days to put the documents together for the State application.

Ken Tigert, 304 Acoma Drive, is a disabled vet and is an insomniac on multiple medications and pain relievers. Mr. Tigert would rather not be on the medication the VA has him on. Two tokes of marijuana helps him go to sleep and he does not wake up with a hangover. He believes that this is one small step of shutting down the drug cartels. His provider supplies him with free marijuana, he does not smoke it every day, sometimes there is nothing he can do except take a toke to settle down. This is a medication that actually relieves people's pain.

John Colley, 464 31¼ Road, asked Council to not take away his medical marijuana; his depression is overwhelming.

Tina Hall, 2679 Caribbean Drive, owner of a center, said they help their patients. If this is put to a vote a lot of people will not understand what is going on. A ban will destroy sick people's quality of life. She is against banning and so are the patients. Some of these businesses have multiple leases, and it would hurt the business owners. City Council can come up with the regulations, everyone would comply. The State application was very hard, if they can pass the State's application, there won't be a problem and she has turned in her application to the State. The State has a lot of information on all of the owners; her center has been open a year and never had a problem.

Sherrel Carlson, an MIP (Manufacturing Infused Products) patient and caregiver, she has done the pharmaceutical route and it made her sicker. She has tried Marinol, it doesn't work and it is very expensive. She has dysautonomia. Medical marijuana keeps her from having incessant vomiting, they don't just use the plant, they make tinctures and ointments, pain patients are not low lives, they are just very sick.

Aaron Torlin, 269 21 Road, a minister of a marijuana ministry and a provider, said the use of marijuana is a God given right. It is the tree of life; many of the forefathers used and spoke of marijuana.

Travis Chambers, used to own a center, stated if the centers are banned it will be cheaper for the caregivers but the patients will not have a safe place to get the product. Marinol does nothing for you; the dispensaries are being overcharged; only the rich can afford to own them. He didn't make any money off of his dispensary. He made money off the edibles to stay open; it should be about the patient. He is on several medications, marijuana does not eat his bones and liver up, it does not get rid of all of his pain, but an edible does help his pain. A dispensary can provide it safely.

Dusty Higgins, owner of Nature's Medicine, has spoke in the past. The reason he is so passionate about it is because of the patients. Everyone that has tried Marinol will tell you it doesn't work. The rules change every week so he has to keep changing. The patients will be the ones affected; banning takes away the ability to get the product easily. The caregiver pushes it back to the underground. He believes they run a clean operation. He paid a lot of money for the submittal of his application; \$7 million was collected by the State last week from medical marijuana retail sales applicants.

Sharon Brooks, lives in Grand Junction, takes care of a few people that are very seriously ill. They have tried other treatments but now they are being treated with a natural herb. She asked what everyone was scared of, it's a little herb that is helping people, it is a win-win situation for everyone. It has created jobs, and in her opinion, does not hurt anyone. It has offered quality of life to very sick people. She would like to see the community be a leader and set the pace because she is tired of living in the dark ages.

Steve Dillenbeck, owner of Heavenly Healing, a dispensary, described some of the research he has done and described how a patient is questioned regarding their illness and when they return they are asked how what they were given has helped them. They learn from this on how to help the next patient. There are 60,000 different strains of marijuana so it is a big job to figure out what helps. It is his belief that by putting it on the ballot it will stop that research.

Larry Cullum, said that the "safe" medications spoken about by the doctor were harmful to him. He has MS (Multiple Sclerosis) and medical marijuana helps him and he does not take pharmaceuticals. Without the centers, he would still get his medicine, just illegally. He extended an invitation for the City Council to look at his medical records; he couldn't walk two years ago. Now that he is off pharmaceuticals, he is up and walking.

Council President Coons called a recess at 8:01 p.m.

The meeting reconvened at 8:13 p.m.

Lorna Cantrell, lives in Mesa County, said she has Stage 4 cancer and is allergic to all opiates. That's when she began using marijuana and it has worked for her. Banning dispensaries will not get rid of marijuana; it will be a larger underground market. There are twelve hundred growers that turned in applications to the State. The dispensaries won't sell to minors and it will help keep all Mexican pot out of the community. It has created jobs and revenue and helping a lot of sick people. She questioned the doctor's allegation about all these non-sick people smoking marijuana; she doesn't look like she has Stage 4 cancer. If dispensaries are banned they lose everything and so does everyone else.

Michael Moore, 292 Falls View Circle, spoke for patients that couldn't be here and invited everyone out to meet the patients on August the 14th. He spoke of a dvd that was provided to Council and said he appreciates the two public forums.

Gregg Davis, 1215 Main Street, said he is from the eastern slope, he is a patient and was an owner. He was on 92 pills a day and he couldn't walk after a year of therapy. They recommended marijuana to him and weaned him off of the drugs. He is now walking; it is not what he looks like on the outside. The marijuana has helped him.

Kim Smith, 2825 Double Quincy Place, stated that she is an owner of a dispensary and that keeps the drug cartel and the dealers off the street. They get cards from the State and the physicians are recommending the use. Felons cannot work in the centers. If a caregiver's crop goes bad, that patient will have to go to another city to purchase the product.

Cody Jacobs, patient and a caregiver, said he give away plants because he has excess. There is a need for an outlet to get rid of the excess. With the regulations, there needs to be a way to use the excess.

Brenton Swenson, stated that he owns a center and has paid a lot of money to stay in business. He does this for the patients; his center cares about a lot of people. It is crazy to ban dispensaries when they are helping people out. Those against it compare it with alcohol and other hard drugs. He lives a healthy lifestyle. He believes they are not hurting anybody but helping a lot of people and does not want to put it to a vote.

Shannon Gass, director of CCHPAA (Colorado Consumer Health Protection and Advocacy Association) said he was asked to help out with his experience working with regulation in the medical agency of JCAHO or Jayco (previously known as the Joint Commission on Accreditation of Healthcare Organizations, and still informally called "JCAHO" or "Jayco). Several have contacted him to work with and ensure that the dispensaries show competence and regulate themselves. Testing and publishing results and working toward a model and creating a certification would be a benefit. He is

concerned about containments. There is much more than the smokable form, he is interested in promoting the safest form, promoting a better standard for the community.

Eric Hoffman, 1887 Deerpark Circle South stated that his grandmother is a God fearing woman in her 80's and has cancer. She is a patient now, but she does not have access to a center and cannot find a caregiver as she lives in a rural area and she cannot travel. He believes that if one person can benefit from this, it will change one's mind and viewpoint.

Samantha McClelland, 2701 J Road, Fruita, said she is 33 years old and is a mother of four and a patient. She has suffered from epilepsy all her life, has grand mal seizures and used Dilantin until she became allergic. She died and was in a coma for three months, then she was put on Phenobarbital. She weaned herself off the Phenobarbital and uses edible marijuana and she has been seizure free for a year and half. Using marijuana allows her to function, to drive, and to spend time with her kids.

Chris Lozano, 536 Normandy Way, is a full time student at Mesa State. He started getting headaches last summer and was diagnosed with severe migraines. He was given medication by student health that makes him sleep 14 to 16 hours a day. He could not function so he tried medical marijuana in January and is now going to class. He is able to sleep and he is functional. Without a dispensary he won't be able to get his medication and is scared of the thought of them being closed. He was against it going to a vote and what matters is what the local authority thinks.

Laura Springer, 483 Logan Lane, Fruita, is a partner in Weeds. She loves her job, she loves dealing with the patients and she hears these stories all the time. She wants to talk about one product, Elsie's cream (marijuana infused). This cream helps arthritis and cures a headache. It is amazing and it would be a shame not to have the cream available. If this issue is put to a vote, and people have to rely on the caregivers, the caregivers are going to run out of their product and they will need a backup when this happens. She does not want the people to go back to the streets; the centers provide that backup to the caregivers and a safe and comfortable place.

Phillip Mier said there are people on each side. The State has already addressed it; it is now the City Council's job. Medical marijuana is used as a medicine and needs to be used as a medicine. The law is not their job, passing it is, laws need to be passed and followed. There are a lot of people who need this. He has a brain injury from a mugging several years ago and he needs the marijuana.

There were no others wanting to speak. Council President Coons thanked everyone for coming and being orderly and respectful. Another forum will be held on August 18th. Those that spoke at this forum are welcome to come and listen but she asked they not sign up to speak again.

Adjournment

The meeting adjourned at 8:51 p.m.

Stephanie Tuin, MMC
City Clerk



Date: July 22, 2010
 Author: Terry Franklin
 Title/ Phone Ext: Deputy Director,
USS 1495
 Proposed Schedule: Monday,
August 16, 2010
 2nd Reading
 (if applicable):

Attach 2
Watershed Memorandum of Understanding with
United States Forest Service

CITY COUNCIL AGENDA ITEM

Subject: Watershed Memorandum of Understanding with United States Forest Service
File # :
Presenters Name & Title: Greg Trainor, Director of Streets, Facilities, and Utilities

Executive Summary: The City of Grand Junction and the United States Department of Agriculture Forest Service, Grand Valley Ranger District (Forest Service) are renewing a Memorandum of Understanding (MOU) for five (5) years towards a partnership that will ensure protection of the quality and quantity of the City’s municipal water supply.

How this action item meets City Council Comprehensive Plan Goals and Policies:

Goal 6: Land use decisions will encourage preservation and appropriate reuse.

Renewing this MOU with the Forest Service will help preserve and improve the health of the lands within the watershed by maintaining the formal lines of communication and cooperation on projects both within the Forest boundary and on adjacent City lands.

Action Requested/Recommendation:

Authorize the Mayor to Sign the Memorandum of Understanding with the United States Department of Agriculture Forest Service Grand Valley Ranger District.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

There is no direct budget impact, though the Water Department budgets approximately \$30,000 each year to work cooperatively with the Forest Service on projects within the watershed that have reduced fire/fuel loads or improved water quality. This money is used as cash match for grants and has been matched 2.5 to 1 over last 3 years.

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

City Council meeting, May 19, 2004

Background, Analysis and Options:

This MOU is the culmination of an effort that stemmed from the watershed ordinance discussions in late 2002. From that discussion, Council made a commitment to enter into watershed MOU's with the three governmental agencies (Forest Service, Mesa County, and BLM) that have interests in and around the City's watershed in the Kannah Creek and Whitewater Creek basins. This watershed is the primary source of municipal water for the City of Grand Junction.

As shown on the map attachment, the watershed area is approximately 54,548 acres. Under the Forest Service control is 49,280 acres. The MOU contemplates that both parties will work together on efforts that include:

- ✓ The Forest Service's current development of the GMUG forest plan revision;
- ✓ Assisting each other in developing further information or communicating formally on the watershed area through maps, data collection, and semi-annual meetings;
- ✓ Cooperate together on land-use decisions or use of City-owned facilities in the Forest Service area;
- ✓ Work together and other agencies in developing a comprehensive watershed assessment and work program that will improve the overall health of the watershed.

Attachments:

Memorandum of Understanding w/appendices which includes the City of Grand Junction Watershed Area Map



FS Agreement No. _____
Cooperator Agreement No. _____

**MEMORANDUM OF UNDERSTANDING
Between The
CITY OF GRAND JUNCTION, COLORADO
And The
USDA, FOREST SERVICE
GRAND VALLEY RANGER DISTRICT**

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the City of Grand Junction, Colorado, hereinafter referred to as “the City,” and the USDA, Forest Service, Grand Valley Ranger District, hereinafter referred to as the “U.S. Forest Service.”

Background: As far back as 1915, the City and U.S. Forest Service have entered into cooperative agreements in order to protect the City’s municipal watershed. The most recent memorandum of understanding (MOU) was put into place in 2005 and expired in 2009. Both parties wish to renew the expired MOU.

Title: Protection of the City of Grand Junction Municipal Watershed (Kannah Creek, Whitewater Creek and North Fork of Kannah Creek Watersheds)

- I. **PURPOSE:** The purpose of this MOU is to document the cooperation between the parties to continue and formalize the well-established, existing partnership between the City of Grand Junction and Forest Service to ensure protection of the quality and quantity of the City’s municipal water supply;

Develop and implement a mechanism for continued communication and consultation between the parties in the processes and practices of making and implementing land use actions; and

Ensure an appropriate level of involvement by each party in new and existing projects’ planning and development within the “Area of Interest” (see map, Appendix A) in accordance with the following provisions.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The parties are committed to working as partners in order to protect the integrity of the municipal watershed, as established by agreements between the parties dating back to 1915. Appendix B to this memorandum of understanding lists the laws, regulations, policies and historical documents that are pertinent to this course of action.

The parties recognize that policy, land use or development decision by one party affect similar decisions by the other.



The parties further recognize the need to notify and involve each other in actions pertinent to the "Area of Interest."

In consideration of the above premises, the parties agree as follows:

III. THE CITY SHALL:

- A. Provide the U.S. Forest Service with the opportunity to review and comment on specific proposals under consideration by the City that might affect National Forest System (NFS) lands, as shown in Appendix C.
- B. Participate in the Grand Mesa, Uncompahgre and Gunnison National Forests' (GMUG's) Forest Plan Revision process and/or Oil and Gas Leasing EIS Revision process by submitting information, views, opinions or analyses gathered by the City that might be beneficial to the Forest Plan Revision or Oil and Gas Leasing EIS Revision. This would include, but not be limited to, information concerning the Grand Mesa Slopes Special Management Area and the Lands End Weed Management Area.
- C. Consider, establish and/or maintain stewardship practices, including grazing plan(s), erosion control and noxious weed control, on those parcels owned by the City within the Area of Interest.
- D. Update and keep current special use authorizations for City-owned facilities located on NFS lands. The City will continue to consult with the Forest Service on the preparation and revision of operation and maintenance plans for City facilities located on NFS lands when required by law and/or good stewardship practices. In those instances when it is determined by the Forest Service pursuant to law that additional authorizations are required, the City will obtain those authorizations.
- E. Impose additional requirements on their contractors, lessees, agents, etc., performing work on behalf of the City on NFS lands if the requirements are more stringent than those imposed by the Forest Service.
- F. Work with the Forest Service to grant easements on City land for trails and trailheads used by the public to access NFS lands.

IV. THE U.S. FOREST SERVICE SHALL:

- A. Provide the City the opportunity to review and comment on proposed actions under consideration by the Forest Service (see "Projects of Mutual Interest," Appendix C) that are within the "Area of Interest" (Appendix A). This includes new projects, as well as operating plans for existing permits. Advance notice will



be given to the City for projects proposed in the "Area of Interest" in addition to the public notice given during scoping periods under NEPA.

- B. Provide the City an opportunity for meaningful involvement in the development and implementation of land-use plans, programs, and decisions for National Forest System (NFS) lands and consider those views, opinions and analyses in the decision process. Specifically, the Forest Service will ensure that the City has a meaningful role and opportunity for input in the GMUG forest plan revision and implementation of the Pathfinder "toolbox" so that the Forest Service can ensure resource protection for the City's water supply as allowed under law, regulation and policy as it now exists or may be amended;
- C. When and where possible, assist the City in the collection of additional information on use (including dispersed recreation sites) within the Area of Interest, as is required by the City, so long as such collection is consistent with the Privacy Act of 1974, as amended. This will include notifying the City of observed conditions that appear to threaten water quality and describing the condition(s) as soon as practicable in writing.
- D. When and where possible, assist in installation of signs, as proposed by the City, for educating the public on efforts to protect the City's water quality. The Forest Service will approve the wording and location of those municipal watershed boundary signs to be located on National Forest System (NFS) lands.
- E. Make available to the City, upon request, nonproprietary information and resources concerning NFS lands located in and above gradient of the City's watersheds, including, but not limited to, data obtained through NFS land inventories maintained under the Forest Service's laws and regulations;
- F. Acknowledge City support in any publications, audiovisuals, and electronic media developed as a result of this MOU.

V. BOTH PARTIES SHALL:

- A. Cooperate in land-use decision making especially when the decision has or may have a direct impact on water quality. That cooperation shall be made and/or given in a manner consistent with the responsibilities and authorities assigned by this agreement or other applicable law or policy.
- B. Work together to achieve maximum benefits from available resources while safeguarding the City's water quantity and quality. Efficiency and effectiveness toward attaining that goal can be made by a reduction in the duplication of effort and working to attain better overall coordination of land and ecosystem management.



- C. Establish semi-annual meetings to review projects and activities and to share information and data collected (monitoring data, analyses, site inspection reports, traffic counts/data, trail logs, inspections reports, etc.). These meetings shall be in addition to any meeting(s) held for purposes of formal review or action such as the Forest Plan Revision.
- D. Make available, upon request, digital spatial data including supporting documentation (Metadata) with the following information: data sources, data steward, description of the data, source vintage, source scale reliability and attributing scheme;
 - a. Under the terms of this agreement, only non-classified data will be shared. If automated resource data is shared, it must be verified to the standards of the producing agency. It will be the responsibility of the Parties to request updates to the data. Data updates/information requests or exchanges made under or pursuant to this agreement shall not require a Freedom of Information or Open Records Act request.
 - b. The data provided under or pursuant to this agreement is not warranted for a particular purpose. Neither is it warranted for a purpose(s) other than the purpose(s) for which it was collected or generated by the producer, whether that is the City or the Forest Service.

VI. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal City Contacts:

City Program Contact	City Administrative Contact
Name: Laurie Kadrich, City Manager Address: 250 North 5th City, State, Zip: Grand Junction, CO 81501 Telephone: (970) 244-1503 FAX: Email: lauriek@gjcity.org	Name: Rick Brinkman, Water Services Manager Address: 333 West Avenue, Bldg. A City, State, Zip: Grand Junction, CO 81501 Telephone: (970) 244-1429 FAX: Email: rickb@gjcity.org



Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Connie Clementson, District Ranger Address: 2777 Crossroads Blvd., Unit 1 City, State, Zip: Grand Junction, CO 81506 Telephone: (970) 242-8211 FAX: (970) 263-5819 Email: cclementson@fs.fed.us	Name: Linda Bledsoe, Realty Specialist Address: 2777 Crossroads Blvd., Unit 1 City, State, Zip: Grand Junction, CO 81506 Telephone: (970) 263-5802 FAX: (970) 263-5819 Email: lbledsoe@fs.fed.us

- B. NON-LIABILITY. The U.S. Forest Service does not assume liability for any third party claims for damages arising out of this instrument.
- C. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or the City is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To the City, at the City's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the U.S. Forest Service or the City from participating in similar activities with other public or private agencies, organizations, and individuals.
- E. ENDORSEMENT. Any of the City's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of the City's products or activities.
- F. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate instruments and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization



by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation instrument that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective instrument, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective instruments must comply with all applicable law

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

- G. USE OF U.S. FOREST SERVICE INSIGNIA. In order for the City to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- H. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.
- I. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- J. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. The City shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.
- K. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The City shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)"

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW,



Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

- L. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.
- M. DEBARMENT AND SUSPENSION. The City shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the City or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- N. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.
- O. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through July 31, 2015 at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.
- P. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

TERESA COONS, Mayor
City of Grand Junction

Date

CONNIE CLEMENTSON, District Ranger
U.S. Forest Service, Grand Valley Ranger District

Date



The authority and format of this instrument have been reviewed and approved for signature.

MERNA FEHLMANN
U.S. Forest Service Grants & Agreements Specialist

Date

Burden Statement

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Appendices:

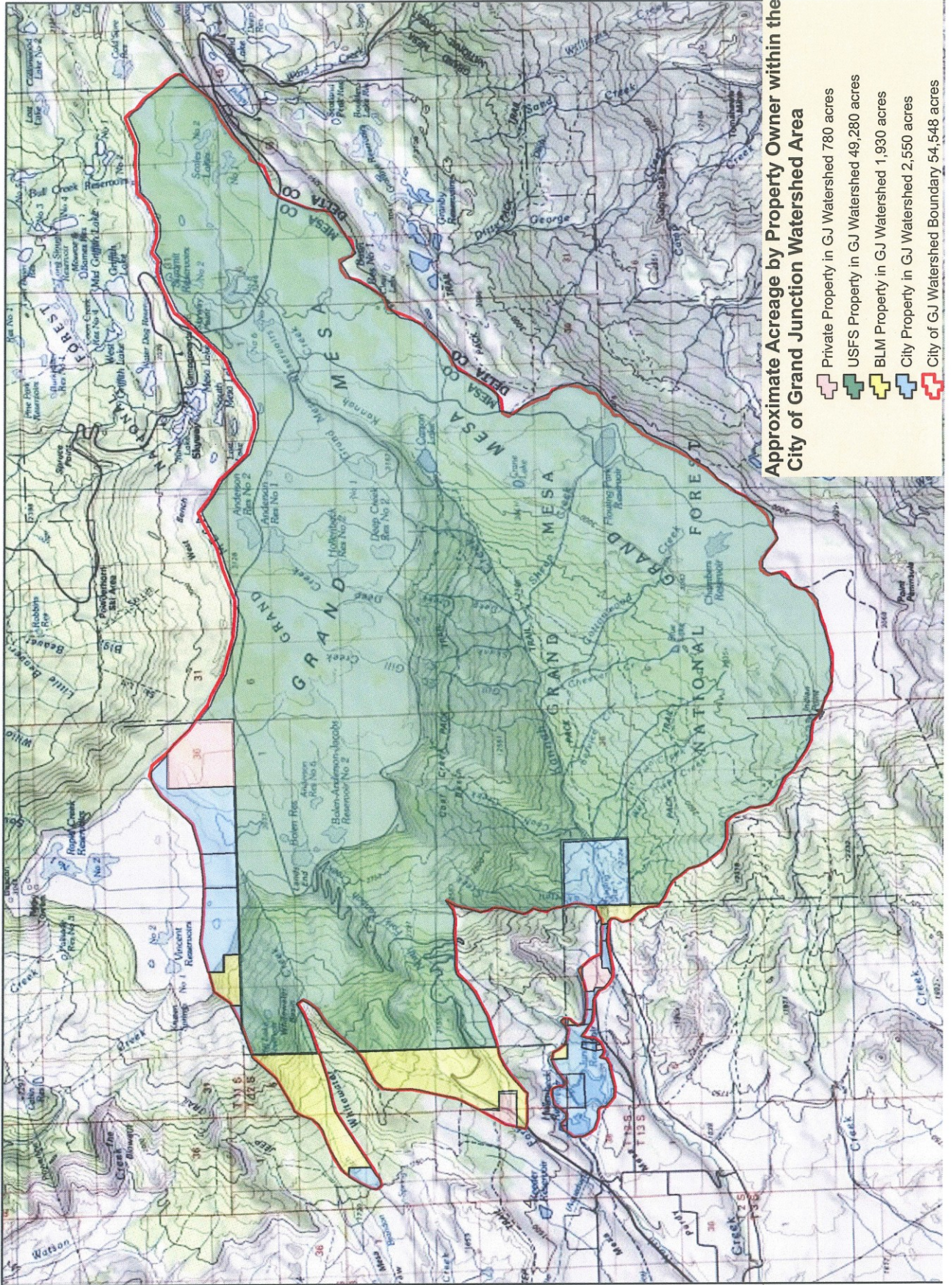
Appendix A: 2010 – City of Grand Junction Municipal Watershed

Map(s)

Appendix B: Laws, Regulations, Policies and Historical Documents

Appendix C: Projects of Mutual Interest

City of Grand Junction Watershed Area



Approximate Acreage by Property Owner within the City of Grand Junction Watershed Area

- Private Property in GJ Watershed 780 acres
- USFS Property in GJ Watershed 49,280 acres
- BLM Property in GJ Watershed 1,930 acres
- City Property in GJ Watershed 2,550 acres
- City of GJ Watershed Boundary 54,548 acres

Appendix B
Laws, Regulations, Policies and
Historical Documents

For the Forest Service:

- Article IV (Property Clause) of the Constitution of the United States
- The National Environmental Policy Act of 1969, (42 U.S.C. 4321 et seq., as amended)
- Multiple Use-Sustained Yield Act of 1960
- National Forest Management Act of 1976
- Clean Water Act (33 U.S.C. 1251, et seq., as amended)
- 1991 Grand Mesa, Uncompahgre and Gunnison National Forests Land Management Plan, as amended
- 1993 Grand Mesa, Uncompahgre and Gunnison National Forests Oil and Gas Leasing EIS
- Grand Mesa National Forest Travel Plan, as amended
- Forest Service Manual 2542, Municipal Supply Watersheds (stating, in part, “Do not rely on management practices to provide pure drinking water. Use only proven techniques in management prescriptions for municipal supply watersheds.”)
- 36 Code of Federal Regulations (CFR) 251.9, Municipal Watersheds

For the City of Grand Junction:

- Clean Water Act (33 U.S.C. 1251, et seq., as amended)
- Article XIV, Section 18 of the Colorado Constitution and legislation pursuant thereto; namely, C.R.S. §29-1-201, et seq.
- Article XX, Section 10 of the Colorado Constitution to providing for Home Rule and the City’s Charter
- Local Government Land Use Enabling Act, C.R.S. §29-20-105, et seq.

- Title 31 of the Colorado Revised Statutes

This memorandum of understanding is subsequent to the following documents:

- Agreement between the City and the Secretary of Agriculture dated June 16, 1915, providing for the cooperative supervision of the Kannah Creek watershed for the purpose of preventing contamination of the water of that basin.
- Memorandum of understanding between the City and Forest Service dated August 1994 for the purpose of protecting the Kannah Creek, Whitewater Creek and North Fork of Kannah Creek watersheds.
- Memorandum of understanding between the City and U.S. Forest Service dated June 10, 2004, for the purpose of protecting the Kannah Creek, Whitewater Creek and North Fork of Kannah Creek watersheds.
- Ordinance #3961, the Watershed Protection Ordinance, as established, is the fullest exercise of powers, authorities, privileges and immunities of the City of Grand Junction in maintaining and protecting the City's water supply and waterworks from injury and water supply from pollution or from activities that may create a hazard to health or water quality or a danger of pollution to the water supply of the City.
- Watershed Plan for the Town of Palisade and the City of Grand Junction, Colorado, dated August 2007 and developed between Genesis Gas and Oil, LLC, the U.S. Forest Service, the Bureau of Land Management, Mesa County, the Town of Palisade, the City of Grand Junction and other private landowners
- Resolution No. 115-07, a resolution by the Grand Junction City Council adopting the Watershed Protection Regulations
- Memorandum of Understanding between the State of Colorado, Department of Public Health and Environment (CDPHE) and the U.S. Forest Service, Rocky Mountain Region, to establish a framework for CDPHE and the Forest Service to work together in a cooperative manner on issues regarding the management and protection of water quality in state-defined source water assessment areas on NFS lands in Colorado (October 2009).

Appendix C

Projects of Mutual Interest

The City will work collaboratively with the Forest Service on the following types of applications or proposals that may be filed with the Forest Service and which may impact the “Area of Interest,” including but not limited to:

1. Sales, exchanges, leases or other conveyances of lands and any changes in designation of parcels for exchange into or out of private ownership on the Grand Valley Ranger District.
2. Mineral withdrawals and revocations.
3. Issuance of authorizations for roads, power lines, pipelines, telephone lines and other projects.
4. Forest planning information, resource information and resource management plans.
5. Schedule of Proposed Actions, Environmental assessments and environmental impact statements.
6. Forest Service designations of special use areas; i.e., community rock sources, communication site complexes.
7. Oil, gas and mineral exploration, development, production and reclamation plans including sand and mineral material contracts and plans of operation.
8. Proposed timber sales and timber management.
9. Water diversion projects.
10. Recreation plans.
11. Revisions of grazing allotment management plans.

The Forest Service will be afforded review and comment on the following types of applications or proposals that may be filed with the City and which may impact National Forest System lands, including but not limited to:

1. Residential subdivisions, mobile home parks and commercial or industrial development; sand and gravel contracts; solid waste disposal sites and sewage treatment sites within three miles of National Forest System lands.
2. Roads, power lines, pipelines, telephone lines and similar rights-of-way.

3. Building or special use permits that may affect National Forest System lands.
4. Zoning or subdivision regulations, amendments and changes.
5. Pesticide spraying areas (pesticide use proposals).
6. Dust prevention plans.
7. Plowing snow on roads associated within or crossing over National Forest System lands.
8. Multi-use (motorized and non-motorized) trail construction.
9. Actions affecting existing or potential access to National Forest System lands.



Date: August 10, 2010
 Author: Stephanie Tuin
 Title/ Phone Ext: City Clerk, x1511
 Proposed Schedule: _____
 _____ August 19, 2010
 2nd Reading
 (if applicable): _____

Attach 3
Agreement with Mesa County Elections for the November 2, 2010 Election

CITY COUNCIL AGENDA ITEM

Subject: Agreement with Mesa County Elections for the November 2, 2010 Election
File # (if applicable):
Presenters Name & Title: Stephanie Tuin, City Clerk

Executive Summary:

In order to place the City’s ballot question(s) regarding retail sales of medical marijuana on the November 2, 2010 ballot, an intergovernmental agreement setting forth the responsibilities of the City and the County in relation to the election is required. The agreement will be null and void if the City Council decides not to place a question(s) on the ballot.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

HB 1284 allows for governing bodies to place before the voters the question of whether marijuana and marijuana infused products can be sold at retail. This agreement allows the City to place a question on the November, 2010 ballot.

Action Requested/Recommendation:

Authorize the City Clerk to Enter into an Intergovernmental Agreement with Mesa County Elections for the Conduct of the City’s Special Election to be Coordinated with the General Election to be held on November 2, 2010

Board or Committee Recommendation:

No committee recommendation at this time.

Background, Analysis and Options:

Election law requires coordination of polling place (vote center) elections being held on the same day. The City has contracted with Mesa County for the conduct of its elections for a number of years.

The IGA format has not changed from previous years. The cost of contracting with the County has increased significantly in recent years due to the additional requirements placed on Counties for use of equipment at vote centers. The additional certifications, the number of machines, the requirement for a paper trail, accessibility requirements and security requirements has increased their costs (and subsequently the City's pro rata share). The County will calculate the actual cost once it knows the number of entities participating in the election and the size of the ballot.

Financial Impact/Budget:

Mesa County Elections estimates the cost to the City of Grand Junction to be approximately \$40,000. Adequate appropriation exists in the General Fund to cover this expenditure.

Legal issues:

The IGA continues to hold a place for the City on the 2010 ballot. The Uniform Election Code requires that the IGA be signed by August 24, 2010.

Other issues:

None.

Previously presented or discussed:

The City Council is hosting public forums to gather input on this issue and has not made the final decision to place the question on the ballot. This agreement only ensures that the option remains open.

Attachments:

The Intergovernmental Agreement

**INTERGOVERNMENTAL AGREEMENT
MESA COUNTY
CITY OF GRAND JUNCTION
COORDINATED ELECTION - NOVEMBER 2, 2010**

The following shall represent the Intergovernmental Agreement ("Agreement") between the Mesa County Clerk and Recorder hereinafter referred to as ("Clerk") and the City of Grand Junction hereinafter referred to as ("Political Subdivision").

1. PURPOSE: Pursuant to the terms of this Agreement, the Clerk and Political Subdivision agree to the scheduling and conducting of a Polling Location (Vote Center) Election on Tuesday, November 2, 2010 ("General Election") subject to the duties of the Political Subdivision. The Coordinated Election may involve more than one political subdivision with overlapping boundaries, and the Clerk shall serve as the Coordinated Election Official ("CEO") for all political subdivisions involved in the Election. The Political Subdivision has appointed Stephanie Tuin as its Designated Election Official ("DEO") who will have primary responsibility for election procedures that are the responsibility of Political Subdivision. The Election shall be held under the provisions of the Colorado Revised Statutes Election Code (Title 1) and the rules promulgated by the Secretary of State.
2. PRECINCTS and VOTING LOCATIONS: Locations for the deposit of voted Mail Ballots not returned through the United States Postal Service will be those established by the Clerk. A walk-in ballot distribution site for mail-in ballots will be open at the Mesa County Elections Division office, 544 Rood Ave, third floor, beginning on Monday, October 11, 2010, each business day thereafter from 8:00 a.m. to 5:00 p.m. through Monday November 1, 2010, and on Election Day, November 2, 2010 from 7:00 a.m. until 7:00 p.m.

The ballot drop box locations for voted ballots not returned through the United States Postal Service will be those designated by the Clerk as follows:

- Mesa County Elections Division at County Courthouse
- Mesa County Recording Division at County Courthouse
- Mesa County Clerk's branch at Mesa Mall
- Mesa County Clerk's branch at the Mesa County Fairgrounds
- Mesa County Clerk's branch at the Fruita Civic Center
- Mesa County Clerk's branch at the Clifton Peachtree Shopping Center

Early Voting will be available in five locations October 19 through October 29 except for Sunday:

- Good Will
October 18 through October 22 (Monday through Friday);
October 25 through October 29 (Monday through Friday)
8:00 a.m. until 6:00 p.m.
- Clifton Community Hall
October 18 through October 22 (Monday through Friday);
October 25 through October 29 (Monday through Friday)
8:00 a.m. until 6:00 p.m.
- Mesa County Fairgrounds Jockey Club
October 18 through October 22 (Monday through Friday);
October 25 through October 29 (Monday through Friday)
8:00 a.m. until 6:00 p.m.
- Fruita Police Dept. Community Room
October 18 through October 22 (Monday through Friday);
October 25 through October 29 (Monday through Friday)
8:00 a.m. until 6:00 p.m.
- (old) Mesa County Courthouse
October 18 through October 22 (Monday through Saturday);
October 25 through October 29 (Monday through Friday)
8:00 a.m. until 6:00 p.m.
October 23 (Saturday) 10:00 a.m. – 4:00 p.m.

Vote Centers will be available in twenty-one locations on November 2, 2010 from 7:00 a.m. until 7:00 p.m.

3. APPOINTMENT OF ELECTION JUDGES: All election judges and/or deputy clerks shall be appointed and trained by the Clerk.
4. LEGAL NOTICES: Publication of any required legal notices concerning Political Subdivision's election which are to be published prior to certification of the ballot content to the Clerk shall be the responsibility of the Political Subdivision. A copy of the published legal notice shall be submitted to the Clerk for her records. Publication of notices required, which are to be published after

certification of the ballot, shall be the responsibility of the Clerk. Additional notices required by charter or by-laws of the Political Subdivision shall be the responsibility of the Political Subdivision.

If the Political Subdivision is submitting a ballot issue concerning the creation of any debt or other financial obligation as contemplated in Article X, Section 20 of the Colorado Constitution, the Political Subdivision shall post notice of financial information as set forth in C.R.S. 1-7-908 on the Political Subdivision's website or, if the Political Subdivision does not maintain a website, at the Political Subdivision's chief administrative office no later than **October 13, 2010**, which is 20 days before the Election.

5. RECEIVING AND PROCESSING OF PETITIONS: Any necessary petition process for the Political Subdivision shall be the responsibility of same. The Clerk shall provide voter registration lists as required and requested.
6. BALLOT CONTENT: In accordance with C.R.S. 1-1-110(3) and 1-5-203(3)(a), the ballot content must be certified to the Clerk by Political Subdivision, in its exact form, no later than 5:00 p.m. on Friday, **September 3, 2010**. The ballot content may be delivered to the Clerk at the Elections Division, 544 Rood Avenue, Suite 301A, Grand Junction, CO 81501 or be mailed in sufficient time to arrive by such date to the Elections Division, P.O. Box 20000, Grand Junction, CO 81502-5009. Time is of the essence. Ballot contents shall also be submitted in electronic format in MS Word.
7. RECEIVING OF WRITTEN COMMENTS AS COVERED BY SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION: The DEO is solely responsible for the process of receiving written comments and summarizing such comments as are required by Section 20 of Article X, Sec 20 (3)(b)(v) of the Colorado Constitution ("TABOR") and C.R.S. 1-7-901(4) by Friday, **September 17, 2010**.
8. RECEIVING OF PETITION REPRESENTATIVE'S SUMMARY OF COMMENTS: Receipt of the summary of comments from the petition representatives shall be the sole responsibility of the Political Subdivision. Pursuant to C.R.S. 1-7-903(3), the summary of comments must be filed with the Political Subdivision no later than Monday, **September 20, 2010**.

9. PREPARATION AND MAILING OF NOTICES FOR BALLOT ISSUE ELECTIONS: Pursuant to C.R.S. 1-7-904, the Political Subdivision shall certify the "Tabor Notice" information and the final and exact summary of comments concerning its ballot issue(s) to the Clerk no later than 5:00 p.m. on Tuesday, **September 21, 2010**, for inclusion in the ballot issue mailing as required by Section 20, Article X, of the Colorado Constitution. Data shall be transmitted to the Clerk in MS Word format. The Clerk shall coordinate the text for the ballot issue mailing for all participating Mesa County political subdivisions into one notice. Said ballot issue mailing shall be prepared and mailed by the Clerk in accordance with Article X, Section 20(3)(b) of the Colorado Constitution at least 30 days prior to the election, which deadline, pursuant to C.R.S. 1-1-106(5), shall be Friday, **October 1, 2010**.
10. PREPARATION FOR ELECTION: The Clerk shall be responsible for preparing and printing the ballots and sample ballots for the General Election. The Clerk will provide the DEO of the Political Subdivision with a proof of ballot prior to printing for final approval. The DEO reviewing the ballot prior to printing will be required to respond within 24 hours of notification in order to make any adjustments to the final ballots.
11. CONDUCT OF GENERAL ELECTION: The Clerk shall be responsible for the conduct of the Coordinated Election, pursuant to Title 1, of the Colorado Revised Statutes and Secretary of State Rules.
12. MAIL-IN VOTING (PREVIOUSLY KNOWN AS ABSENTEE): Completed applications for mail-in ballots shall be transmitted to the Clerk at the following address for processing: Mesa County Elections Division, PO Box 20000, Grand Junction, CO 81502-5009, or hand-delivered to the Mesa County Elections Division office at 544 Rood Avenue, Suite 301A, Grand Junction, CO 81501. The Clerk shall, upon receipt of such a request, mail a ballot package to the eligible elector in accordance with C.R.S. 1-8-102.
13. TABULATION OF BALLOTS: All processes relating to the tabulation of ballots shall be the responsibility of the Clerk. An unofficial abstract of votes will be provided to the political subdivision upon completion of the counting of all ballots on election night or if time does not allow for completion, the following day.

14. CANVASS OF VOTES: The canvass of votes will be the responsibility of the Clerk and shall be completed in accordance with C.R.S. 1-10-102(1) no later than November 19, 2010.
15. ALLOCATION OF COST OF ELECTION: The Political Subdivision shall reimburse the Clerk for the TABOR notice and election costs incurred by the Clerk pursuant to this Agreement. Such reimbursement shall be made to the Clerk within thirty days of receipt of billing from the Clerk. The Clerk's determination regarding such costs shall be final and at her sole discretion and shall not be subject to dispute unless clearly unreasonable. A minimum charge of \$250 will be assessed. Estimated cost is between \$40,000.00 and \$111,180.00 depending on how many other political subdivisions participate.
16. INDEMNIFICATION: Political Subdivision agrees to indemnify and hold harmless the Clerk from any and all loss, costs, demands or actions, arising out of or related to any actions, errors or omissions of Political Subdivision in completing its responsibilities relating to the General Election.
17. AGREEMENT NOT EXCLUSIVE: The Clerk may enter into other substantially similar agreements with other political subdivisions for the conduct of other elections.
18. VENUE: Venue for any dispute hereunder shall be in the District Court of Mesa County, Colorado.

THIS AGREEMENT has been executed by the parties hereto as of the dates and year written below.

Mesa County Clerk & Recorder

City of Grand Junction

Janice Rich

Stephanie Tuin, City Clerk

Date

Date



Date: July 8, 2010
 Author: Lori V. Bowers
 Title/ Phone Ext: Senior Planner / 4033
 Proposed Schedule: 1st
Reading August 2, 2010
 2nd Reading: August 16, 2010

Attach 4
Public Hearing – Heritage Villas Rezone, Located at 606 ½ 29 Road

CITY COUNCIL AGENDA ITEM

Subject: Heritage Villas Rezone - Located at 606 ½ 29 Road, from R-4 to R-8
File # RZ-2010-062
Presenters Name & Title: Lori V. Bowers, Senior Planner

Executive Summary:

A request to rezone 1.6 acres, located at 606 ½ 29 Road, from R-4 (Residential – 4 units per acre) zone district to R-8 (Residential – 8 units per acre) zone district. The proposed project is to provide a retirement village consisting of 10 units and a single family residence for the owner of the property.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 5: To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

During the required neighborhood meeting the concept of the proposed project is to provide a retirement village, with a single family residential unit, for the owner of the property; two, two bedroom units; six one bedroom units; two studio units and a one bedroom caretaker’s unit located over the community/game room, which is for the use of the residents, thus providing a mix of housing types, family types and addressing the needs of elderly residents.

Action Requested/Recommendation:

Hold a Public Hearing and Consider Final Passage and Final Publication of the Proposed Ordinance.

Board or Committee Recommendation:

At the July 13, 2010 meeting, the Planning Commission forwarded a recommendation of approval to the City Council.

Background, Analysis and Options:

Please see the attached background information and staff report.

Financial Impact/Budget:

N/A

Legal issues:

There are none.

Other issues:

N/A

Previously presented or discussed:

This matter has not been previously presented or discussed.

Attachments:

Site Location Map / Aerial Photo Map
Comprehensive Plan Map / Existing City and County Zoning Map
Blended Residential Map
Concept Plan
Proposed Ordinance

BACKGROUND INFORMATION					
Location:		606 ½ 29 Road			
Applicants:		Donnie Yancey, owner; Donny Eilts, developer; Ken O'Bryan, representative			
Existing Land Use:		Vacant land			
Proposed Land Use:		Single-family residence with 10 retirement living units			
Surrounding Land Use:	North	Church			
	South	Car wash, vacant land and single-family residences along F Road			
	East	Single family residences			
	West	Mesa County Open Space			
Existing Zoning:		R-4 (Residential 4 du/c)			
Proposed Zoning:		R-8 (Residential 8 du/ac)			
Surrounding Zoning:	North	County RSF-4 (Residential Single Family 4 du/ac) and PD (Planned Development)			
	South	B-1 (Neighborhood Business) and County RSF-4 (Residential Single Family 4 du/ac)			
	East	County RSF-4 (Residential Single Family 4 du/ac)			
	West	CSR (Community Service and Recreation)			
Future Land Use Designation:		Residential Medium (4 – 8 du/ac)			
Zoning within density range?		X	Yes		No

1. Background

The property was annexed into the City in 1994 as part of the Darla Jean Annexation which consisted of approximately 499 acres, including airport lands and land on both sides of F Road. Upon annexation the subject parcel was zoned R-4 (Residential – 4 dwelling units per acre).

A neighborhood meeting was held on Friday, April 16, 2010. Nine neighbors signed the attendance sheet. The preliminary site plan was shown and the developer's representative explained the concept of a retirement village for the 1.6 acre parcel. The developer's architect explained the concept of the plan and the various elements of the site. The project was explained to have a single-family residence, for the owner of the property; two, two bedroom units; six, one bedroom units; two studio units and a one bedroom care taker's unit located over the community/game room, which is for the use of the residents. Units would have garages, and additional visitor parking would be provided. There will be storage units available for the residents to rent if they so choose. All maintenance to the buildings and landscaping will be provided by the on-site caretaker. Fencing is proposed for portions of the project and is required as a

buffer where R-8 zoning is adjacent to B-1 zoning, as is the case on the southern most boundary of the property. Residential zones that abut other residential zones do not have to provide fencing, although the Grand Junction Municipal Code (GJMC) allows the decision-maker to require fencing in certain circumstances. The need for fencing was discussed during the neighborhood meeting.

In the past a Rezone of a property was based solely on certain criteria found in the Zoning and Development Code. With the adoption of the new Comprehensive Plan and the codification of the Zoning and Development Code, a concept plan is now required as part of a rezone application.

Based on the concept plan submitted, the request to rezone the property to R-8 (Residential – 8 dwelling units per acre) will accommodate the proposed site plan which has an overall density of 7.5 dwelling units per acre. The Comprehensive Plan shows this area to develop in the Residential Medium category, which is 4 to 8 dwelling units per acre. The Blended Residential Map shows this area to develop anywhere from 4 to 16 dwelling units per acre.

2. Section 02.140 of the Grand Junction Municipal Code

In order to maintain internal consistency between this Code and the Zoning Maps, map amendments must only occur if:

(1) Subsequent events have invalidated the original premise and findings; and/or

Response: The property was originally zoned R-4, 16 years ago and has remained vacant. With the adoption of the new Comprehensive Plan, which provides a vision for a diversity of housing types for a spectrum of incomes, and be child and senior friendly, the proposed rezone will meet Goal 5. Goal 5 states: “To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.” As part of the “Six Guiding Principles” that will shape our growth through the Comprehensive Plan, we should allow and encourage more variety in housing types (besides just single family detached lots) that will better meet the needs of our diverse population.

Based on Goal 7 of the Comprehensive Plan, which states: “New development adjacent to existing development (of a different density/unit type/land use type) should transition itself by incorporating appropriate buffering.” This Goal can be met with adequate fencing of the subdivision; fencing is required anywhere R-8 zoning abuts a business zone such as B-1.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

Response: Several Plans have been adopted recently, all reflecting the encouragement of increased density or mixed use in this area. The Transportation Plan shows future improvements to 29 Road, which is classified as a Principal Arterial, which will provide direct access to I-70 in the future. The

Mixed Use Opportunity Corridor and the Future Land Use Map of the Comprehensive Plan along with the Blended Residential Map all indicate that increased density and a mix of housing types as shown by the applicant's rezone application is consistent with all the adopted Plans.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed; and/or

Response: There are adequate public utilities adjacent to the subject parcel that can be extended through the property to facilitate new construction at the requested density. Community facilities, such as a convenience store, a large grocery store, restaurant and other neighborhood facilities and uses are within walking distance of the subject parcel.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or

Response: Similar to Item 2 above, increased density for this site makes sense and is supported by the numerous Plans mentioned above. If you notice the Aerial Photo Map, you can see that the subject parcel is surrounded by development, therefore there is no vacant land in this area with a higher density zoning that would allow this development.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

Response: The applicants state in their General Project Report that by rezoning the property to allow for a higher density the major benefit will be another option for the aging population within the community. Keeping aging, retired citizens in the neighborhood is a benefit because they contribute so much to the volunteer sector of the community. Furthermore the proposed retirement community will further benefit the area due to its close proximity to many neighborhood commercial amenities discussed above in Item 3. Finally the proposed community is within walking distance of GVT's bus routes along F Road.

FINDINGS OF FACT/CONCLUSIONS/CONDITIONS:

After reviewing the Heritage Villas Rezone, file number RZ-2010-062, a request to rezone the property from R-4 (Residential – 4 units per acre) to R-8 (Residential – 8 units per acre), the following findings of fact and conclusions have been determined:

1. The requested R-8 zone district is consistent with the goals and policies of the Comprehensive Plan.
2. The review criteria in Section 02.140 of the Grand Junction Municipal Code have all been met.

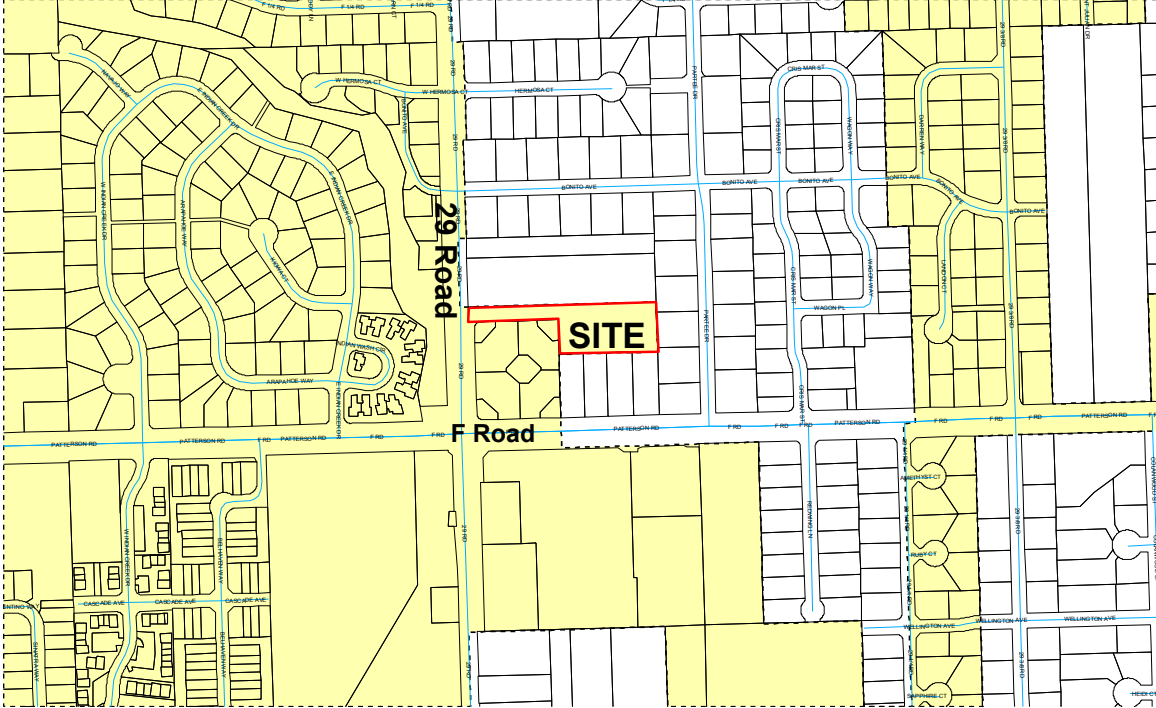
PLANNING COMMISSION RECOMMENDATION:

The Planning Commission forwarded a recommendation of approval from their meeting of July 13, 2010.

Site Location Map

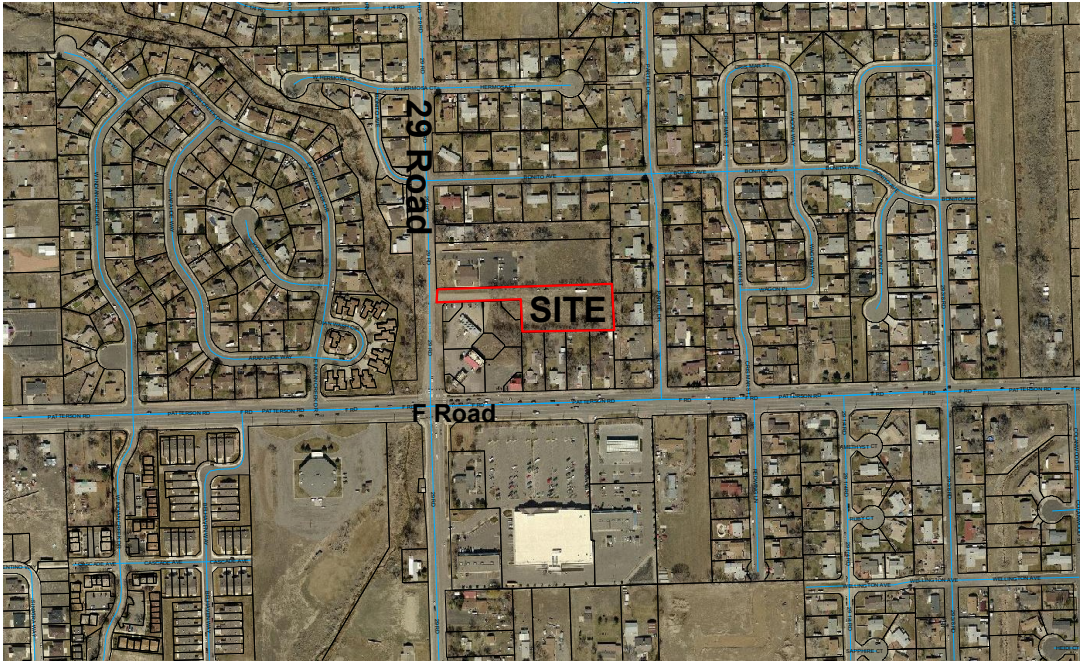
City Limits

606 1/2 29 Road



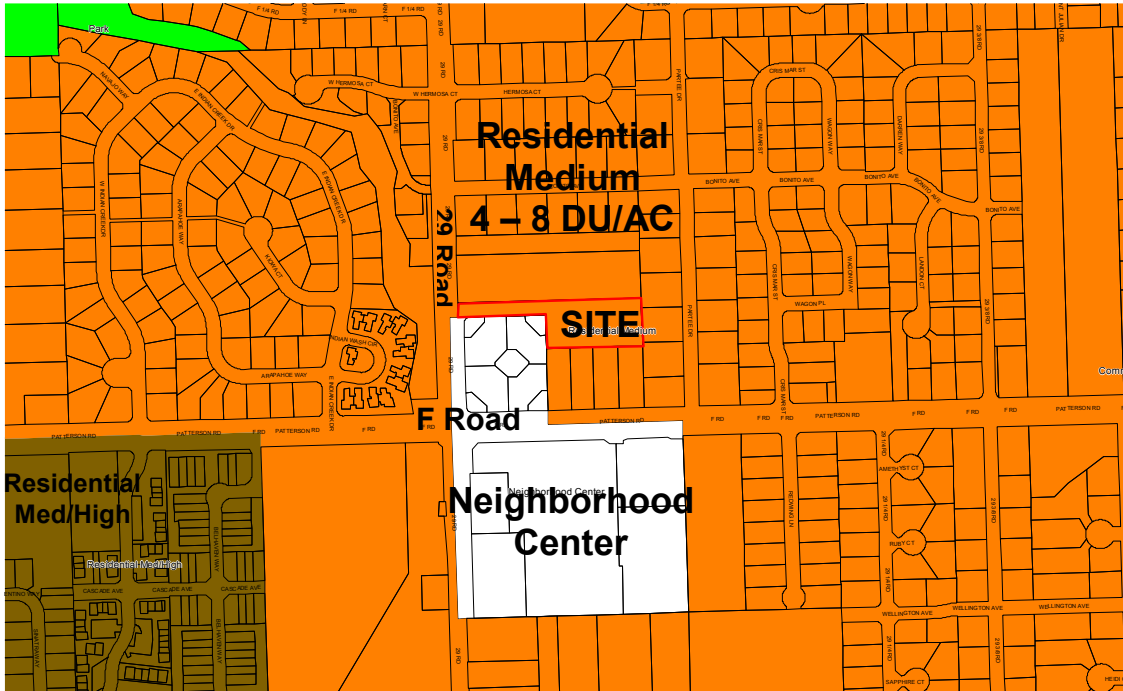
Aerial Photo Map

606 1/2 29 Road



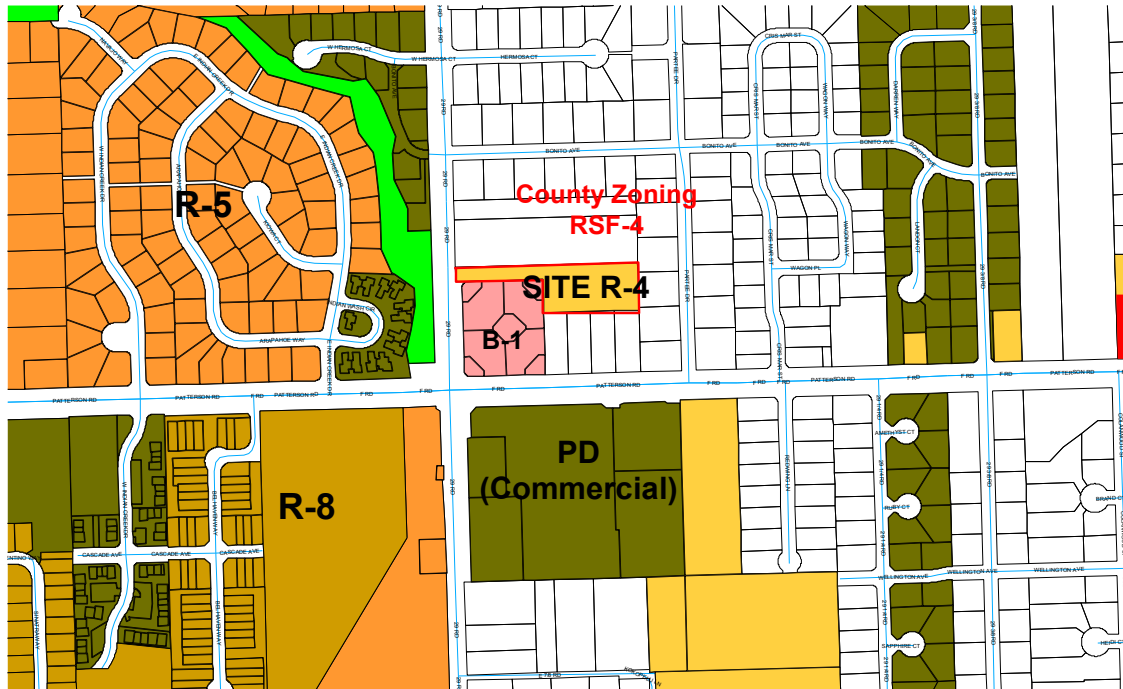
Comprehensive Plan Map

606 1/2 29 Road



Existing City and County Zoning Map

606 1/2 29 Road

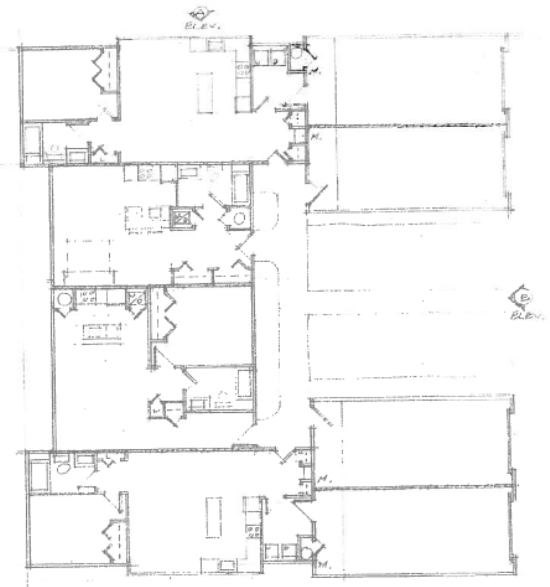


NOTE: Mesa County is currently in the process of updating their zoning map. Please contact Mesa County directly to determine parcels and the zoning thereof."

Blended Residential Map

606 1/2 29 Road

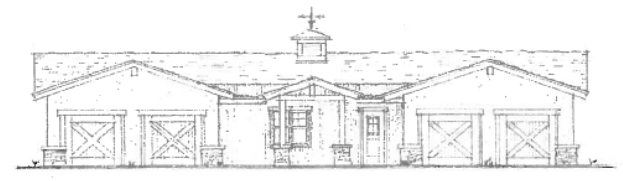




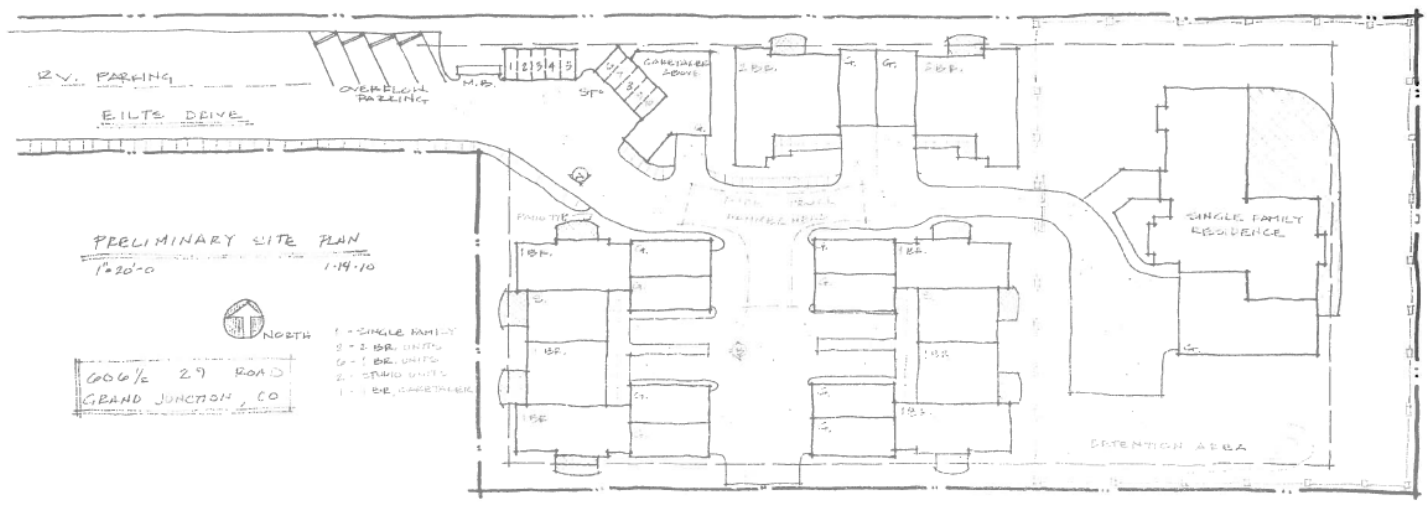
FLOOR PLAN
1/8" = 1'-0" 1-14-10



ELEVATION 'A'
1/8" = 1'-0" 1-14-10



ELEVATION 'B'
1/8" = 1'-0" 1-14-10



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE REZONING HERITAGE VILLAS
FROM R-4 (RESIDENTIAL – 4 UNITS PER ACRE) TO
R-8 (RESIDENTIAL – 8 UNITS PER ACRE)**

LOCATED AT 606 ½ 29 ROAD

Recitals.

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of rezoning the Heritage Villas property from R-4 (Residential – 4 units per acre) to the R-8 (Residential – 8 units per acre) zone district for the following reasons:

The zone district meets the recommended land use category as shown on the future land use map of the Comprehensive Plan, Residential Medium, 4 to 8 units, and the Comprehensive Plan's goals and policies and/or is generally compatible with appropriate land uses located in the surrounding area.

After the public notice and public hearing before the Grand Junction City Council, City Council finds that the R-8 zone district to be established.

The Planning Commission and City Council find that the R-8 zoning is in conformance with the stated criteria of Title 21, Section 02.140 of the Grand Junction Municipal Code.

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

The following property shall be rezoned R-8 (Residential – 8 units per acre).

BEG SW COR SEC 5 1S 1E N 429 FT E 660 FT S 165 FT W 330 FT S 264 FT W 330
FT TO BEG EXC THAT PT TAKEN BY PLAZA 29 AND EXC W 30 FT FOR RD ROW

ALSO KNOWN AS TAX PARCEL NUMBER 2943-053-00-136

Introduced on first reading this 2nd day of August, 2010 and ordered published.

Adopted on second reading this _____ day of _____, 2010.

ATTEST:

City Clerk

Mayor



Date: June 8, 2010
 Author: Lori V. Bowers
 Title/ Phone Ext: Senior Planner / 4033
 Proposed Schedule: 1st
Reading August 2, 2010
 2nd Reading: August 16, 2010

Attach 5
Public Hearing- Lee/Bell Rezone, Located at 315 Ouray

CITY COUNCIL AGENDA ITEM

Subject: Lee/Bell Rezone - Located at 315 Ouray Avenue, from R-O to B-2
File #: RZ-2010-066
Presenters Name & Title: Lori V. Bowers, Senior Planner

Executive Summary:

A request to rezone 0.14 acres, located at 315 Ouray Avenue, from R-O (Residential Office) zone district to B-2 (Downtown Business) zone district to allow retail sales in a gallery within the home.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 4: Support the continued development of the downtown area of the City Center into a vibrant and growing area with jobs, housing and tourist attractions.

Rezoning the property to B-2, will allow the applicants to remain living in their home and provide a “mixed use” by providing retail sales in a gallery setting in their home.

Action Requested/Recommendation:

Hold a Public Hearing and Consider Final Passage and Final Publication of the Proposed Ordinance.

Board or Committee Recommendation:

At the July 13, 2010 meeting, the Planning Commission forwarded a recommendation of approval to the City Council.

Background, Analysis and Options:

Please see the attached background information and staff report.

Financial Impact/Budget:

N/A

Legal issues:

None

Other issues:

N/A

Previously presented or discussed:

This matter has not been previously presented or discussed.

Attachments:

Site Location Map / Aerial Photo Map
Comprehensive Plan Map / Existing City Zoning Map
Proposed Ordinance

BACKGROUND INFORMATION					
Location:		315 Ouray Avenue			
Applicants:		Sandra G. Lee, owner; Don Bell, representative			
Existing Land Use:		Single-family residence, with home occupation			
Proposed Land Use:		Single-family residence, with retail sales area			
Surrounding Land Use:	North	Residential			
	South	United States Postal Service repair facility			
	East	Single-family residence			
	West	Single-family residence / Commercial parking lot			
Existing Zoning:		R-O (Residential Office)			
Proposed Zoning:		B-2 (Downtown Business)			
Surrounding Zoning:	North	R-8 (Residential – 8 units per acre)			
	South	B-1 (Neighborhood Business)			
	East	R-O (Neighborhood Business)			
	West	R-O (Neighborhood Business)			
Future Land Use Designation:		Downtown Mixed Use (DT, 24+ DU Acre, 96 Jobs/Acre)			
Zoning within density range?		X	Yes		No

1. Background

The applicants live at 315 Ouray Avenue, in a two story home built in 1902. They have a home occupation (design and manufacture of jewelry) which is allowed in an R-O zone. The issue is that retail sales are not allowed. The owner, Sandra Lee, is a jewelry designer who would like to turn a portion of her home into a small gallery to display her work and be able to sell her designs to the general public. B-2 zoning would allow her to do so. The purpose of the B-2 zoning district is to promote the vitality of the Downtown Area as provided by the Comprehensive Plan. The purpose of the B-2 zone district also encourages pedestrian circulation and common parking areas.

The applicants feel that a fine crafts gallery in the Ouray neighborhood justifies the rezone as it is in compliance with the intent and purpose of the Comprehensive Plan Downtown Mixed Use designation. The owner has spoken with the Mesa County Building Department about converting the entry hall and the living room into her gallery/showroom. The Building Official has said that they need to meet some minimal accessibility standards, at least a ramp to the main entry door. Furthermore, depending on the number of potential customers at any one time, a restroom for the public may be needed with accessible features. The structure already has a handicapped accessible ramp and one restroom that is handicap accessible.

The applicant held a neighborhood meeting on April 20, 2010. Both neighbors on either side of the subject property attended the meeting along with a neighbor from across the

street. All of the neighbors were in support of the plan and said it would be a great addition for the neighborhood. They also thought that all four houses on this block should be rezoned. One neighbor was concerned about possible parking conflicts, but the applicants stated that they had already contacted the Chamber of Commerce about leasing parking. The Chamber's parking lot is about 100 feet away to the east. The applicant plans to post a small sign in the front directing people to the parking lot. They have obtained a signed parking agreement with the Chamber, in accordance with the Grand Junction Municipal Code (GJMC), Section 06.050.(e)(iii).

2. Section 02.140.(a) of the Grand Junction Municipal Code

In order to maintain internal consistency between this Code and the Zoning Maps, map amendments must only occur if:

(1) Subsequent events have invalidated the original premise and findings; and/or

Response: The new Comprehensive Plan's Goal 4 states: "Support the continued development of the downtown area of the City Center into a vibrant and growing area with jobs, housing and tourist attractions."

This area is designated on the Future Land Use Map as Downtown Mixed Use.

Rezoning the property to B-2, will allow the applicants to remain living in their home and provide a "mixed use" by providing retail sales in a gallery setting in their home, thereby supporting Goal 4.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

Response: The Comprehensive Plan designation of Downtown Mixed Use encourages the proposed B-2 zoning and therefore the request is consistent with the Plan. The new Comprehensive Plan reflects changes in the character of the downtown area.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed; and/or

Response: There are adequate public and community facilities existing in this area.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or

Response: This is a re-use of an existing home, adding more intensity to the property, as encouraged by the Downtown Mixed Use area of the Comprehensive Plan.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

Response: The applicants state in their General Project Report that there is currently a lack of fine craft galleries in the Ouray neighborhood. The rezone will provide a walkable neighborhood gallery, while continuing to provide residential housing.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Lee/Bell Rezone, file number RZ-2010-066, a request to rezone the property from R-O (Residential Office) to B-2 (Downtown Commercial), the following findings of fact and conclusions have been determined:

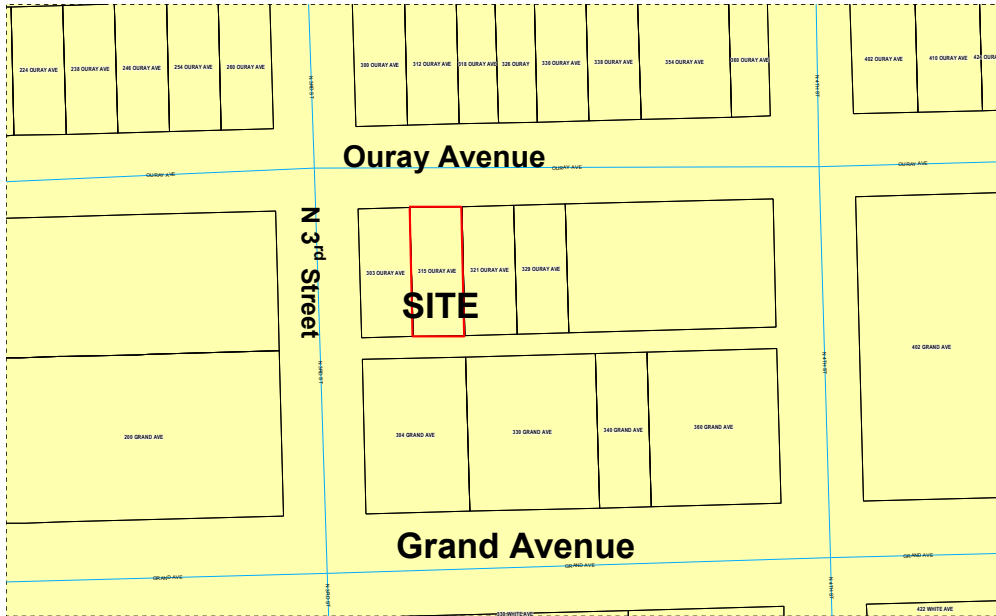
1. The requested B-2 zone district is consistent with the goals and policies of the Comprehensive Plan.
2. The review criteria in Section 02.140 of the Zoning and Development Code have all been met.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommended approval to City Council on July 13, 2010.

Site Location Map

315 Ouray Avenue



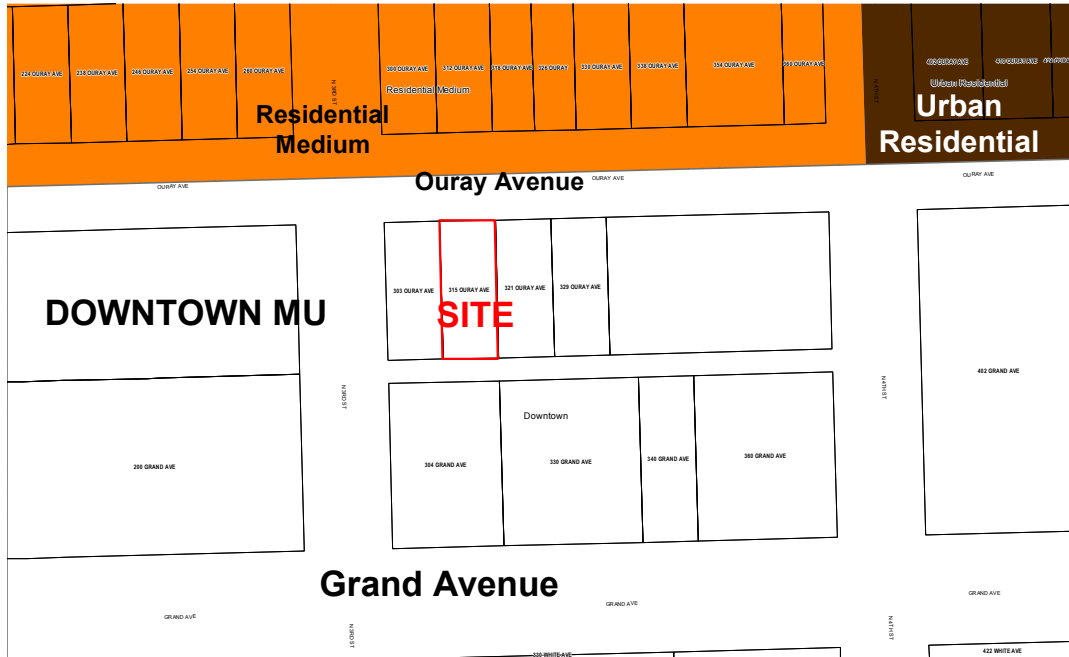
Aerial Photo Map

315 Ouray Avenue



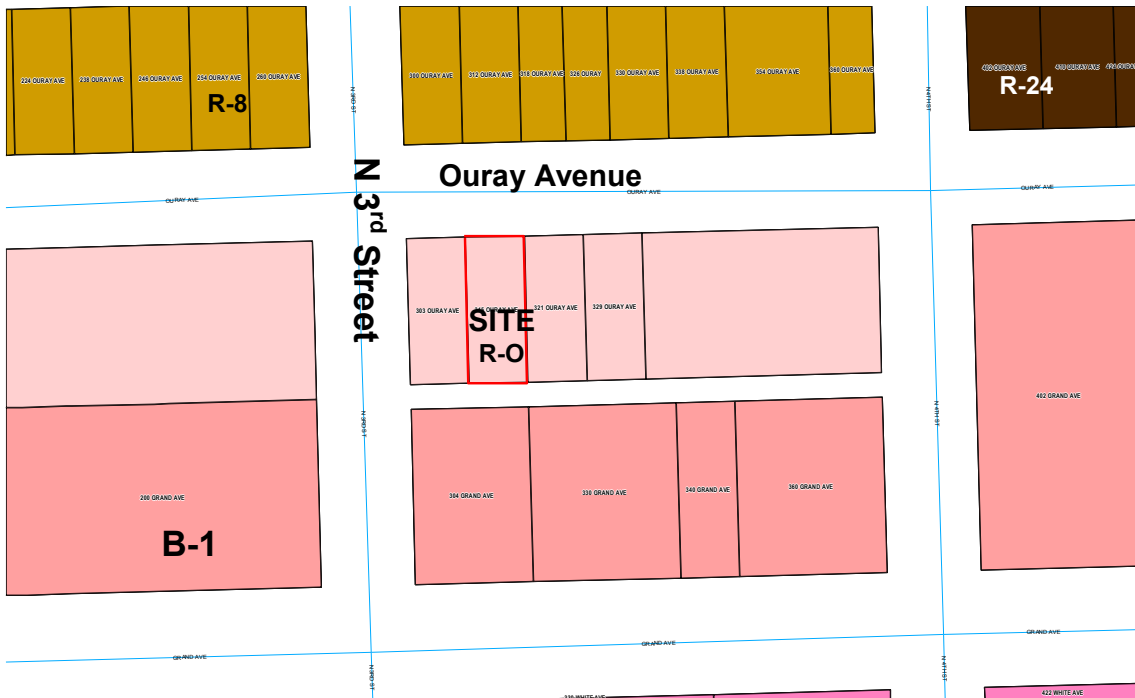
Comprehensive Plan Map

315 Ouray Avenue



Existing City Zoning Map

315 Ouray Avenue



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE REZONING THE LEE/BELL PROPERTY
FROM R-O (RESIDENTIAL OFFICE) TO
B-2 (DOWNTOWN COMMERCIAL)**

LOCATED AT 315 OURAY

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of rezoning the Lee/Bell property from R-O (Residential Office) to the B-2 (Downtown Commercial) zone district for the following reasons:

The zone district meets the recommended land use category as shown on the future land use map of the Comprehensive Plan, Downtown Mixed Use and the Comprehensive Plan's goals and policies and/or is generally compatible with appropriate land uses located in the surrounding area.

After the public notice and public hearing before the Grand Junction City Council, City Council finds that the B-2 zone district to be established.

The Planning Commission and City Council find that the B-2 zoning is in conformance with the stated criteria of Title 21 Section 02.140 of the Grand Junction Municipal Code.

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

The following property shall be rezoned B-2 (Downtown Business).

Lots 3 and 4, Block 75, Grand Junction, CO

Also identified as Tax Parcel 2945-142-39-002

Introduced on first reading this 2nd day of August, 2010 and ordered published.

Adopted on second reading this _____ day of _____, 2010.

ATTEST:

City Clerk

Mayor



Date: August 5, 2010
 Author: Rob Schoeber
 Title/ Phone Ext: Parks & Recreation Director - 3881
 Proposed Schedule: August 16, 2010
 2nd Reading
 (if applicable): _____

Attach 6
Great Outdoors Colorado (GOCO) Grant Application for Stadium Re-development

CITY COUNCIL AGENDA ITEM

Subject: Great Outdoors Colorado (GOCO) Grant Application for Stadium Re-development.
File # (if applicable):
Presenters Name & Title: Rob Schoeber, Parks and Recreation Director

Executive Summary:

The Parks and Recreation Department is seeking approval to apply for grant funding through Great Outdoors Colorado (GOCO) for assistance with the re-development project at Suplezio Field and Stocker Stadium. A resolution from the governing entity must be approved and attached prior to grant submission. This grant application is due August 27th with awards scheduled to be announced in December 2010.

During this upcoming grant cycle, GOCO is offering a 'Special Opportunities Grant' for park renovation projects. The maximum award for this grant is \$700,000.00.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal # 8: Create attractive public spaces and enhance the visual appeal of the community through quality development.

This project will renovate a large portion of the stadium that was constructed in the late 1970's and early 1980's.

Goal # 12: Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.

This complex serves as a regional facility for the entire valley. The proposed improvements will ensure safety and accessibility compliance for many years into the future.

Action Requested/Recommendation:

Adopt Resolution Supporting the Application for GOCO Funding.

Board or Committee Recommendation:

The Parks Improvement Advisory Board has approved funding for the project in the amount of \$250,000.

Background, Analysis and Options:

The proposed re-development of Suplizio Field and Stocker Stadium involves several elements including grandstand replacement, new concessions and hospitality area. The emphasis of this project will be placed on the improved safety and accessibility of all areas including seating, restrooms, dugouts, etc. This re-development project was first presented in 2008 at an estimated cost of \$16 million, however due to the local economy, construction costs have been revised to \$8.3 million. If approved, the project will be led by JUCO and financed through the Grand Junction Public Finance Corporation.

Financial Impact/Budget:

GOCO Grant funding for the stadium project will offset the total planned construction amount of \$8,300,000.

Legal issues:

No legal issues with authorization to accept this grant if awarded. Other legal concerns will be addressed with the project.

Other issues:

None.

Previously presented or discussed:

The City Council has authorized the facility partners to explore funding options for this project.

Attachments:

Proposed Resolution

RESOLUTION NO. ____-10

A RESOLUTION SUPPORTING THE GRANT APPLICATION FOR A SPECIAL OPPORTUNITY LOCAL PARKS AND OUTDOOR RECREATION GRANT FROM THE STATE BOARD OF THE GREAT OUTDOORS COLORADO FOR THE SUPLIZIO FIELD/STOCKER STADIUM RE-DEVELOPMENT PROJECT

Be it resolved by the City Council of the City of Grand Junction, Colorado that:

The City of Grand Junction supports the Great Outdoors Colorado grant application for the Suplizio Field/Stocker Stadium re-development project and that the City of Grand Junction has requested \$700,000 from Great Outdoors Colorado to improve the safety and accessibility at Suplizio Field and Stocker Stadium.

Section 1: The City Council of the City of Grand Junction strongly supports the application and has authorized matching funds for a grant with Great Outdoors Colorado.

Section 2: The City Council of the City of Grand Junction authorizes the expenditure of funds necessary to meet the terms and obligations of any grant awarded.

Section 3: The project site is owned by City of Grand Junction and will continue to be owned and operated by City of Grand Junction for the next 25 years.

Section 4: City Council of the City of Grand Junction will continue to maintain Suplizio Field and Stocker Stadium in a high quality condition and will appropriate funds for maintenance in its annual budget.

Section 5: City of Grand Junction has the ability to complete this project and has demonstrated this ability in several park improvement projects, such as the Canyon View Park project funded through GOCO in 2002, and the Melrose Park project funded through GOCO in 2009.

Section 6: This resolution to be in full force and effect from and after its passage and approval.

PASSED and ADOPTED this _____ day of _____, 2010

President of the Council

ATTEST:

City Clerk



Date: July 27, 2010

Author: Jim Bright

Title/ Phone Ext: 1466

Proposed Schedule: August 16,
2010

2nd Reading

(if applicable): _____

Attach 7
Amending Ambulance Transportation Fees

CITY COUNCIL AGENDA ITEM

Subject: Amending Ambulance Transport Fees
File # (if applicable):
Presenters Name & Title: Ken Watkins, Fire Chief

Executive Summary:

The Fire Department is requesting Council adopt a resolution allowing the City to charge the most recently established Mesa County ambulance transport fees when providing ambulance transport services.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 11: Public safety facilities and services for our citizens will be a priority in planning for growth.

Adoption of this resolution will help keep fees current and ensure consistency with the fees charged by all other ambulance transport providers in Mesa County.

Action Requested/Recommendation:

Adopt the Proposed Resolution.

Board or Committee Recommendation:

None

Background, Analysis and Options:

The Mesa County EMS Resolution allows the adjustment of ambulance transport fees in March of each year. These fee adjustments are based on the National Consumer Price Index over the most recent 12 month period and are the maximum allowable rates ambulance transport providers in Mesa County may charge. For 2010, rates were increased 3.46%.

Currently the City adjusts ambulance transport fees as part of the annual budget adoption, making changes effective January 1 of the new budget year. This process

causes ambulance transport fees to be behind at least nine months and not consistent with other ambulance providers in Mesa County.

The Fire Department is requesting authorization to begin charging the current Mesa County ambulance transport fee structure and in the future, make these adjustments effective at the time Mesa County makes these adjustments.

Financial Impact/Budget:

The financial impact will be dependent upon the amount of adjustment made by Mesa County each year. Displayed below is the current City fee structure compared with the fee structure established by the Mesa County EMS Adjustment.

Current City Fee Structure

Service	Fee
Advanced Life Support (ALS)	\$823.00
Basic Life Support (BLS)	\$603.00
ALS Critical Care Transport	\$896.00
BLS Critical Care Transport	\$685.00

Fee Structure as Established by the Mesa County EMS Adjustment

Service	Fee
Advanced Life Support (ALS)	\$851.00
Basic Life Support (BLS)	\$624.00
ALS Critical Care Transport	\$927.00
BLS Critical Care Transport	\$709.00

Legal issues:

None

Other issues:

None

Previously presented or discussed:

This item has not been previously discussed with Council.

Attachments:

Proposed resolution

RESOLUTION NO. __-10

A RESOLUTION AMENDING AMBULANCE FEES IN THE CITY OF GRAND JUNCTION, COLORADO AND CREATING A MECHANISM FOR THOSE FEES TO INCREASE AS INCREASES ARE APPROVED BY MESA COUNTY

Recitals.

In February 2006 the City Council and the Mesa County Board of Commissioners established the City as the ambulance service provider for the designated City Ambulance Service Area (ASA). The City ASA was established in accordance with Resolution 2004-220-2 (Mesa County EMS Resolution).

By and through the Mesa County EMS Resolution Mesa County regulates *inter alia* the fees that may be charged by the ambulance service providers operating in the County, including the City operating within the City ASA. The Mesa County EMS Resolution provides that ambulance transport fees are adjusted in March of each year. The adjustments are based on the National Consumer Price Index (CPI) over the most recent 12 month period.

Currently the City implements changes to its ambulance transport fees as part of its annual budget adoption in December of each year. Because the City's fees become effective early January of each year those fees are different than the County authorized fees for a period of at least nine months. That difference causes confusion and results in the City's fees being less than authorized for a majority of a year.

With this Resolution the City, by and through the Grand Junction Fire Department, will be authorized to charge the most current Mesa County ambulance transport fees at the time the fees are set and going forward the City Council authorizes the Fire Department to adjust and implement its ambulance transport fees on the schedule set by the County resolution.

The City Council does desire to review the ambulance fees during its budget deliberations and accordingly does hereby request the City Manager to provide information about the ambulance fees (such as percentage change) during the City's annual budget process. Notwithstanding such review the terms of this Resolution shall control unless or until this Resolution is amended or rescinded.

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

1. The City of Grand Junction, Grand Junction Fire Department ambulance transport fees shall be set in accordance with the fees set annually by the Mesa County EMS Resolution.
2. The ambulance transport fees for the balance of 2010 shall be increased in accordance with the following schedule (attached). The fees provided for in the schedule shall become effective immediately.

3. Fees set by prior resolution that are in conflict with this resolution are hereby repealed and all other fees not in conflict or specifically allowed shall be set in accordance with the maximum allowable rates in the Mesa County EMS Resolution.

All other terms of any other applicable resolution not modified herein shall remain in full force and effect.

PASSED AND ADOPTED this _____ day of _____, 2010.

President of the Council

ATTEST:

City Clerk

Service	Fee
Advanced Life Support (ALS)	\$851.00
Basic Life Support (BLS)	\$624.00
ALS Critical Care Transport	\$927.00
BLS Critical Care Transport	\$709.00



Date: August 11, 2010
 Author: Belinda White
 Title/ Phone Ext: Sr. Admin.
Assist./Ext. 1508
 Proposed Schedule: August 16,
2010
 2nd Reading (if applicable):

Attach 8
Ratification of a Contract for the Sale of Property
at 635 Grand Avenue

CITY COUNCIL AGENDA ITEM

Subject: Ratify a Contract for the Sale of Property at 635 Grand Avenue
File # (if applicable):
Presenters Name & Title: John Shaver, City Attorney

Executive Summary:

The City has entered into a contract with Salon Capelli LLC for the sale of the real property (vacant) located at 635 Grand Avenue. The City has owned the property since 1996 and is no longer using the property. Sale of the property will allow a commercial use of the property.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

This vacant parcel has been used for employee parking in the past but is no longer needed and selling it places the property back in the hands of private ownership for commercial use.

Action Requested/Recommendation:

Adopt a Resolution Authorizing the Sale of 635 Grand Avenue Property to Salon Capelli, LLC for \$65,000.00.

Board or Committee Recommendation:

The City Council Property Committee has reviewed the proposed sale and a majority of the members of the Committee recommend the sale on the terms established.

Background, Analysis and Options:

The property at 635 Grand Avenue was purchased by the City in 1996. In early 2010 the City advertised that it would accept offers or proposals for the use or development of the property. At that time no offers were received.

The City was later approached by the owner of Salon Capelli to lease the property. Salon Capelli will be purchasing the property at 627 Grand and has extended an offer to purchase the City property to use for parking for the business.

Financial Impact/Budget:

The buyer will pay \$65,000.00 for the property.

Legal issues:

The contract is contingent on City Council ratification. If ratification by a majority of the City Council does not occur on August 16, 2010 then the contract is null and void.

Previously presented or discussed:

The City Council Property Committee did consider the sale and a majority of the Committee recommended that the City Council approve the sale.

Attachments:

Resolution authorizing the sale of 635 Grand Avenue to Salon Capelli LLC with the Contract to buy and sell real estate between the City of Grand Junction and Salon Capelli LLC

RESOLUTION NO. __ -10

**A RESOLUTION AUTHORIZING THE SALE BY THE CITY OF GRAND JUNCTION,
COLORADO, OF CERTAIN REAL PROPERTY;
RATIFYING ACTIONS HERETOFORE TAKEN IN CONNECTION THEREWITH,
LOCATED AT 635 GRAND AVENUE**

Recitals:

The City of Grand Junction has entered into a contract with Salon Capelli LLC for the sale by the City of that certain real property described as Lots 9 and 10, inclusive, Block 83 of the Original Plat of the City of Grand Junction, County of Mesa, State of Colorado, also known as 635 Grand Avenue ("Property" or "the Property.")

The City Council Property Committee has reviewed the proposed sale and a majority of the members of the Committee recommend the sale on the terms established.

The City Council must consider the recommendation of the Property Committee and if that recommendation is favorably considered by a majority of the City Council, then the Council must ratify the sales agreement.

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

1. That the City Council hereby authorizes the sale of the Property by the City to Salon Capelli LLC for \$65,000.00.
2. All actions heretofore taken by the officers, employees and agents of the City relating to the purchase of the Property which are consistent with the provisions of the attached Contract to Buy and Sell Real Estate and this Resolution are hereby ratified, approved and confirmed.
3. That the officers, employees and agents of the City are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Resolution and the attached Contract to buy and Sell Real Estate, including but not limited to the delivery of the deed.

PASSED and ADOPTED this _____ day of _____ 2010.

President of the City Council

Attest:

City Clerk

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(CBSI-5-09) (Mandatory 7-09)

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THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

CONTRACT TO BUY AND SELL REAL ESTATE

Date: _____

1. AGREEMENT. Buyer agrees to buy, and Seller agrees to sell, the Property defined below on the terms and conditions set forth in this contract (Contract).

2. DEFINED TERMS.

2.1. Buyer. Buyer, SALON CAPELLI, LLC, will take title to the real property described below as **Joint Tenants** **Tenants In Common** **Other**

2.2. Property. The Property is the following legally described real estate in the County of MESA, Colorado:
LOTS 9 & 10 BLOCK 83 OF THE CITY OF GRAND JUNCTION, MESA COUNTY, STATE OF COLORADO
("Property")

known as No. 635 GRAND AVENUE, GRAND JUNCTION, CO 81501
Street Address City State Zip

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded.

2.3. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 4.2.1	Alternative Earnest Money Deadline	NOT APPLICABLE ("N/A")
2	§ 5.1	Loan Application Deadline	N/A
3	§ 5.2	Loan Conditions Deadline	N/A
4	§ 5.3	Buyer's Credit Information Deadline	N/A
5	§ 5.3	Disapproval of Buyer's Credit Information Deadline	N/A
6	§ 5.4	Existing Loan Documents Deadline	N/A
7	§ 5.4	Existing Loan Documents Objection Deadline	N/A
8	§ 5.4	Loan Transfer Approval Deadline	N/A
9	§ 6.2.2	Appraisal Deadline	N/A
10	§ 6.2.2	Appraisal Objection Deadline	N/A
11	§ 7.1	Title Deadline	N/A
12	§ 7.2	Document Request Deadline	N/A
13	§ 7.3	Survey Deadline	N/A
14	§ 7.4.4.1	CIC Documents Deadline	N/A
15	§ 7.4.5	CIC Documents Objection Deadline	N/A
16	§ 8.1	Title Objection Deadline	N/A
17	§ 8.2	Off-Record Matters Deadline	N/A
18	§ 8.2	Off-Record Matters Objection Deadline	N/A
19	§ 8.3.2	Survey Objection Deadline	N/A
20	§ 8.6	Right of First Refusal Deadline	N/A
21	§ 10.1	Seller's Property Disclosure Deadline	N/A
22	§ 10.2	Inspection Objection Deadline	N/A
23	§ 10.3	Inspection Resolution Deadline	N/A
24	§ 10.5	Property Insurance Objection Deadline	N/A
25	§ 12	Closing Date	AUGUST 31, 2010
26	§ 17	Possession Date	AUGUST 31, 2010
27	§ 17	Possession Time	UPON CLOSING
28	§ 32	Acceptance Deadline Date	
29	§ 32	Acceptance Deadline Time	

2.4. Applicability of Terms. A check or similar mark in a box means that such provision is applicable. The abbreviation "N/A" or the word "Deleted" means not applicable and when inserted on any line in **Dates and Deadlines** (§ 2.3), means that the corresponding provision of the Contract to which reference is made is deleted. The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

28 2.5. Day; Computation of Period of Days, Deadline.
29 2.5.1. Day. As used in this Contract, the term "day" shall mean the entire day ending at 11:59 p.m., United States Mountain Time
30 (Standard or Daylight Savings as applicable).

31 2.5.2. Computation of Period of Days, Deadline. In computing a period of days, when the ending date is not specified, the first day
32 is excluded and the last day is included, e.g., three days after MEC. If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday
33 (Holiday), such deadline Shall Shall Not be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be
34 checked, the deadline shall not be extended.

35 3. INCLUSIONS AND EXCLUSIONS.

36 3.1. Inclusions. The Purchase Price includes the following items (Inclusions):

37 3.1.1. Fixtures. If attached to the Property on the date of this Contract, lighting, heating, plumbing, ventilating, and air conditioning
38 fixtures, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom
39 systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories), garage door openers including
40 N/A remote controls; and N/A

41 3.1.2. Personal Property. The following are included if on the Property whether attached or not on the date of this Contract: storm
42 windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings, curtain rods, drapery rods, fireplace inserts,
43 fireplace screens, fireplace grates, heating stoves, storage sheds, and all keys. If checked, the following are included: Water Softeners
44 Smoke/Fire Detectors Security Systems Satellite Systems (including satellite dishes).

45 3.1.3. Other Inclusions.

46 N/A

47 The Personal Property to be conveyed at Closing shall be conveyed by Seller free and clear of all taxes (except personal property taxes
48 for the year of Closing), liens and encumbrances, except N/A. Conveyance shall be by bill of sale or
49 other applicable legal instrument.

50 3.1.4. Trade Fixtures. With respect to trade fixtures, Seller and Buyer agree as follows:

51 N/A

52 The Trade Fixtures to be conveyed at Closing shall be conveyed by Seller free and clear of all taxes (except personal property taxes for
53 the year of Closing), liens and encumbrances, except N/A. Conveyance shall be by bill of
54 sale or other applicable legal instrument.

55 3.1.5. Parking and Storage Facilities. Use Only Ownership of the following parking facilities: N/A ;
56 and Use Only Ownership of the following storage facilities: N/A

57 3.1.6. Water Rights, Water Interests, Water and Sewer Taps. The following legally described water rights:

58 N/A

59 Any water rights shall be conveyed by N/A Deed Other applicable legal instrument.

60 3.1.6.1. If any water well is to be transferred to Buyer, Seller agrees to supply required information about such well to Buyer.
61 Buyer understands that if the well to be transferred is a Small Capacity Well or a Domestic Exempt Water Well used for ordinary household
62 purposes, Buyer shall, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with
63 the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer shall complete a registration of existing well
64 form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer shall file
65 the form with the Division within sixty days after Closing. The Well Permit # is N/A

66 3.1.6.2. Water Stock Certificates:

67 N/A

68 3.1.6.3. Water Tap Sewer Tap

69 Note: Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for
70 transfer and use of the tap.

71 3.1.7. Growing Crops. With respect to growing crops, Seller and Buyer agree as follows:

72 N/A

73 3.2. Exclusions. The following items are excluded: N/A

74 4. PURCHASE PRICE AND TERMS.

75 4.1. Price and Terms. The Purchase Price set forth below shall be payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$ 65,000.00	
2	§ 4.2	Earnest Money		\$ 1,000.00
3	§ 4.5	New Loan		\$ 64,000.00
4	§ 4.6	Assumption Balance		
5	§ 4.7	Seller or Private Financing		
6				
7				
8	§ 4.3	Cash at Closing		\$
9		TOTAL	\$	\$ 65,000.00

82

83 4.2. **Earnest Money.** The Earnest Money set forth in this section, in the form of PERSONAL CHECK, is part payment
84 of the Purchase Price and shall be payable to and held by BUYER (Earnest Money Holder), in
85 its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit shall be tendered with this Contract unless the parties mutually
86 agree to an **Alternative Earnest Money Deadline** (§ 2.3) for its payment. If Earnest Money Holder is other than the Brokerage Firm identified in
87 § 34 or § 35 below, Closing Instructions signed by Buyer, Seller and Earnest Money Holder must be obtained on or before delivery of Earnest
88 Money to Earnest Money Holder. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing
89 Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a
90 fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest
91 accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction shall be transferred to such fund.

92 4.2.1. **Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the time of tender of the
93 Contract is as set forth as the **Alternative Earnest Money Deadline** (§ 2.3).

94 4.3. **Form of Funds; Time of Payment; Funds Available.** All amounts payable by the parties at Closing, including any loan proceeds,
95 Cash at Closing and closing costs, shall be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified
96 check, savings and loan teller's check and cashier's check (Good Funds). All funds required to be paid at Closing shall be timely paid to allow
97 disbursement by Closing Company at Closing **OR SUCH PARTY SHALL BE IN DEFAULT.** Buyer represents that Buyer, as of the date of this
98 Contract, **Does** **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at
99 Closing in § 4.1.

100 4.4. **Seller Concession.** Seller, at Closing, shall pay or credit, as directed by Buyer, a total amount of \$ N/A to assist with
101 Buyer's closing costs, loan discount points, loan origination fees, prepaid items (including any amounts that Seller agrees to pay because Buyer is
102 not allowed to pay due to FHA, CHFA, VA, etc.), and any other fee, cost, charge, expense or expenditure related to Buyer's New Loan or other
103 allowable Seller concession (collectively, Seller Concession). The Seller Concession is in addition to any sum Seller has agreed to pay or credit
104 Buyer elsewhere in this Contract. If the amount of Seller Concession exceeds the aggregate of what is allowed, Seller shall not pay or be charged
105 such excess amount.

106 4.5. **New Loan.**

107 4.5.1. **Buyer to Pay Loan Costs.** Buyer, except as provided in § 4.4, if applicable, shall timely pay Buyer's loan costs, loan discount
108 points, prepaid items and loan origination fees, as required by lender.

109 4.5.2. **Buyer May Select Financing.** Buyer may select financing appropriate and acceptable to Buyer, including a different loan than
110 initially sought, except as restricted in § 4.5.3 or § 26, Additional Provisions.

111 4.5.3. **Loan Limitations.** Buyer may purchase the Property using any of the following types of loan: **Conventional** **FHA**
112 **VA** **Bond** **Other**

113 4.5.4. **Good Faith Estimate – Monthly Payment and Loan Costs.** Buyer is advised to review the terms, conditions and costs of
114 Buyer's New Loan carefully. If Buyer is applying for a residential loan, the lender generally must provide Buyer with a good faith estimate of
115 Buyer's closing costs within three days after Buyer completes a loan application. Buyer should also obtain an estimate of the amount of Buyer's
116 monthly mortgage payment. If the New Loan is unsatisfactory to Buyer, then Buyer may terminate this Contract pursuant to § 5.2 no later than
117 **Loan Conditions Deadline** (§ 2.3).

118 4.6. **Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in
119 § 4.1, presently payable at \$ N/A per _____ including principal and interest presently at the rate of _____ % per
120 annum, and also including escrow for the following as indicated: **Real Estate Taxes** **Property Insurance Premium** **Mortgage**
121 **Insurance Premium** and

122 Buyer agrees to pay a loan transfer fee not to exceed \$ _____. At the time of assumption, the new interest rate shall not
123 exceed _____ % per annum and the new payment shall not exceed \$ _____ per _____ principal and interest, plus escrow,
124 if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required
125 from Buyer at Closing to be increased by more than \$ _____, then **Buyer May Terminate** this Contract effective upon receipt by
126 Seller of Buyer's written notice of termination or

127 Seller **Shall** **Shall Not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability
128 shall be evidenced by delivery on or before Loan Transfer Approval Deadline at Closing of an appropriate letter of commitment from lender.
129 Any cost payable for release of liability shall be paid by _____ in an amount not to exceed \$ _____.

130 4.7. **Seller or Private Financing.** Buyer agrees to execute a promissory note payable to N/A, as
131 **Joint Tenants** **Tenants In Common** **Other**, on the
132 note form as indicated:

133 **(Default Rate)** NTD81-10-06 **Other** _____ secured by a
134 _____ (1st, 2nd, etc.) deed of trust encumbering the Property, using the form as indicated:

135 **Due on Transfer – Strict** (TD72-9-08) **Due on Transfer – Creditworthy** (TD73-9-08) **Assumable – Not Due on Transfer** (TD74-9-
136 08) **Other**

137 The promissory note shall be amortized on the basis of _____ **Years** **Months**, payable at \$ _____ per
138 _____ including principal and interest at the rate of _____ % per annum. Payments shall commence
139 and shall be due on the _____ day of each succeeding _____. If not sooner paid, the balance of principal and accrued
140 interest shall be due and payable _____ after Closing. Payments **Shall** **Shall Not** be increased by _____

141 _____ of estimated annual real estate taxes, and **Shall** **Shall Not** be increased by _____ of estimated annual property insurance
142 premium. The loan shall also contain the following terms: (1) if any payment is not received within _____ days after its due date, a late charge
143 of _____ % of such payment shall be due; (2) interest on lender disbursements under the deed of trust shall be _____ % per annum; (3) default
144 interest rate shall be _____ % per annum; (4) Buyer may prepay without a penalty except _____; and (5) Buyer

145 **Shall** **Shall Not** execute and deliver, at Closing, a Security Agreement and UCC-1 Financing Statement granting the holder of the
146 promissory note a _____ (1st, 2nd, etc.) lien on the personal property included in this sale.

147 Buyer **Shall** **Shall Not** provide a mortgagee's title insurance policy, at Buyer's expense.

148 5. **FINANCING CONDITIONS AND OBLIGATIONS.**

149 5.1. **Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing
150 loan is not to be released at Closing, Buyer, if required by such lender, shall make a verifiable application by **Loan Application Deadline** (§ 2.3).

151 5.2. **Loan Conditions.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer
152 determining, in Buyer's subjective discretion, whether the New Loan is satisfactory to Buyer, including its availability, payments, interest rate,
153 terms, conditions, and cost of such New Loan. This condition is for the benefit of Buyer. If such New Loan is not satisfactory to Buyer, Seller must
154 receive written notice to terminate from Buyer, no later than **Loan Conditions Deadline** (§ 2.3), at which time this Contract shall terminate. **IF**
155 **SELLER DOES NOT TIMELY RECEIVE WRITTEN NOTICE TO TERMINATE, THIS CONDITION SHALL BE DEEMED**
156 **WAIVED, AND BUYER'S EARNEST MONEY SHALL BE NONREFUNDABLE, EXCEPT AS OTHERWISE PROVIDED IN THIS**
157 **CONTRACT** (e.g., Appraisal, Title, Survey).

158 5.3. **Credit Information and Buyer's New Senior Loan.** If Buyer is to pay all or part of the Purchase Price by executing a promissory
159 note in favor of Seller, or if an existing loan is not to be released at Closing, this Contract is conditional (for the benefit of Seller) upon Seller's
160 approval of Buyer's financial ability and creditworthiness, which approval shall be at Seller's subjective discretion. In such case: (1) Buyer shall
161 supply to Seller by **Buyer's Credit Information Deadline** (§ 2.3), at Buyer's expense, information and documents (including a current credit
162 report) concerning Buyer's financial, employment and credit condition and Buyer's New Senior Loan, defined below, if any; (2) Buyer consents
163 that Seller may verify Buyer's financial ability and creditworthiness; (3) any such information and documents received by Seller shall be held by
164 Seller in confidence, and not released to others except to protect Seller's interest in this transaction; (4) in the event Buyer is to execute a
165 promissory note secured by a deed of trust in favor of Seller, this Contract is conditional (for the benefit of Seller) upon Seller's approval of the
166 terms and conditions of any New Loan to be obtained by Buyer if the deed of trust to Seller is to be subordinate to Buyer's New Loan (Buyer's New
167 Senior Loan). Additionally, Seller shall have the right to terminate, at or before Closing, if the Cash at Closing is less than as set forth in § 4.1 of
168 this Contract or Buyer's New Senior Loan changes from that approved by Seller; and (5) if Seller does not deliver written notice to Buyer of
169 Seller's disapproval of Buyer's financial ability and creditworthiness or of Buyer's New Senior Loan by **Disapproval of Buyer's Credit**
170 **Information Deadline** (§ 2.3), then Seller waives the conditions set forth in this section as to Buyer's New Senior Loan as supplied to Seller. If
171 Seller delivers written notice of disapproval to Buyer on or before said date, this Contract shall terminate.

172 5.4. **Existing Loan Review.** If an existing loan is not to be released at Closing, Seller shall deliver copies of the loan documents (including
173 note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline** (§ 2.3). For the benefit of Buyer, this Contract is
174 conditional upon Buyer's review and approval of the provisions of such loan documents. If written notice of objection to such loan documents,
175 signed by Buyer, is not received by Seller by **Existing Loan Documents Objection Deadline** (§ 2.3), Buyer accepts the terms and conditions of the
176 documents. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer's obtaining such approval
177 without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**
178 (§ 2.3), this Contract shall terminate on such deadline. If Seller is to be released from liability under such existing loan and Buyer does not obtain
179 such compliance as set forth in § 4.6, this Contract may be terminated at Seller's option.

180 6. APPRAISAL PROVISIONS.

181 6.1. **Property Approval.** If the lender imposes any requirements or repairs (Requirements) to be made to the Property (e.g., roof repair,
182 repainting), beyond those matters already agreed to by Seller in this Contract, Seller may terminate this Contract (notwithstanding § 10 of this
183 Contract) by written notice to Buyer on or before three days following Seller's receipt of the Requirements. Seller's right to terminate in this § 6.1
184 shall not apply if on or before any termination by Seller pursuant to this § 6.1: (1) the parties enter into a written agreement regarding the
185 Requirements; or (2) the Requirements are completed by Seller; or (3) the satisfaction of the Requirements is waived in writing by Buyer.

186 6.2. Appraisal Condition.

187 6.2.1. **Not Applicable.** This § 6.2 shall not apply.

188 6.2.2. **Conventional/Other.** Buyer shall have the sole option and election to terminate this Contract if the Purchase Price exceeds the
189 Property's valuation determined by an appraiser engaged by _____. The appraisal shall be received by Buyer or Buyer's lender
190 on or before **Appraisal Deadline** (§ 2.3). This Contract shall terminate by Buyer delivering to Seller written notice of termination and either a copy
191 of such appraisal or written notice from lender that confirms the Property's valuation is less than the Purchase Price, received by Seller on or before
192 **Appraisal Objection Deadline** (§ 2.3). If Seller does not receive such written notice of termination on or before **Appraisal Objection Deadline**
193 (§ 2.3), Buyer waives any right to terminate under this section.

194 6.2.3. **FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the Purchaser (Buyer) shall not be
195 obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of Earnest Money deposits or otherwise
196 unless the Purchaser (Buyer) has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing
197 Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender, setting forth the appraised value of the Property of not less than
198 \$ _____. The Purchaser (Buyer) shall have the privilege and option of proceeding with the consummation of the Contract without regard
199 to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and
200 Urban Development will insure. HUD does not warrant the value nor the condition of the Property. The Purchaser (Buyer) should satisfy
201 himself/herself that the price and condition of the Property are acceptable.

202 6.2.4. **VA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the purchaser (Buyer) shall not incur any
203 penalty by forfeiture of Earnest Money or otherwise or be obligated to complete the purchase of the Property described herein, if the Contract
204 Purchase Price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs. The purchaser (Buyer) shall,
205 however, have the privilege and option of proceeding with the consummation of this Contract without regard to the amount of the reasonable value
206 established by the Department of Veterans Affairs.

207 6.3. **Cost of Appraisal.** Cost of any appraisal to be obtained after the date of this Contract shall be timely paid by Buyer Seller.

208 7. EVIDENCE OF TITLE, SURVEY AND CIC DOCUMENTS.

209 7.1. **Evidence of Title.** On or before **Title Deadline** (§ 2.3), Seller shall cause to be furnished to Buyer, at Seller's expense, a current
210 commitment for owner's title insurance policy (Title Commitment) in an amount equal to the Purchase Price, or if this box is checked, **An**
211 **Abstract** of title certified to a current date. If title insurance is furnished, Seller shall also deliver to Buyer copies of any abstracts of title covering
212 all or any portion of the Property (Abstract) in Seller's possession. At Seller's expense, Seller shall cause the title insurance policy to be issued and
213 delivered to Buyer as soon as practicable at or after Closing. The title insurance commitment **Shall** **Shall Not** commit to delete or insure
214 over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) any unrecorded mechanics'
215 liens, (5) gap period (effective date of commitment to date deed is recorded), and (6) unpaid taxes, assessments and unredeemed tax sales prior to
216 the year of Closing. Any additional premium expense to obtain this additional coverage shall be paid by Buyer Seller.

217 Note: The title insurance company may not agree to delete or insure over any or all of the standard exceptions. Buyer shall have the right to review
218 the Title Commitment. If the Title Commitment or its provisions are not satisfactory to Buyer, Buyer may exercise Buyer's rights pursuant to § 8.1.

219 7.2. **Copies of Exceptions.** On or before **Title Deadline** (§ 2.3), Seller, at Seller's expense, shall furnish to Buyer and _____,
220 (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a Title Commitment is required to be
221 furnished, and if this box is checked **Copies of any Other Documents** (or, if illegible, summaries of such documents) listed in the schedule of
222 exceptions (Exceptions). Even if the box is not checked, Seller shall have the obligation to furnish these documents pursuant to this section if
223 requested by Buyer any time on or before **Document Request Deadline** (§ 2.3). This requirement shall pertain only to documents as shown of
224 record in the office of the clerk and recorder in the county where the Property is located. The abstract or Title Commitment, together with any
225 copies or summaries of such documents furnished pursuant to this section, constitute the title documents (Title Documents).

226 7.3. **Survey.** On or before **Survey Deadline** (§ 2.3), Seller Buyer shall order or provide, and cause Buyer (and the issuer of the
227 Title Commitment or the provider of the opinion of title if an abstract) to receive, a current **Improvement Survey Plat** **Improvement**
228 **Location Certificate** _____ (the description checked is known as Survey). An amount not to exceed \$ _____ for Survey shall
229 be paid by Buyer Seller. If the cost exceeds this amount, Buyer Seller shall pay the excess on or before Closing. Buyer shall not be
230 obligated to pay the excess unless Buyer is informed of the cost and delivers to Seller, before Survey is ordered, Buyer's written agreement to pay
231 the required amount to be paid by Buyer.

232 7.4. **Common Interest Community Documents.** The term CIC Documents consists of all owners' associations (Association) declarations,
233 bylaws, operating agreements, rules and regulations, party wall agreements, minutes of most recent annual owners' meeting and minutes of any
234 directors' or managers' meetings during the six-month period immediately preceding the date of this Contract, if any (Governing Documents), most
235 recent financial documents consisting of (1) annual balance sheet, (2) annual income and expenditures statement, and (3) annual budget (Financial
236 Documents), if any (collectively CIC Documents).

237 7.4.1. **Not Applicable.** This § 7.4 shall not apply.

238 7.4.2. **Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST
239 COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER OF THE PROPERTY WILL BE
240 REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE
241 BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND
242 REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION
243 TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION
244 COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS, AND
245 RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY
246 WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE
247 APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD
248 INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ
249 THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

250 7.4.3. **Not Conditional on Review.** Buyer acknowledges that Buyer has received a copy of the CIC Documents. Buyer has reviewed
251 them, agrees to accept the benefits, obligations and restrictions that they impose upon the Property and its owners and waives any right to terminate
252 this Contract due to such documents, notwithstanding the provisions of § 8.5.

253 7.4.4. **CIC Documents to Buyer.**

254 7.4.4.1. **Seller to Provide CIC Documents.** Seller shall cause the CIC Documents to be provided to Buyer, at Seller's
255 expense, on or before **CIC Documents Deadline** (§ 2.3).

256 7.4.4.2. **Seller Authorizes Association.** Seller authorizes the Association to provide the CIC Documents to Buyer, at Seller's
257 expense.

258 7.4.4.3. **Seller's Obligation.** Seller's obligation to provide the CIC Documents shall be fulfilled upon Buyer's receipt of the
259 CIC Documents, regardless of who provides such documents.

260 7.4.5. **Conditional on Buyer's Review.** If the box in either § 7.4.4.1 or § 7.4.4.2 is checked, the provisions of this § 7.4.5 shall apply.
261 Written notice of any unsatisfactory provision in any of the CIC Documents, in Buyer's subjective discretion, signed by Buyer, or on behalf of
262 Buyer, and delivered to Seller on or before **CIC Documents Objection Deadline** (§ 2.3), shall terminate this Contract.

263 Should Buyer receive the CIC Documents after **CIC Documents Deadline** (§ 2.3), Buyer shall have the right, at Buyer's option, to
264 terminate this Contract by written notice delivered to Seller on or before ten days after Buyer's receipt of the CIC Documents. If Buyer does not
265 receive the CIC Documents, or if such written notice to terminate would otherwise be required to be delivered after **Closing Date** (§ 2.3), Buyer's
266 written notice to terminate shall be received by Seller on or before three days prior to **Closing Date** (§ 2.3). If Seller does not receive written notice
267 from Buyer within such time, Buyer accepts the provisions of the CIC Documents, and Buyer's right to terminate this Contract pursuant to this
268 section is waived, notwithstanding the provisions of § 8.5.

269 NOTE: If no box in this § 7.4 is checked, the provisions of § 7.4.4.1 shall apply.

270 8. TITLE AND SURVEY REVIEW.

271 8.1. **Title Review.** Buyer shall have the right to inspect the Title Documents. Buyer shall provide written notice of unmerchantability of
272 title, unsatisfactory form or content of Title Commitment, or, notwithstanding § 13, of any other unsatisfactory title condition shown by the Title
273 Documents (Notice of Title Objection). Such notice shall be signed by or on behalf of Buyer and delivered to Seller on or before **Title Objection**
274 **Deadline** (§ 2.3), provided such Title Documents are received by Buyer in a timely manner. If there is an endorsement to the Title Commitment
275 that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment shall be delivered to Buyer. Provided
276 however, Buyer shall have five days to deliver the Notice of Title Objection after receipt by Buyer of the following documents: (1) any required
277 Title Document not timely received by Buyer, (2) any change to the Title Documents, or (3) endorsement to the Title Commitment. If Seller does
278 not receive Buyer's Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the
279 Title Documents as satisfactory.

280 8.2. **Matters Not Shown by the Public Records.** Seller shall deliver to Buyer, on or before **Off-Record Matters Deadline** (§ 2.3) true
281 copies of all leases and surveys in Seller's possession pertaining to the Property and shall disclose to Buyer all easements, liens (including, without
282 limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal
283 and options) not shown by the public records of which Seller has actual knowledge. Buyer shall have the right to inspect the Property to investigate
284 if any third party has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, boundary line
285 discrepancy or water rights). Written notice of any unsatisfactory condition disclosed by Seller or revealed by such inspection, notwithstanding
286

287 discrepancy or water rights). Written notice of any unsatisfactory condition disclosed by Seller or revealed by such inspection, notwithstanding
288 § 13, shall be signed by or on behalf of Buyer and delivered to Seller on or before **Off-Record Matters Objection Deadline** (§ 2.3). If Seller does
289 not receive Buyer's notice by said deadline, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual knowledge.

290 **8.3. Survey Review.**

291 **8.3.1. Not Applicable.** This § 8.3 shall not apply.

292 **8.3.2. Conditional on Survey.** If the box in this § 8.3.2 is checked, Buyer shall have the right to inspect the Survey. If written notice
293 by or on behalf of Buyer of any unsatisfactory condition shown by the Survey, notwithstanding § 8.2 or § 13, is received by Seller on or before
294 **Survey Objection Deadline** (§ 2.3) then such objection shall be deemed an unsatisfactory title condition. If Seller does not receive Buyer's notice
295 by **Survey Objection Deadline** (§ 2.3), Buyer accepts the Survey as satisfactory.

296 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION**
297 **INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY**
298 **WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL**
299 **LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE**
300 **INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES.**
301 **BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY**
302 **CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND**
303 **BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND**
304 **RECORDER, OR THE COUNTY ASSESSOR.**

305 In the event the Property is located within a special taxing district and Buyer desires to terminate this Contract as a result, if written notice, by
306 or on behalf of Buyer, is received by Seller on or before **Off-Record Matters Objection Deadline** (§ 2.3), this Contract shall terminate. If Seller
307 does not receive Buyer's notice by such deadline, Buyer accepts the effect of the Property's inclusion in such special taxing district and waives the
308 right to terminate for that reason.

309 **8.5. Right to Object, Cure.** Buyer's right to object shall include, but not be limited to, those matters set forth in §§ 8 and 13. If Seller
310 receives notice of unmerchantability of title or any other unsatisfactory title condition or commitment terms as provided in §§ 8.1, 8.2 and 8.3,
311 Seller shall use reasonable efforts to correct said items and bear any nominal expense to correct the same prior to Closing. If such unsatisfactory
312 title condition is not corrected to Buyer's satisfaction on or before Closing, this Contract shall terminate; provided, however, Buyer may, by written
313 notice received by Seller on or before Closing, waive objection to such items.

314 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property, or a right to approve this Contract,
315 Seller shall promptly submit this Contract according to the terms and conditions of such right. If the holder of the right of first refusal exercises
316 such right or the holder of a right to approve disapproves this Contract, this Contract shall terminate. If the right of first refusal is waived explicitly
317 or expires, or the Contract is approved, this Contract shall remain in full force and effect. Seller shall promptly notify Buyer of the foregoing. If
318 expiration or waiver of the right of first refusal or Contract approval has not occurred on or before **Right of First Refusal Deadline** (§ 2.3), this
319 Contract shall terminate.

320 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully.
321 Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including without
322 limitation, boundary lines and encroachments, area, zoning, unrecorded easements and claims of easements, leases and other unrecorded
323 agreements, and various laws and governmental regulations concerning land use, development and environmental matters. **The surface estate may**
324 **be owned separately from the underlying mineral estate, and transfer of the surface estate does not necessarily include transfer of the**
325 **mineral rights or water rights. Third parties may hold interests in oil, gas, other minerals, geothermal energy or water on or under the**
326 **Property, which interests may give them rights to enter and use the Property.** Such matters may be excluded from or not covered by the title
327 insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as there are strict time limits provided in this
328 Contract [e.g., **Title Objection Deadline** (§ 2.3) and **Off-Record Matters Objection Deadline** (§ 2.3)].

329 **9. LEAD-BASED PAINT.** Unless exempt, if the improvements on the Property include one or more residential dwellings for which a building
330 permit was issued prior to January 1, 1978, this Contract shall be void unless (1) a completed Lead-Based Paint Disclosure (Sales) form is signed
331 by Seller, the required real estate licensees and Buyer, and (2) Seller receives the completed and fully executed form prior to the time when the
332 Contract is signed by all parties. Buyer acknowledges timely receipt of a completed Lead-Based Paint Disclosure (Sales) form signed by Seller and
333 the real estate licensees.

334 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, BUYER DISCLOSURE AND SOURCE OF WATER.**

335 **10.1. Seller's Property Disclosure Deadline.** On or before **Seller's Property Disclosure Deadline** (§ 2.3), Seller agrees to deliver to Buyer
336 the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to the best of
337 Seller's actual knowledge, current as of the date of this Contract.

338 **10.2. Inspection Objection Deadline.** Buyer shall have the right to have inspections of the physical condition of both the Property and
339 Inclusions, at Buyer's expense. If (1) the physical condition of the Property, (2) the physical condition of the Inclusions, (3) any proposed or
340 existing transportation project, road, street or highway, or (4) any other activity, odor or noise (whether on or off the Property) and its effect or
341 expected effect on the Property or its occupants is unsatisfactory in Buyer's subjective discretion, Buyer shall, on or before **Inspection Objection**
342 **Deadline** (§ 2.3):

343 **10.2.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

344 **10.2.2. Notice to Correct.** Deliver to Seller a written description of any unsatisfactory physical condition which Buyer requires
345 Seller to correct.

346 If written notice is not received by Seller on or before **Inspection Objection Deadline** (§ 2.3), the physical condition of the Property and
347 Inclusions shall be deemed to be satisfactory to Buyer.

348 **10.3. Inspection Resolution Deadline.** If a Notice to Correct is received by Seller and if Buyer and Seller have not agreed in writing to a
349 settlement thereof on or before **Inspection Resolution Deadline** (§ 2.3), this Contract shall terminate one day following **Inspection Resolution**
350 **Deadline** (§ 2.3), unless before such termination Seller receives Buyer's written withdrawal of the Notice to Correct.

351 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract, is responsible for payment for all inspections,
352 tests, surveys, engineering reports, or any other work performed at Buyer's request (Work) and shall pay for any damage that occurs to the Property
353 and Inclusions as a result of such Work. Buyer shall not permit claims or liens of any kind against the Property for Work performed on the Property
354 at Buyer's request. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by

355 Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to
356 defend against any such liability, damage, cost or expense, or to enforce this section, including Seller's reasonable attorney and legal fees. The
357 provisions of this section shall survive the termination of this Contract.

358 **10.5. Insurability.** This Contract is conditional upon Buyer's satisfaction, in Buyer's subjective discretion, with the availability, terms and
359 conditions of and premium for property insurance. This Contract shall terminate upon Seller's receipt, on or before **Property Insurance Objection**
360 **Deadline** (§ 2.3), of Buyer's written notice that such insurance was not satisfactory to Buyer. If said notice is not timely received, Buyer shall have
361 waived any right to terminate under this provision.

362 **10.6. Buyer Disclosure.** Buyer represents that Buyer Does Does Not need to sell and close a property to complete this transaction.

363 **Note:** Any property sale contingency should appear in **Additional Provisions** (§ 26).

364 **10.7. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer Does Does Not acknowledge
365 receipt of a copy of Seller's **Property Disclosure** or **Source of Water Addendum** disclosing the source of potable water for the Property. Buyer
366 Does Does Not acknowledge receipt of a copy of the current well permit. There is **No Well**.

367 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU**
368 **MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-**
369 **TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

370 **10.8. Carbon Monoxide Alarms.** **Note:** If the improvements on the Property have a fuel-fired heater or appliance, a fireplace, or an
371 attached garage and include one or more rooms lawfully used for sleeping purposes (Bedroom), the parties acknowledge that Colorado law requires
372 that Seller assure the Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each Bedroom or in a
373 location as required by the applicable building code.

374 **11. METHAMPHETAMINE DISCLOSURE (Residential Property Only).** If the Property is residential, and Seller knows that
375 methamphetamine was ever manufactured, processed, cooked, disposed of, used or stored at the Property, Seller is required to disclose such fact.
376 No disclosure is required if the Property was remediated in accordance with state standards and other requirements are fulfilled pursuant to § 25-
377 18.5-102, C.R.S. Buyer further acknowledges that Buyer has the right to engage a certified hygienist or industrial hygienist to test whether the
378 Property has ever been used as a methamphetamine laboratory. If Buyer's test results indicate that the Property has been contaminated with
379 methamphetamine, but has not been remediated to meet the standards established by rules of the State Board of Health promulgated pursuant to
380 § 25-18.5-102, C.R.S., Buyer shall promptly give written notice to Seller of the results of the test, and Buyer may terminate this Contract,
381 notwithstanding any other provision of this Contract.

382 **12. CLOSING.** Delivery of deed from Seller to Buyer shall be at closing (Closing). Closing shall be on the date specified as the **Closing Date**
383 (§ 2.3) or by mutual agreement at an earlier date. The hour and place of Closing shall be as designated by SELLER.

384 **13. TRANSFER OF TITLE.** Subject to tender or payment at Closing as required herein and compliance by Buyer with the other terms and
385 provisions hereof, Seller shall execute and deliver a good and sufficient ~~general warranty~~ deed to Buyer, at Closing, conveying the Property free
386 and clear of all taxes except the general taxes for the year of Closing. Except as provided herein, title shall be conveyed free and clear of all liens,
387 including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Title shall
388 be conveyed subject to:

389 **13.1.** those specific Exceptions described by reference to recorded documents as reflected in the Title Documents accepted by Buyer in
390 accordance with **Title Review** (§ 8.1),

391 **13.2.** distribution utility easements (including cable TV),

392 **13.3.** those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which
393 were accepted by Buyer in accordance with **Matters Not Shown by the Public Records** (§ 8.2) and **Survey Review** (§ 8.3),

394 **13.4.** inclusion of the Property within any special taxing district, and

395 **13.5.** other _____.

396 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before Closing from the proceeds of this
397 transaction or from any other source.

398 **15. CLOSING COSTS, DOCUMENTS AND SERVICES.**

399 **15.1. Good Funds.** Buyer and Seller shall pay, in Good Funds, their respective closing costs and all other items required to be paid at
400 Closing, except as otherwise provided herein.

401 **15.2. Closing Information and Documents.** Buyer and Seller will furnish any additional information and documents required by Closing
402 Company that will be necessary to complete this transaction. Buyer and Seller shall sign and complete all customary or reasonably required
403 documents at or before Closing.

404 **15.3. Closing Services Fee.** The fee for real estate closing services shall be paid at Closing by Buyer Seller One-Half by Buyer
405 and One-Half by Seller Other N/A.

406 **15.4. Closing Instructions.** ~~Buyer and Seller agree to execute the Colorado Real Estate Commission's Closing Instructions. Such Closing~~
407 ~~Instructions Are Are Not executed with this Contract. Upon execution, Seller Buyer shall deliver such Closing Instructions to the~~
408 ~~Closing Company.~~

409 **15.5. Status Letter and Transfer Fees.** Any fees incident to the issuance of Association's statement of assessments (Status Letter) shall be
410 paid by Buyer Seller One-Half by Buyer and One-Half by Seller. Any transfer fees assessed by the Association (Association's
411 Transfer Fee) shall be paid by Buyer Seller One-Half by Buyer and One-Half by Seller.

412 **15.6. Local Transfer Tax.** The Local Transfer Tax of ____ % of the Purchase Price shall be paid at Closing by Buyer Seller
413 One-Half by Buyer and One-Half by Seller.

414 **15.7. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction shall be paid when due by Buyer Seller
415 One-Half by Buyer and One-Half by Seller.

416 **16. PRORATIONS.** The following shall be prorated to **Closing Date** (§ 2.3), except as otherwise provided:

417 **16.1. Taxes.** Personal property taxes, if any, and general real estate taxes for the year of Closing, based on Taxes for the Calendar Year
418 **Immediately Preceding Closing** **Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any applicable qualifying seniors
419 property tax exemption, or Other _____.

420 16.2. **Rents.** Rents based on Rents Actually Received Accrued. At Closing, Seller shall transfer or credit to Buyer the security
421 deposits for all leases assigned, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's
422 name and address. Seller shall assign to Buyer all leases in effect at Closing and Buyer shall assume such leases.

423 16.3. **Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance shall be
424 credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association shall not
425 be credited to Seller except as may be otherwise provided by the Governing Documents. Any special assessment by the Association for
426 improvements that have been installed as of the date of Buyer's signature hereon shall be the obligation of Seller. Any other special assessment
427 assessed prior to **Closing Date** (§ 2.3) by the Association shall be the obligation of Buyer Seller. Seller represents that the Association
428 Assessments are currently payable at \$ _____ per _____ and that there are no unpaid regular or special assessments
429 against the Property except the current regular assessments and _____. Such assessments
430 are subject to change as provided in the Governing Documents. Seller agrees to promptly request the Association to deliver to Buyer before **Closing**
431 **Date** (§ 2.3) a current Status Letter.

432 16.4. **Other Prorations.** Water and sewer charges, interest on continuing loan, and _____.

433 16.5. **Final Settlement.** Unless otherwise agreed in writing, these prorations shall be final.

434 17. **POSSESSION.** Possession of the Property shall be delivered to Buyer on **Possession Date** at **Possession Time** (§ 2.3), subject to the
435 following leases or tenancies:

436 NONE

437
438 If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be additionally liable to Buyer for
439 payment of \$ 50.00 _____ per day (or any part of a day notwithstanding § 2.5.1) from **Possession Date** and **Possession Time** (§ 2.3) until
440 possession is delivered.

441 Buyer Does Does Not represent that Buyer will occupy the Property as Buyer's principal residence.

442 18. **ASSIGNABILITY AND INUREMENT.** This Contract Shall Shall Not be assignable by Buyer without Seller's prior written
443 consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and
444 assigns of the parties.

445 19. **CAUSES OF LOSS, INSURANCE; CONDITION OF, DAMAGE TO PROPERTY AND INCLUSIONS AND WALK-THROUGH.**
446 Except as otherwise provided in this Contract, the Property, Inclusions or both shall be delivered in the condition existing as of the date of this
447 Contract, ordinary wear and tear excepted.

448 19.1. **Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing
449 in an amount of not more than ten percent of the total Purchase Price, Seller shall be obligated to repair the same before **Closing Date** (§ 2.3). In the
450 event such damage is not repaired within said time or if the damage exceeds such sum, this Contract may be terminated at the option of Buyer by
451 delivering to Seller written notice of termination on or before Closing. Should Buyer elect to carry out this Contract despite such damage, Buyer
452 shall be entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from such
453 damage to the Property and Inclusions, plus the amount of any deductible provided for in such insurance policy. Such credit shall not exceed the
454 Purchase Price. In the event Seller has not received such insurance proceeds prior to Closing, then Seller shall assign such proceeds at Closing, plus
455 credit Buyer the amount of any deductible provided for in such insurance policy, but not to exceed the total Purchase Price.

456 19.2. **Damage, Inclusions and Services.** Should any Inclusion or service (including systems and components of the Property, e.g. heating,
457 plumbing) fail or be damaged between the date of this Contract and Closing or possession, whichever shall be earlier, then Seller shall be liable for
458 the repair or replacement of such Inclusion or service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that
459 the maintenance or replacement of such Inclusion, service or fixture is not the responsibility of the Association, if any, less any insurance proceeds
460 received by Buyer covering such repair or replacement. Seller and Buyer are aware of the existence of pre-owned home warranty programs that
461 may be purchased and may cover the repair or replacement of such Inclusions. The risk of loss for damage to growing crops by fire or other
462 casualty shall be borne by the party entitled to the growing crops as provided in § 3.1.7 and such party shall be entitled to such insurance proceeds
463 or benefits for the growing crops.

464 19.3. **Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, shall have the right to walk through the Property prior
465 to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

466 20. **RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this document, Buyer and Seller acknowledge that the respective
467 broker has advised that this document has important legal consequences and has recommended the examination of title and consultation with legal
468 and tax or other counsel before signing this Contract.

469 21. **TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence hereof. If any note or check received as Earnest Money
470 hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any obligation hereunder is not performed or waived
471 as herein provided, there shall be the following remedies:

472 21.1. **If Buyer is in Default:**

473 21.1.1. **Specific Performance.** Seller may elect to treat this Contract as canceled, in which case all Earnest Money (whether or not
474 paid by Buyer) shall be forfeited by Buyer, paid to Seller and retained by Seller; and Seller may recover such damages as may be proper; or Seller
475 may elect to treat this Contract as being in full force and effect and Seller shall have the right to specific performance or damages, or both.

476 21.1.2. **Liquidated Damages.** All Earnest Money (whether or not paid by Buyer) shall be forfeited by Buyer, paid to Seller, and
477 retained by Seller. Both parties shall thereafter be released from all obligations hereunder. It is agreed that the Earnest Money specified in § 4.1 is
478 LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4, 19, 22, 23
479 and 24), said forfeiture shall be SELLER'S SOLE AND ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller
480 expressly waives the remedies of specific performance and additional damages.

481 21.2. **If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder shall be
482 returned and Buyer may recover such damages as may be proper, or Buyer may elect to treat this Contract as being in full force and effect and
483 Buyer shall have the right to specific performance or damages, or both.

484 22. **LEGAL FEES, COST AND EXPENSES.** In the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**
485 (§ 2.3), the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney and legal fees.

486 23. **MEDIATION.** If a dispute arises relating to this Contract, prior to or after Closing, and is not resolved, the parties shall first proceed in good
487 faith to submit the matter to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute
488 informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree, in writing, before any settlement is
489 binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless
490 otherwise agreed, shall terminate in the event the entire dispute is not resolved within thirty days of the date written notice requesting mediation is
491 delivered by one party to the other at the party's last known address. This section shall not alter any date in this Contract, unless otherwise agreed.

492 24. **EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder shall release the Earnest Money as directed by
493 written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money (notwithstanding any
494 termination of this Contract), Earnest Money Holder shall not be required to take any action. Earnest Money Holder, at its option and sole
495 discretion, may (1) await any proceeding, (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction and shall
496 recover court costs and reasonable attorney and legal fees, or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a
497 copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred
498 twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder shall be authorized to return the Earnest Money to Buyer. In
499 the event Earnest Money Holder does receive a copy of the Lawsuit, and has not interplead the monies at the time of any Order, Earnest Money
500 Holder shall disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of **Mediation** (§ 23). The provisions
501 of this § 24 apply only if the Earnest Money Holder is one of the Brokerage Firms named in § 34 or § 35.

502 25. **TERMINATION.** In the event this Contract is terminated, all Earnest Money received hereunder shall be returned and the parties shall be
503 relieved of all obligations hereunder, subject to §§ 10.4, 23 and 24.

504 26. **ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)
505 **SEE THE ATTACHED ADDITIONAL TERMS.**

506
507 27. **ATTACHMENTS.** The following are a part of this Contract:
508 **ATTACHMENT OF ADDITIONAL TERMS**

509 Note: The following disclosure forms **are attached** but are **not** a part of this Contract:
510 **NONE**

511 28. **GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith, including but not limited to exercising
512 the rights and obligations set forth in the provisions of **Financing Conditions and Obligations** (§ 5) and **Property Disclosure, Inspection,**
513 **Indemnity, Insurability, Buyer Disclosure and Source of Water** (§ 10).

514 29. **ENTIRE AGREEMENT, MODIFICATION, SURVIVAL.** This Contract, its exhibits and specified addenda, constitute the entire
515 agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged
516 and integrated into this Contract. No subsequent modification of any of the terms of this Contract shall be valid, binding upon the parties, or
517 enforceable unless made in writing and signed by the parties. Any obligation in this Contract that, by its terms, is intended to be performed after
518 termination or Closing shall survive the same.

519 30. **COLORADO FORECLOSURE PROTECTION ACT.** If the Colorado Foreclosure Protection Act (Act) applies, then a different contract
520 that complies with the provisions of the Act is required, and this Contract shall be void and of no effect. The Act generally requires that (1) the
521 Property is residential, (2) any loan secured by the Property is at least thirty days delinquent or in default, (3) Buyer does not reside in the Property
522 for at least one year and (4) Buyer is subject to the Act. Buyer **Will** **Will Not** occupy the Property as Buyer's personal residence for at least
523 one year. The parties are further advised to consult with their own attorney.

524 31. **NOTICE, DELIVERY, AND CHOICE OF LAW.**

525 31.1. **Physical Delivery.** All notices must be in writing, except as provided in § 31.2. Any document, including a signed document or
526 notice, delivered to Buyer shall be effective when physically received by Buyer, any signator on behalf of Buyer, any named individual of Buyer,
527 any representative of Buyer, or Brokerage Firm of Broker working with Buyer (except for delivery, after Closing, of the notice requesting
528 mediation described in § 23) and except as provided in § 31.2 below. Any document, including a signed document or notice, delivered to Seller
529 shall be effective when physically received by Seller, any signator on behalf of Seller, any named individual of Seller, any representative of Seller,
530 or Brokerage Firm of Broker working with Seller (except for delivery, after Closing, of the notice requesting mediation described in § 23) and
531 except as provided in § 31.2 below.

532 31.2. **Electronic Delivery.** As an alternative to physical delivery, any document, including any signed document or written notice may be
533 delivered in electronic form only by the following indicated methods: **Facsimile** **Email** **Internet** **No Electronic Delivery.** Documents
534 with original signatures shall be provided upon request of any party.

535 31.3. **Choice of Law.** This Contract and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the
536 State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for property located in Colorado.

537 32. **NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal shall expire unless accepted in writing, by Buyer and Seller, as
538 evidenced by their signatures below, and the offering party receives notice of such acceptance pursuant to § 31 on or before **Acceptance Deadline**
539 **Date** (§ 2.3) and **Acceptance Deadline Time** (§ 2.3). If accepted, this document shall become a contract between Seller and Buyer. A copy of this
540 document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed
541 to be a full and complete contract between the parties.

542 Date: _____ Date: _____
543 Buyer's Name: SALON CAPELLI, LLC Buyer's Name: _____
544 _____
545 Buyer's Signature Buyer's Signature

Address: TINA CLOUTIER, MANAGING MEMBER Address: _____
918 N 7TH STREET, GJ CO 81501 _____
 Phone No.: 970-260-9438 Phone No.: _____
 Fax No.: _____ Fax No.: _____
 Email Address: _____ Email Address: _____

546

547 [NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 33]

Date: _____ Date: _____
 Seller's Name: _____ Seller's Name: _____

 Seller's Signature _____ Seller's Signature _____
 Address: _____ Address: _____

 Phone No.: _____ Phone No.: _____
 Fax No.: _____ Fax No.: _____
 Email Address: _____ Email Address: _____

548
549
550

33. COUNTER; REJECTION. This offer is Countered Rejected.
 Initials only of party (Buyer or Seller) who countered or rejected offer _____

END OF CONTRACT TO BUY AND SELL REAL ESTATE

34. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.
 (To be completed by Broker working with Buyer)

Broker Does Does Not acknowledge receipt of Earnest Money deposit specified in § 4.1 and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Earnest Money Holder is other than the Brokerage Firm identified in § 34 or § 35, Closing Instructions signed by Buyer, Seller, and Earnest Money Holder must be obtained on or before delivery of Earnest Money to Earnest Money Holder.

Broker is working with Buyer as a Buyer's Agent Seller's Agent Transaction-Broker in this transaction. This is a Change of Status.

Brokerage Firm's compensation or commission is to be paid by Listing Brokerage Firm Buyer Other _____.

Date: _____
 Brokerage Firm's Name: _____
 Broker's Name: _____

 Broker's Signature _____
 Address: _____

 Phone No.: _____
 Fax No.: _____
 Email Address: _____

551
552
553

35. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker **Does** **Does Not** acknowledge receipt of Earnest Money deposit specified in § 4.1 and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Earnest Money Holder is other than the Brokerage Firm identified in § 34 or § 35, Closing Instructions signed by Buyer, Seller, and Earnest Money Holder must be obtained on or before delivery of Earnest Money to Earnest Money Holder.

Broker is working with Seller as a **Seller's Agent** **Buyer's Agent** **Transaction-Broker** in this transaction. This is a **Change of Status**.

Brokerage Firm's compensation or commission is to be paid by **Seller** **Buyer** **Other** _____.

Date: _____

Brokerage Firm's Name: _____

Broker's Name: _____

Broker's Signature

Address: _____

Phone No.: _____

Fax No.: _____

Email Address: _____

554

**ADDITIONAL TERMS TO
CONTRACT TO BUY AND SELL REAL ESTATE**

1. The Earnest Money of \$1,000.00 is non-refundable, except as otherwise provided herein.
2. The Seller and the Buyer each agree to pay their own closing costs.
3. The purchase price shall include the Property and any and all other rights appurtenant to the Property, free and clear of all taxes, special assessments, liens and encumbrances. The Buyer shall purchase title insurance if it deems the same necessary.
4. Subject to payment or tender as above provided and compliance by the both parties with the other terms and provisions hereof, the Seller shall execute and deliver a good and sufficient general warranty deed to the Buyer on August 31, 2010 or by mutual agreement, at another date, conveying the Property free and clear of all taxes, liens and encumbrances.
5. If title is not merchantable and written notice of defect(s) is given by the Buyer to the Seller on or before date of closing, the Seller shall use reasonable effort to correct said defect(s) prior to date of closing. If the Seller is unable to correct said defect(s) on or before date of closing, at the Seller's option and upon written notice to the Buyer on or before date of closing, the date of closing shall be extended for a period not to exceed thirty (30) days for the purpose of correcting said defect(s). Except as stated in paragraph 6, if title is not rendered merchantable, at the Buyer's option, this contract shall be void and of no effect and each party hereto shall be released from all obligations hereunder and all payments and things of value received hereunder shall be returned to the Buyer.
6. Possession of the Property shall be delivered to the Buyer at closing without exception, lease or any tenancy. If the Seller fails to deliver possession at closing, the Seller shall be subject to eviction and shall be liable for a daily rental of \$50.00 until possession is delivered.
7. Buyer is purchasing the Property "AS-IS" and not based upon any representation or warranty of condition by Seller. Seller expressly disclaims any warranties of condition. Buyer shall have the right to physical inspection of the Property at Buyer's expense.
8. Time is of the essence hereof. If any note or check received as earnest money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any other obligation hereunder is not performed as herein provided, there shall be the following remedies:
 - (a) IF THE SELLER IS IN DEFAULT, then all payments and things of value received hereunder shall be returned to the Buyer and both parties shall thereafter be released from all obligations hereunder. It is agreed that such payments and things of value are LIQUIDATED DAMAGES, and (except as provided in subparagraph (c) are the Buyer's SOLE AND ONLY REMEDY for the Seller's failure to perform the obligations of this Contract. The Buyer expressly waives the remedies of specific performance and additional damages;

14. The Buyer and the Seller have each obtained the advice of their own legal and tax counsel.

15. If any provision in these Additional Terms to Contract to Buy and Sell Real Estate (“Additional Terms”) conflicts with the other terms in this Agreement, then the conflict shall be resolved in favor of these Additional Terms.