



**PLANNING COMMISSION AGENDA
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET**

TUESDAY, MAY 12, 2009, 6:00 P.M.

Call to Order

Welcome. Items listed on this agenda will be given consideration by the City of Grand Junction Planning Commission. Please turn off all cell phones during the meeting.

In an effort to give everyone who would like to speak an opportunity to provide their testimony, we ask that you try to limit your comments to 3-5 minutes. If someone else has already stated your comments, you may simply state that you agree with the previous statements made. Please do not repeat testimony that has already been provided. Inappropriate behavior, such as booing, cheering, personal attacks, applause, verbal outbursts or other inappropriate behavior, will not be permitted.

Copies of the agenda and staff reports are available on the table located at the back of the Auditorium.

Announcements, Presentations, and/or Prescheduled Visitors

Consent Agenda

Items on the consent agenda are items perceived to be non-controversial in nature and meet all requirements of the Codes and regulations and /or the applicant has acknowledged complete agreement with the recommended conditions.

The consent agenda will be acted upon in one motion, unless the applicant, a member of the public, a Planning Commissioner or staff requests that the item be removed from the consent agenda. Items removed from the consent agenda will be reviewed as a part of the regular agenda. Consent agenda items must be removed from the consent agenda for a full hearing to be eligible for appeal or rehearing.

1. Minutes of Previous Meetings

[Attach 1](#)

Approve minutes of the March 10, March 24 & April 14, 2009 Regular Meetings.

2. **Hampton Inn Easement Vacation – Vacation of Easement** [Attach 2](#)

Request a recommendation of approval to City Council to vacate a 20' wide drainage easement in order to construct a 71,333 sq ft hotel in a C-1 (Light Commercial) zone district.

FILE #: SPR-2008-210
PETITIONER: Michael Terry – National Lodging & Leisure, LLC
LOCATION: 2770 Crossroads Blvd
STAFF: Ronnie Edwards

3. **Bella Dimora Subdivision – Preliminary Development Plan** [Attach 3](#)

Request approval of the Preliminary Development Plan and request a recommendation of approval to City Council to rezone to PD (Planned Development) to develop 114 dwelling units on 13.87 acres.

FILE #: PP-2007-304
PETITIONER: Ron Abeloe – Legend Partners LLC
LOCATION: Patterson Road & Legends Way
STAFF: Scott Peterson

4. **Lang Industrial Park Annexation – Zone of Annexation** [Attach 4](#)

Request a recommendation of approval to City Council to zone 4.9 acres from County R-R (Residential Rural) to a City I-2 (General Industrial) zone district.

FILE #: ANX-2009-072
PETITIONER: Darren Davidson – Precision Construction
LOCATION: 2764 C 3/4 Road, 2765 & 2767 Riverside Parkway
STAFF: Michelle Hoshide

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

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

Public Hearing Items

On the following items the Grand Junction Planning Commission will make the final decision or a recommendation to City Council. If you have an interest in one of these items or wish to appeal an action taken by the Planning Commission, please call the Public Works and Planning Department (244-1430) after this hearing to inquire about City Council scheduling.

5. **R & L Subdivision – Simple Subdivision**

[Attach 5](#)

An appeal of the Director's Final Action on an administrative Development Permit to approve the combination of two (2) residential lots located at 2670 and 2672 Lookout Lane.

FILE #: SS-2009-015
PETITIONER: Richard Overholt
LOCATION: 2670 Lookout Lane
STAFF: Ronnie Edwards

General Discussion/Other Business

Nonscheduled Citizens and/or Visitors

Adjournment

**Attach 1
Minutes of Previous Meetings**

**GRAND JUNCTION PLANNING COMMISSION
MARCH 10, 2009 MINUTES
6:00 p.m. to 7:56 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 6:00 p.m. by Chairman Cole. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were Roland Cole (Chairman), William Putnam (Vice-Chairman), Lynn Pavelka-Zarkesh, Reggie Wall, Patrick Carlow, Ebe Eslami and Mark Abbott.

In attendance, representing the City's Public Works and Planning Department – Planning Division, were Greg Moberg (Planning Services Supervisor), Lisa Cox (Planning Manager), Michelle Hoshide (Associate Planner), Brian Rusche (Senior Planner) and Eric Hahn (Development Engineer).

Also present was Jamie Beard (Assistant City Attorney).

Lynn Singer was present to record the minutes.

There were 52 interested citizens present during the course of the hearing.

ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

Consent Agenda

1. Minutes of Previous Meetings

Approve the minutes of the February 10, 2009 Regular Meeting.

2. Ajarian Annexation – Zone of Annexation

Request a recommendation of approval to City Council to zone 17.87 acres from County I-2 (General Industrial) and RSF-R (Residential Single Family Rural) to a City R-8 (Residential 8 du/ac) zone district.

FILE #: ANX-2009-021

PETITIONERS: Menas Ajarian

LOCATION: 2954, 2950 D½ Road

STAFF: Michelle Hoshide

3. Parkway Complex Annexation – Zone of Annexation

Request a recommendation of approval to City Council to zone 1.47 acres from County I-2 (General Industrial) to a City I-1 (Light Industrial) zone district.

FILE #: ANX-2009-018

PETITIONER: Thad Harris – TD Investments of Grand Junction, LLC

LOCATION: 2789 Riverside Parkway
STAFF: Michelle Hoshide

4. Pear Park Village – Preliminary Subdivision Plan

Request approval of a Preliminary Subdivision Plan to develop 21 residential lots for ten (10) two-family dwellings and one (1) single family dwelling on 3.46 acres in an R-8 (Residential 8 du/ac) zone district.

FILE #: PFP-2008-178
PETITIONER: Larry Sipes
LOCATION: 413, 415 30¼ Road and 416½ 30 Road
STAFF: Brian Rusche

Chairman Cole briefly explained the Consent Agenda and invited the public, planning commissioners, and staff to speak if they wanted any item pulled for additional discussion. At public request, item number 2 was pulled for Full Hearing. After discussion, there were no objections or revisions received from the audience or Planning Commissioners on any of the remaining Consent Agenda items.

MOTION: (Commissioner Wall) “Mr. Chairman, I move we approve the Consent Agenda absent number 2.”

Commissioner Putnam seconded the motion. A vote was called and the motion passed unanimously by a vote of 7 - 0.

Public Hearing Items

2. Ajarian Annexation – Zone of Annexation

Request a recommendation of approval to City Council to zone 17.87 acres from County I-2 (General Industrial) and RSF-R (Residential Single Family Rural) to a City R-8 (Residential 8 du/ac) zone district.

FILE #: ANX-2009-021
PETITIONERS: Menas Ajarian
LOCATION: 2954, 2950 D½ Road
STAFF: Michelle Hoshide

STAFF’S PRESENTATION

Michelle Hoshide, Associate Planner, representing the Planning Department, stated that a zoning of R-8 was designated to this site because of the Future Growth Plan which designated this area as Residential Medium (4 to 8 units per acre). She said that the area surrounding the subject property to the east and west were both becoming R-8.

PETITIONER’S PRESENTATION

Petitioner was present but elected not to add anything to Ms. Hoshide’s presentation.

PUBLIC COMMENT

For:

No one spoke in favor of this request.

Against:

No one spoke in opposition to this request.

The member of the audience who requested that this item be pulled stated off the record that his question had been answered.

MOTION: (Commissioner Wall) “Mr. Chairman, on the Ajarian Annexation, ANX-2009-021, I move that the Planning Commission forward to the City Council a recommendation of approval of the R-8, Residential 8 dwelling units an acre, zone district for the Ajarian Annexation, with the facts and conclusions listed in the staff report.”

Commissioner Pavelka-Zarkesh seconded the motion. A vote was called and the motion passed unanimously by a vote of 7 - 0.

5. Corner Square, Phase II Apartments – Preliminary Subdivision Plan

Request approval of the Preliminary Development Plan to construct 48 multifamily dwelling units on 3.3 acres in a PD (Planned Development) zone district.

FILE #: PP-2008-172

PETITIONER: Bruce Milyard – F & P Development, LLC

LOCATION: 2535 Knollwood Drive

STAFF: Greg Moberg

Chairman Cole allowed Commissioner Ebe Eslami to be excused from this hearing due to a possible conflict of interest.

VERBATIM MINUTES

CHAIRMAN COLE: We have...we have new computers up here with a...a docking station and so this is our first night using them so if...if we look a little a...a dis-coordinated, why that’s the reason. We’re all...all getting used to it except Reggie who has worked with this for several years. Okay, Greg, go ahead.

MR. MOBERG: Thank you, Mr. Chairman, members of the Planning Commission, Greg Moberg with the Planning and ...Public Works and Planning Department. The request that’s before you tonight is the Corner Square Apartments Phase II. As can be seen on your screen, this is the second phase of a planned

development that is occurring on 1st Street and Patterson Road. The site that you'll be looking at tonight is the southwestern most lot within the development. Originally, a preliminary development plan was approved and a final development plan was approved for the four lots along Patterson Road. Those are all commercial. This is the first of the lots...the residential lots being brought before you for preliminary development plan approval.

As you can see with the aerial there is currently a lot of construction going on along or within those four lots. We have basically...all of those lots are being developed right now. This lot right here does have a...a building on it. It is occupied at this time. We also have a building that's occupied on the northwest corner. The Walgreen's is being built on this lot and this lot is currently just under construction.

Let me also point out that what we have surrounding this property, we do have another residential lot to the east. That lot is currently vacant and is not part of this request for a preliminary development plan. The parcel to the south contains a single-family residence and the parcel to the west also contains a single-family residence. The future land use map for this property is medium or residential medium high. Commercial is located to the north, residential medium high to the east and residential medium to the south and also we've got residential medium high to the west. The existing zoning is P-D. That...an outline development plan was approved for this site. The properties again to the north have received a preliminary development plan and a final development plan. The property to the west is zoned R-12 and the property to the south is zoned R-5.

What I'm showing here is the outline development plan for the property. Again the four along Patterson have been approved for final and obviously are under construction. We do have two parcels, basically on the south half that are designated for residential development. You're looking at the parcel to the southwest. We also have an additional parcel located to the east of the two residential parcels and that currently is designated for a...for a restaurant. We do have a final plat for the property. The reason I bring this up is one of the questions that will be before you tonight is the improvements of 25³/₄.

The request that's before you tonight is for a preliminary development plan for 48 units on the southwest parcel. The units are located at four separate buildings. We have parking in the center. Within that parking area we also have covered parking that's in the center of the parking area and we also have storage units that are located within those...within that covered parking area. We also have an area to the southwest that is designated as a future club house. Currently that's not...it's not going to be built immediately but the developer would like to propose that so that when that's appropriate he would like the ability to build that.

Twenty-five and three quarter Road is...what we have tonight are two requests that are before you. The first request is for a recommendation of approval for the preliminary development plan for Phase II of the apartments on Phase II and we also have a request for approval of improvements on 25³/₄. Currently 25³/₄ Road is dedicated full width. The applicant would like to improve it to its full width.

The issue that we have is that there is a driveway located approximately 20 feet to the west of...of the...the road...the dedicated right-of-way. We have a access

for that driveway out onto Patterson Road. The applicant did apply for a TEDS exception due to the separation between the road – 25³/₄ and the driveway. There's a requirement for 50 feet of separation. Because they're only separated by 20 feet, the applicant did apply for a TEDS exception and that exception was denied and so the applicant has now proposed that he would like to complete the improvements for 25³/₄, he would like the driveway to be basically closed off from...to Patterson and relocated. This will give you a little better look at...this would be 25³/₄. This is the existing building that's located on the northwest lot. Currently this is the driveway that the...or, excuse me, the access of the driveway uses to get out onto Patterson. The applicant would like that closed off and would like that access relocated to 25³/₄ Road and so that's what's being proposed before you tonight as a recommendation. Again these are two separate recommendations – one for the preliminary development plan and one for the improvements on 25³/₄.

It gives you a little better look at how the site is currently situated with the existing improvements. This building right here is currently built and occupied. This building is currently under construction. We have West Park Drive that runs between these two lots and the lot that's before you tonight. This is the existing right-of-way. It is not improved at this point. The improvements to West Park Avenue exist up to this point and then we also have Knollwood Drive that runs to the south. The development has two access points – one to Knollwood Drive and one to West Park...West Park Drive.

I've also included some...some landscape plans so you can see how they're proposing to landscape the property. One of the issues that we do or that the

adjoining property owner has is there is a grade change from Patterson to approximately this point where the grade raises about 9 feet. The applicant is proposing to place a retaining wall along this area. He'll be placing trees on...on the side of the applicant on the outside if you will of the retaining wall and then a ornamental fence will be placed on top of that retaining wall. That is one of the other requests that the applicant is asking for. Generally it's a solid fence that's required between these two uses. The applicant would like to put an ornamental fence on there rather than a solid wood fence or solid fence I should say. This would be the east half of the property. Again landscape - - all landscaping does meet our code and this is again a final picture of the planned development itself.

I would like to at this time indicate that again there are two recommendations that are before you. Staff is recommending approval of the first recommendation which is approval of the preliminary development plan. We do find that it is consistent with the growth plan, that it does meet section 2.12.C.2 of the zoning code, 2...2.8.B. of the zoning code and 2.2.D.4. of the zoning code. We are also recommending that the 6 foot ornamental fence be allowed rather than a solid fence and we are also stating that any indication on any of the preliminary planned documents showing the construction or use of 25³/₄ Road with the approval of Phase II is not included as part of this preliminary development plan and we state that because we...it is our recommendation that...that we do not allow the improvement of 25³/₄ Road.

At this time I'd be more than happy to answer any questions.

CHAIRMAN COLE: Questions of Greg?

COMMISSIONER WALL: Greg, what was the grade again where the fence is going to go?

MR. MOBERG: It raises up to approximately 9 feet right about this location, then it drops down to zero out on Patterson.

CHAIRMAN COLE: Where does that grade start up there?

MR. MOBERG: I'm sorry.

CHAIRMAN COLE: Where does the grade start to...to climb?

MR. MOBERG: Well, the grade actually starts...this...this isn't a good picture. If you look at...maybe I can back up a little bit where we can see the two. There's actually a retaining wall on this side of the development also but that's inside the right-of-way that's already dedicated. So basically the grade starts at...at approximately that north...northwest corner and then continues on up until that southwest corner. But it's not zero at that northwest corner either.

CHAIRMAN COLE: Okay. Any further questions?

COMMISSIONER PUTNAM: The...the grade that you're talking about is...is natural, it's not due to the construction activity down...

MR. MOBERG: It is due to construction. It is not natural. That grade was placed in there for many reasons - - one being to make sure that they had the fall for the sanitary sewer. They needed that grade...that increase of grade from this point to this point to be able to get that sewer, the fall that's required for the sewer.

COMMISSIONER PUTNAM: But there's a hill there.

MR. MOBERG: There was a lot of movement of dirt when they were constructing these four lots out front.

COMMISSIONER PUTNAM: Okay, thanks.

CHAIRMAN COLE: Further questions? Okay, thank you, Greg. Is the applicant present?

MR. CARTER: Yes. Mr. Chairman, members of the Commission. I'm Joe Carter with Ciavonne, Roberts and Associates here to represent Constructor's West and F and P Development LLC on the 1st and Patterson Corner Square Development, Phase II. I would like to address this grade issue just since it was a question and it's fresh in my mind. That grade is there because we had to get sewer over the top of the Ranchmen's Ditch pipe and in other words the sewer line existed north of the pipe, we came in with the sewer and tracked a minimum grade out all the way back up into the development to serve this very last building which is just two and a half feet below the finish floor. So it was necessary to actually sewer via gravity. That's what led to the raise in elevation. You'll notice in that, as Greg pointed out, in that southwestern corner that is the highest point of the wall but the applicant's gone ahead and stepped that wall down and made a planter in that corner so that reveal...that 9 foot height is minimized in that location and then planted. So there was some effort there to minimize the impact of that 9 foot section.

Then...so I will go ahead and start my presentation. Again I'm Joe Carter with Ciavonne, Roberts and Associates. The rest of the consultant team is here as well except the architect. Civil engineering – Jim Langford's here if you have engineering questions; traffic engineer, Skip Hudson; and myself, certainly the applicant is here. The requested approvals – as Greg said, there's actually two approvals this evening. One is for approval of the preliminary development plan and then we were requesting

you provide a recommendation of approval to City Council on connecting 25³/₄ Road to Patterson Road.

As Greg noted the location of the property is at 1st and Patterson. It's the southwest corner of the intersection but it's also the southwest corner of the site. It's approximately this location. The site map itself everything above the frontage of Patterson Road has been approved. It's primarily commercial. It's a sort of a mixed use. There's primarily retail on the bottom floor, some restaurant uses with offices on the second floor of...of these buildings and then we're currently working in Pod H. Pod G has yet to come before the Planning Commission. It's in its planning stages right now; Pod E is in the same boat. That was the restaurant pad that Greg referred to. Below you'll see some of the existing architecture that is on site.

Prior approvals, as Greg mentioned – the process, now we've been doing this for quite awhile since February 15th in 2006 the...we came through with a growth plan consistency review making sure that the two land uses that were proposed on the property were consistent with the growth plan and the meandering of Park Drive. In October of '06...of 2006 this Planning Commission recommended approval of the ODP and the rezone of the property to planned development with the underlying zones of B-1, R-12 – it was RMF-12 at the time, and RSF-4. On November 1st of '06 City Council unanimously approved the ODP which is our driving, guiding document on density and intensity and the rezone to planned development and then the Planning Commission, you guys in June of 2007, approved the commercial development along...along the frontage of Patterson Road. And as this works now the apartment complex plan as

approved through you and hopefully...hopefully approved and...and then stops and the recommendation then of 25³/₄ Road connectivity goes on to City Council.

Residential Pod H – the general land use properties of this...it is R-12. Now the staff reports says there are deviations. The code was actually changed and so no deviations were necessary. The R-12 zone or our Pod H is built under the standard R-2...R-12 dimensional standards and development standards of the Zoning and Development Code. The approximate area of the site's approximately three and a third acres. Again it is in the southwest corner of this property and one of the issues that's always come up throughout these hearings is is height and with the fill slope that's proposed and the low profile buildings that the applicant is proposing the units do not exceed the 40 foot established standard of the R-12 zone. So we tried to be sensitive to that not taking the 9 foot fill and then adding a 40 foot building on top. We have approximately a 9 foot fill and a 31 foot building. If you'll note when you look at the architecture you'll note that the roof lines are...are very moderate. There's no peak; we've kind of left them flat-topped.

Requested approval – again preliminary plan. Tonight we're here to see if you'll approve our Phase II of the apartment plan. It is compatible with the existing ODP ordinance, the...the, excuse me, the planning...planned development ordinance of 38 91. It's consistent with the approved outline development plan and the Zoning and Development Code. As Greg noted, the site is well landscaped. We've got a considerable number of trees around the property where we could fit them. Greg noted that in this location there was a proposed club house and that has been eliminated at this point right now or will remain landscape area. Please note that buildings 1 and 2

were pushed as far forward as possible to maintain kind of an open area in this location. Again once a club house but no longer. There was screening provided in the south and west sides of the property to minimize the impact of that. It's well landscaped around the perimeter.

The parking has been located in the center in an attempt to utilize the buildings to screen the parking lots. The site sits up a little bit from the road but the tree canopy and the plantings along the front should help screen that as well. The parking is sufficient to meet the needs of the complex. It will be built as condominiums, essentially sold at some point in the future individually but it will be used as apartments after construction.

Greg noted that there was security fencing. We do have a wall that goes around the perimeter of the property and it seemed a bit insensitive to have...build a wall and build a solid wood fence or a solid fence creating a...a very high profile screen along that frontage that could appear imposing. The applicant chose to go with an open, metal kind of a wrought iron look although it's I think it's powder coated aluminum but a black open type fence to give it a...a less of a compound feel and more of an open feel. The fencing does provide security. It does surround the properties for the most part. It does leave the driveways open. It's not a gated community.

As I noted earlier and you can see in this picture that the wall was angled and reduced in this corner to eliminate that...the overall appearance of a 9 foot high wall and then we've planted that corner. The wall is necessary to support the fills that I spoke about earlier which were necessary to actually get it to gravity drain to Patterson

Road. Sites adjacent to this that are lower elevation will probably have to do the same thing in order to gravity drain to, if they need to, go to Patterson Road.

The last thing that I'd like to note is that this apartment complex plan, although we do want 25³/₄ Road paved, our traffic study notes that it's not essential for the approval of the plan. We don't need 25³/₄ Road. Our intersections and the surrounding intersections function acceptably without 25³/₄ Road but it leads me to 25³/₄ Road. We need 25³/₄ Road for future development and to serve the businesses that are existing there today. Certainly this is a construction project and we're in sensitive times when we need to stimulate the economy. The...this we believe will help us make that project certainly more viable. The businesses along building 4 in the northwest corner of the project are clearly supportive of having additional access. It's...it's a construction project for the City of Grand Junction so it's...it's very important to us.

But one of the things that I'd like to discuss a little bit is the architecture that's gonna go on in the apartments themselves. As Greg noted there are 4 two-story buildings. The total heights of the building are approximately 31 feet. They're stucco and stone construction to match the character of the existing development. You'll note that there's a masonry component to each of the buildings that exist plus a stucco component. They have low roof lines for a lower profile so we don't exceed that 40 foot overall height. There are exterior balconies and patios and the breakdown of the units is one and two bedroom. This is an example of the architecture. It's an illustrative rendering. You'll note that the units have different plane projections so it's not a flat wall so you have some creative interest there. You've got wider eaves, you've got balconies and patios as noted and this even begins to show the fence how it does provide

security. It does provide a perimeter but it's opaque, it's transparent so you can see through it and give it more of an open feel.

The second request that we're seeking this evening is the connection of 25³/₄ Road to Patterson Road certainly is to the benefit of the businesses that exist there. The 25³/₄ Road access allows left turns from the project onto Patterson Road. Currently the only way to access Patterson Road westbound is to go to the North 1st Street and Park Drive intersection, turn left on North 1st Street and then turn left on Patterson Road. With this 25³/₄ Road opening, it lessens the project impact on North 1st Street. We now have the ability to access Patterson Road from 25³/₄ Road. It allows, actually with connectivity to 25³/₄ Road, it allows adjacent property owners not of this development to get to North 1st Street. Currently people needing to get to North 1st Street and that signal would need to get out on Patterson Road and turn right on North 1st Street and...and...and go southbound. 25³/₄ Road if constructed now does minimize future impact on Patterson Road by completing the construction.

Certainly traffic will only get greater as things go on and we'd like to finish construction now and ultimately 25³/₄ Road will be the major access point for all...for both properties. The yellow property here is the 20.7 acres of the Corner Square development, the red is the adjacent undeveloped 17 acres. The majority of this property is zoned R-12 or 12 units to the acre so it is anticipated at the time of development that that would come through 25³/₄ Road to access Patterson Road. Currently you see the parcel's landlocked. There isn't an additional access point at...at Knollwood Drive but the connection isn't as direct as going right to Patterson Road from 25³/₄ Road.

As Greg stated, the applicant has proposed that this adjacent driveway be closed and that a connection could feasibly be constructed and a curb cut provided at this location a suitable distance from Patterson Road up 25³/₄ Road – the lower order street as defined by TEDS – and the driveway access come off of 25³/₄ Road giving them access to Patterson Road and the ability to make a left turn or access up to North 1st Street.

That concludes my presentation. Are there any questions regarding the apartments or 25³/₄ Road?

CHAIRMAN COLE: Questions of the applicant?

COMMISSIONER WALL: I have a question. On...on the traffic study specifically, how...what justifies 25³/₄ being necessary and unnecessary? How many?

MR. CARTER: How many? I don't...I've got the traffic study to discuss that but ultimately the next phase of the project, Phase III, triggers the need for 25³/₄ Road. That's what we're coming to now. We recognize the need is apparent in our next phase. We recognize the need is...is desired by the property owners. We recognize the need that it would serve the overall development. What it does is it ultimately it lessens the impact off North 1st Street and that's what...I don't have the specific number, Commissioner Wall, but that...that's what triggers it is that when Phase III comes along, their impacts of North 1st Street and Park Drive intersection and it's relieved by opening 25³/₄ Road.

COMMISSIONER WALL: I...I...I don't know how pertinent it is but how...is there a time frame for Phase III?

MR. CARTER: It's...it's...

COMMISSIONER WALL: I mean just on the books whether it happens or not but I mean...

MR. CARTER: Yeah, I mean it's under design now so I'd like to think the application happens this year.

CHAIRMAN COLE: Further questions? You said the...there's going to be landscaping and eventually these will be sold as condominiums.

MR. CARTER: Correct.

CHAIRMAN COLE: In the meantime, who will maintain the...the landscaping?

MR. CARTER: The...there's a separate HOA. The developer will actually own in partnership all of the apartments as well as owning most, if not all, the buildings barring Walgreen's along the frontage so it's in his best interests to keep this looking good. The HOA is responsible for maintenance of the site. It's not individually owned and once it goes from apartments and the apartment HOA, probably actually just the actual ownership of the ground, it will be transferred to a condominium HOA and the condominium owners will be required to maintain that landscaping. It's irrigated off the master irrigation system for the entire project. It's on an automatic system and it would be maintained by the same people who are maintaining the commercial development portion – the same maintenance company.

CHAIRMAN COLE: Thank you.

MR. CARTER: You're welcome.

CHAIRMAN COLE: Any further questions?

COMMISSIONER PUTNAM: Yeah...yeah, the staff report included a declaration by a consultant that the...all or some of the trees along the driveway adjacent to this property had been mortally wounded. What's the status of...of reparations for that deed and is it planned to replace them or just pay...pay for their death or what?

MR. CARTER: Well the applicant...well the City forester spoke up and...and he actually submitted a letter that said he believed they were damaged but not necessarily dead and so there's a dissenting opinion there. The applicant has agreed to some respect to say that he would if the trees die he would be happy to recover the cost as shown in the assessment by I believe Dutch Apfman but right now we don't believe the trees are dead. And certainly if they leaf out in the spring, they aren't. We...so it's...it's a...it's a kind of a...an unanswered question at this point. The trees could possibly be damaged. We don't believe they're dead. We've got examples of trees that have been impacted more severely than this and they survive today. If you'd like to see examples of those we can show you.

COMMISSIONER PUTNAM: That's okay. I just ask the question because one assumes that the...the presence or absence of those trees will have some bearing on the future negotiations about melding driveways.

MR. CARTER: Correct. Correct. What was interesting to note though is that there was a...a piece of property actually dedicated to the Baughmans from this parcel and that portion of the property that was dedicated recently that was the portion of the property that had the trees on it. So it's a little bit of a...a complicated issue certainly and hopefully that's something that can be resolved outside of this forum.

COMMISSIONER PUTNAM: Right.

CHAIRMAN COLE: Any further questions? Thank you.

MR. CARTER: Thank you very much.

CHAIRMAN COLE: With that, we will open the public hearing and again I would ask that if you are speaking that you limit your comments to around 3 minutes and we will proceed that way and if someone has already spoken and made the points that you would like to make, why you're certainly welcome to just say I agree with the previous speaker. So with that, we'll open it to those who would like to speak in favor of this project. Please give your name and...and address.

MS. DIXON: Okay. I'm Sharon Dixon and my business address is 480 West Park Drive, Suite 100.

CHAIRMAN COLE: Go ahead.

MS. DIXON: Alright. I am in favor...I am the regional manager for United Title Company. We occupy 6,000 square feet in the westernmost building and we currently employ 15 people. We service the real estate and lending communities. We chose this location because we needed a...the parking and access, ingress and egress. We are in favor of the project because I think it meets the infill challenges that we as a community have. We really want 25³/₄ Road approved as well and we'd love to have it now because we have customers that are exiting again on that 1st Street. We agree with the talking points of Joe Carter in reference to that additional traffic that's going out onto 1st Street.

CHAIRMAN COLE: Thank you. Someone else who'd like to speak in favor of the project?

MS. ZETMIER: Good evening. I'm Leann Zetmier, district manager, White and Reed Financial Services. Our address is 480 West Park, Suite 201. We occupy about 3,000 square feet of that building, have 9 employees in our office and service somewhere around 3,000 client households and businesses in our local area. We believe it's necessary to complete 25¾ Road. Currently our only choice if traveling west on Patterson is to exit on 1st Street. At times during the day we see that traffic is already congested. I think as the Corner Square project continues to develop that we will see even greater need for additional access allowing traffic to turn west on Patterson out of the complex. The proposed 25¾ Road will provide our clients easier access to our building. This is important to our clients and to our business. Thank you.

CHAIRMAN COLE: If you have not signed in, I would appreciate if you would sign the...sign in back at the back. Yes, sir, go ahead.

MR. HIGGINBOTHAM: I am M. Bradley Higginbotham. I live at 664 Jubilee Court which is just off of North 7th Street and I want to thank you all for your service to our community. I...I travel through that intersection almost daily and in many days many times a day at 1st and Patterson. I wanted to remind you that the original proposal included the access that we're discussing tonight, primarily the 25¾ Road seems to be the issue point tonight. And after a lot of protestation the developer agreed to move the access entirely to his property, hence the trees and the property that they occupy having been given to the neighbors.

The original approval included this 25¾ Road access. The traffic studies that were in the original application and approval showed that the safety of the public called for this access. It's not in the applicant's interest that's called for its inclusion and

anything less I think than the approval of the application would place the apartment residents, neighboring residents, the users of and occupants of the businesses and the development and the public at large at risk unnecessarily and I would say that no...no opposition however heartfelt or well intended nullifies any of those prior statements and that the wisdom of your approval of this application and in keeping the...the driveway that exists in place actually puts the neighbors at greater risk, the public at greater risk and unnecessarily. Thank you.

CHAIRMAN COLE: Thank you. Someone else would like to speak in favor?

MS. MENDELSON: Good evening. My name's Alicia Mendelson and I live at 2503 North 1st Street and I too am in favor of the 25³/₄ Road proposal tonight and I just would like to let you know that I think it's necessary and a very good idea for both the residents on 1st Street as well as the Corner Square development.

CHAIRMAN COLE: Thank you. Anyone else would like to speak in favor?

MR. FORD: Hi. My name is John Ford and my wife and I live at 2425 North 1st and we'd just like to agree with the previous speaker. We...we are in favor of the project and we see the need for 25³/₄ Road to be implemented.

CHAIRMAN COLE: Thank you. Someone else would like to speak in favor?

MS. MILYARD: Hi. My name is Toni Milyard. I office at 120 West Park. I'm the owner of Re/Max 4000. Of course I'm in favor of this but I also just wanted to mention that due to the traffic count that we have going on there now I have

about 70 employees, our parking lots are full with that and I do think it's essential at this time we do or you approve 25 ¾ Road. Thank you.

CHAIRMAN COLE: Thank you. Anyone else would like to speak in favor?

MR. RICKARD: Good evening. I'm Ray Rickard, 2415 River Ranch Drive. I'm a local real estate broker. I do work at the Re/Max office and also a land developer of several infill projects here in the valley. I'm pretty much in favor of this project. It provides the needed manageable commercial and residential activities or densities here, has a lot of access to medical, schools and shopping and I do believe it's necessary that they complete 25 ¾ Road.

CHAIRMAN COLE: Thank you. Someone else would like to speak in favor? Seeing none, we'll move to those who would like to speak in opposition to this project.

MS. POTTS: I'm Susan Potts, excuse me, and it's kind of hard for me to listen to this because in 2006 we neighbors who live to the south of this complex told them this is what they were looking at. That they didn't have the access they needed. That they would be required...requiring 25¾ Road. They said oh no, they could do fine with Park Drive. It was going to be access, they were going to have the double turn which is great. The density is going to kill that corner. They have left as you will notice the Knollwood Drive open, right now as 25¾. In the next...before the next phase they're going to ask for Knollwood Drive to be punched through to a neighborhood that cannot by any means support any more traffic.

Back in 1974 there was a huge discussion and all about it. (Inaudible) and even came out with fire trucks to make sure that they had access in and out of that neighborhood before they could build any more houses. Now we're looking at the very possibility because we told them about 25³/₄ they said oh no. Now they're back using the same things that we said two years ago to tell you that it's important that they do it and it leaves the people that live in that area the already existing residents taking the brunt of this.

He's a developer and he's done a beautiful job on the corner if you go look. Each and every one of you I'd like to see you table this, go up there, sit in the neighborhood for a little while, try and get out at West Wellington. Go down and do the Park Drive exit. They're gonna to put these residentials in there. The neighborhood cannot support it and it will be pressed onto the neighbors within...before their Phase II is even finished. Everyone you've heard come up here tonight are new residents of the corner and they're asking for 25³/₄ Road because as new residents they already see it and we told them that over two years ago. Thank you very much.

CHAIRMAN COLE: Thank you. Someone else who'd like to speak in opposition? Pull that mic down in front of you there. There you go.

MS. BAUGHMAN: My name is Frances Baughman and I live at 2579 F Road. I own with my children the property directly west to the Corner Square development. My son, Jim Baughman, owns the property bordering the southwest corner of the Corner Square development. Our driveway is just off of Patterson Road. It's about a 800 hundred foot in length and it is the only access to our homes. Earlier in the planning stage of the Corner Square development, the developer in talking to two of

my sons suggested he would be interested in using a portion of our driveway for an alternate access road to the Corner Square development. This access would then be designated as 25³/₄ Road with the intention that someday it would benefit our property in lieu of future development.

This driveway has been in existence for many years. It has served the Baughman Family for more than 80 years. The Hale family lived at this location prior to the Baughman family so this driveway has been in existence for well over a hundred years. I had recently lost my husband and I had other concerns. I was not ready to think of any development on our property. I did want to keep my driveway intact. I value the open space we have and the private driveway with its many old trees that go along the driveway and they provide the shade and the beauty to our entryway.

I declined the offer to share the access with the Corner Square developer and then it was introduced by the developer an entry roadway on his property with the plans that this would be eventually 25³/₄ Road. We are concerned that this will be an unsafe situation for us as well as the Patterson Road traffic because our driveway entrance and the developer's roadway are adjacent entryways. Although the city has allowed us to keep our driveway at present we are concerned as the developer adds more dwellings to his project this will initiate more traffic and a need for an additional entryway and then possibly we could lose our driveway if that opens. To prevent this from occurring I urge you to carefully consider the density allowed on this project. The city has a moral obligation to also protect my property rights. We feel we have become the victims of this project due to the financial, emotional and physical stress that has resulted. Thank you.

CHAIRMAN COLE: Thank you. Someone else who'd like to speak.

MR. ASHER: Hello Commissioners. My name is Mike Asher. I am actually married to one of the Baughman daughters, Barbara Baughman, and I just wanted to...to basically address a couple real quick things. Our attorney, Mr. Coleman, I think wrote a fabulous letter and I don't know it was to Mr. Moberg and I'd like to give each one of you a copy of it. I don't know if you've seen it but it goes through and outlines all the stuff basically, well, I shouldn't say it this way but basically it addresses a lot of the issues it seems like they have changed constantly as it goes on and on and on and it just...I think it's great but I'd just like to give each one of you a copy.

COMMISSIONER PUTNAM: We have the letter.

CHAIRMAN COLE: We have the letter.

MR. ASHER: Oh, you have the letter?

CHAIRMAN COLE: Yes.

MR. ASHER: Okay. Another couple...okay, if you have the letter that's great but it just seems like there's a ton of issues in here that seem to get changed. There's on Patterson Road there's a curb cut and I know we're talking about 25³/₄ but it looks like the city allowed a curb cut there already when they put in the drain and that was kind of interesting that you know, I mean it seems like it's jumping the gun a little bit on that issue as far as why they didn't put a straight curb in but I guess that was allowed and I don't know how that's done or whatever. I don't have any idea it just seems like it's already been, you know, put right into the curb. And there's a...the fence issue. I don't know exactly what the code says on that but the types of use obviously Jim's house is residential and it's just a regular single-family house but I know they're

trying to do the wrought iron which I know is...is decorative and nice but it'd be nice if they had something that was actually a little bit more solid that can kind of separate the two uses because one's considerably more dense than his single-family house and I guess that's it. I appreciate it. Thank you very much.

CHAIRMAN COLE: Thank you. Someone else who'd like to speak in opposition? I hope you're not going to go through all those.

MR. JIM BAUGHMAN: I'll go through part of it, how's that? Is it possible there's some water I can...thank you. I apologize. I had to work until almost 6 o'clock and I'm just barely getting here. My name is Jim Baughman. I live at 2579 F Road. As has been mentioned I own the property south of this Corner Square development and my family...my mother owns the property on the west side. Our family has lived in this location since 1928 and that driveway has been in existence all the time that our family has owned that property since 1928.

It...prior to the ownership of our...my grandfather buying the property, it was owned by a gentleman named Moses Hale that had a dairy on the property and that driveway was also there for many years prior to 1928. I can't tell you exactly when it was built but I guarantee that it was there. It's...it's got to be at least almost a hundred years old and that's access for our...that's the sole access to our property.

As my brother-in-law, Mr. Mike Asher, has mentioned the letter that our attorney, Joe Coleman, has written and it I believe is included with your packet and I hope...hopefully each one of the Planning Commission members has had a chance to read that letter and compare the...the existing city codes and regulations that have been adopted by the city of Grand Junction in...in respect to this project and how we

feel that and I think with...with even a minimum amount of review that it can be very well established that there is many that items that have not been followed and the city has not mandated the...the developer to follow their own regulations.

The proposed 25³/₄ Road is not shown on most...on the most current Grand Valley Circulation Plan. It serves only the private development of Corner Square. It does not meet the adopted Transportation Engineering Design Standards, TEDS, as it is located less than 20 feet from the existing Baughman...the existing Baughman driveway. The TEDS standard is a hundred and fifty feet. 25³/₄ Road does not meet the TEDS requirement for a right turn lane. As city traffic engineer, Jody Kliska, replied to the develop...the developer's traffic engineer, based on your traffic study projected volumes for 2025 the eastbound volume of 17 hundred vehicles would yield more than 900 vehicles in the adjacent lane. The traffic study estimates 102 right turn vehicles in the peak p.m. hour. This more than meets the criteria for a right turn lane and 25³/₄ Road is not being proposed with a right turn lane. It's being proposed as a full movement intersection.

25³/₄ Road also does not meet TEDS section 5.1.5.1 which states at unsignalized intersections the maximum grade of the intersection shall be 4 percent and extend a minimum of 50 feet in each direction from the flow line of the intersecting street. The developer has built the level of the land up approximately 3 feet at the intersection of West Park Drive and 25³/₄ Road right-of-way. As West Park Drive is required to stub onto the Baughman property, the 3 foot elevation does not meet the TEDS requirement.

Chapter 3, section 3.2.5 of the TEDS manual describes the requirement of cross access corridor for the city streets. It states cross access corridors shall be designed to provide common access and circulation among parcels in order to assist in local movement. Cross access should be designated and include the following elements. There's four listed. I will read the last two. The third is stub out to the abutting properties that will be tied to provide cross access and the fourth, linkage to other cross access corridors in the area, if applicable. Whenever a cross access corridor is designated on a subdivision plat, site plan or other development application, the property owner shall grant and record an easement allowing cross access to and from other properties in this area. And so it's our contention that definitely that has to be stubbed to our property and it has to be stubbed at a level that we can tie onto at some point for future access whenever that might be.

Chapter 5 of the TEDS manual further states the minimum standards for geometric design of the residential and commercial streets. Section 5.1 states in the third sentence – street layouts shall continue streets in the adjoining subdivisions or the anticipated locations when adjoining properties...when adjoining property is not yet developed to provide interconnectivity.

Chapter 3, section 3.2.2, it's provision of access. This section of the TEDS manual states if a property has frontage on more than one street, access will be permitted only on the street frontage where design and safety standards can be met. The primary access shall be on the lower order street. Additional access points may be allowed based on traffic safety as determined by transportation engineering study.

Corner Square Park Drive access is a full movement intersection.

Meander Drive access is a three-quarter movement intersection and the proposed 25³/₄ Road intersection is a full movement intersection. If 25³/₄ Road is approved, Corner Square will have two Patterson Road access points which will violate section 3.2.2 of the TEDS standards which requires that the primary access be on the lower order street and in this case that's North 1st Street.

In Chapter 6, section 6.2.F.6 – although specifications for a grading plan are not listed in the city of Grand Junction's Zoning and Development Code, section 6.2.F.6 requires a developer to provide onsite grading and a drainage plan. Said specifications are contained in the supplemental standard for engineering design 2006 and section 5...or v.5 of this manual it lists 16 features of the required grading plan. Number 2 states - - existing contours extending off site to indicate off site grading patterns and elevations and grading conform. Number 9 states - - show existing contours on adjacent properties as necessary to demonstrate how the site grade matches at the property line.

Is there a way that I could put a photo?

CHAIRMAN COLE: Lay it on the table there. I think you can.

MR. JIM BAUGHMAN: Okay. Okay if you could...oh, great. Okay, as you can see in the top right photograph I am standing next to the fence on the east side of our property next to the buildup of land that's been built up on the developer's property at some locations and then this is even according to the developer's own contour plan. That grade is about 9 feet...right at 9 feet higher than the grade of our property. It varies between 3 and 9 feet. As you can tell from the lower left picture also

that...that is looking directly east. There again, that's visual evidence to the board here tonight that that grading plan has not been addressed according to the city's own standards. I believe that that grade, that elevation grade definitely needs to be moved, cut down and moved further to the east. Now I don't know exactly how far that would have to be moved to meet the standards but I guarantee that it does not meet the standards now because at our property line which is the fence line the grade of the developer's property starts directly up from that point.

No mention of an elevated grading plan was ever mentioned in the Corner Square Phase I Planning Commission narrative or the public hearing of June 26, 2007...7. Subsequently, the Corner Square developer used huge earth moving equipment to completely re-grade the entire site. The grading plan elevations were increased 8 to 9 feet along the western property line of the Corner Square development and the elevation change occurring...this elevation change occurring within 15 feet of the western property line. The increased elevation does not meet criteria number 2 or 9 of section B-5 of the grading plan of supplemental standards for engineering design.

CHAIRMAN COLE: Excuse me, sir.

MR. JIM BAUGHMAN: Yes.

CHAIRMAN COLE: Would you kind of wind down? You've been going about 10 minutes now. We asked you to go for 3 to 5 minutes so if you'd kind of wind it down. Sum it up if you can.

MR. JIM BAUGHMAN: Well I'm...I'm...I'm working on that. I would argue that the developer didn't have a time limit imposed upon him and he seemed to go on.

CHAIRMAN COLE: Wind it down if you would, please.

MR. JIM BAUGHMAN: I would also like to mention that the fencing and buffering standards and those are...those are listed in the letter that Mr. Joe Coleman has sent to the commission that they are required for all phases of this development. That has not been done for Phase I and now we're on Phase II and there should be a fence and a...a...a 6 foot high fence and a 8 foot buffer that should be adjacent to our property and installed and that has not been done and it has to be done also on this particular Phase II. I know the developer's trying to address that at this time.

Finally I would like to comment the...the development that was approved in Phase I, we had, excuse me, we had a gentleman, Brad Higginbotham, a bit ago talk about the Phase I approval of 25³/₄ Road. That approval if you would go back to the minutes of the...of the City Council meeting for 2006. I believe it was November 1st, 2006 when that was approved. It contained actually a couple of stipulations and those stipulations required the developer to site the exact location of 25³/₄ Road which that had not been done and subsequently it's been moved to the developer's property and also it was...it was shown at the the...the F ³/₄ Road...that F ³/₄ Road would ultimately serve both properties as...as development would occur.

The...the F ³/₄ Road was envisioned as a...as a...as a access to our property at the time that our property developed and it ultimately became by the developer's work with the city where...where that road would be opened up at the time of this subdivision at a future phase and it was not.

CHAIRMAN COLE: Don't you mean 23 ³/₄?

MR. JIM BAUGHMAN: No, 25³/₄.

CHAIRMAN COLE: Or 25³/₄ rather than F ³/₄?

MR. JIM BAUGHMAN: Yes, sir. Thank you – 25³/₄. And anyway, the...the project that was approved on Phase I, the...the density of Phase I was way higher than was allowed in B-1 zoning. And I...I believe that the B-1 zoning would allow 15,000 square feet for a retail business or 30,000 square feet for office buildings. The...the building 1 on...on Phase I is 30,000 square feet office and 10,000 square feet retail. Building 2 is within the 15,000 retail limit because it's 14 490. Building 3, 20,000 square feet retail; 18,000 square feet office; and Building 4 is 12,500 square feet retail and 15, or excuse me, 7500 square feet office.

There's a...there's a ratio that talks about floor area ratio of how much land is comprised of...of building versus lot. It's that F-A-R, floor area ratio, and that was approved at .7 instead of .5. My point is that the density of Phase I was dramatically increased the traffic impact for this development. And in Phase II what was approved in...in the outline development plan was a density range of 70 to 111 units and I request that...that the Planning Commission and the city work together and look at what density that...I don't know...I don't know what the number is between 70 and 111 but there is some point that that...that the number would require this F ³/₄ Road to be opened and we feel that that was not approved and that...that the development should have access that does not conflict the our existing driveway.

Up...up until the very highest number that the developer can put on there is fine. That's within...that's within the code but when...when the conflicts...conflicts where it takes our private property and our driveway that...that is not right and it's never

been done in the history of the city of Grand Junction to take a adjoining neighbor, excuse me, adjoining neighbor's property and take access from an adjoining neighbor's property for the benefit of a private developer and I request that emphatically that this not be done at this time and thank you very much for your attention.

CHAIRMAN COLE: Thank you.

COMMISSIONER WALL: Can I ask a question, or no?

CHAIRMAN COLE: No. Someone else would like to speak in opposition?

MR. BRUCE BAUGHMAN: Good evening. I'm Bruce Baughman. I live at 2579 F Road. I have a few issues in opposition. I'd like to talk about the trees that are shown on his landscape plan for Phase II. Specifically on the west side it shows I think 8 trees and at maturity they would overlap the existing trees that are on our property by more than 20 percent and by code that cannot be. Also in...in regard to the tree analysis done by Dutch Affman, Curtis Swift from the CSU extension office also came out and each one of these gentlemen independently...it was an immediate reaction that these trees are gonna die. The trees don't die immediately. They're gonna bud out this year. They'll leaf out. The bigger trees will take longer to die because they have more reserves built up into their cambium, the bark, but they will die. And as far as the trees that were prior on the Gormley property before the boundary adjustment, there were only 2 trees and at most 20 to 30 percent of the diameter of the tree had been on the Gormley side before the boundary adjustment.

Also, okay, going into drainage – on the retaining wall that's on the western part of his property, I've seen a drawing and I don't know if it's current. I

assume it is for a 4 inch drain that would collect water from...during the irrigation season and that is shown connecting to a 12 inch pipe that its historic use had been solely to catch runoff water from my brother Jim's pasture. It did not serve to collect any water from the Gormley property and now it is being used for part of the runoff from the development and that is wrong.

I would like to reiterate that there needs to be some kind of mitigation between a high density, R-12, and the low density, R-5, that Jim has and a wrought iron fence just doesn't give you the privacy that a solid fence would give you and I think that's the spirit of the code and that's what should be followed. I can foresee a lot of lights and noise pollution coming from the parking lot of this development and that'll come up our hill and it's...it's just below the hill from our residences. It'll be a big impact and it's not a big issue to have an open fence on the west side of our property but on the southern part of his property I think it is a major concern.

And I wanted to talk about traffic and unfortunately I didn't get a chance to distill it down into a format that wouldn't make your eyes glaze over but in going through those numerous iterations of traffic studies that were performed for the developer, I found inconsistencies that I think need to be addressed and I don't think that 25³/₄ Road should be opened at this time until a thorough understanding and handle is made on the...on the traffic for this development. In...in particular I guess I notice an inconsistencies for the traffic at Park Drive and 1st Street. The...the amount of volume of traffic that would back up based on the initial traffic study I believe was 125 left turning vehicles and for the latest study...let's see if I can find that quick...it was 94. And I think they're complaining and the 94 was without...without 25³/₄ Road being open

and I think the complaint was made that the 94 is an unacceptable number at Park Drive. But yet at the initial traffic study it didn't seem to be a concern when the number was even higher. So those are just some of the issues on the traffic. That I'd like to reiterate that you not open 25³/₄ Road at this time. I think there's too many unanswered questions.

The city has been on record with the TEDS committee denial that the developer submitted for opening 25³/₄ Road and I think rightly so because it is an unsafe situation to have a city street be that close to a private driveway. It's...I was asked to show a picture of our driveway...the trees. This is looking towards our residence south (inaudible). But...the...back to traffic, what has been proposed by the developer also I can understand why he put it there because the grade allows him to do it. He's built up the grade so high that at any other location it becomes difficult to make an access from our driveway onto 25³/₄ Road. But being that close to Patterson with the traffic that would be turning in there making right turns. You know normally when you come to an intersection you're looking right and you're looking left, perpendicular to your motion of travel and in this case you're going to have to look over your shoulder to make sure incoming traffic isn't gonna clobber you. So I think there's some issues that haven't been thought out well enough to open up 25³/₄ Road at this time. Thank you.

CHAIRMAN COLE: Thank you. Someone else would like to speak in opposition? I am going to ask folks if you would try to condense your...your testimony a little bit. We've went a little over on some of them so if you'd try to condense it, I'd appreciate it.

MR. FRANKHOUSER: Yeah, I'll be brief. My name is Ken Frankhouser and I live at 2239 Knollwood Lane and it's...I started coming to meetings - - neighborhood meetings - - at West Middle School prior to any Planning Commission meeting. I've subsequently been to every Planning Commission meeting, every City Council meeting, regarding this project. I find it a bit ironic that about 2 years ago it seems to me this room was packed with people that tried to point out that this was a traffic nightmare in waiting. Well, guess what? We got the nightmare coming to fruition.

Sounds to me like there's gonna be an approval of 48 units. I don't have a problem with that, you know, and I don't...I don't know about the issue of 25³/₄ Road but I just know that people that work in that facility now are already complaining that it's a traffic hassle and the...the condos aren't even built yet. Can you envision what this is gonna be like when all of those pods are approved and all the apartments are constructed? It's just gonna be unbelievable in terms of people trying to get in and out on 1st Street. Now that concerns me because I live directly to the south on a tucked away neighborhood street, a dead end street that nobody ever comes down unless they live there or they're delivering a newspaper or they're delivering a pizza or whatever.

People talked about their traffic studies. I did my own traffic study. I sat under a maple tree and counted the number of cars coming in and out of my neighborhood - - not very many cars during the course of a day. My concern is the same concern that was expressed earlier by Mrs. Potts that when all of these units are built and there's no access to Patterson Road, what are you gonna do? What's the city gonna do? My concern is they're gonna want to punch Knollwood Lane, Knollwood Drive...punch through Knollwood Lane to alleviate some of this traffic congestion and

I'm here to express my radical disapproval of that plan because that neighborhood is an existing neighborhood. It's very quiet. It's been in existence since the late 1960s and those roads – Knollwood Lane, Lilac Lane, Wellington Street, Lorie Drive – they are not capable of handling the kind of traffic that will come as a result of punching that street through. So I know that this might not be germane to the actual issue before you tonight but I just want the Planning Commission to know and the city people to know that the neighborhood on Knollwood Lane, Wellington Drive, Lilac Lane, Lorie Lane – those...those people don't want a bunch of traffic in an existing neighborhood that was never built to handle a lot of traffic. So that's...that's my comment.

CHAIRMAN COLE: Okay, thank you. Those...those items are not part of this application; however.

MR. FRANKHOUSER: I do understand that but it doesn't take a genius to figure out when traffic is so congested that nobody can get anywhere that the next...

CHAIRMAN COLE: We...we understand that, sir.

MR. FRANKHOUSER: Okay.

CHAIRMAN COLE: Someone else?

MS. NIELSEN: My name is Claudia Nielsen and I live at 2301...

CHAIRMAN COLE: Pull...pull the mic down in front of you.

MS. NIELSEN: I live at 2301 Knollwood Lane. I'm not gonna take your time except that, you know, that I support all of the opinions that have been given. From the very first I feel like we've kind of been deceived. They've...at neighborhood meetings we were told they weren't gonna change the lay of the land. They were gonna

maintain some of those trees, replacing...you can see...you can see by that photograph the beautiful trees at Baughman's driveway. You can't replace those. They have diameters of probably 10 feet, 12 feet. They can't be replaced with new little trees once they die. I would just like to let you know that the neighbors around there are being affected and they're going to continue to be affected as it gets busier and busier and we're kind of hoping that you will at least consider that in your decisions.

CHAIRMAN COLE: Thank you. Someone else?

UNIDENTIFIED FEMALE SPEAKER: (INAUDIBLE) just one quick comment.

CHAIRMAN COLE: You've already had a chance to speak, ma'am.

UNIDENTIFIED FEMALE SPEAKER: Okay. I just (inaudible) feel that this is germane. (INAUDIBLE)

CHAIRMAN COLE: Ma'am...ma'am, you're out of order.

MS. LIPPOTH: My name is Peggy Lippoth and I live at 2246 Knollwood Lane. I...I have a question that hasn't really been addressed tonight by the developer and that is is the city going to give approval for a stoplight at 25³/₄ Road because you're not gonna be making very many left turns out at 25³/₄ Road if there is no stoplight there.

CHAIRMAN COLE: At this point the city has recommended denial of that part of this application. I don't know how the commission will do but...so that's not part of the consideration this evening.

MS. LIPPOTH: Well then you better consider very carefully making 25³/₄ Road a...a...all...all way intersection unless you want a lot of accidents on there.

CHAIRMAN COLE: Thank you. Someone else? Seeing none...

COMMISSIONER PUTNAM: Let's have a recess before we rebut.

CHAIRMAN COLE: We will...I've been requested to have a recess so we'll take about a 5 to 10 minute recess so we can stretch our legs just a little bit and then we'll have the rebuttal from...from the applicant.

-- (R-E-C-E-S-S) --

CHAIRMAN COLE: We'll call the commission back. I think we'll reconvene the...the meeting. We are now ready for the applicant to come up and give his final comments.

MR. CARTER: Thank you. Joe Carter, Ciavonne, Roberts and Associates. The final comments on the...on the two items this evening. I'd just like to reiterate what we're here to decide this evening or what you all are here to decide this evening. If the Phase II preliminary plan is compatible with the approved ordinance, the ODP and the Zoning and Development Code and it is. Certainly the plan has been compliant throughout. That's why we have our review cycle. If there's been any issue of compliance, we've tried to address it at the time of...of comments prior to going to hearing and addressing it.

We're also here to talk about 25³/₄ Road and in our opinion why it should be paved and connected to Patterson Road. It certainly is a benefit to the development and the development...and the businesses that exist adjacent to the development and relieving pressure off of North 1st Street. Certainly people this evening spoke of inconsistencies in the traffic studies but that's natural in a process where an ODP is involved. The ODP process is as I think Mr. Baughman quoted, it's a projection of what

you're doing and as you move through the process as...as our plans become more clear to even us, we revise our traffic study and provide more detail. That's why you have inconsistencies. The most recent traffic study is the more accurate traffic study. At time of ODP it is a projection or a prediction of what we are attempting to do.

Phase II as I said complies with these components, the ordinance, the Zoning and Development Code and the ODP but it's also a good plan. Architecturally we've certainly done more than was required with the plan projections of leaving the height lower. The plan complies with the approved ODP and the overall density is still there. There were 70 to 111 units proposed in the development in the original ODP and that's our intention to maintain a number between that range. Architecturally the character's maintained. That's something we committed to at the time of the ODP.

The project is well fenced. It's well landscaped. It's fenced and secure. 25³/₄ Road again will allow Patterson Road...the development to access Patterson Road and to allow left turns. Somebody in the audience had brought up the fact that, I think it was Mrs. Lippoth, that said we'd have difficulty making left turns. Well because we've got signals on either end - - at 25¹/₂ and 26 Road - - they create natural gaps which allow left turns to exist or at least possibilities for left turns to exist between those two signal timings and that's why 25³/₄ Road works currently without a signal. At some point in the future we'd love a signal but that's not what we're here to talk about this evening.

As I stated earlier 25³/₄ Road lessens the impact on North 1st Street. That's been a concern of ours from the beginning. That's why 25³/₄ Road is proposed. We realize we need it in the next phase. We'd like to go ahead and pave it now. 25³/₄ Road is the access point that will be used for both properties in the future. We'd

attempted earlier on to try to share the right-of-way. We don't want to leave that right-of-way unmaintained and I don't think it's the city's interest to leave it undeveloped. So some time in the future, hopefully nearer rather than later we'll get 25³/₄ Road paved because it benefits both the Baughmans.

Somebody, I believe it was Mr. Jim Baughman or Mr. Bruce Baughman, brought up the location of the driveway connection from their driveway to 25³/₄ Road. That driveway can be moved at any location along Park Drive...along 25³/₄ Road. We just have to fill additionally to...to get it up to any location along that western property line. Mr. Baughman brought up the fact that a...a stub was required. Well as in the condition of Knollwood, and I do want to say that it's not our intention to connect Knollwood Drive up the hill. It's been our contention the whole time. As...as Knollwood exists, Knollwood is a straight street that's perpendicular to the property line and that would be considered a stub. In the condition of 25³/₄ Road, the western right-of-way of 25³/₄ Road touches the Baughman parcel, hence, they're available to access it at any point along there as long as it meets TEDS.

We've got their driveway location further north because it's a less of a fill but it certainly can be moved further south and accessed at any point along there. Again, as long as it meets intersection spacing. I believe that covers it. I did have my Knollwood queue here that said although we can't predict the future of Knollwood Drive, we are not requesting that connection. That always comes up and that's a sensitive issue because of the neighborhood that exists there. I'd be happy to answer any questions you have. As we go through this or even after the discussion is ongoing if

you've got questions, certainly ask. I've got traffic and...and engineering and...and legal here if you all have questions of them as well.

CHAIRMAN COLE: Any further questions of the applicant?

COMMISSIONER WALL: I...go ahead.

COMMISSIONER PAVELKA-ZARKESH: Elevation.

COMMISSIONER WALL: Knock yourself out.

COMMISSIONER PAVELKA-ZARKESH: What's the...where the street comes through and adjoins to...to...intersects into the proposed 25³/₄ along the Bowman property? There was a statement that was made saying there's a 3 foot differential between the road and the property. Head north, please.

MR. CARTER: Well right through here?

COMMISSIONER PAVELKA-ZARKESH: Up the other way. The other direction where it just comes around and curves.

MR. CARTER: Oh, right here?

COMMISSIONER PAVELKA-ZARKESH: Yes. Right there. Saying that if it would be stubbed, it would be a problem because there's 3 feet. How would you make up the 3 feet?

MR. CARTER: You would need to fill on the Baughman property if you wanted to make that connection. As we had to fill on our site to maintain drainage and to maintain gravity flow of sewer downhill, they would need to fill to come up to that location.

COMMISSIONER PAVELKA-ZARKESH: So as you go along that property line as I recall the site, you would have to keep filling and that would be the 3 feet there and then as you head...head south, you'd be 4 feet, 5 feet...

MR. CARTER: Not for access. They could come up to 25³/₄ Road and come back down to their driveway if they wanted to do it in that manner. If...if...if they're running sewer, they would look at possibly other options.

COMMISSIONER PAVELKA-ZARKESH: Yeah. Okay.

COMMISSIONER WALL: That was pretty much my question.

MR. CARTER: Okay.

CHAIRMAN COLE: One...one question that I have – I think that it has been pretty well established that this...this 23 or 25³/₄ Road is not required because of traffic, et cetera for...for this phase of the project; however, when you get into the final two phases of the project it will be required and if...if this is not approved tonight will you...will you as the developer or...or the representative continue to work with the Baughmans to see if you can find a...a solution that maybe is not totally satisfactory but at least it's a compromise that you can meet there?

MR. CARTER: That's in the best interests of both parties I mean to...to maintain a spirit of cooperation. There was a meeting today that I think was leading to that conclusion that we would continue to work in any manner possible to come to resolution. Ideally in our opinion, 25³/₄ Road would be approved and we would pave it today. We understand that it's not necessary for our apartment complex but it certainly is good for business and we're all very sensitive to business concerns now, good for the economy at least the Corner Square economy and probably the greater

economy of Grand Junction if we can generate more business, that's a good thing. But we would continue to work with them in any manner necessary to come to resolution. Ultimately it's in everybody's best interest.

CHAIRMAN COLE: Well, since...since whether this is approved or not approved tonight, since it is apparent that it's going to be necessary in the future, would you agree that it might be...might be to everyone's benefit to delay that...that opening of that tonight for the access there off of 25³/₄ and give you more time to...to attempt a reasonable solution between the...the parties?

MR. CARTER: We will...we...luckily it's a recommendation at this point and it'll give us some time between your recommendation to City Council and City Council's decision to work out those things but we'd like to continue on with the 25³/₄ Road item this evening. So...

CHAIRMAN COLE: Okay. Thank you.

MR. CARTER: Thank you.

CHAIRMAN COLE: Any further questions? Hearing none then, we'll close the public hearing. We'll bring it back to the Commission for...for discussion. Who would like to go first?

COMMISSIONER WALL: I'll go ahead. As far as the condo portion of it, I...I...is that what we're going to talk about first – is that it or the whole thing?

CHAIRMAN COLE: Go ahead and talk about the whole thing.

COMMISSIONER WALL: I think the development of the condo portion, it looks good. One thing I'm very impressed with as far as this development

period is I think they've raised the bar on what a development should look like. I was very impressed when I went to the building for the first time and walked through it and I think that...that means something. I think the next phase makes sense. I'm...I'm in agreement with it.

As far as 25³/₄ Road, I...I know it's just a recommendation from...from us tonight and throughout a lot of these processes you hear about developments shouldn't happen because of the lack of infrastructure and now we have an opportunity to put the infrastructure in before it's absolutely needed and we don't want to do that. So I'm a little confused by that because it's opposite of all the arguments that I've heard the last four years and now we've got the opportunity to put it there but we're saying it's not necessary so let's not put it there when we know that we're gonna need it so why not put it there. So for me it makes sense to do 25³/₄ Road now.

I know there's a lot of other issues that need to be solved but for me I'm in agreement of doing 25³/₄ Road now versus waiting till we come back to do the next piece of the development and here we are sitting here talking about traffic. So for me I...I think 25³/₄ Road should be done right now.

CHAIRMAN COLE: Okay. Someone else?

COMMISSIONER PUTNAM: Mr. Chairman, the apartment part of the issue seems uncontroversial and pretty straight forward and I certainly have no hesitation to approve it. In a more general sense we never seem to quit talking about traffic. It is a fact of life in a growing community and it's not going to get any better. It's going to keep getting worse and there's nothing that can be done to prevent that.

We...we more or less have to accept it as a fact of life as long as we can't put a fence around Grand Junction and put a keep out sign on it which probably we can't do.

It strikes me that we are in the position of wrestling with an issue - - a design issue if you will - - where to put the road. Where to put the driveway. Whether to meld them together or do something else or throw up our hands and run away or just what. It seems to me that we are faced with this question because of the obduracy of the neighbors to the west that have consistently refused to have any part of...of anything and just want it all to go away apparently.

I am not prepared to overturn the decision about the...from the TEDS manual about adjacent curb cuts on Patterson Road but there has to be a solution to this problem and the most obvious one that should have been worked out at the beginning has been made impossible and so we have to deal with what we can...can do. I am of the opinion that we should recommend the approval of the apartment complex and also the construction of 25³/₄ Road and if the City Council does not see...see fit to accept that recommendation positively, so be it. I think it should happen.

CHAIRMAN COLE: Anyone else like to comment?

COMMISSIONER CARLOW: I have a question for staff concerning
25³/₄ Road.

CHAIRMAN COLE: Greg, why don't you or...or Eric, either one of
you.

COMMISSIONER CARLOW: Whoever. It's a simple question.

MR. MOBERG: I'll try. Eric's a little...it's hard for him to get around.

COMMISSIONER CARLOW: In the...in the description here it says that they initially applied to elect the driveway and...and road code and that was turned down because of the separation. It says 150 foot separation is required from street or section of driveway. Are you calling 25³/₄ Road an intersection?

MR. MOBERG: Yeah, 25³/₄ and Patterson would be an intersection and I misstated earlier where it's a 50 foot. It is 150 foot separation between a driveway and an intersection on this type of road.

COMMISSIONER CARLOW: (Inaudible) both essentially driveways.

MR. MOBERG: Well, no the driveway would serve, in terms of our definition, serves a few...just a couple of residents or...or, you know, where this would be a collector or, you know, where traffic would come through. So it is an intersection. It's two roads that intersect and a driveway that's adjacent to those.

COMMISSIONER CARLOW: Well, what I'm asking is until improvements are made on 25³/₄ Road, in essence it's a driveway right now. I mean it doesn't have a turn in or the turnouts or anything.

MR. MOBERG: Oh, you mean as it exists right now?

COMMISSIONER CARLOW: As it exists.

MR. MOBERG: As it exists right now there shouldn't be any traffic driving up and down it at all. We...one of the things raised was that the curb cut does currently exist and that was never approved by the city. It was put in by the developer. The city has not determined whether they're gonna require the developer to remove that existing curb cut but that was never approved and there shouldn't be any traffic driving up and down where the dedicated 25³/₄ Road exists.

CHAIRMAN COLE: It's blockaded.

COMMISSIONER CARLOW: It seems like kind of a moot point to argue it tonight.

CHAIRMAN COLE: Any further questions or...or comments?

COMMISSIONER PAVELKA-ZARKESH: I'd like to concur with the other commissioners. I mean we've...we've gone as Reggie said with respect to putting in the infrastructure and for development making things...you know making the site circulation safer, doing what we can for Patterson and 1st Street and this becomes a logical...a logical move despite the disagreement of the adjacent property owners. But if we...we take a look at, you know, the...the overall impacts and the people along Patterson and such within the development and promoting business and a safe...a safe circulation pattern, it makes sense to put that...to put 25³/₄ in at this time.

COMMISSIONER ABBOTT: Mr. Chairman, I've had to use that 1st and Patterson intersection to access these businesses several different times. Quite frankly I don't consider there to be a whole lot of traffic accessing off of 1st Street as it is currently. Granted I'm not there everyday. From what I can tell of the infrastructure for 25³/₄ Road, you know, it doesn't look like it's gonna take but 20 minutes to pave that puppy. It's...it's pretty much in and ready to go. I don't see a need for 25³/₄ at this time. I do think that the condo section looks like a...a good project and I think we should approve that. Personally I...I just don't see a need for the extra street and the city to maintain it. Again from my own personal experience I don't see that much traffic entering 1st Street, so I will vote against that.

CHAIRMAN COLE: Anyone else like to comment? I guess everyone has except myself. I...I can see both...both sides of this issue. The first...first one that I see about this is we have the developer ready to...to go ahead and...and install 25³/₄ Road which is a benefit to the city to have them do that. However, given the disagreement that seems to be going on with the neighbors to the west, I think that everyone here will...would pretty well concede that the...eventually as the rest of this project develops that 25³/₄ is going to go in. So if we...if we don't approve that tonight, we're merely delaying the inevitable on getting that open. However, by delaying it, it gives...gives this developer as well as the neighbors to the...to the west a chance...a further chance to continue negotiations and hopefully to reach an amicable solution to the...to the disagreement that they seem to have at this point. So I would...I would at this time vote no on the opening of 25³/₄ Road; however, the...the apartment development I...I think should go on.

I am somewhat concerned about a point that was raised earlier about the trees at full growth that they would overlap the trees on the adjoining property. Hopefully that can be mitigated. But I think the reasoning for raising the...the elevation here, having to do with the fall for the sewer from this project is...is a valid reason for...for changing the elevation and I would say probably in the...when the property at the west develops that some of that elevation may have to be changed as well. So those are my feelings - - in favor of the...the pod H development and in opposition to the 25³/₄ Road. With that I think we are ready for a...a motion. We'll have two motions this evening. One would be the preliminary development plan for the Corner Square Phase II and the other would be for the 25³/₄ Road recommendation.

COMMISSIONER WALL: Mr. Chairman, I move that we approve the preliminary development plan for Corner Square Phase II, PP-2008-172, with the findings, conclusions and conditions listed in the staff report.

COMMISSIONER CARLOW: Second.

CHAIRMAN COLE: Okay, we have a motion and a second. Any further discussion? All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN COLE: Opposed, no. Motion carried. We're ready for the second motion.

COMMISSIONER WALL: Mr. Chairman, I move that we recommend to City Council that 25³/₄ Road be opened for use by the public as access to the development based on the testimony provided by the developer.

CHAIRMAN COLE: Do I hear a second?

COMMISSIONER PUTNAM: Second.

CHAIRMAN COLE: Okay, we have a motion and a second. I think I'll ask that we raise our hands for voting on this one. All those in favor, raise your right hand. Opposed...

COMMISSIONER PAVELKA-ZARKESH: Sorry, wrong hand.

CHAIRMAN COLE: Okay, three...four. Those opposed, raise your right hand. We have a tie vote. Motion fails. So, Jamie, what do we do at this point? It goes without a recommendation, is that correct?

MS. BEARD: Correct. Jamie Beard, Assistant City Attorney. It means it will still go forward on to City Council or at least it can but it won't go forward with your recommendation.

CHAIRMAN COLE: Okay. Okay, with that is there anything else to come before the Commission this evening?

UNIDENTIFIED MALE SPEAKER: Can I ask one question, sir?

CHAIRMAN COLE: You can ask a question, go ahead.

UNIDENTIFIED MALE SPEAKER: You all just voted on something that was not on your agenda. How does that work?

CHAIRMAN COLE: It is on our agenda.

UNIDENTIFIED MALE SPEAKER: No, sir.

CHAIRMAN COLE: Yes it is.

UNIDENTIFIED MALE SPEAKER: (Inaudible) on the agenda was the 48 units. Not the 25³/₄ Road.

CHAIRMAN COLE: Both...both were in the application before us this evening.

UNIDENTIFIED MALE SPEAKER: It's not on your agenda, sir.

CHAIRMAN COLE: We are adjourned.

General Discussion/Other Business

None.

Nonscheduled Citizens and/or Visitors

An unidentified male speaker asked how something could be voted on that was not on the agenda. Chairman Cole assured the gentleman that both items were in the application before the Commission.

Adjournment

With no objection and no further business, the Planning Commission meeting was adjourned at 7:56 p.m.

**GRAND JUNCTION PLANNING COMMISSION
MARCH 24, 2009 MINUTES
6:00 p.m. to 6:03 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 6:00 p.m. by Chairman Cole. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were Roland Cole (Chairman), William Putnam (Vice-Chairman), Reggie Wall, Patrick Carlow, Ebe Eslami and Mark Abbott. **Commissioner Lynn Pavelka-Zarkesh was absent. (???)**

In attendance, representing the City's Public Works and Planning Department – Planning Division, were Lisa Cox (Planning Manager), Greg Moberg (Planning Services Supervisor), Scott Peterson (Senior Planner), Michelle Hoshide (Associate Planner).

Also present was Jamie Beard (Assistant City Attorney).

Lynn Singer was present to record the minutes.

There was 1 interested citizen present during the course of the hearing.

ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

Consent Agenda

1. Minutes of Previous Meetings

There were no minutes available at this time.

2. Canyon View Marketplace – Vacation of Easement

Request a recommendation of approval to City Council to vacate a portion of a Multi-Purpose, Trail and Drainage Easement.

FILE #: SPR-2008-214

PETITIONER: Jeff Ungerer – WTN COEX I LLC

LOCATION: 649 Market Street

STAFF: Scott Peterson

3. Tall Grass Rezone – Rezone

Request a recommendation of approval to City Council to rezone two parcels from a City C-2 (General Commercial) zone district to a City I-1 (Light Industrial) zone district.

FILE #: RZ-2009-014
PETITIONER: Doug Gilliland – Triwest Group, Inc.
LOCATION: 2295 Tall Grass Drive & 687 Long Acre Drive
STAFF: Michelle Hoshide

Chairman Cole briefly explained the Consent Agenda and invited the public, planning commissioners, and staff to speak if they wanted any item pulled for additional discussion. After discussion, there were no objections or revisions received from the audience or Planning Commissioners on any of the Consent Agenda items.

MOTION: (Commissioner Wall) “Mr. Chairman, I move we approve the Consent Agenda.”

Commissioner Abbott seconded the motion. A vote was called and the motion passed unanimously by a vote of 6 - 0.

General Discussion/Other Business

None.

Nonscheduled Citizens and/or Visitors

None.

Adjournment

With no objection and no further business, the Planning Commission meeting was adjourned at 6:03 p.m.

**GRAND JUNCTION PLANNING COMMISSION
APRIL 14, 2009 MINUTES
6:01 p.m. to 6:47 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 6:01 p.m. by Vice-Chairman Putnam. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were William Putnam (Vice-Chairman), Lynn Pavelka-Zarkesh, Patrick Carlow, Ebe Eslami, Mark Abbott, Rob Burnett (Alternate) and Richard Schoenrad (Alternate). Commissioners Roland Cole (Chairman) and Reggie Wall were absent.

In attendance, representing the City’s Public Works and Planning Department – Planning Division, were Greg Moberg (Planning Services Supervisor), Scott Peterson (Senior Planner), Lori Bowers (Senior Planner), Ronnie Edwards (Associate Planner), Judith Rice (Associate Planner) and Kent Harbert (Development Engineer).

Also present was John Shaver (City Attorney).

Lynn Singer was present to record the minutes.

There were 15 interested citizens present during the course of the hearing.

ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

Consent Agenda

1. Minutes of Previous Meetings

Approve the minutes of the February 24, 2009 Regular Meeting.

2. Cell Hub Site – Conditional Use Permit

Request approval of a Conditional Use Permit of a site plan to locate antennas on an existing tower in a C-2 (General Commercial) zone district.

FILE #: CUP-2009-055

PETITIONER: Joe Rozanc – SBA Towers, LLC

LOCATION: 1600 Ute Avenue

STAFF: Ronnie Edwards

3. Lookout Point Subdivision – Preliminary Subdivision Plan

Request approval of the Preliminary Subdivision Plan to develop 5 single family lots on 1.82 acres in an R-4 (Residential 4 du/ac) zone district.

FILE #: PFP-2008-233

PETITIONER: Jay Kee Jacobson – Gemini Development, LLC

LOCATION: 2953 Highway 50

STAFF: Lori Bowers

4. North Commercial Drive Co-locate – Conditional Use Permit

Request approval of a Conditional Use Permit of a site plan to locate antennas on an existing tower in a C-2 (General Commercial) zone district.

FILE #: CUP-2009-059

PETITIONER: Joe Rozanc – SBA Towers, LLC

LOCATION: 587 North Commercial Drive

STAFF: Judith Rice

5. Jones Right-of-Way Vacation – Vacation of Right-of-Way

Request a recommendation of approval to City Council to vacate .62 acres of an undeveloped portion of 27 Road located south of Caribbean Drive and north of H Road.

FILE #: VR-2009-043

PETITIONER: Janice Jones

LOCATION: 821 27 Road

STAFF: Greg Moberg

Chairman Cole briefly explained the Consent Agenda and invited the public, planning commissioners, and staff to speak if they wanted any item pulled for additional discussion. An issue was raised by a member of the audience regarding item number 5 and whether or not the road that would be vacated would be in perpetuity. City Attorney John Shaver stated that once it was vacated, the City no longer had an interest in the right-of-way and it would revert to the adjoining property owners. It was also his understanding that those individual property owners had developed an agreement among themselves for access.

Commissioner Abbott moved that this item be removed for a full hearing. Commissioner Carlow stated that he would prefer to table the item for full hearing at a later time. Greg Moberg stated that there would be a City Council meeting on April 15, 2009 on this same agenda item which would give the adjoining property owners a little time to seek legal advice regarding this item. City Attorney Shaver added that there were ways for those individuals to protect their interests; however, from the City's perspective, once it was accomplished then it would be up to the property owners to resolve any open questions.

Vice-Chairman Putnam asked if the Consent Agenda as written was approved, would it go to City Council on their Consent Agenda. Mr. Shaver advised that it would be a hearing item.

Commissioner Pavelka-Zarkesh said that Planning Commission's vacation of the right-of-way would not have an impact on the personal agreements between the property owners and going through a full hearing would not give them the answers they were looking for and added that she did not think that a full hearing would accomplish anything. Vice-Chairman Putnam and Commissioner Eslami agreed.

Commissioner Abbott withdrew his request to pull this item from the Consent Agenda as the member of the audience who initially voiced concerns stated that they would work things out with the landowner. After discussion, there were no objections or revisions received from the audience or Planning Commissioners on the Consent Agenda items.

MOTION: (Commissioner Pavelka-Zarkesh) "Mr. Chairman, I move we approve the Consent Agenda as read."

Commissioner Carlow seconded the motion. A vote was called and the motion passed unanimously by a vote of 7 – 0.

Public Hearing Items

6. Country Squire II Subdivision and Vacation of Utility and Irrigation Easement – Preliminary Plan and Vacation of Easement

Request approval of the Preliminary Subdivision Plan to develop 45 lots on 17 acres in an R-4 (Residential 4 du/ac) zone district and request a recommendation of approval to City Council to vacate a Utility and Irrigation Easement.

FILE #: PP-2008-054

PETITIONER: Kenton Page

LOCATION: 2074 Broadway, 2076 Ferree Drive
STAFF: Scott Peterson

Scott Peterson, Senior Planner with the Public Works and Planning Department, made a PowerPoint presentation regarding a request for a Preliminary Plan approval and vacation of a utility and irrigation easement. According to the Site Location Map, the existing two properties were located east of 20½ Road and north of Broadway, Highway 340. The existing single-family residence located at 2074 Broadway is scheduled to be demolished in anticipation of this proposed subdivision while the existing single-family residence and shop building located at 2076 Ferree Drive is proposed to remain.

Mr. Peterson stated that the Future Land Use Map indicated this area to be Residential Medium Low at 2 to 4 dwelling units per acre and the current zoning for the properties was R-4. The proposed density for the subdivision would be approximately 2.63 dwelling units to the acre which meet the density requirements of the Zoning and Development Code. Applicant had proposed 45 single-family detached lots and 4 tracts of land to be developed in one phase. He added that at this time the proposed subdivision would take access from Ferree Drive north of the intersection with Broadway and additional proposed stub streets would be constructed to the north, east and west that would be connected when adjacent properties developed at some point in the future.

Mr. Peterson advised that applicant had received a TEDS exception for the requested site distance of 450 feet at the intersection of Ferree Drive and Broadway rather than the required 496 feet. He went on to state that the full site window at this intersection was not clear because of existing vegetation on the adjacent property to the east. Mr. Peterson said that the TEDS exception was approved based on the requirement that this area be cleared when the property to the east developed which would then achieve the required site distance.

According to the proposed subdivision lot layout, proposed Tract A would correspond with the required site distance at that intersection. He then added that all proposed tracts would be deeded to the HOA for ownership and maintenance responsibilities. He also stated that applicant had proposed to construct a 4 foot tall masonry wall and landscaping within Tract A which would serve as a visual buffer and mitigate noise and privacy issues between the subdivision and Broadway.

It was also applicant's desire to vacate an existing utility and irrigation easement for the benefit of the proposed subdivision. He stated that the easement did not contain any utilities and was dedicated in 1958. Mr. Peterson concluded that the proposed preliminary plan and easement vacation were consistent with the Growth Plan and the applicable review criteria of the Zoning and Development Code had been met for this project and recommended approval of the proposed Preliminary Plan and recommended that the Planning Commission forward a recommendation of approval of the proposed easement vacation to City Council.

QUESTIONS

Commissioner Schoenradt asked for clarification regarding the TEDS exception. Mr. Peterson stated that a tract would be deeded to the HOA and there would be no development within that tract.

Commissioner Schoenradt asked if the property owner next door was aware of this requirement. Scott Peterson said that the City had not contacted the property owner and was unsure whether or not the applicant or his representative had.

Commissioner Schoenradt asked that if the property was never developed, was the exception a conditional exception or an exception. Mr. Peterson said that the property to the east was not part of the developmental review process and accordingly the city could not require the removal of the trees.

Commissioner Schoenradt raised a concern regarding notification to the adjoining property owner of an exception granted to the developer and which was conditioned upon the adjacent property owner. Commissioner Abbott said that the TEDS exception allowed the property owner to the west to develop their subdivision without putting any conditions on the property owner to the east. Kent Harbert, City Development Engineer, said that the site distance was a requirement so if Country Squire did not develop and the property to the east did develop, they would technically have to provide that site distance through the west property. The distance was required based on the geometry of the intersection and the highway.

Commissioner Schoenradt was concerned that the property owner that had that burden be notified. Greg Moberg said that they were notified of the hearing and of the development but there was no notification for a site distance triangle or the need for them to at some point cut down their trees. That was not a condition of that property. John Shaver, City Attorney, clarified that there was no legal obligation on the adjoining owner at this time.

Commissioner Eslami asked where the entrances were. Scott Peterson said that it would be through Ferree Drive.

Commissioner Eslami said that he thought two entrances were required. Mr. Peterson said that for the number of lots proposed, only one entrance with stub streets was required.

PETITIONER'S PRESENTATION

Robert Jones, petitioner's representative, stated that he was available for questions and chose not to add anything to the presentation.

PUBLIC COMMENT

For:

Bob Caldwell, 651 Peony Drive, said that he was in favor of this subdivision. He asked for assurance that only the easement for Ellie Heights Subdivision was being requested and would not affect his agricultural property to the north. Additionally, regarding the 15

foot easement along the east boundary line, he stated that he would like to see a divider box for the irrigation of his property.

Against:

No one spoke in opposition to these requests.

STAFF'S REBUTTAL

Scott Peterson stated that the vacation of the utility and irrigation easement was only for part of Lot 19, Ellie Heights Subdivision. He added that upon submission of the final plan, details of how the irrigation water would be provided would be worked out.

DISCUSSION

There was no discussion by the Commission regarding these requests.

MOTION: (Commissioner Abbott): "Mr. Chairman, on the vacation of the utility and irrigation easement located at 2074 Broadway and 2076 Ferree Drive, I move that we recommend approval to the City Council for the vacation request making the findings of fact/conclusions as listed in City staff report."

Vice-Chairman Putnam confirmed that there was no discussion regarding this item. Commissioner Carlow seconded the motion. A vote was called and the motion passed by a vote of 6 – 1, with Commissioner Schoenradt opposed.

MOTION: (Commissioner Eslami): "Mr. Chairman, I move that we approve the Preliminary Subdivision Plan for the Country Squire II, PP-2008-054, with the findings and conclusions listed in the staff report."

Commissioner Abbott seconded the motion. A vote was called and the motion passed by a vote of 6 – 1, with Commissioner Schoenradt opposed.

General Discussion/Other Business

None.

Nonscheduled Citizens and/or Visitors

None.

Adjournment

With no objection and no further business, the Planning Commission meeting was adjourned at 6:47 p.m.

**Attach 2
Hampton Inn Easement vacation**

CITY OF GRAND JUNCTION
PLANNING COMMISSION

MEETING DATE: May 12, 2009
STAFF PRESENTATION: Ronnie Edwards

AGENDA TOPIC: Vacation of Public Drainage Easement, File #SPR-2008-210

ACTION REQUESTED: Recommendation of Approval of the Easement Vacation.

BACKGROUND INFORMATION			
Location:		2770 Crossroads Blvd.	
Applicants:		Hampton Inn & Suites	
Existing Land Use:		Vacant	
Proposed Land Use:		113 Room Hotel Facility	
Surrounding Land Use:	North	Office Complex	
	South	Vacant/RMHMO Office Complex	
	East	Temporary Parking Lot for RMHMO-undeveloped	
	West	Residential Apartment Complexes	
Existing Zoning:		C-1 (Light Commercial)	
Proposed Zoning:		C-1 (Light Commercial)	
Surrounding Zoning:	North	C-1 (Light Commercial)	
	South	C-1 (Light Commercial)	
	East	C-1 (Light Commercial)	
	West	C-1 (Light Commercial)	
Growth Plan Designation:		Residential High (12+ du/ac)	
Zoning within density range?		N/A	Yes
			No

PROJECT DESCRIPTION: The proposal is to vacate a 20' wide drainage easement located in Lot 7 Block 4 of the Replat of Crossroads Colorado West Subdivision, which is 2770 Crossroads Blvd.

RECOMMENDATION: Conditional approval to City Council of the easement vacation request.

ANALYSIS

1. Background

The subject property was part of the Crossroads Annexation that was created in 1975 and zoned HO (Highway-Oriented). This particular area was platted as a subdivision in 1975 as the Crossroads Colorado West Subdivision. The subdivision was replatted in 1978 to re-configure the lots adjacent to Crossroads Blvd and Compass Drive. The zone district changed to C-1 (Light Commercial) with the adoption of the revised Zoning Map in 2000.

The 20' wide drainage easement was dedicated to the public and Grand Valley Water Users' Association maintained an unnamed drainage ditch within this easement to provide irrigated agriculture land with drainage from surface field waste water run-off and subsurface seepage water. At the present time, this area has no need for this drainage easement as it is being developed with commercial uses. Grand Valley Water Users' Association supported the discontinued use of and the abandonment of this drainage easement in a letter dated October 24, 2002. The Bureau of Reclamation provided and recorded a Notice of Discontinued Use of Right-of-Way for this drainage ditch on March 19, 2003, as the drain was no longer needed for irrigated agriculture purposes.

The applicants are proposing to combine lots 1 and 7 to construct a 38,000 square foot hotel facility. The Zoning and Development Code does not allow the encroachment of a structure into a dedicated public easement. The easement must be vacated prior to the subdivision plat recordation and the issuance of the planning clearance for building construction.

2. Consistency with the Growth Plan

Policy 8.4 states the City will encourage the development of uses that are compatible with the airport, particularly commercial development serving tourists and visitors.

Policy 10.2 states the City will consider the needs of the community at large when making development decisions.

The approval of the request to vacate the drainage easement would allow staff to support the construction of a hotel facility that will improve an existing vacant lot and add development to serve our tourism market.

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

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

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

Granting the easement vacation does not conflict with the goals and policies of the Growth Plan, Grand Valley Circulation Plan and other adopted plans and policies of the City. The easement vacation will allow development of a commercial lot that is compatible to existing uses in this area.

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

No parcel shall be landlocked by the requested vacation as the lots affected will continue to have direct access from Crossroads Blvd

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

Access to any parcel will not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property. The proposed commercial use is comparable to adjacent properties and no existing accesses are being affected.

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

No adverse impacts to the general community are anticipated and the quality of public facilities and services provided will not be reduced. All public facilities were installed with the subdivision development and are located in existing rights-of-ways and appropriate easements.

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

Provision of adequate public facilities and services will not be inhibited to any property. There is presently no use for the drainage easement as supported by letters from Grand Valley Water Users' Association and Bureau of Reclamation by the Notice of Discontinued Use of Right-of-Way for abandonment in March of 2003.

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

The proposal to vacate the easement along with the replat of the two lots will allow commercial development comparable to the neighborhood and add to our tourism market.

FINDINGS OF FACT/CONCLUSIONS

After reviewing the Hampton Inn application, SPR-2008-210, for the vacation of a 20' drainage easement, I make the following findings of fact and conclusions:

1. The requested easement vacation is consistent with the goals and policies of the Growth Plan.
2. The review criteria in Section 2.11.C of the Zoning and Development Code have all been met.
3. The easement vacation must be recorded prior to the recordation of the Hampton Inn Subdivision plat.

STAFF RECOMMENDATION:

I recommend that the Planning Commission forward a recommendation of a conditional approval of the requested easement vacation, SPR-2008-210, to the City Council with the findings and conclusions listed above.

RECOMMENDED PLANNING COMMISSION MOTION:

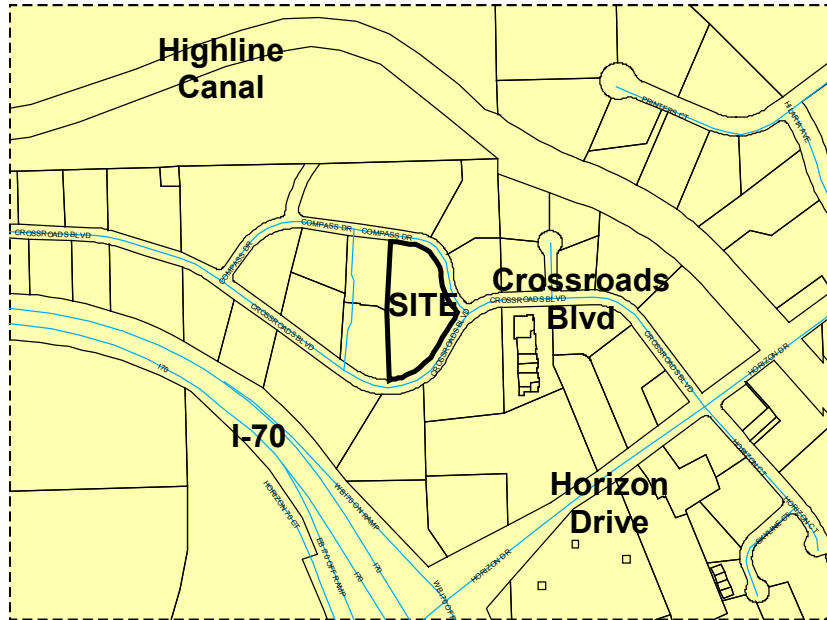
Mr. Chairman, on item SPR-2008-210, I move that the Planning Commission forward a recommendation of a conditional approval to the City Council on the requested easement vacation, with the findings and conclusions listed in the staff report.

Attachments:

Site Location Map/Aerial Photo Map
Future Land Use Map/Existing City and County Zoning Map
Resolution and Exhibit Map
Associated Letters from GVWUA and Bureau of Reclamation

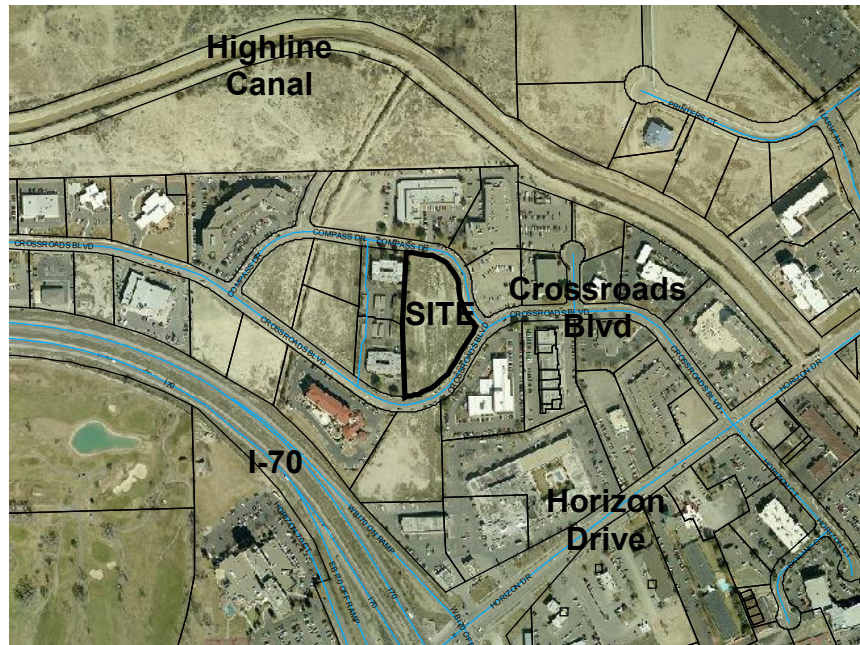
Site Location Map

Figure 1



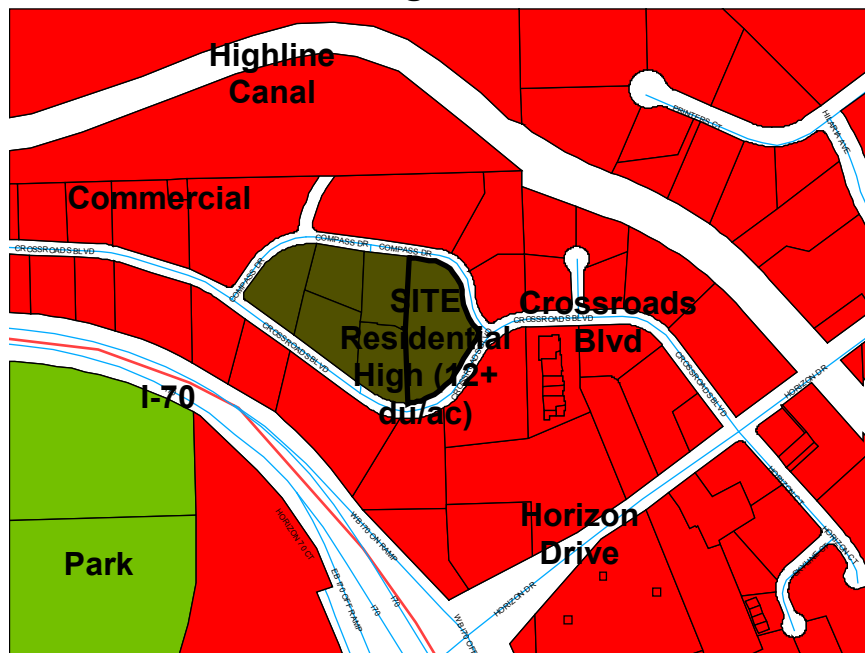
Aerial Photo Map

Figure 2



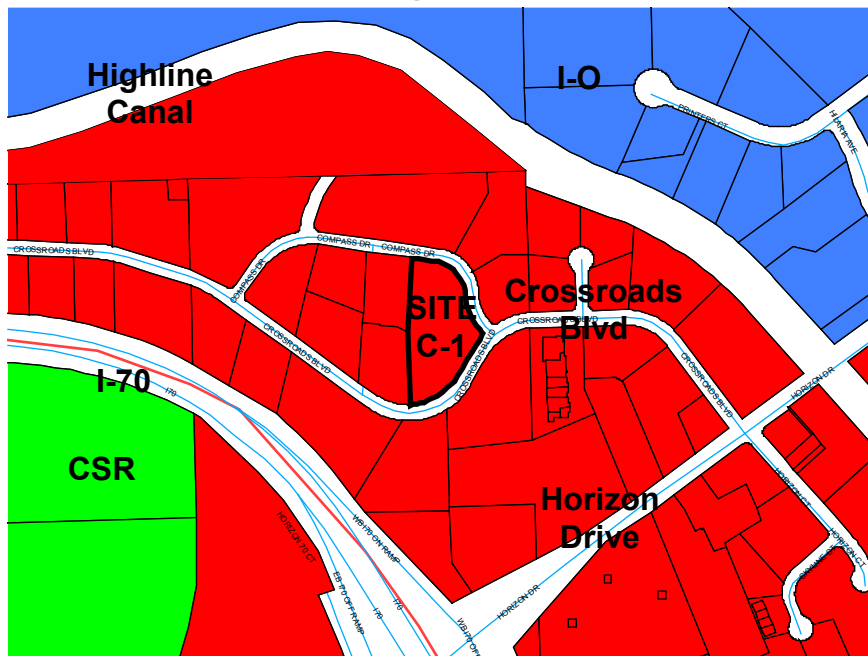
Future Land Use Map

Figure 3



Existing City and County Zoning Map

Figure 4



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

CITY OF GRAND JUNCTION

ORDINANCE NO.

**AN ORDINANCE VACATING AN EASEMENT
LOCATED AT 2770 CROSSROADS BLVD**

RECITALS:

A request to vacate a dedicated 20' wide drainage easement by the property owners to allow for the site development for a hotel facility.

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

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

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

The following described dedicated easement is hereby vacated subject to the listed conditions:

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

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

Dedicated right-of-way to be vacated:

The drainage easement is a strip 20.00 feet in width measured perpendicularly to the centerline of the easement, being 10.00 feet on each side of centerline with the side lines of which are extended or shortened as the case may be at each property line intersected by the easement so that the easement is continuous. Easement is located in Lot 7 in Block 4 of Replat of Crossroads Colorado West, City of Grand Junction, County of Mesa, State of Colorado as shown by the plat thereof recorded in Plat Book 12 at Page 92 in the office of the Mesa County Clerk and Recorder and the centerline of which is more particularly described as follows:

Beginning at the southerly point of said centerline, being on the southerly boundary line of said Lot 7 and the northerly right-of-way line of Crossroads Blvd, whence the southwesterly corner of said Lot 7 bears S

77°38'22" W, 93.29 feet; thence N 00°16'27" W, 275.00 feet to the point of termination, whence the northwesterly corner of said Lot 7 bears S 85°05'02" W, 90.16 feet.

The drainage easement as described above contains 0.126 acres more or less.

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

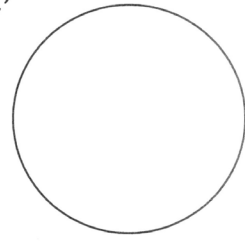
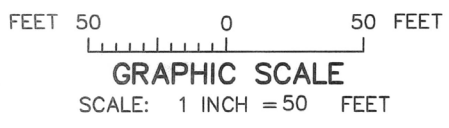
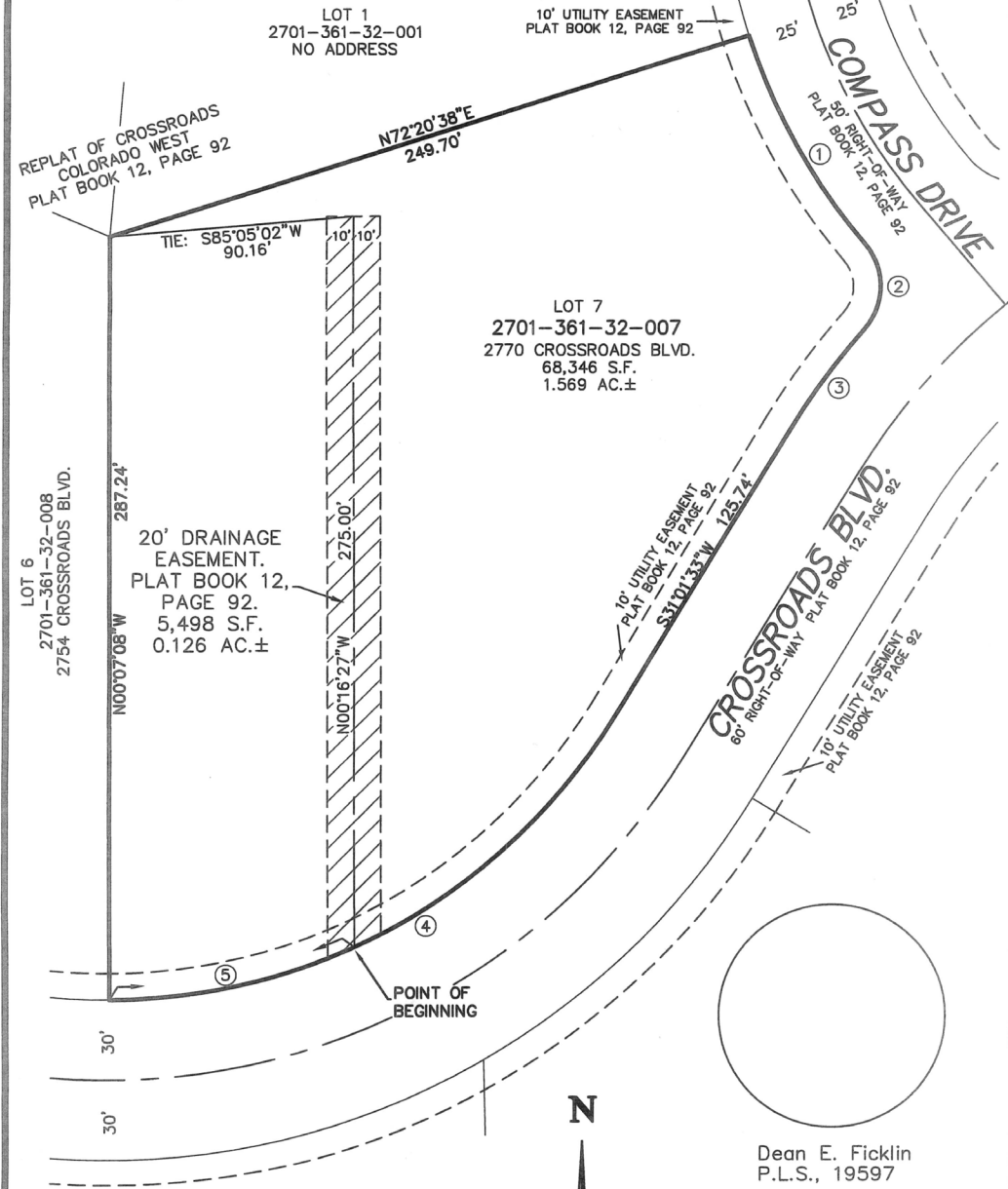
PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

President of City Council

City Clerk

EXHIBIT A



Dean E. Ficklin
P.L.S., 19597

LEGEND

- S.F. SQUARE FEET.
- AC. ACRES.

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	BEARING
①	22°18'08"	231.19'	89.99'	45.57'	89.42'	S28°48'24"E
②	80°33'58"	25.00'	35.15'	21.19'	32.33'	S00°19'32"W
③	09°34'59"	280.00'	46.83'	23.47'	46.78'	S35°49'02"W
④	58°51'15"	220.00'	225.98'	124.10'	216.18'	N60°27'10"E
⑤	24°28'52"	220.00'	94.00'	47.73'	93.29'	N77°38'22"E

GRAND VALLEY WATER USERS ASSOCIATION

GRAND VALLEY PROJECT, COLORADO

1147 24 Road (970) 242-5065 FAX (970) 243-4871
GRAND JUNCTION, COLORADO 81505

May 22, 2003

MAY 23 2003

Mr. J. Richard Livingston
Golden, Mumby, Summers, Livingston and Kane, LLP
2808 North Avenue, Suite 400
P. O. Box 398
Grand Junction, CO 81502

FAX No. 242-0698

Re: Lot 2 of the replat of Crossroads Colorado West Subdivision

Dear Mr. Livingston:

In October 2002, you called me regarding the discontinued use of an open drainage ditch channel that had its beginnings in said Lot 2 and which had been operated and maintained for many years by the Grand Valley Water Users' Association (GVWUA).

I stated that GVWUA had written the Bureau of Reclamation and requested that Reclamation proceed with a notice of discontinued use of and abandonment of said drain ditch because the drain was no longer needed by the GVWUA for irrigated agriculture purposes.

The "Notice of Discontinued Use of Right-of-Way" has been completed. Enclosed is a copy of the recorded document that was provided to GVWUA.

Please call GVWUA at 242-5065 if you have questions.

Sincerely,



Richard L. Proctor, Manager

Enclosure: Notice of Discontinued Use of Righ-of-Way



IN REPLY REFER TO:

UC-423
LND-6.00

United States Department of the Interior

BUREAU OF RECLAMATION
Upper Colorado Regional Office
125 South State Street, Room 6107
Salt Lake City, Utah 84138-1102

MAR 11 2003

OFFICIAL FILE CO
RECEIVED BOR REC
NORTHWEST DIVISION

MAR 13 2003

CLASS LND-6.00
PRI
CENTR
FLDR

CLASS
PRI
SUR

3/17/03 KOKOZ
4/17/03 S Co

MEMORANDUM

To: Area Manager, Western Colorado Area Office
Attention: WCG-SCoverly

BOOK 3305 PAGE 31

From: Bruce E. Snyder
Realty Officer
Resources Management Division

2110811 03/19/03 0932AM
JANICE WARD CLK&REC MESA COUNTY C
REC FEE \$30.00 SURCHG \$1.0

Subject: Land Management - Notice of Discontinued Use of Right-of-Way, Portion of Section 36 Drain, Grand Valley Project

Attached is an original Notice of Discontinued Use of Right-of-Way, for a portion of the right-of-way for the Section 36 Drain, which has been executed on behalf of the United States. Please have this notice recorded in the official records of Mesa County, Colorado. After recordation, please send a copy of the recorded notice to the landowner and return the original to this office for our official files.

If you have any questions, telephone Bonnie Heath at (801) 524-3663.

Attachment

Bruce E Snyder

RECEIVED
APR 22 2003
By

Contract No. 02-LM-4A-00060

NOTICE OF DISCONTINUED USE OF RIGHT-OF-WAY

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
GRAND VALLEY PROJECT
Portion of Section 36 Drain

THIS NOTICE IS TO THE LANDOWNERS AND ALL PERSONS WHOMSOEVER:

Landowner - Compass Park LLC
2764 Compass Drive, Suite 101
Grand Junction, Colorado 81506-8755

A portion of the right-of-way for the Section 36 Drain, which is a feature of the Grand Valley Project, is covered by Grand Valley Water Users Association subscription for Stock No. 145. Article XV, Section 2, of the stock subscription reads as follows: "the undersigned furthermore grants to the United States, over land described herein, as may be required in connection with the works constructed or controlled by the United States, for the use and benefit of the stockholders, necessary right-of-way for the construction, operation, and maintenance of canals, tunnels, and other water conduits, telephone and electric transmission lines, drains, dikes, and other works for irrigation, drainage, and reclamation." Said Stock Subscription No. 145 was recorded in the Mesa County Records on March 26, 1908, in Book 145, Page 130 and covers the entire Southwest Quarter of the Northeast Quarter of Section Thirty-six (36), Township One (1) North, Range One (1) West, Ute Meridian.

Notice is hereby given that the United States has determined it no longer requires the use of a portion of the Section 36 Drain and is therefore discontinuing its use of said portion of the Section 36 Drain, as shown on EXHIBIT A, attached hereto and by this reference made a part hereof, and more particularly described as follows:

The portion of the Section 36 Drain to be discontinued in use is located in the E½ of SW¼ of NE¼ of Section 36, T 1 N, R 1W, Ute P.M. The portion of open field drain that this Notice of Discontinued Use reflects is approximately 270 feet in length. The Global Position System coordinates for the end positions are stated as follows:

North end	Latitude	39 06' 55.91"
	Longitude	108 32' 22.98"
South end	Latitude	39 06' 53.28"
	Longitude	108 32' 23.13"

Nothing in this Notice shall be construed as abandonment, forfeiture, or relinquishment of the United States basic patent right reserved by the Act of August 30, 1890 (26 Stat. 391) or of the Grand Valley Water Users Association Subscription for Stock No. 145 as it pertains to locations other than that specifically described herein.

Please be advised that this Notice will be recorded in the official records of Mesa County, State of Colorado, and copy of the recorded document will be delivered to the current landowner.

If you have further information, please contact Stephen Coverly at 970-248-0665, Thank you.

UNITED STATES OF AMERICA

Darryl Beckmann
Act: Regional Director
Upper Colorado Region
Bureau of Reclamation

APPROVED

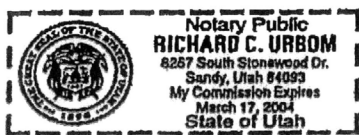
Christy B. Rink
Field Solicitor's Office

ACKNOWLEDGMENT

State of Utah)
) ss.
County of Salt Lake)

On the 27th day of February 2003, personally appeared before me Darryl Beckmann known to be to be the Act, Regional Director of the Bureau of Reclamation, Upper Colorado Region, United States Department of the Interior, the signer of the above instrument, who duly acknowledged to me that he/she executed the same on behalf of the United States of America pursuant to authority delegated to him/her.

(NOTARY SEAL)



Richard C. Urbom
Notary Public in and for the
State of Utah
Residing at Sandy, UT
My Commission expires: 3/17/2004

GRAND VALLEY WATER USERS ASSOCIATION

GRAND VALLEY PROJECT, COLORADO
1147 24 Road (970) 242-5065 FAX (970) 243-4871
GRAND JUNCTION, COLORADO 81505

OFFICIAL FILE COPY	
RECEIVED BOR W.C.A	
NORTHERN DIVIS.O	
OCT 29 2002	
CLASS	<i>10/30/02</i>
PREP	<i>10/30/02</i>
CHKD	<i>10/30/02</i>
FILED	<i>10/30/02</i>
<i>5/6</i>	

October 24, 2002

Kathleen Ozga
Bureau of Reclamation
2764 Compass Drive, Suite 106
Grand Junction, CO 81506

Re: Notice of Discontinued Use of Reserved Right-of-Way
Grand Valley Project Drainage Ditch Located SW1/4 of NE1/4
of Section 36, Township 1 North, Range 1 West, Ute P.M.

Dear Ms. Ozga:

For many years the Grand Valley Water Users' Association (GVWUA) maintained a drainage ditch in the SW1/4NE1/4 of Section 36, T1N, R1W, Ute PM. The purpose of this unnamed drain ditch was to provide irrigated agriculture land with drainage from surface field waste water run-off and subsurface seepage water. However, these lands are currently being used as an industrial subdivision. Therefore, GVWUA has no need to maintain this drain as an agriculture drain for the Grand Valley Project. GVWUA supports the discontinued use of and the abandonment of this drainage ditch.

The drain has its beginning as an open drainage ditch in Lot 1 of the Replat of Crossroads Colorado West Subdivision. The drain then traverses southward through Lot 7 and is piped under Crossroads Blvd. The drain through Lots 1 and 7 were recently tiled and covered by someone other than GVWUA. The drain then continues south and goes through the lot labeled as a park site. This lot is now owned by the Holiday Inn. The Holiday Inn paid GVWUA to have this portion of the drain piped in 1994. The drain then goes under the fence into the Holiday Inn parking lot. Then turns and goes west, going under the Interstate Hiway onto the Adams Mark Hotel property and connects with another drainage system not maintained by the GVWUA.

I have enclosed a copy of the subdivision plat that shows the streets, lots and drain ditch alignment. Attached to the plat is a drawing that shows how and where the two drains connect together.

Page 2
Discontinued Use of ROW
October 24, 2002

BOOK3305 PAGE35

The west drain, which is also shown on the plat, begins at the Government Highline Canal where a natural wash channel is siphoned beneath the Canal. GVWUA maintains this west drain ditch from the Canal southward to the I-70 right-of-way in order to make sure that the siphon under the Canal works properly. This west drain as maintained by GVWUA should be retained as a project drain.

After the two drains connect together, they discharge into a natural wash channel which continues off the project and towards the Colorado River.

Also enclosed is a letter from GVWUA to Reclamation dated September 27, 2001 which also addressed the discontinued use of the east branch of this drainage system.

Please call GVWUA at 242-5065 if you have questions on this matter.

Sincerely,



Richard L. Proctor, Manager

Enclosure:

GRAND VALLEY WATER USERS ASSOCIATION

GRAND VALLEY PROJECT, COLORADO

1147 24 Road (970) 242-5065 FAX (970) 243-4871
GRAND JUNCTION, COLORADO 81505

September 27, 2001

COPY

Kathleen Ozga
Bureau of Reclamation
2764 Compass Drive, Suite 106
Grand Junction, CO 81506

BOOK 3305 PAGE 36

Re: Notice of Discontinued Use of Reserved Right-of-Way
Grand Valley Project Drainage Ditch

Dear Ms. Ozga:

Enclosed please find copies of plat maps for certain lots of the Replat of Crossroads Colorado West, a commercial subdivision.

On the maps I have noted and highlighted a drainage ditch facility that has been maintained by the GWWUA for many years. The drain ditch collects and conveys below ground seepage water. Some stormwater run-off from Crossroads Blvd. also gets into the drain. The open part of the drain ditch has its beginnings in the vacant lots between Compass Drive and Crossroads Blvd. South of Crossroads Blvd. the drain is piped and covered. It goes southward towards the Holiday Inn building and then goes westward under the Holiday Inn parking lot and on under I-70 Hwy to connect with a natural wash channel adjacent to the Bookcliff Country Club Golf Course:

Attached to this letter is a planning review packet for a parking lot to be developed by the Holiday Inn that will be built on top of the drain pipeline. In addition, we have had inquiries from prospective buyers of the said vacant lots to be able to pipe and cover the upper part of the drain.

This drain no longer serves as an agriculture drain. The GWWUA has no need or use of the drain. Its use as a project drain needs to be discontinued.

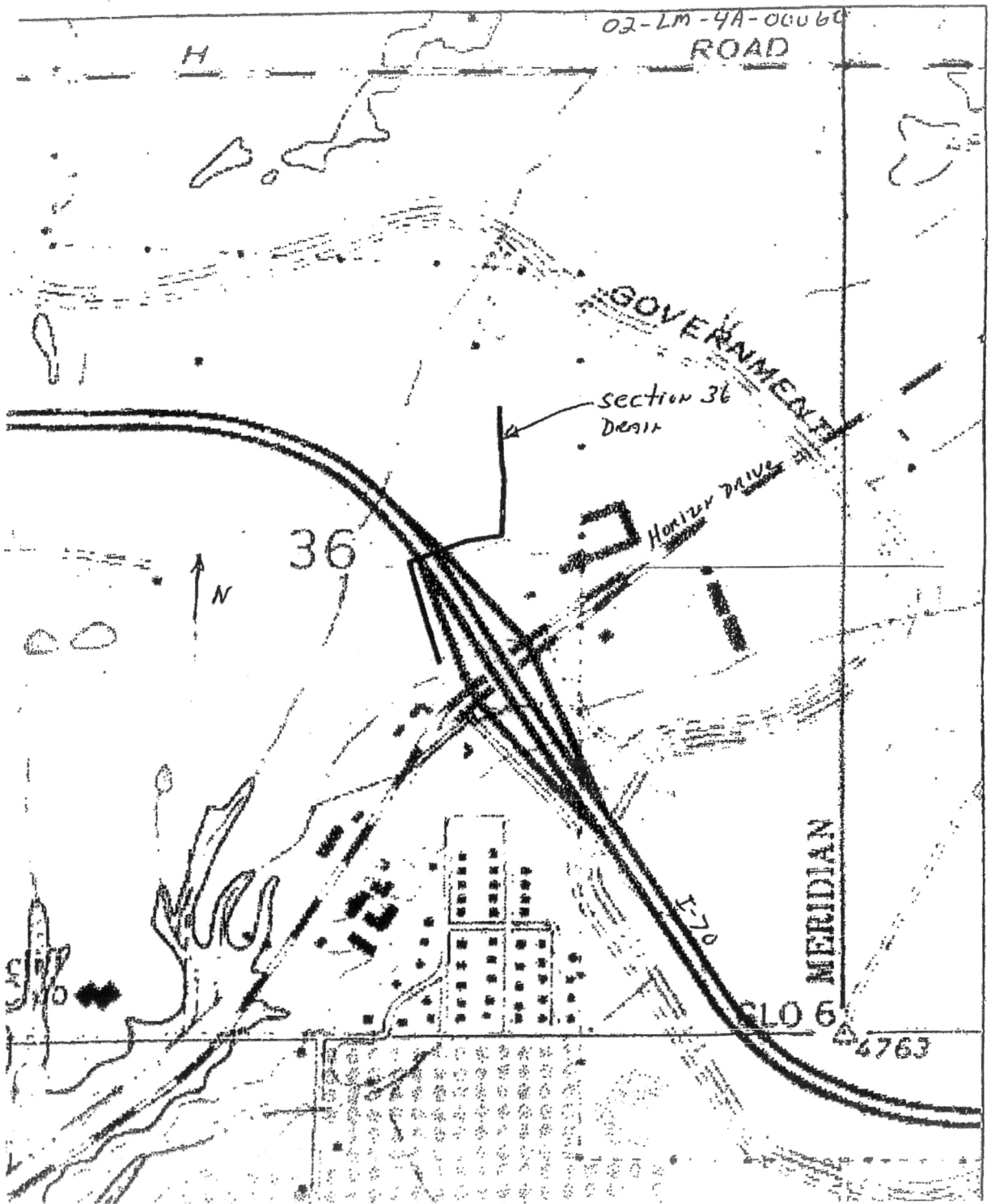
Please call me if you have questions concerning this matter.

Sincerely,

Richard Proctor

Richard L. Proctor, Manager

Attachments:



**Attach 3
Bella Dimora Subdivision**

**CITY OF GRAND JUNCTION
PLANNING COMMISSION**

MEETING DATE: May 12, 2009
STAFF PRESENTATION: Scott D. Peterson

AGENDA TOPIC: Bella Dimora, Preliminary Development Plan and Rezone to PD, Planned Development, PP-2007-304

ACTION REQUESTED: A recommendation of approval to City Council to zone 13.87 acres to PD, (Planned Development) with a default zone of R-8, (Residential – 8 du/ac) and recommendation to City Council of approval of a Preliminary Development Plan (PDP) for Bella Dimora, a 114 dwelling unit residential subdivision.

BACKGROUND INFORMATION			
Location:		Patterson Road, Grand Falls Drive and Valentino Way in the Legends/Legends East Subdivisions	
Applicants:		Abell Partners LLC & Legends Partners LLC, Owners	
Existing Land Use:		Vacant land	
Proposed Land Use:		Two family dwelling and Single family stacked residential subdivision	
Surrounding Land Use:	North	Matchett Park (undeveloped) and Single family detached dwelling units	
	South	Single family detached dwelling units	
	East	Single family detached and attached dwelling units	
	West	Single family detached dwelling units	
Existing Zoning:		PD, (Planned Development) and R-8, (Residential – 8 du/ac)	
Proposed Zoning:		PD, (Planned Development)	
Surrounding Zoning:	North	R-5, (Residential – 5 du/ac), CSR, (Community Services and Recreation) and R-O, (Residential Office)	
	South	PD, (Planned Development) and R-8, (Residential – 8 du/ac)	
	East	PD, (Planned Development)	
	West	PD, (Planned Development)	
Growth Plan Designation:		Residential Medium High (8 – 12 du/ac)	
Zoning within density range?		X	Yes
			No

PROJECT DESCRIPTION: A request for approval to zone property for the proposed Bella Dimora residential subdivision to PD, (Planned Development) with a default zone of R-8, (Residential – 8 du/ac) by approval of the Preliminary Development Plan as a Planned Development. The total project encompasses 13.87 acres and will contain a mixture of 114 two family and single family stacked dwelling units.

RECOMMENDATION: Recommend approval to City Council to zone 13.87 acres PD, (Planned Development) with a default zone of R-8, (Residential – 8 du/ac) and recommend to City Council approval of a Preliminary Development Plan for Bella Dimora.

ANALYSIS:

1. Background:

The applicants, Abell Partners LLC & Legends Partners LLC, wish to develop a two family dwelling and single family stacked dwelling residential subdivision to be located south of Patterson Road and north of Grand Falls Drive and Valentino Way on a total of 13.87 acres. The total number of dwelling units proposed would be 114 and be constructed in three (3) phases.

In 1999, the City Planning Commission approved a Preliminary Plan for The Vistas Subdivision. This approved plan included 80 four-plex townhouse lots and 72 single-family detached lots. The proposed 80 four-plex townhouse lots were never developed.

In 2000, the City Planning Commission approved a revised Preliminary Plan from The Vistas, named The Legends that included more single-family detached lots and a revision to develop 80 four-plex units, rather than townhouse lots that were previously approved in the prior year. The proposed 80 four-plex units again were never developed by the applicants. Also in 2000, the City Council approved a Zone Change for The Legends Subdivision to PD, (Planned Development).

In 2000 and 2001, the applicants received Final Plat approval for The Legends, Filing One and Two. The land area where the 80 four-plex units were to be developed was platted as Lot 1, Block 1, The Legends, Filing Two and contained 9.44 acres.

The applicants now wish to develop this 9.44 acre property and incorporate it with the currently vacant adjacent 4.43 acres known as Lot 18, Block 3, Legends East, Filing Three and request that the Planning Commission and City Council amend the Preliminary Development Plan and PD, (Planned Development) Zoning District for the proposed Bella Dimora Subdivision.

Density: The proposed density for Bella Dimora will be approximately 8.21 dwelling units per acre. The Growth Plan Future Land Use Map indicates this area to be Residential Medium High (8 – 12 du/ac). However, since the applicants had previously developed single-family detached homes in The Vistas/Legends/Legends East

Subdivisions that were lower than the required densities per the Growth Plan, therefore, the applicants must now “make up” for those lower densities in this “phase” of the Planned Development, more specifically to develop a minimum of 114 dwelling units with this proposed development in order to meet minimum density requirements of 6.4 du/ac which equates to 80% of the Growth Plan designation (Section 3.6 B. 9. a. of the Zoning and Development Code) for the approved The Vistas/Legends/Legends East plans. This plan does allow overall densities to meet minimum density standards.

Access and Street Design: The proposed development has three (3) access points; Legends Way, Verona Drive and W. Naples Drive. All proposed streets, with the exception of Legends Way were approved as an Alternate Street right-of-way design per Chapter 15 of the TEDS Manual (Transportation Engineering Design Standards). For an alternate street design, no on-street parking will be allowed except in designated parking areas with the exception of E. Naples Drive which allows parking on both side of the street from Siena/Ravenna Court to Verona Drive.

Open Space / Park: The applicant is proposing a series of 4' wide concrete pedestrian paths that will meander throughout the subdivision for the benefit of the residents (see attached Site Plan – Sheets S1 – S3). Open space areas are proposed in each phase of development that will include extensive landscaping, pedestrian paths and park benches (7.65 acres total of open space – minimum 1 tree per 2,500 sq. ft. and 1 shrub per 300 sq. ft. in accordance with Exhibit 6.5 A. of the Zoning and Development Code). In some locations, pedestrian trails also serve as sidewalks for adjacent dwelling units since sidewalks will not be constructed adjacent to all street frontages. A Pedestrian Easement will be dedicated to the City of Grand Junction at the time of Final Plan approval for ingress and egress by the public on all pedestrian paths.

Lot Layout: The proposed subdivision has stacked dwelling units. A stacked dwelling unit is defined by the Zoning and Development Code as a dwelling containing two single family units that are separated horizontally. The majority of the development will be two-family dwelling units that would be separated by a common wall. No single-family detached housing is proposed. The building footprint for each dwelling unit would be the “lot” with the exception of the stacked dwelling units. All areas outside of the building footprint would be designated as “Tracts” for maintenance responsibilities by the homeowner’s association (upon recording of a plat, these tracts would become common elements or limited common elements).

Phasing: The proposed Bella Dimora subdivision is to be developed in three phases. The proposed phasing schedule is as follows (see attached Site Plans – Sheets S1 – S3):

Phase I: Range of development to be 30 +/- dwelling units. Phase 1 to be reviewed and approved by the year 2012.

Phase 2: Range of development to be 40 +/- dwelling units. Phase 2 to be reviewed and approved by the year 2015.

Phase 3: Range of development to be 44 +/- dwelling units. Phase 3 to be reviewed and approved by the year 2018.

Long-Term Community Benefit

The intent and purpose of the PD zone is to provide flexibility not available through strict application and interpretation of the standards established in Chapter 3 of the Zoning and Development Code. The Zoning and Development Code also states that PD, (Planned Development) zoning should be used only when long-term community benefits, which may be achieved through high quality planned development, will be derived. Long-term benefits include, but are not limited to:

1. More effective infrastructure;
2. Reduced traffic demands;
3. A greater quality and quantity of public and/or private open space;
4. Other recreational amenities;
5. Needed housing types and/or mix;
6. Innovative design;
7. Protection and/or preservation of natural resources, habitat areas and natural features; and/or Public art.

The proposed development has met the following long-term community benefits:

1. Effective infrastructure design and in-fill project with higher density development that provides for better utilization of streets, water and sewer services.
2. Recreational amenities that include an extensive network of off-street pedestrian trails, benches and landscaped park open spaces, throughout the subdivision.
3. A needed mix of housing types for the community.

The project has been designed to add aesthetic value to the neighborhood as it offers higher density in an environment that feels more like a single-family detached neighborhood. Amenities such as trails, open space parks and landscaping will be included in all common areas.

Default Zone

The dimensional standards for the R-8, (Residential – 8 du/ac) zone, as indicated in Table 3.2 (including Footnotes) in the Zoning and Development Code, are as follows:

Density: 8 dwelling units to the acre

Minimum lot area/width: 4,000 sq. ft./40'. (see deviation below)

Front yard setback (Principal/Accessory): 20/25 (see deviations below)

Side yard setback (Principal/Accessory): 5/3 (see deviations below)

Rear yard setback (Principal/Accessory): 10/5 (see deviations below)

Maximum building height: 35'

Deviations

1. Building Setbacks:

20' Front Yard

15' Adjacent Side Street (Corner Lot)

10' Rear Yard

14' Rear Yard Setback (Adjacent to Patterson Road)

15' Rear Yard Setback (Adjacent to Legends Way)

Standard setbacks apply unless otherwise noted.

2. Six foot (6') tall masonry screen wall required to be located a minimum five feet (5') from north property line adjacent to Patterson Road per Section 6.5 G. 5. e. of the Zoning and Development Code. Applicant is proposing to construct the masonry wall on the property line in order to give the unit property owners a larger backyard area as the rear yard setback adjacent to Patterson Road is 14'. Project Manager is supportive of the proposed deviation in this instance. Applicant is also proposing to construct the masonry wall in 30' segments and shift from the property line two feet (2') along Patterson Road which gives the wall architectural relief rather than constructing a standard monolithic wall. A detached sidewalk also exists along Patterson Road with varying landscape buffer dimensions between the sidewalk and wall so that the proposed wall would not be constructed directly adjacent to the sidewalk.

3. There are no minimum lot areas or widths with this subdivision proposal since the amount of open space provided is providing the community benefit along with the off-street pedestrian trails.

2. **Section 2.12 C. 2. of the Zoning and Development Code:**

Requests for a Planned Development Preliminary Development Plan must demonstrate conformance with all of the following:

- a) The Outline Development Plan review criteria in Section 2.12 B. of the Zoning and Development Code.
 - 1) The Growth Plan, Grand Valley Circulation Plan and other adopted plans and policies.

The proposed Preliminary Development Plan complies with the Growth Plan, Grand Valley Circulation Plan and other applicable adopted plans and policies. The proposed development is within the density ranges of the Residential Medium High (8 – 12 du/ac) category as defined in the Growth Plan.

2) The rezoning criteria provided in Section 2.6 of the Zoning and Development Code.

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

Not applicable. The applicants have submitted a request to zone the properties PD, Planned Development with the default zoning of R-8, (Residential – 8 du/ac) which is in the allowable density range of Residential Medium High (8 – 12 du/ac) as defined by the Growth Plan.

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

There has not been a change of character in the neighborhood as all surrounding properties are residential in character. However, since the applicant had previously developed single-family detached homes in The Vistas/Legends/Legends East Subdivisions that were lower than the required densities per the Growth Plan, the applicants are required to develop a minimum of 114 dwelling units with this proposed development in order to meet minimum density requirements of 6.4 du/ac which equates to 80% of the Growth Plan designation (Section 3.6 B. 9. a. of the Zoning and Development Code) for the approved The Vistas/Legends/Legends East plans.

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

The proposed zoning to PD is within the allowable density range recommended by the Growth Plan. This criterion must be considered in conjunction with criterion D which requires that public facilities and services are available when the impacts of any proposed development are realized. City Staff has determined that public infrastructure can address the impacts of any development consistent with the PD zone district, therefore this criterion is met.

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

Adequate public facilities and services are currently available or will be made available concurrent with the development and can address the impacts of development consistent with the PD zone district with an underlying default zoning of R-8.

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

Not applicable since the applicant is requesting to zone both properties to PD, Planned Development with an underlying default zone of R-8, (Residential – 8 du/ac) and is also within the allowable density range as defined by the Growth Plan Future Land Use Map.

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

The proposed zoning of PD, Planned Development will allow the properties to be developed with community benefits that might not occur under a straight R-8, zoning district, including recreational amenities that include an extensive network of off-street pedestrian trails and landscaped open spaces throughout the subdivision. The project has been designed to add aesthetic value to the existing neighborhood as it offers higher density development in an environment that feels more like a single-family neighborhood.

- 3) The planned development requirements of Chapter Five of the Zoning and Development Code.

The proposed plan is in conformance with the Planned Development requirements of Chapter Five of the Zoning and Development Code through the use of long-term community benefits such as the following; providing a needed housing type, open space parks, landscape plantings and off-street pedestrian trails, etc.

- 4) The applicable corridor guidelines and other overlay districts in Chapter Seven.

Not applicable since the properties are located outside of the floodplain, hillside development standards and other corridor guidelines and overlay districts as defined in Chapter Seven of the Zoning and Development Code.

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

Adequate public facilities and services will be provided concurrent with the projected impacts of the development as defined in the attached plans and phasing schedule.

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

Adequate circulation and access will be provided to serve all properties. Four ingress/egress points are proposed to provide access to the development. Internal streets with the exception of Legends Way were approved by the City under the Alternate Residential Street Standards as allowed in the TEDS Manual (Transportation Engineering Design Standards).

- 7) Appropriate screening and buffering of adjacent property and uses shall be provided.

Not applicable since all adjacent land uses are single-family residential. Since the proposed development is a condominium development, all land area located outside of the building footprint are to be platted as tracts of land that will be owned and maintained by the Homeowner's Association and be fully landscaped in accordance with Exhibit 6.5 A. of the Zoning and Development Code.

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

The proposed density for the development is 8.21 du/ac, which is within the Growth Plan designation density of the Residential Medium High category of 8 to 12 du/ac. The applicants are required to develop a minimum of 114 dwelling units with this proposed development in order to meet minimum density requirements of 6.4 du/ac which equates to 80% of the Growth Plan designation (Section 3.6 B. 9. a. of the Zoning and Development Code) for the previously approved The Vistas/Legends/Legends East plans.

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

The applicants are proposing an R-8 default zone with deviations as listed in this report.

- 10) An appropriate phasing or development schedule for the entire property or for each development pod/area to be developed.

The applicants have submitted a plan proposing the subdivision to be developed in three (3) phases.

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

The existing Legends Subdivision is currently zoned PD, Planned Development and is 32 +/- acres in size. This proposal will add another 4.43 acres to the existing Legends PD zone district therefore the entire Legends Subdivision PD zone district is over 20 acres in size.

- b) The applicable preliminary subdivision plan criteria in Section 2.8 B. of the Zoning and Development Code.

- 1) The preliminary subdivision plan will be in conformance with the Growth Plan, Grand Valley Circulation Plan, Urban Trails Master Plan, and other adopted plans;

The proposed preliminary subdivision plan is in conformance with the Growth Plan, Grand Valley Circulation Plan, Urban Trails Master Plan and other adopted plans. The proposal is within the density ranges as allowed under the Growth Plan.

- 2) The Subdivision standards in Chapter Six.

The proposed preliminary plan is in conformance with the subdivision standards as identified in Chapter Six.

- 3) The Zoning standards in Chapter Three.

The proposed preliminary plan is in conformance with the zoning standards as identified in Chapter Three, the default standards of the R-8 zone district and the amended zone district standards proposed in the deviation section of this report.

- 4) Other standards and requirements of the Zoning and Development Code and other City policies and regulations.

The proposed preliminary plan complies with other standards and requirements of the Zoning and Development Code and other City policies and regulations.

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

All public facilities and services will be available concurrent with each phase of development for the subdivision.

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

The proposed subdivision will have little or no adverse or negative impacts upon the natural or social environment. All adjacent properties are currently developed with either single-family detached or attached housing units.

- 7) Compatibility with existing and proposed development on adjacent properties.

The proposed subdivision is compatible with the existing surrounding development as the project has densities allowed within the Growth Plan designation density range of the Residential Medium High category of 8 to 12 du/ac.

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

Not applicable as there are no adjacent agricultural property and land uses.

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

The proposed subdivision is surrounded by developed residential properties therefore this proposal is neither piecemeal nor premature development.

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

Adequate land is available to dedicate for provisions of public services.

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

The proposed subdivision will not cause an undue burden on the City for maintenance or improvement of land and/or facilities.

- c) The applicable site plan review criteria in Section 2.2 D. 4. of the Zoning and Development Code.

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

The proposed subdivision is in compliance with the applicable density as allowed under the Growth Plan designation of Residential Medium High (8 -12 du/ac), the Grand Valley Circulation Plan and Urban Trails Plan. A Pedestrian Easement will be dedicated to the City of Grand Junction at the time of Final Plan approval for ingress and egress by the public on all pedestrian paths.

- 2) Conditions of any prior approvals.

Since the applicants had previously developed single-family detached homes in The Vistas/Legends/Legends East Subdivisions that were lower than the required densities per the Growth Plan, therefore, the applicants will need to develop a minimum of 114 dwelling units with this proposed development in order to meet minimum density requirements of 6.4 du/ac which equates to 80% of the Growth Plan designation (Section 3.6 B. 9. a. of the Zoning and Development Code) for the approved The Vistas/Legends/Legends East plans.

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

The two (2) parcels are proposed to be zoned PD, Planned Development with an R-8 default zoning district standard. The applicants are proposing deviations from the R-8 default zoning district as described earlier in this report. The proposed subdivision, upon review and approval by the Planning Commission and City Council will therefore meet and exceed all applicable use specific standards of Chapter Three of the Zoning and Development Code and the design and improvement standards of the Chapter Six of the Zoning and Development Code.

- 4) Quality site design practices.

The proposed subdivision provides quality site design practices as identified in the attached Site and Preliminary Plan through the use of the following; construction of 6' tall masonry wall adjacent to Patterson Road, open space areas in each phase of development that will include extensive landscaping, pedestrian paths and park

benches and all applicable requirements of the Zoning and Development Code pertaining to the PD, Planned Development zoning district with a default zoning district of R-8, Residential – 8 du/ac.

- d) The approved ODP, if applicable.

This criteria is not applicable since the applicant does not have an approved Outline Development Plan (ODP).

- e) The approved PD rezoning ordinance, if adopted with an ODP.

This criteria is not applicable as an ODP has not been approved.

- f) An appropriate, specific density for all areas included in the preliminary plan approval.

The proposed subdivision overall density is 8.21 dwelling units per acre.

- g) The area of the plan is at least five (5) acres in size or as specified in an applicable approved ODP.

The area of the proposed preliminary plan meets this criterion as the site is approximately 13.87 acres in size.

FINDINGS OF FACT/CONCLUSIONS/CONDITION OF APPROVAL:

After reviewing the Bella Dimora application, PP-2007-304 for a Preliminary Development Plan and Rezone to PD, Planned Development, I make the following findings of fact/conclusions and condition of approval:

1. The requested Preliminary Development Plan and Rezone to PD, Planned Development is consistent with the Growth Plan.
2. The review criteria in Section 2.12 C. 2. of the Zoning and Development Code have all been met.
3. The review criteria in Section 2.8 B. of the Zoning and Development Code have all been met.
4. The review criteria in Section 2.2 D. 4. of the Zoning and Development Code have all been met.
5. There is an existing 7' Irrigation and Drainage Easement along the west property line of the Legends East, Filing 3 Subdivision that was dedicated to the Legends Homeowner's Association that will impact proposed Units 63, 64, 100, 101 and 102 of Bella Dimora. Applicant will need to submit verification

at the time of Final Plan review that the HOA has relinquished this easement since Legends East, Filing One dedicated this easement to the HOA.

STAFF RECOMMENDATION:

Project Manager recommends that the Planning Commission forward a recommendation of approval of the requested Preliminary Development Plan and Rezone to PD, Planned Development for the Bella Dimora subdivision, PP-2007-304 to the City Council with the findings, conclusions and condition of approval as listed above.

RECOMMENDED PLANNING COMMISSION MOTION:

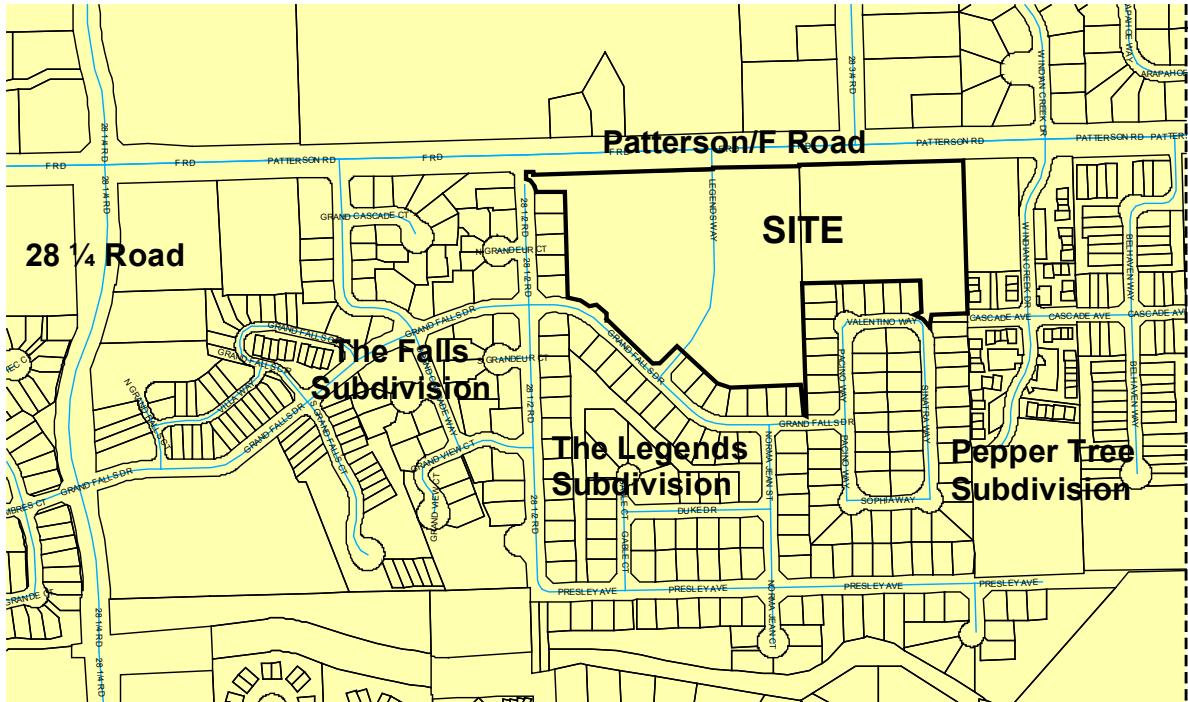
Mr. Chairman, on the Bella Dimora subdivision, Preliminary Development Plan and Rezone to PD, Planned Development, PP-2007-304, I move that the Planning Commission forward to the City Council a recommendation of approval of the Plan with the findings of fact, conclusions and condition of approval as identified in the staff report.

Attachments:

Site Location Map / Aerial Photo Map
Future Land Use Map / Existing City Zoning
Preliminary Plan (Sheets PP1 – PP3)
Site Plan (Sheets S1 – S3)
Planned Development Rezone Ordinance

Site Location Map

Figure 1



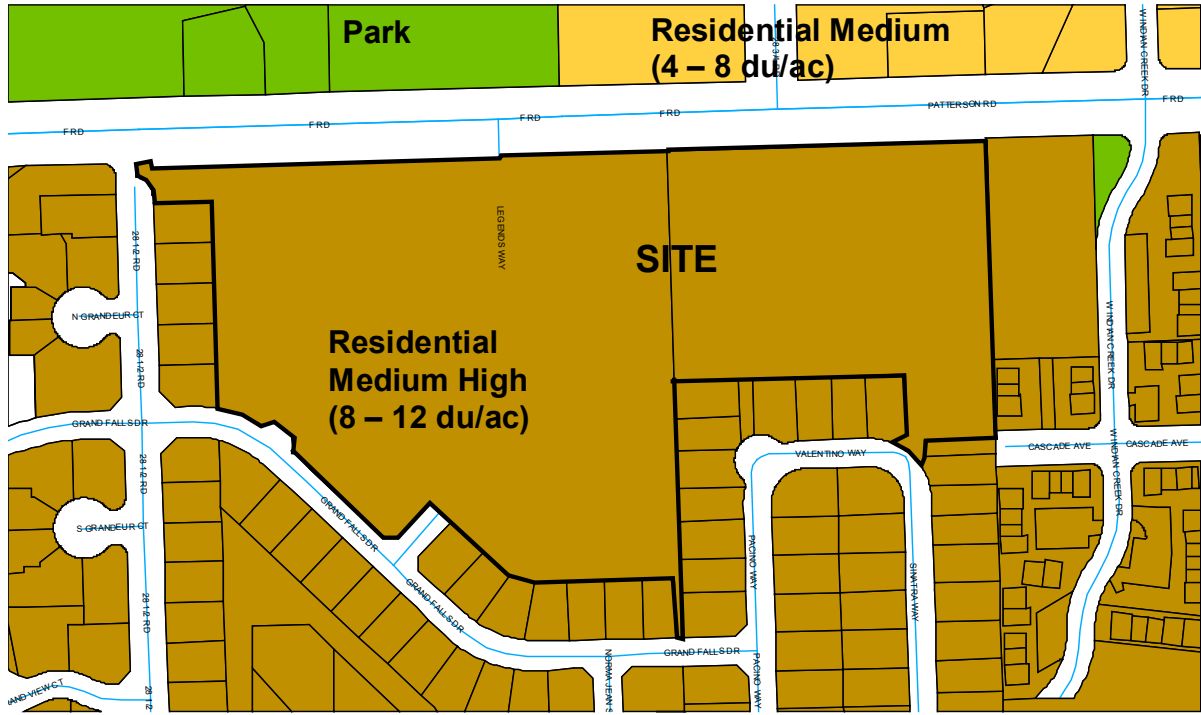
Aerial Photo Map

Figure 2



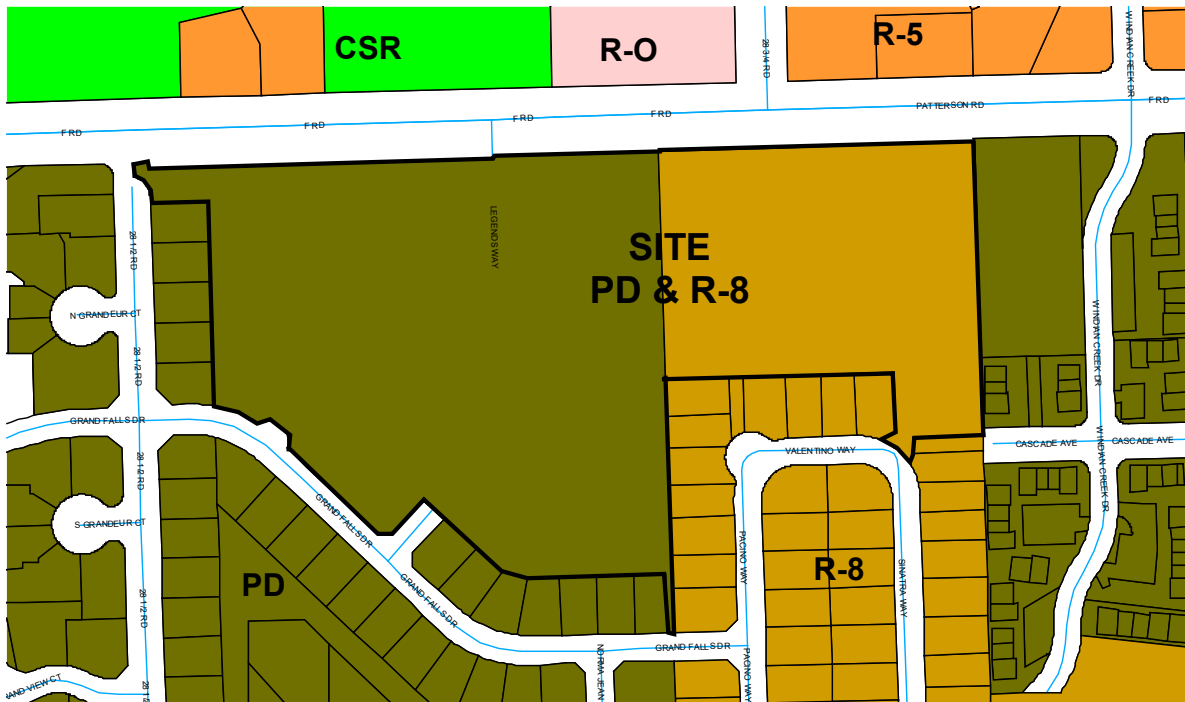
Future Land Use Map

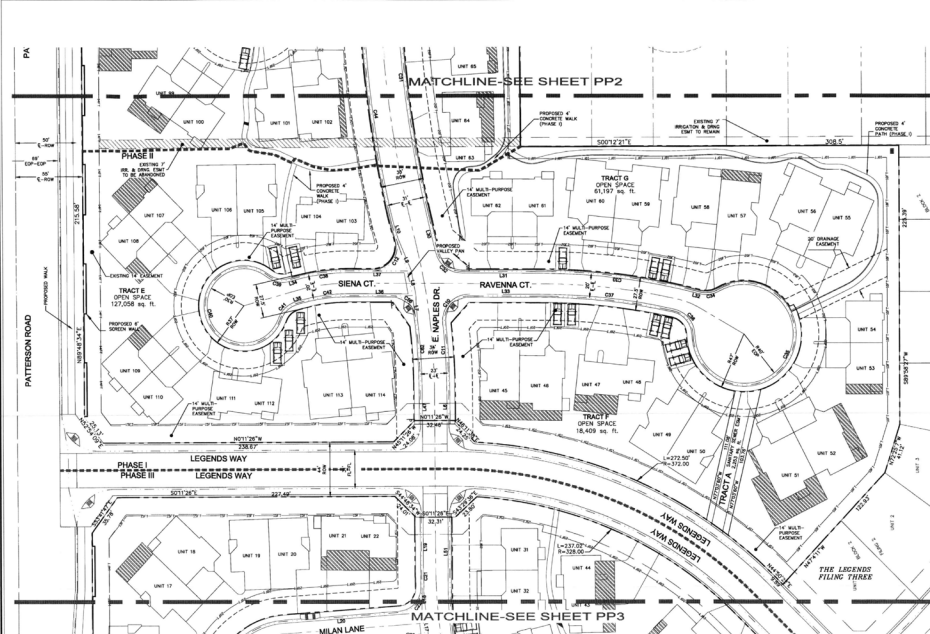
Figure 3



Existing City Zoning

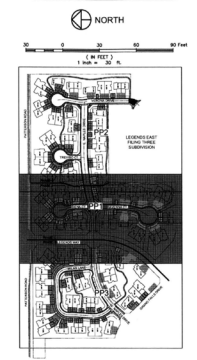
Figure 4





LINE & CURVE DATA

LINE TABLE				CURVE TABLE				CURVE TABLE				CURVE TABLE			
STATION	CHORD BEARING	CHORD DIST.	ARC DIST.	CHORD BEARING	CHORD DIST.	ARC DIST.	DELTA	CHORD BEARING	CHORD DIST.	ARC DIST.	DELTA	CHORD BEARING	CHORD DIST.	ARC DIST.	DELTA
1+00	S 89.24 E 100.00	100.00	100.00	S 89.24 E 100.00	100.00	100.00	90.74	S 89.24 E 100.00	100.00	100.00	90.74	S 89.24 E 100.00	100.00	100.00	90.74



LEGEND / ABBREVIATIONS:

PROPOSED CENTERLINE	---
PROPOSED DRIVE AND UTILITY (D&U)	---
PROPOSED DRIVEWAY	---
PROPOSED DRIVEWAY LINE	---
PROPOSED DRIVEWAY CURB	---
EXISTING EASEMENT LINE	---
10' SETBACK LINE	---
15' SETBACK LINE	---
20' SETBACK LINE	---
30' SETBACK LINE	---
EXISTING ROAD	---
EXISTING CURB & GUTTER	---
PEDestal BUILDING ELEVATION	---
DRIVE	---
DRIVEWAY	---
DRIVEWAY CURB	---
DRIVEWAY GUTTER	---
DRIVEWAY SIDEWALK	---
DRIVEWAY SIDEWALK CURB	---
DRIVEWAY SIDEWALK GUTTER	---

- NOTES:**
- DRAINAGE RETENTION DETENTION IS ACCOUNTED FOR IN AN EXISTING FACILITY CONTRIBUTED UNDER PREVIOUS PERMITS.
 - THIS DESIGN INCORPORATES THE STANDARDS OF THE CITY OF GRAND RAPIDS, CENTRAL GRAND VALLEY ELEVATION DISTRICT, AND UTE WATER.
 - REFER TO DETAIL SHEET (DS) FOR APPROXIMATE BUILDING DIMENSIONS.
 - PROVIDE SLOTTED DRAINAGE SURFACE 20' TO 24" OF 6" RIBBON CURBS WITHIN TRACT A TO PROVIDE DRAINABLE SURFACE. SURFACE SHALL BE 6" WIDE (MIN) AND CENTERED OVER SANITARY SEWER MAIN.
 - FOR MORE DETAIL ON GRADING AND DRAINAGE REFER TO COMPOSITION PLANS AND DRAINAGE PLANS.
 - THE FORMAL BUILDING DRAININGS ARE SHOWN FOR REFERENCE AND TO ALLOW SLIGHT BUILDING MODIFICATIONS, UPON REQUEST, AT THE TIME OF BUILDING FORMS.

ACCEPTED FOR CONSTRUCTION

By: _____
 Title: _____
 Date: _____

CERTIFICATION STATEMENT:

I, Jeffrey A. Bullseye, a Professional Engineer, State of Michigan, License No. 90000, hereby certify that I am the author of the design shown on this drawing and that I am a duly licensed Professional Engineer in the State of Michigan.

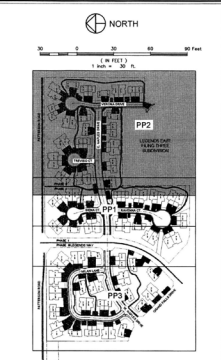
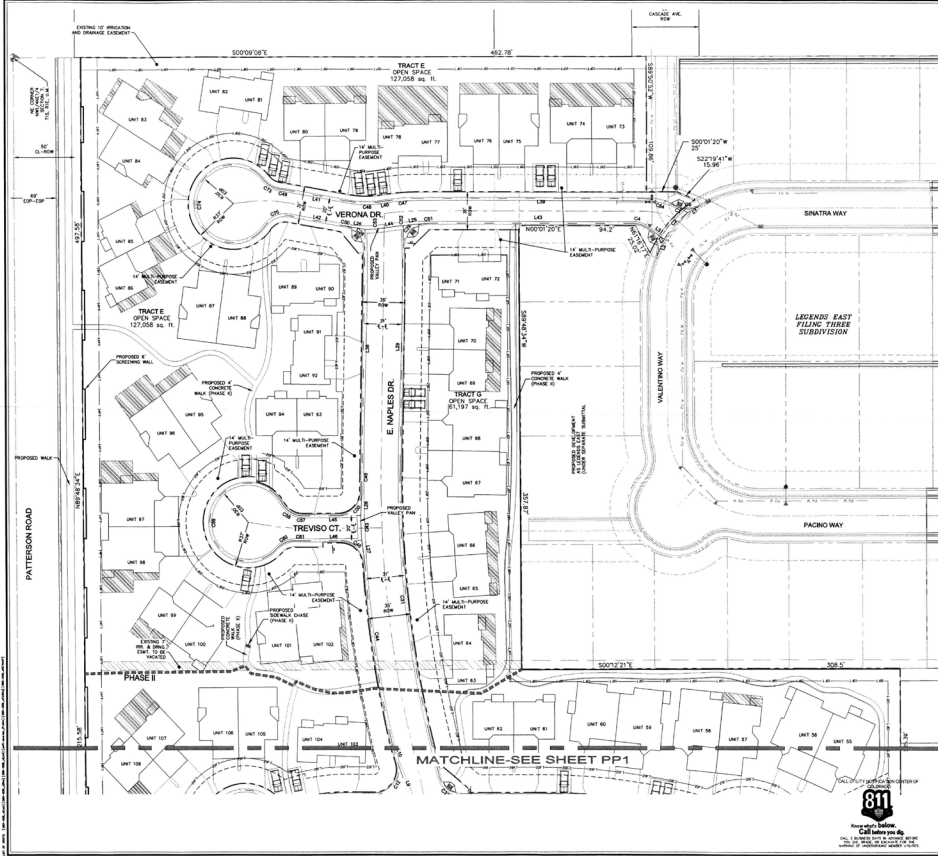
DATE: _____

ABELL PARTNERS
 ENGINEERING
 1000 WEST WASHINGTON
 GRAND RAPIDS, MI 49503
 TEL: (616) 455-1000
 FAX: (616) 455-1001
 WWW.APELLPARTNERS.COM

BULLSEYE ENGINEERING, INC.
 1000 WEST WASHINGTON
 GRAND RAPIDS, MI 49503
 TEL: (616) 455-1000
 FAX: (616) 455-1001
 WWW.BULLSEYEENGINEERING.COM

BELLA DONORA
 PRELIMINARY PLAN
 PRELIMINARY PLAN

SHEET
 PP1



LEGEND / ABBREVIATIONS:

PROPOSED CENTERLINE	---
PROPOSED CURB AND GUTTER (CY)	---
PROPOSED DRIVEWAY	---
PROPOSED FRONT OF WAY	---
PROPOSED SIDEWALK	---
PROPOSED UNIT LINE	---
EXISTING LAWNLINE	---
EXISTING UNIT LINE	---
1/2" STRICH LINE	---
1" STRICH LINE	---
2" STRICH LINE	---
CONCRETE WALL	---
EXISTING CURB & GUTTER	---
POTENTIAL BUILDING EXPANSION	---
DRIVE	---
BRIDGE	---
EDGE OF PAVEMENT	---
EDGE OF ROAD	---
EDGE OF WAY	---
EDGE OF FOOT	---
EXISTENT	---

- NOTES:**
1. GRADINGS RETENTION/PRETENTION IS ACCOUNTED FOR IN AN EXISTING FACILITY CONSTRUCTED UNDER PREVIOUS FILING.
 2. THIS DESIGN INCORPORATES THE STANDARDS OF THE CITY OF GRAND RAPIDS, CENTRAL GRAND VALLEY SENIOR DISTRICT AND UIC RULES.
 3. REFER TO DETAIL SHEET (01) FOR APPROXIMATE BUILDING DIMENSIONS.
 4. PROPOSED DRIVEWAY SURFACE ON TOP OF 4" BASE COURSE WITHIN TRACT A TO PROVIDE DRAINAGE SURFACE. SURFACE SHALL BE 8" WIDE (MIN) AND EXTENDS OVER DRIVEWAY SLOPE AREA.
 5. FOR MORE DETAIL ON GRADING AND DRAINAGE REFER TO COMPOSITE PLANS & DRAINAGE PLAN(S).
 6. SEE SHEET (P1) FOR LINE AND CURVE TABLES.
 7. THE POTENTIAL BUILDING EXPANSIONS ARE SHOWN FOR REFERENCE AND TO ALLOW SEVERAL BUILDING MODIFICATIONS, UPON REQUEST, AT THE TIME OF BUILDING PERMIT.

ACCEPTED FOR CONSTRUCTION

CERTIFICATION STATEMENT

I, **William A. Goff**, Civil Engineer, No. 10000, State of Michigan, do hereby certify that the above described project has been prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer in the State of Michigan.

WILLIAM A. GOFF
Professional Engineer
No. 10000
State of Michigan

ABELL PARTNERS ENGINEERING

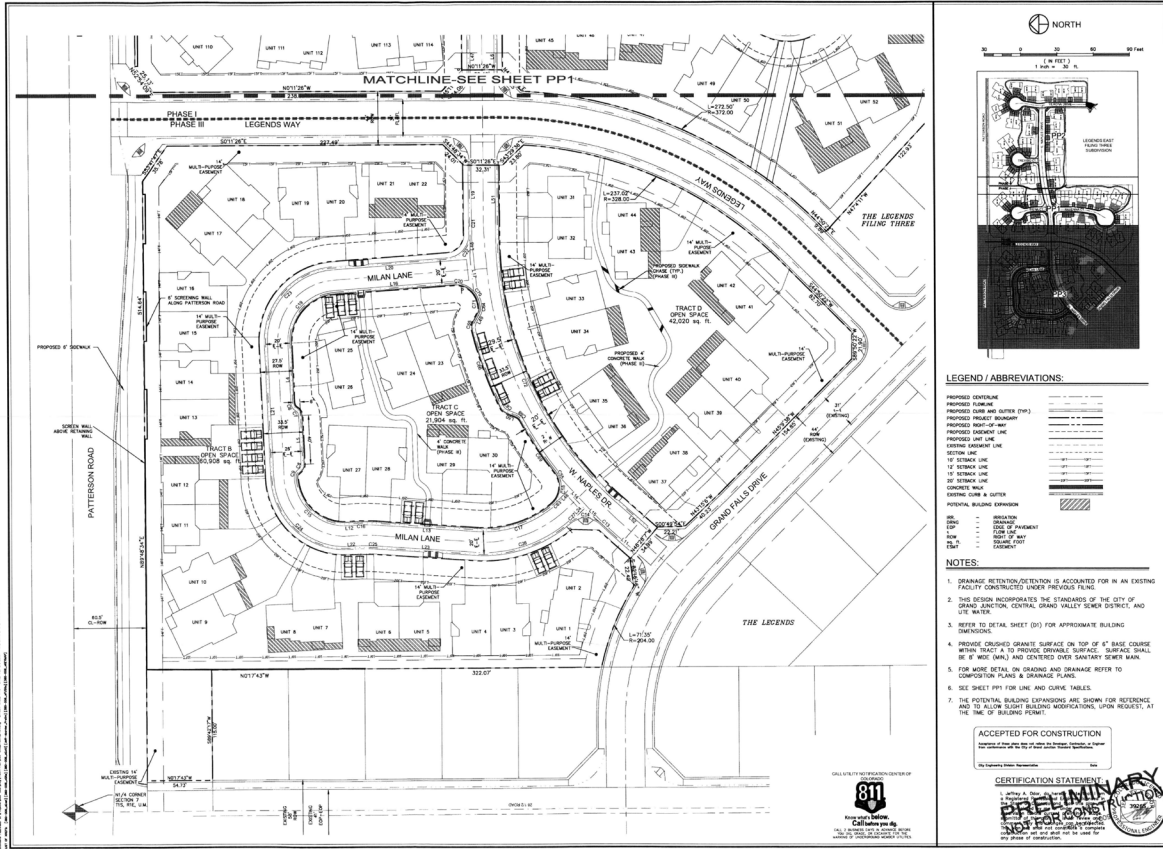
ABELL PARTNERS
10000 BELLEVILLE RD.
GRAND RAPIDS, MI 49508
PHONE (616) 951-8000 FAX (616) 951-8001

BULLSEYE ENGINEERING, INC.
2524 ALMA AVENUE, BUREAU BUILDING, GRAND RAPIDS, MI 49508
PHONE (616) 951-8000 FAX (616) 951-8001

BELLA DUNN PHASE II PRELIMINARY PLAN

PRELIMINARY PLAN

SHEET PP2



LEGEND / ABBREVIATIONS:

PROPOSED CENTERLINE	---
PROPOSED FLOORLINE	---
PROPOSED CURB AND GUTTER (P.C.G.)	---
PROPOSED PROJECT BOUNDARY	---
PROPOSED LOT LINE	---
PROPOSED EASEMENT LINE	---
PROPOSED EXISTING LINE	---
EXISTING CENTERLINE	---
EXISTING FLOORLINE	---
EXISTING CURB & GUTTER	---
EXISTING EASEMENT LINE	---
EXISTING LOT LINE	---
EXISTING PROJECT BOUNDARY	---
EXISTING DRIVEWAY	---
EXISTING SIDEWALK	---
EXISTING PAVEMENT	---
EXISTING ASPHALT	---
EXISTING CONCRETE	---

- NOTES:**
1. DRAINAGE RETENTION/DETENTION IS ACCOUNTED FOR IN AN EXISTING FACILITY CONSTRUCTED UNDER PREVIOUS FILING.
 2. THIS DESIGN INCORPORATES THE STANDARDS OF THE CITY OF GRAND AVENUE CENTRAL GRAND VALLEY SCHOOL DISTRICT, AND USE WATER.
 3. REFER TO DETAIL SHEET (D1) FOR APPROXIMATE BUILDING DIMENSIONS.
 4. PROVIDE CURED GRANITE SURFACE ON TOP OF 4" BASE COURSE WITHIN TRACT A TO PROVIDE DRIVEWAY SURFACE. SURFACE SHALL BE 8" WIDE (MIN) AND CENTERED OVER SANITARY SEWER MAIN.
 5. FOR MORE DETAIL ON GRADING AND DRAINAGE REFER TO COMPOSITION PLANS & DRAINAGE PLANS.
 6. SEE SHEET PP1 FOR LINE AND CURVE TABLES.
 7. THE INTENT OF BUILDING EXPANSION ARE SHOWN FOR REFERENCE, AND TO ALLOW HEIGHT BUILDING MODIFICATIONS UPON REQUEST, AT THE LINE OF BUILDING FOOTING.

ACCEPTED FOR CONSTRUCTION

CERTIFICATION STATEMENT

PRELIMINARY

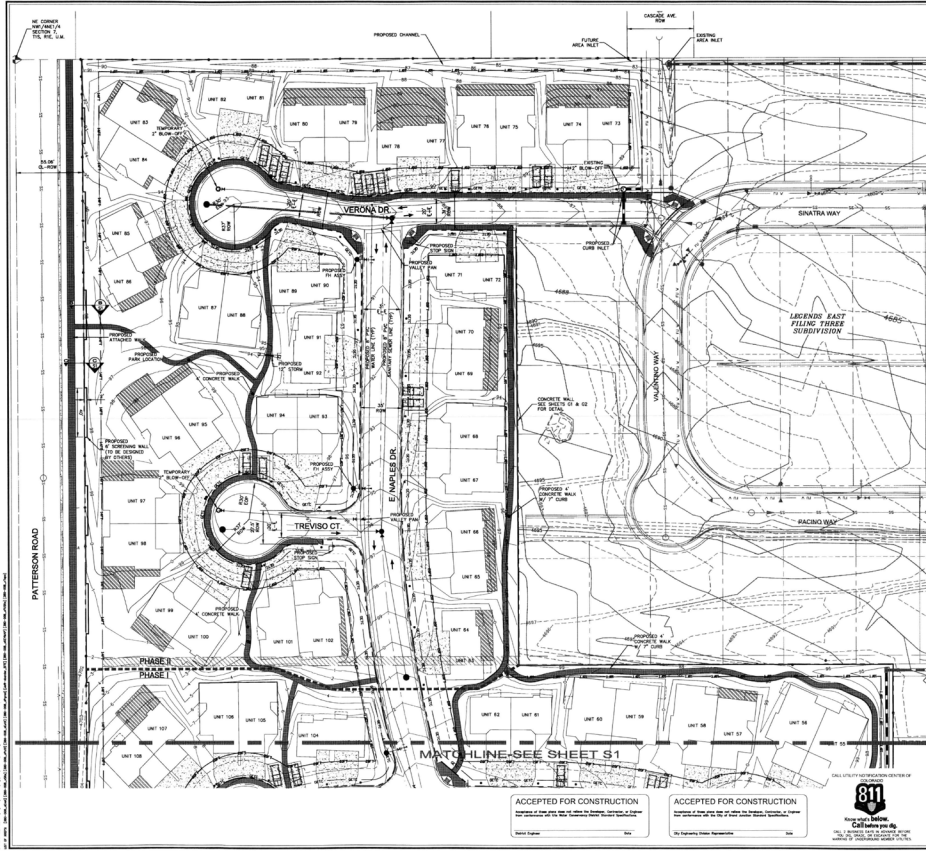
NOT FOR CONSTRUCTION

NE
ENGINEERING

BULLSEYE ENGINEERING, INC.
10000 W. 10TH AVENUE, SUITE 1000
DENVER, COLORADO 80202
PHONE (303) 485-0001 FAX (303) 485-0000

BELLA DUMORA
PRELIMINARY PLAN
PHASE III
PRELIMINARY PLAN

SHEET
PP3



NORTH

LEGEND ABBREVIATIONS:

	PROPOSED CENTERLINE
	PROPOSED PLANNING
	PROPOSED LANE AND OUTER (CIP)
	PROPOSED PROJECT BOUNDARY
	PROPOSED RIGHT-OF-WAY
	PROPOSED SECTION LINE
	PROPOSED UNIT LINE
	EXISTING MEASUREMENT LINE
	SECTION LINE 1/4 SECTION LINE
	SECTION LINE 1/2 SECTION LINE
	SECTION LINE 3/4 SECTION LINE
	EXISTING CURVE & OUTER
	EXISTING OF SECTION LINE
	EXISTING OF LANE AND OUTER
	PROPOSED ACCESS AREA
	PROPOSED ACCESS WITH W/V
	EXISTING SINGLE LANE ROAD
	PROPOSED SINGLE LANE ROAD
	PROPOSED GATE VALVE
	PROPOSED FIRE HYDRANT
	EXISTING FIRE HYDRANT
	PROPOSED GAS/WATER/TELEPHONE/CABLE LINE
	FUTURE WATER LINE
	FUTURE STORM DRAIN
	FUTURE SANITARY SEWER
	PROPOSED DIRECTION OF TRAFFIC
	PROPOSED CONCRETE DRIVEWAY AND CLUB & OUTER
	PROPOSED PAVED
	POTENTIAL BUILDING EXPANSION

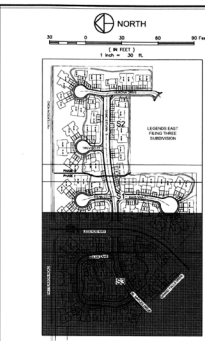
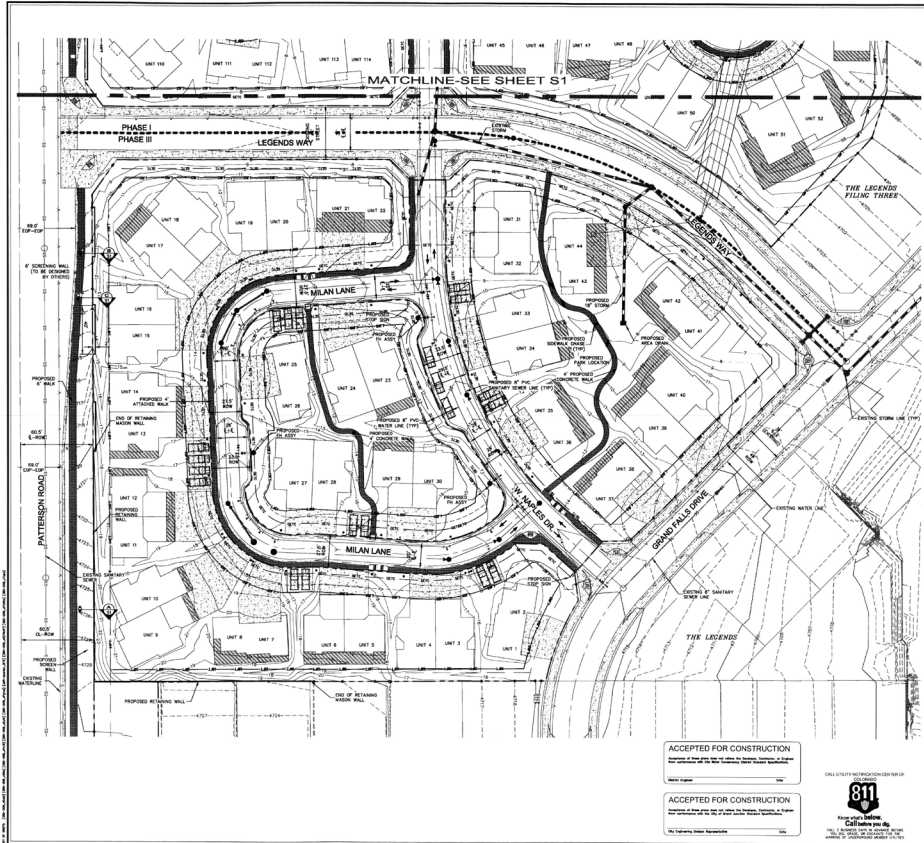
NOTES:

- THIS SECTION ADHERES TO THE STANDARDS OF THE CITY OF GRAND JUNCTION, COLORADO. EXCEPT WHERE SHOWN OTHERWISE.
- NO PARKING SHALL BE ALLOWED ON STREETS EXCEPT FOR DESIGNATED AREAS. THE PARKING SPACES SHALL BE PROVIDED AS SHOWN.
- PROPERTY LINES SHOWN TO BE ON THE PROPERTY LINE FOR DISTANCE OF FORTY FEET AND TO BE THE PROPERTY LINE AND THE FEET FOR THE EXTENSIVE OF THE LAND SURROUNDING THE LOT.
- ALL PAVED AREAS ARE TO BE FURNISHED WITH ONLY RECESSES.
- SEE PRELIMINARY PLANS FOR PLUM LINE AND CURVE INFORMATION.
- SEE SHEET S1 FOR EXISTING INFORMATION.
- THE PRESENTING ENGINEER HAS REVIEWED AND IS ALLYING NEITHER THE INFORMATION NOR THE ACCURACY OF THE INFORMATION NOR THE ACCURACY OF THE INFORMATION NOR THE ACCURACY OF THE INFORMATION.

CERTIFICATION STATEMENT

PRELIMINARY COMPOSITE PLAN
PHASE II SITE PLAN
SHEET: 02

PROJECT NO: 2023-001
 SHEET NO: 02
 SCALE: AS SHOWN
 DATE: 09/20/2023
 BY: JAD
 CHECKED: JAD
 APPROVED: JAD
 BULLSEYE ENGINEERING, INC.
 1000 WEST 1ST AVENUE, SUITE 100
 GRAND JUNCTION, CO 81501
 PHONE: (970) 882-8827 FAX: (970) 882-8820
 WWW.BULLSEYE-ENGINEERING.COM



LEGEND / ABBREVIATIONS:

	PROPOSED DRIVEWAY
	PROPOSED FIRE LANE
	PROPOSED CURB AND GUTTER (12")
	PROPOSED PROJECT ROADWAY
	PROPOSED ROAD-OF-WAY
	PROPOSED DRIVEWAY LINE
	EXISTING DRIVEWAY LINE
	SECTION LINE
	10' SETBACK LINE
	14' SETBACK LINE
	20' SETBACK LINE
	CONCRETE WALK
	EXISTING CURB & GUTTER
	EXISTING STORM SEWER AND INLET
	PROPOSED STORM SEWER AND INLET
	EXISTING SEWER MAIN
	PROPOSED SEWER MAIN W/411
	EXISTING SEWER MAIN W/411
	PROPOSED TRENCH RETAINING WALL
	PROPOSED STONE RETAINING WALL
	PROPOSED FIRE HYDRANT
	PROPOSED FIRE HYDRANT
	EXISTING FIRE HYDRANT
	PROPOSED FIRE HYDRANT
	FUTURE STORM SEWER
	FUTURE SANITARY SEWER
	PROPOSED DRIVEWAY
	PROPOSED CONCRETE DRIVEWAY AND CURB & GUTTER
	PROPOSED DRIVEWAY

NOTES:

1. THE DESIGN REPRESENTS THE COMPLETION OF THE LOTS OF GENERAL LAYOUT, EXCEPT ROAD WALLS, CURBS, DRIVEWAYS AND UTILITY.
2. NO PARKING WILL BE ALLOWED ON STREETS EXCEPT FOR DESIGNATED AREAS. TWO PARKING SPACES WILL BE PROVIDED WHERE APPROPRIATE.
3. SETBACK WALLS SHOWN TO BE ON THE PROPERTY LINE FOR AREAS OF FRONT YIELD WILL SET BACK THE PROPERTY LINE TO THE EXTENT OF THE WALL ALONG PATTERSON ROAD.
4. ALL STAKE LOCATIONS ARE TO BE FURNISHED WITH 6" X 6" BUCKETS.
5. SEE PRELIMINARY PLANS FOR ELEM LINE AND CURB INFORMATION.
6. SEE SHEET S1 FOR UTILITY INFORMATION.
7. THE PROPOSED BUILDING FOUNDATION ARE SHOWN FOR REFERENCE AND TO ALLOW EXISTING BUILDING DISPOSITION UPON REQUEST, AT THE TIME OF BUILDING PERMITS.

ACCEPTED FOR CONSTRUCTION
 [Stamp with date and signature]

ACCEPTED FOR CONSTRUCTION
 [Stamp with date and signature]

CERTIFICATION STATEMENT
 I, **FILETIA MANTON**, Professional Engineer, No. 12345, State of North Carolina, certify that I am the Engineer of Record for the above project and that the design complies with all applicable codes and regulations.

ABELL PARTNERS ENGINEERING
 12345 W. MAIN ST., SUITE 200
 RALEIGH, NC 27601
 TEL: (919) 123-4567

BULLSEYE ENGINEERING, INC.
 2345 SOUTH AVENUE, SUITE 100
 RALEIGH, NC 27601
 TEL: (919) 234-5678

BELLA DIMORA PRELIMINARY COMPOSITE PLAN PHASE III SITE PLAN

SHEET 32

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

AN ORDINANCE AMENDING THE EXISTING PLANNED DEVELOPMENT ZONE BY INCLUDING ADDITIONAL LAND WITH A REZONE OF THE ADDITIONAL LAND TO PLANNED DEVELOPMENT AND AMENDING THE PRELIMINARY PLAN WITH A DEFAULT R-8 (RESIDENTIAL – 8 DU/AC) ZONE DISTRICT FOR THE DEVELOPMENT OF 114 DWELLING UNITS FOR THE BELLA DIMORA SUBDIVISION, LOCATED SOUTH OF PATTERSON ROAD, NORTH OF GRAND FALLS DRIVE AND VALENTINO WAY

Recitals:

A request for an amendment to the existing Planned Development zone and incorporating additional land area on approximately 13.87 acres by approval of a Preliminary Development Plan (Plan) with a default R-8, (Residential – 8 du/ac) zoning district, including deviations and condition of approval, have been submitted in accordance with the Zoning and Development Code (Code).

This Planned Development zoning ordinance will establish the standards, default zoning (R-8), deviations and conditions of approval and amend the Preliminary Development Plan for Bella Dimora subdivision (Lot 1, Block 1, The Legends Filing Two and Lot 18, Block 3, Legends East Filing Three).

In public hearings, the Planning Commission and City Council reviewed the request for the proposed amended Preliminary Development Plan approval and determined that the Plan satisfied the criteria of the Code and is consistent with the purpose and intent of the Growth Plan. Furthermore, it was determined that the proposed Plan has achieved “long-term community benefits” by proposing effective infrastructure design and in-fill project with higher density development that provides for better utilization of streets, water and sewer services, recreational amenities that include an extensive network of off-street pedestrian trails, benches and landscaped open spaces throughout the subdivision and provides a needed mix of housing types for the community (attached Exhibit A).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE CURRENT PLANNED DEVELOPMENT ZONE IS AMENDED AND ALSO INCLUDE ADDITIONAL LAND AREA FOR THE AREA DESCRIBED BELOW WITH THE FOLLOWING STANDARDS, DEFAULT ZONE AND DEVIATIONS:

- A. Lot 1, Block 1, The Legends Filing Two and Lot 18, Block 3, Legends East Filing Three

Said parcels contain 13.87 +/- acres more or less.

- B. This Ordinance is further conditioned:
1. If the Planned Development approval expires or becomes invalid for any reason, the property shall be fully subject to the default standards of the R-8, (Residential – 8 du/ac) Zoning District.
 2. Density: The proposed density for Bella Dimora will be approximately 8.21 dwelling units per acre. The Growth Plan Future Land Use Map indicates this area to be Residential Medium High (8 – 12 du/ac). However, since the applicants had previously developed single-family detached homes in The Vistas/Legends/Legends East Subdivisions that were lower than the required densities per the Growth Plan, therefore, the applicants must now “make up” for those lower densities in this “phase” of the Planned Development, more specifically to develop a minimum of 114 dwelling units with this proposed development in order to meet minimum density requirements of 6.4 du/ac which equates to 80% of the Growth Plan designation (Section 3.6 B. 9. a. of the Zoning and Development Code) for the approved The Vistas/Legends/Legends East plans. This plan does allow overall densities to meet minimum density standards.
 3. Access and Street Design: The proposed development has three (3) access points; Legends Way, Verona Drive and W. Naples Drive. All proposed streets, with the exception of Legends Way were approved as an Alternate Street right-of-way design per Chapter 15 of the TEDS Manual (Transportation Engineering Design Standards). For an alternate street design, no on-street parking will be allowed except in designated parking areas with the exception of E. Naples Drive which allows parking on both side of the street from Siena/Ravenna Court to Verona Drive.
 4. Open Space / Park: The applicant is proposing a series of 4’ wide concrete pedestrian paths that will meander throughout the subdivision for the benefit of the residents. Open space areas are proposed in each phase of development that will include extensive landscaping, pedestrian paths and park benches (7.65 acres total of open space – minimum 1 tree per 2,500 sq. ft. and 1 shrub per 300 sq. ft. in accordance with Exhibit 6.5 A. of the Zoning and Development Code). In some locations, pedestrian trails also serve as sidewalks for adjacent dwelling units since sidewalks will not be constructed adjacent to all street frontages. A Pedestrian Easement will be dedicated to the City of Grand Junction at the time of Final Plan approval for ingress and egress by the public on all pedestrian paths.

5. Lot Layout: The proposed subdivision has stacked dwelling units. A stacked dwelling unit is defined by the Code as a dwelling containing two single family units that are separated horizontally. The majority of the development will be two-family dwelling units that would be separated by a common wall. No single-family detached housing is proposed. The building footprint for each dwelling unit would be the "lot" with the exception of the stacked dwelling units. All areas outside of the building footprint would be designated as "Tracts" for maintenance responsibilities by the homeowner's association (upon recording of a plat, these tracts would become common elements or limited common elements).
6. Phasing: The proposed Bella Dimora subdivision is to be developed in three phases. The proposed phasing schedule is as follows (see attached Site Plans – Sheets S1 – S3):

Phase I: Range of development to be 30 +/- dwelling units. Phase 1 to be reviewed and approved by the year 2012.

Phase 2: Range of development to be 40 +/- dwelling units. Phase 2 to be reviewed and approved by the year 2015.

Phase 3: Range of development to be 44 +/- dwelling units. Phase 3 to be reviewed and approved by the year 2018.

7. Deviations

Building Setbacks:

20' Front Yard

15' Adjacent Side Street (Corner Lot)

10' Rear Yard

14' Rear Yard Setback (Adjacent to Patterson Road)

15' Rear Yard Setback (Adjacent to Legends Way)

Standard setbacks apply unless otherwise noted.

Masonry Wall: Six foot (6') tall masonry screen wall required to be located a minimum five feet (5') from north property line adjacent to Patterson Road per Section 6.5 G. 5. e. of the Zoning and Development Code. Applicant is proposing to construct the masonry wall on the property line in order to give the unit property owners a larger backyard area as the rear yard setback adjacent to Patterson Road is 14'. Applicant is also proposing to construct the masonry wall in 30' segments and shift from the property line two feet (2') along Patterson Road which gives the wall architectural relief rather than constructing a standard monolithic wall. A detached sidewalk also exists along Patterson Road with varying landscape buffer dimensions between the sidewalk and wall so that the proposed wall would not be constructed directly adjacent to the sidewalk.

Minimum Lot Area/Width: There are no minimum lot areas or widths with this subdivision proposal.

8. Condition of Approval:

There is an existing 7' Irrigation and Drainage Easement along the west property line of the Legends East, Filing 3 Subdivision that was dedicated to the Legends Homeowner's Association that will impact proposed Units 63, 64, 100, 101 and 102 of Bella Dimora. Applicant will need to submit verification at the time of Final Plan review that the HOA has relinquished this easement since Legends East, Filing One dedicated this easement to the HOA.

INTRODUCED on first reading on the _____ day of _____ 2009 and ordered published.

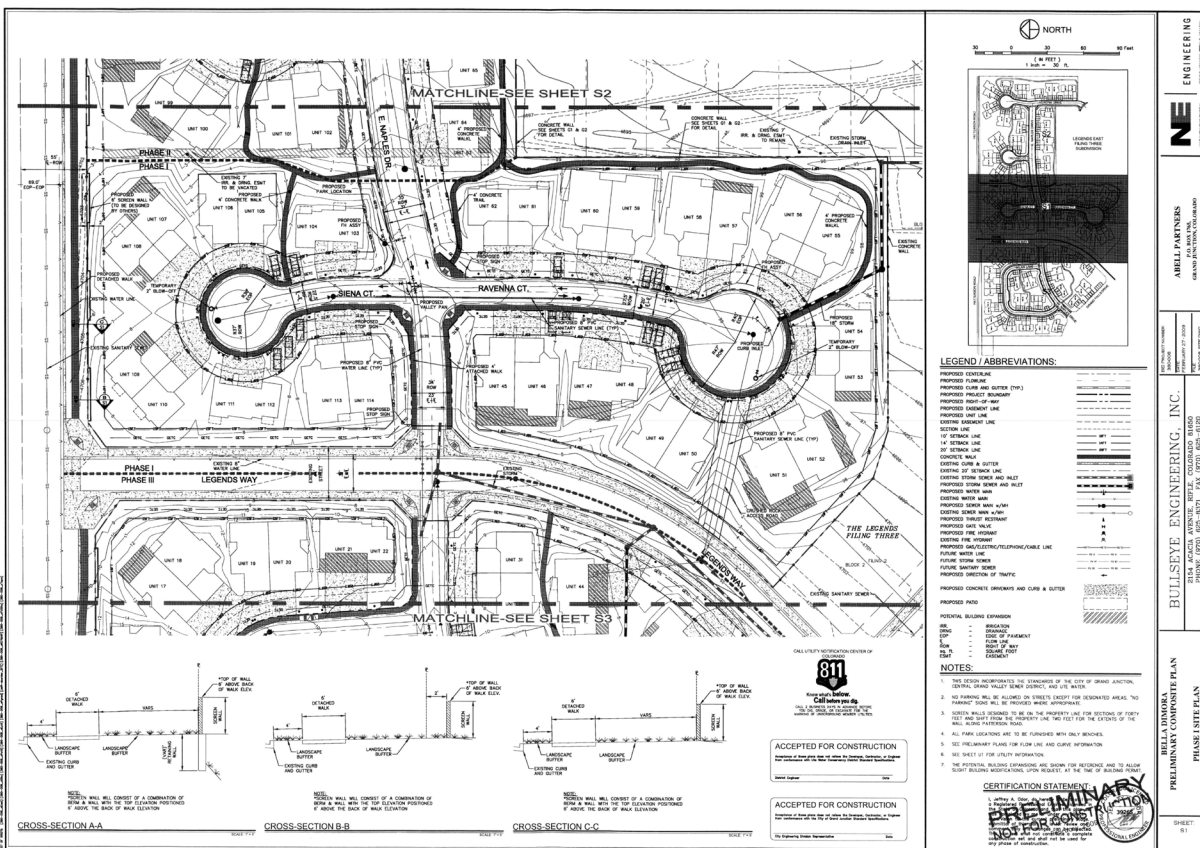
ADOPTED on second reading this _____ day of _____ 2009.

ATTEST:

President of the Council

Stephanie Tuin
City Clerk

EXHIBIT "A"



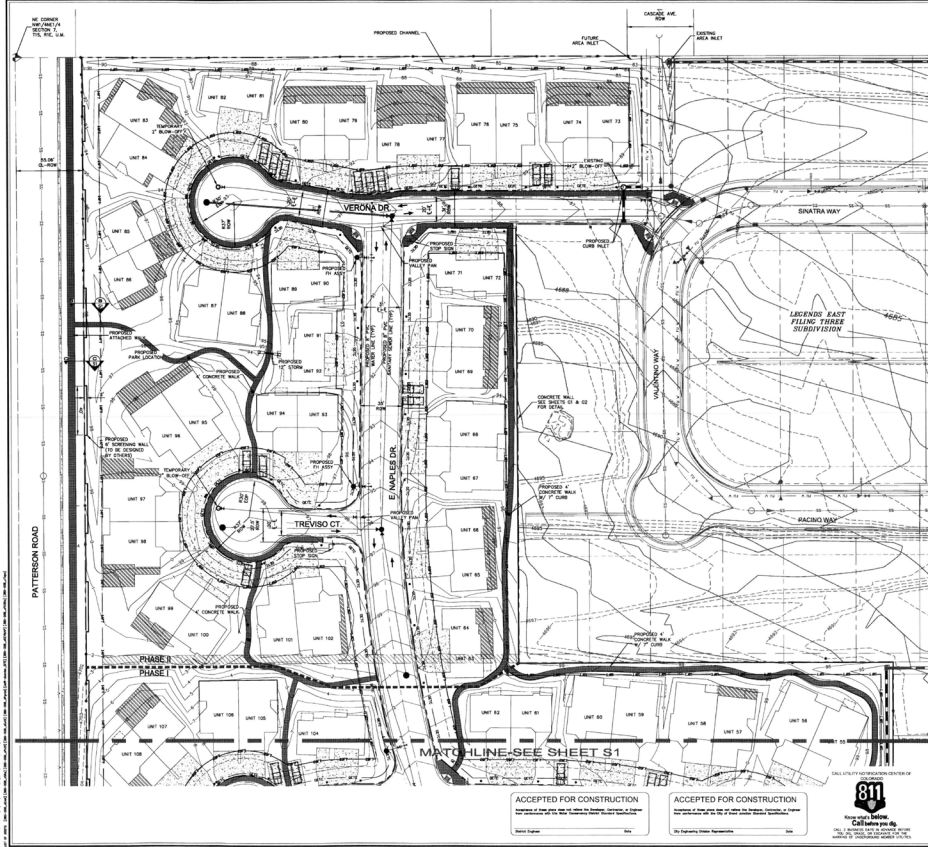
ENGINEERING

ABELL PARNES

BULLSEYE ENGINEERING, INC.

PHASE I SITE PLAN

SHEET: 51



LEGEND ABBREVIATIONS:

- PROPOSED CENTER LINE
- PROPOSED PLUMB LINE
- PROPOSED CURB AND GUTTER (C&G)
- PROPOSED PROJECT BOUNDARY
- PROPOSED RIGHT OF WAY
- PROPOSED SIDEWALK
- PROPOSED UNIT LINE
- EXISTING BOUNDARY LINE
- SECTION LINE
- IF EXISTING LINE
- IF NEW LINE
- EXISTING CURB & GUTTER
- EXISTING SIDEWALK
- EXISTING STORM SEWER AND RILEY
- PROPOSED STORM SEWER AND RILEY
- PROPOSED WATER MAIN
- PROPOSED WATER MAIN WITH VALVE
- EXISTING STORM SEWER RILEY
- PROPOSED STORM SEWER RILEY
- PROPOSED GAS VALVE
- PROPOSED FUEL SERVICE
- EXISTING FUEL SERVICE
- PROPOSED GAS/STAINLESS/TELEPHONE/COAXIAL LINE
- FUTURE WATER LINE
- FUTURE STORM SEWER
- FUTURE STORM RILEY
- PROPOSED DIRECTION OF TRAFFIC
- PROPOSED CONCRETE DRIVEWAYS AND CURB & GUTTER
- PROPOSED PAVING

NOTES:

- THIS SECTION ADAPTS THE STANDARDS OF THE CITY OF GRAND JUNCTION, COLORADO, AND ALL CITY ORDINANCES AND THE LOCAL.
- NO PARKING SHALL BE ALLOWED ON STREETS EXCEPT FOR DESIGNATED AREAS. THE PARKING SPACES SHALL BE PROVIDED AS SHOWN.
- SURVEY MARKS SHOWN TO BE ON THE PROPERTY LINE FOR DISTANCES OF FIFTY FEET OR MORE SHALL BE VERIFIED AND THE FEET FOR THE EXTENSION OF THE LINE SHOWN THEREON.
- ALL MARK LOCATIONS ARE TO BE FURNISHED WITH ONLY BENCHES.
- SEE PRELIMINARY PLANS FOR FURNISH LINE AND CURB INFORMATION.
- SEE SHEET S1 FOR STREET INFORMATION.
- THE PRESENTING ENGINEER HAS REVIEWED AND APPROVED THESE PLANS AND TO ALLOW SUCH BOUNDARY INFORMATION TO BE SUBMITTED AS THE BASIS FOR THE PROJECT.

CERTIFICATION STATEMENT

PRELIMINARY

NOT FOR CONSTRUCTION

8/11/2024

ABILL PARTNERS
ENGINEERING INC.

BULLSEYE ENGINEERING, INC.
500 10TH AVENUE
GRAND JUNCTION, COLORADO 81505
PHONE: (970) 862-8877 FAX: (970) 862-8820

BELLA DAMBORA
PRELIMINARY COMPOSITE PLAN
PHASE II SITE PLAN

SHEET: 02

**Attach 4
Lang Industrial Park Annexation**

CITY OF GRAND JUNCTION
PLANNING COMMISSION

MEETING DATE: May 12, 2009
STAFF PRESENTATION: Michelle Hoshide

AGENDA TOPIC: Lang Industrial Park Annexation, ANX-2009-072

ACTION REQUESTED: Recommendation to City Council on a Zone of Annexation.

BACKGROUND INFORMATION				
Location:		2764 C ¾ Road, 2765 and 2767 Riverside Parkway		
Applicants:		Owners: Darren Davidson Representative: Jeffery Fleming		
Existing Land Use:		Vacant		
Proposed Land Use:		Industrial		
Surrounding Land Use:	North	Union Pacific Railroad Company		
	South	Vacant		
	East	Residential Single Family		
	West	Industrial		
Existing Zoning:		RSF-R (Residential Single Family Rural)		
Proposed Zoning:		I-1 (Light Industrial)		
Surrounding Zoning:	North	I-1(Light Industrial)		
	South	I-1(Light Industrial)		
	East	I-2 (General Industrial)		
	West	I-1(Light Industrial)		
Growth Plan Designation:		Industrial		
Zoning within density range?	X	Yes		No

PROJECT DESCRIPTION: A request to zone 4.86 acres, Lang Industrial Park Annexation, consisting of three (3) parcels located at 2764 C ¾ Road, 2765 and 2767 Riverside Parkway to I-1 (Light Industrial) Zone District.

RECOMMENDATION: Recommend approval to the City Council of the I-1 (Light Industrial) Zone District

ANALYSIS:

1. Background:

The 4.86 acres Lang Industrial Park Annexation consists of three (3) parcels located at 2764 C ¾ Road, 2765 and 2767 Riverside Parkway. The owners have requested annexation into the City to allow for development of the property. Under the 1998 Persigo Agreement all proposed development within the Persigo Wastewater Treatment boundary requires annexation and processing in the City.

Under the 1998 Persigo Agreement with Mesa County, the City shall zone newly annexed areas with a zone that is either identical to current County zoning or conforms to the City's Growth Plan Future Land Use Map. The proposed zoning of I-1 (Light Industrial) conforms to the Future Land Use Map, which has designated the properties as Industrial

2. Section 2.6.A.3 and 4 of the Zoning and Development Code:

Zone of Annexation: The requested zone of annexation to I-1 (Light Industrial) zone district is consistent with the Growth Plan. The existing County zoning is RSF-R (Residential Single Family Rural). Section 2.14 of the Zoning and Development Code, states that the zoning of an annexation area shall be consistent with either the Growth Plan or the existing County zoning.

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

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

Response: The proposed I-1 (Light Industrial) zoning district conforms to the Growth Plan as the Future Land Use designation is Industrial for this property.

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

Response: Adequate public facilities and services are available to accommodate the I-1 zone district. A 12" Ute water line and a 15" Central Grand Valley Sanitary sewer line are located within the Riverside Parkway.

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

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

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Lang Industrial Park Annexation, ANX-2009-072, for a Zone of Annexation, I recommend that the Planning Commission make the following findings of fact and conclusions:

1. The requested zone is consistent with the goals and policies of the Growth Plan.
2. The review criteria in Section 2.6.A.3 and 4 of the Zoning and Development Code have all been met.

STAFF RECOMMENDATION:

I recommend that the Planning Commission forward a recommendation of approval of the I-1 (Light Industrial) zone district for the Lang Industrial Park Annexation, ANX-2009-072 to the City Council with the findings and conclusions listed above.

RECOMMENDED PLANNING COMMISSION MOTION:

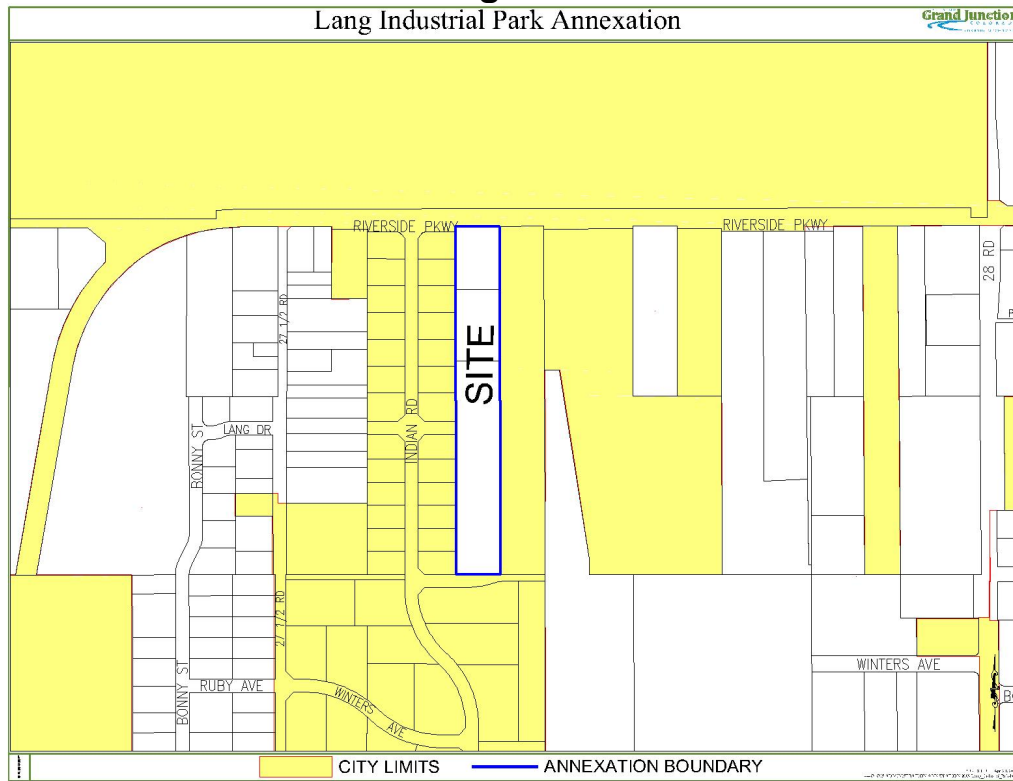
Mr. Chairman, on the Lang Industrial Park Annexation, ANX-2009-072, I move that the Planning Commission forward to the City Council a recommendation of approval of the I-1 (Light Industrial) zone district for the Lang Industrial Park Annexation with the facts and conclusions listed in the staff report.

Attachments:

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

Annexation/Site Location Map

Figure 1



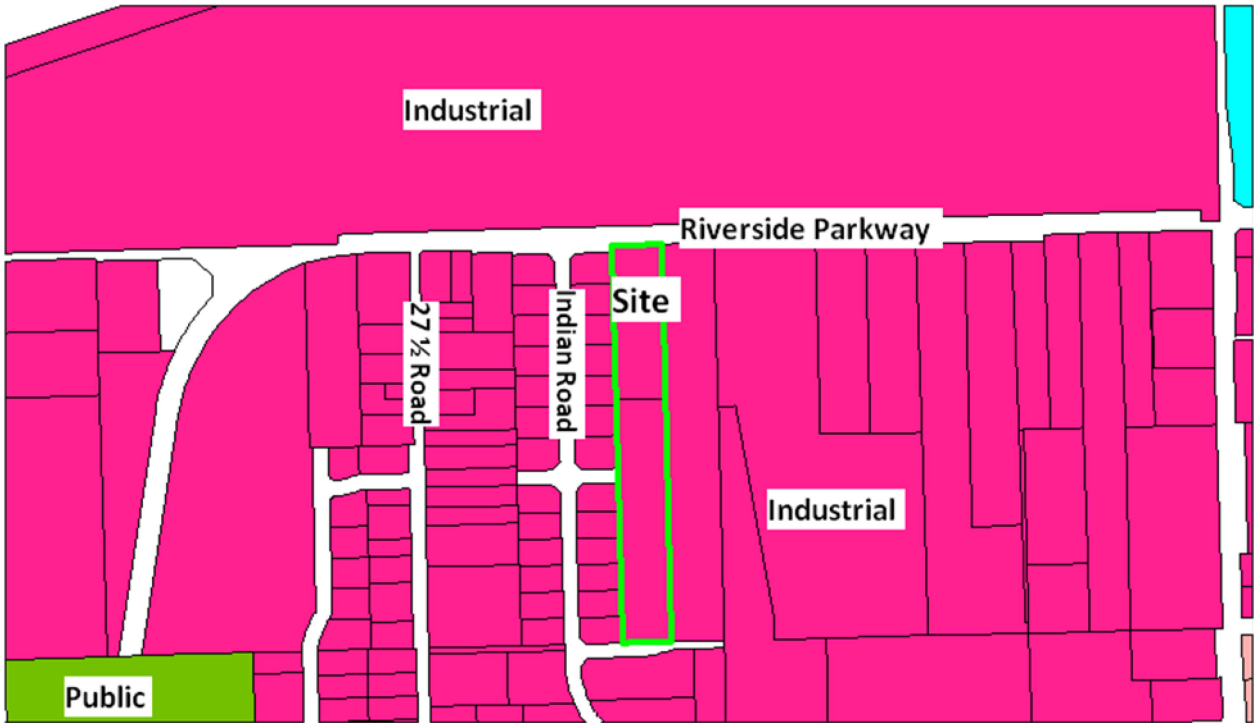
Aerial Photo Map

Figure 2



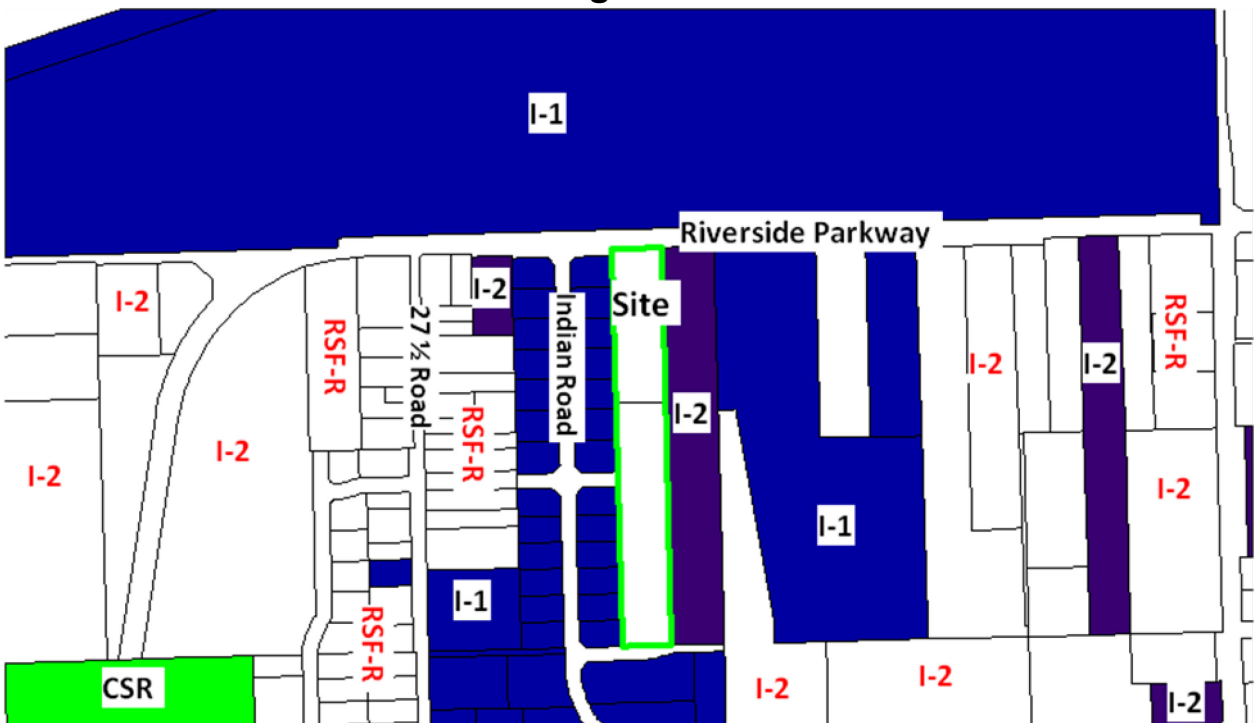
Future Land Use Map

Figure 3



Existing City and County Zoning

Figure 4



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE LANG INDUSTRIAL PARK ANNEXATION TO I-1
(LIGHT INDUSTRIAL)**

LOCATED AT

2764 C ¾ ROAD, 2765 AND 2767 RIVERSIDE PARKWAY

Recitals

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of zoning the Lang Industrial Park Annexation to the I-1 (Light Industrial) zone district finding that it conforms with the recommended land use category as shown on the future land use map of the Growth Plan and the Growth Plan's goals and policies and is generally compatible with land uses located in the surrounding area. The zone district meets the criteria found in Section 2.6 of the Zoning and Development Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the I-1 (Light Industrial) zone district is in conformance with the stated criteria of Section 2.6 of the Grand Junction Zoning and Development Code.

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

The following property be zoned I-1 (Light Industrial)

LANG INDUSTRIAL PARK ANNEXATION

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

Commencing at the Northeast corner of the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of said Section 24 and assuming the North line of the NW 1/4 NE 1/4 of said Section 24 to bear N89°59'19"W with all bearings contained herein relative thereto; thence N89°59'19"W a distance of 491.69 feet along the North line of the NW 1/4 NE 1/4 of said Section 24 to a point on the East line of Riverside Parkway Annexation No. 2, Ordinance No. 4319, City of Grand Junction; thence S00°01'58"W a distance of 30.00 feet along the East line of said Riverside Parkway Annexation No. 2 to the Point of Beginning; thence S00°01'58"W a distance of 1291.39 feet along the West line of Pine Industrial No. 1 Annexation No. 2, Ordinance No. 3943, City of Grand

Junction to a point on the South line of the NW 1/4 NE 1/4 of said Section 24, said point also being on the Northerly line of Indian Road Industrial Subdivision, as same is recorded in Plat Book 12, Page 43, public records of Mesa County, Colorado; thence along Indian Road Industrial Subdivision Annexation, Ordinance No. 3677, City of Grand Junction the following two (2) courses: (1) N89°52'25"W a distance of 164.28 feet along said South line of the NW 1/4 NE 1/4 of said Section 24, said line also being the Northerly line of said Indian Road Industrial Subdivision; (2) N00°02'56"E a distance of 1291.06 feet along the Easterly line of said Indian Road Industrial Subdivision to the Southwest corner of said Riverside Parkway Annexation No. 2; thence S89°59'19"E a distance of 163.92 feet along a line being 30.00 feet South of and parallel with the North line of the NW 1/4 NE 1/4 of said Section 24, said line also being the South line of said Riverside Parkway Annexation No. 2 to the Point of Beginning.

Said parcel contains 4.86 acres (211,887.79 sq. ft.), more or less, as described.

INTRODUCED on first reading the ____ day of _____, 2009 and ordered published.

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

ATTEST:

President of the Council

City Clerk

**Attach 5
R & L Subdivision**

CITY OF GRAND JUNCTION
PLANNING COMMISSION

MEETING DATE: May 12, 2009
STAFF PRESENTATION: Ronnie Edwards

AGENDA TOPIC: Conduct a hearing to appeal the Director's Final Action on an Administrative Development for R & L Simple Subdivision, File #SS-2009-015

ACTION REQUESTED: Review and decide on the appeal.

BACKGROUND INFORMATION				
Location:		2670 and 2672 Lookout Lane		
Representative:		Alan N. Hassler on behalf of the Spyglass Ridge Homeowners Association		
Existing Land Use:		Vacant and Residential Single Family		
Proposed Land Use:		Residential Single Family		
Surrounding Land Use:	North	Tract K Open Space		
	South	Vacant		
	East	Vacant		
	West	Vacant		
Existing Zoning:		R-2 (Residential, 2 du/ac)/Cluster		
Proposed Zoning:		R-2 (Residential, 2 du/ac)/Cluster		
Surrounding Zoning:	North	R-2 (Residential, 2 du/ac)/Cluster		
	South	R-2 (Residential, 2 du/ac)/Cluster		
	East	R-2 (Residential, 2 du/ac)/Cluster		
	West	R-2 (Residential, 2 du/ac)/Cluster		
Growth Plan Designation:		Residential Medium-Low (2-4 du/ac)		
Zoning within density range?		X	Yes	No

PROJECT DESCRIPTION: Conduct a hearing to appeal the Director's Final Action on an Administrative Development Permit to approve the consolidation of Lots 173 and 174, Spyglass Ridge Filing No. 2, located at 2670 and 2672 Lookout Lane.

Background Information:

On March 18, 2009, the Public Works & Planning Director approved the combination of two residential lots originally platted as part of Spyglass Ridge Filing Two. Staff received the appeal letter March 27, 2009 from Alan N. Hassler, the attorney representing the Spyglass Ridge Homeowners Association, Inc. This appeal is per Section 2.18.C of the Zoning & Development Code, which specifies that the Planning Commission is the appellate body for administrative decisions.

The applicants submitted a proposal to consolidate two residential lots, which they purchased in 2006. They constructed their single family residence on one lot and the second lot is proposed to be used for outdoor living area for their personal use. The applicants combined their lots into one for tax purposes in 2008, but had not platted them as one lot through the City review process. The property is zoned R-2 (Residential, 2 du/ac) under the cluster provisions of the Zoning and Development Code.

Section 2.2.E.4.b of the Zoning and Development Code requires anyone wishing to combine two adjacent lots within the City to submit a proposal for a "simple subdivision" administrative review (Section 2.2 E.4). The Code requires the Director to approve a lot consolidation if the applicant demonstrates that:

- (1) All lots comply with this Code, including the density/intensity provisions in section 3.6 B;
- (2) Any change to existing easements or right-of-way have been completed in accordance with this Code or otherwise allowed by law (additional easements or right-of-way may be dedicated);
- (3) The right-of-way shown on the Grand Valley Circulation Plan is not changed;
- (4) The character of the plat and the neighborhood will not be negatively impacted;
- (5) If a new lot is being created, no portion of the property may have been the subject of a previous simple subdivision creating a new lot within the preceding ten (10) years; and
- (6) The final approval shall be the recording of the plat.

The Director found that each of these criteria were met, as follows:

- (1) The proposed lot, containing 20,895 square feet, is a typical lot size for the R-2 zone district, which is how Spyglass Ridge is zoned. Spyglass Ridge used the clustering provisions of the Code to allow for smaller lots with open space tracts throughout, given the natural features of the land such as topography, soils and slope stability, ridgeline / view corridors, no disturbance areas, among others and in order to maximize the number of lots in the subdivision.
- (2) Easements and rights-of-way are not affected.

- (3) Rights-of-way remain unaltered.
- (4) The character of the plat and neighborhood are established in the clustered layout of lots interspersed with larger open space tracts, and also through the covenants, conditions and restrictions running with the land. We carefully considered these, and made the following findings:
- No additional lots were created (overall density of subdivision was not increased).
 - No additional building sites were created.
 - The lots combined by the applicant back up to open space in such a way that open area of the new larger lot creates a nice view corridor for the neighborhood in general.
 - One of the lots combined by the applicant was heavily encumbered/restricted by a large slope / no disturbance area and view shed adjacent to the open space tract to the north and east of the property, creating a very small buildable area.
 - The unbuildable area will be landscaped and used by the applicant as outdoor living area.
 - Combining the lots will decrease the impact from traffic and utilities.
 - The applicant has preserved the utility financing structure for the neighborhood by paying two utility tap fees rather than just one.
 - The covenants, conditions and restrictions do not specifically prohibit lot combinations.
 - Not less than one lot as conveyed would be used as a building site.
- (5) No additional lot is being created and no simple subdivision has occurred within the time period stated.

(6) Final approval is the recording of the plat for the R&L Subdivision.

During the review process, the developer and the Homeowners Association submitted written protest to the proposal stating that this was in violation of the subdivision covenants. As stated in the Staff Attorney letter dated March 5, 2009, the City of Grand Junction enforces only City ordinances and does not enforce private subdivision covenants or regulations.

This appeal hearing is in accordance with Section 2.18.C.3.e of the Zoning & Development Code, which states that the appellate body shall hold a evidentiary hearing to determine whether the Director's action is in accordance with the criteria provided in Section 2.18.C.1. The appellate body may limit testimony and other evidence to that contained in the record at the time the Director took final action, or

place other limits on testimony and evidence as it deems appropriate. The appellant has standing to appeal and has timely filed the appeal.

In hearing an appeal of an administrative development permit, the Planning Commission shall consider whether the Director:

- (1) Acted in a manner inconsistent with the provisions of this Code or other applicable local, state or federal law; or
- (2) Made erroneous findings of fact based on the evidence and testimony on the record; or
- (3) Failed to fully consider mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance; or
- (4) Acted arbitrarily, acted capriciously, and/or abused his discretion.

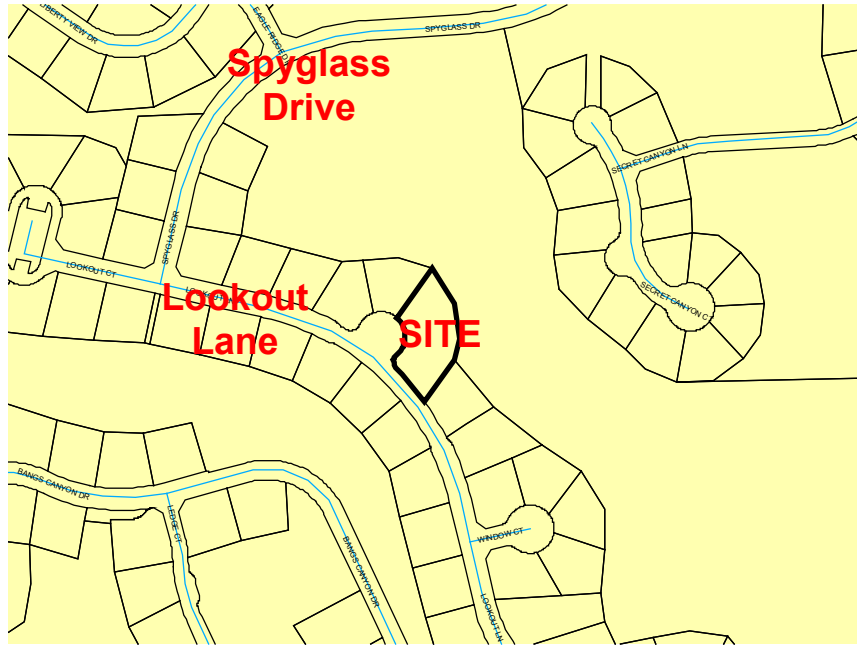
Planning Commission received copies of the appeal, and a copy of the pertinent information of the project file was made available for both Planning Commission and public review on April 30, 2009.

Attachments:

Site Location Map/Aerial Photo Map
Future Land Use Map/Existing City Zoning
City Staff Attorney Response to Appeal Letter
Applicant's Response to Appeal Letter
Appeal Letter from Spyglass Ridge Homeowners Association Representative
Approval Letter
1st Round of Review Comments with Response
2nd Round of Review Comments with Response
City Staff Attorney Response to Opposition Letters
Opposition Letters
Development Application with project report and proposed plat

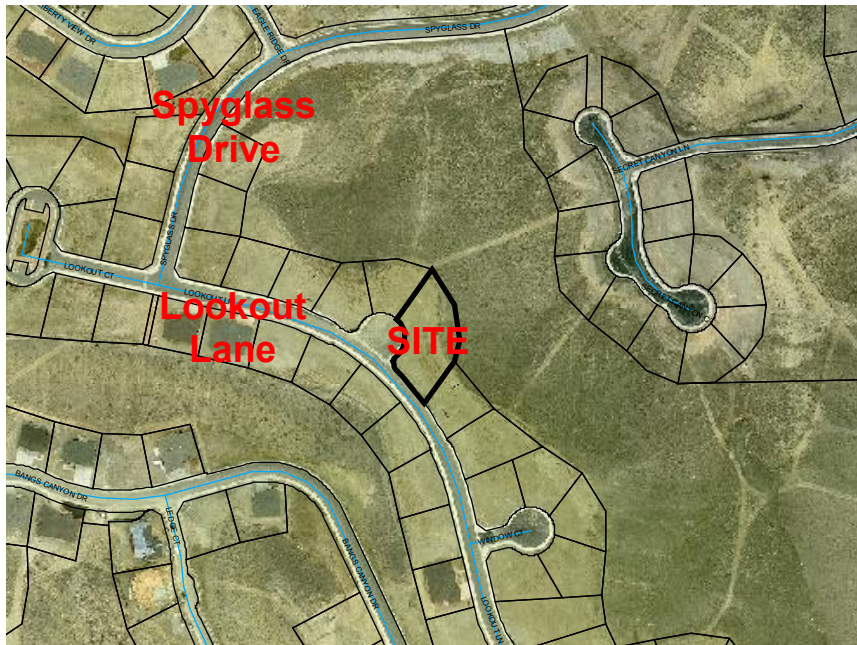
Site Location Map

Figure 1



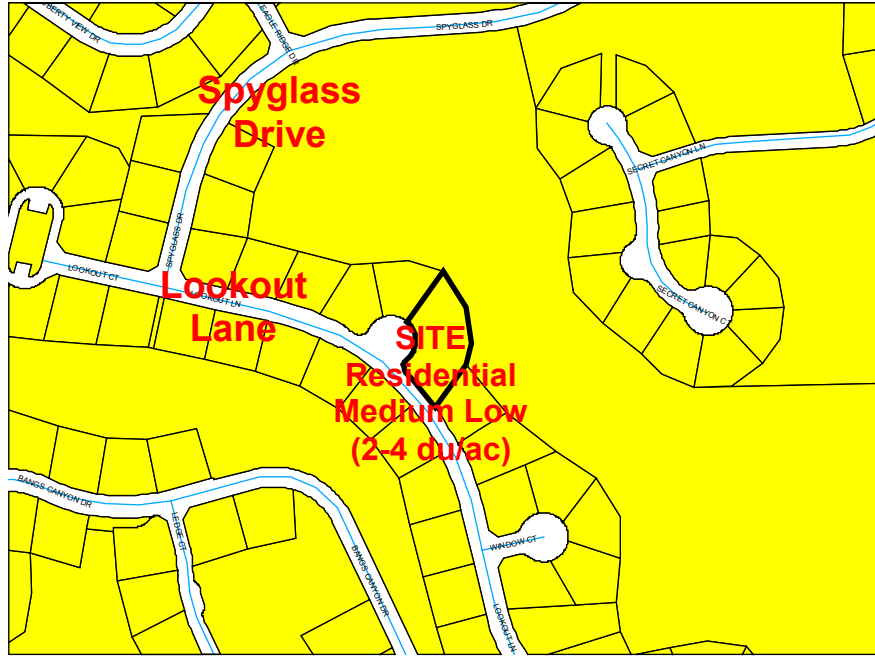
Aerial Photo Map

Figure 2



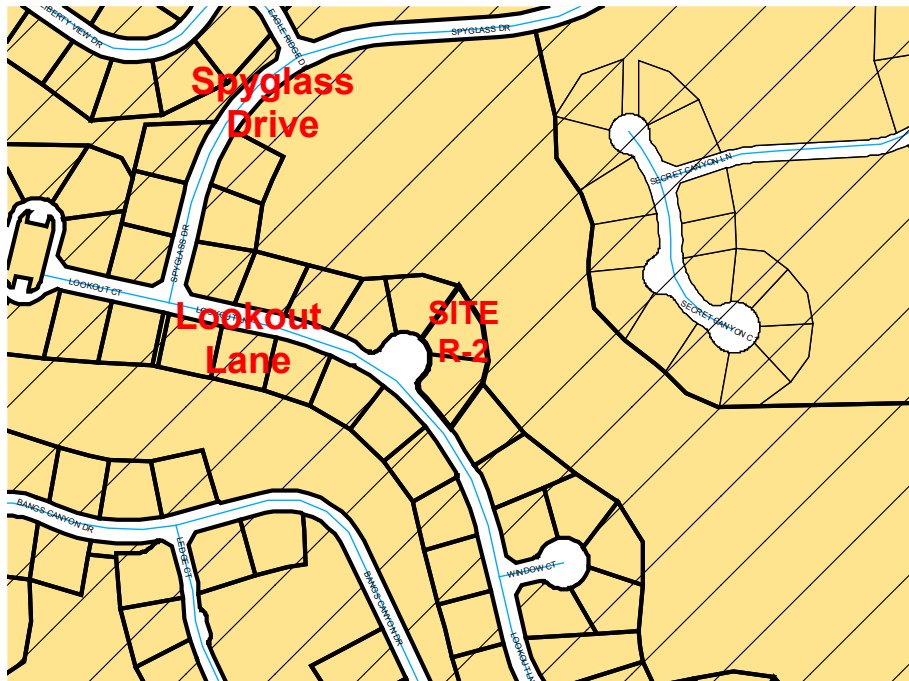
Future Land Use Map

City Limits Figure 3



Existing City Zoning Map

Figure 4



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



CITY ATTORNEY

Memorandum

TO: City of Grand Junction Planning Commission
FROM: Shelly Dackonish, Senior Staff Attorney
DATE: April 22, 2009
SUBJECT: Response to Appeal of Spyglass Ridge Homeowners Association Inc.
And Memorandum of Law in support of the Director's Decision
FILE #: SS-2009-015 ("R&L Subdivision")

I am providing this memorandum to you for the appeal and in support of the decision of the Director of Public Works and Planning ("Director") approving a lot consolidation known as "R&L Subdivision."

Standard of Review

The applicable legal standard for this appeal requires the Planning Commission to consider whether the Director, in granting approval of the applicant's request to combine two lots in Spyglass Ridge Subdivision, (1) acted inconsistently with the Zoning and Development Code of the City of Grand Junction or other applicable law, or (2) made erroneous findings of fact based on the evidence in the record, or (3) failed to consider mitigating measures, or (4) acted arbitrarily, capriciously or abused his discretion.

The Appellant bears the burden to show that one of these four has occurred. *Colorado State Board of Medical Examiners v. Johnson*, 68 P.3d 500 (Colo. App. 2002). If you find the Director did any one of these four things, or more than one of them, you can overrule the Director, or remand for further findings. Otherwise, the Director's decision must be upheld.

"Arbitrary" means that the Director's decision is not supported by any reasonable basis. See *Lieb v. Trimble*, 183 P.3d 702 (Colo. App. 2008). In other words, arbitrary and capricious action has occurred only when a reasonable person, considering all of the evidence in the record, would fairly and honestly be compelled to reach a different conclusion; if not, the administrative decision must be upheld. *Colorado State Board of Medical Examiners v. Johnson*, 68 P.3d 500 (Colo. App. 2002).

Standard of review under the rule providing for review of the decision of a governmental body or officer claimed to have exceeded its jurisdiction or abused its discretion is whether, on the basis of the whole record, the findings of the agency are supported by any competent evidence; "no competent evidence" means the record is devoid of evidentiary support for the decision. *Puckett v. City of County of Denver*, 12 P.3d 313 (Colo. App. 2000),

Administrative decisions are accorded a presumption of validity and regularity and all reasonable doubts as to the correctness of administrative rulings must be resolved in favor of the agency. So the Director's decision, including findings of fact and legal conclusions, must be affirmed if supported by a reasonable basis. *Lieb v. Trimble*, supra, at p. 704.

The Director concluded that the character of the neighborhood/plat is not negatively impacted, and in fact that it is enhanced by, the lot combination. The bases for this conclusion are set forth in Ms. Edwards' Staff Report, to which I refer you here.

The City does not enforce private covenants, conditions and restrictions on land.

It is important to understand that the City does not, and has no obligation to, enforce this, or any, neighborhood's private covenants, conditions and restrictions (CCRs) upon land. The only extent to which you should consider the CCRs is the extent to which they may help define the character of the plat and the neighborhood for the purpose of determining whether the Director erred in finding that proposed lot combination will not negatively affect that character.

Ambiguities in covenants, conditions and restrictions on land must be resolved in favor of the free use of land by the landowner.

Furthermore, in so doing, you must resolve any doubt as to the meaning and application of a covenant in favor of the unrestricted use of property, which in this case means in favor of the owner's right to combine his adjacent lots. See C.R.S. Sect. 38-34-103, *Dunne v. Shenandoah Homeowners Association, Inc.*, 12 P.3d 340 (Colo. App. 2000). In other words, if CCR provisions are not completely clear, any ambiguity must be resolved in favor of the free use of land by the landowner.

The Spyglass Ridge CCRs do NOT expressly prohibit combining lots. They prohibit further "subdivision" of lots which, in its plain and common meaning, means dividing a lot into smaller lots. See also Moscowitz and Lindbloom, Illustrated Book of Development Definitions, which defines subdivision as follows: "The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development, or lease." While it is true that lot consolidations go through the same City planning review process as subdivisions, that does not change the common and dictionary definition of the word "subdivision."

The Appellant argues that "combining portions" of lots means "boundary line adjustments." The law requires restrictions on use of land to be specific and strictly construed so that future owners of property subject to the restrictions have reasonable notice of how their potential use of the property may be limited.

The Director did not act inconsistently with the Code or applicable law.

The Director clearly applied all the relevant criteria in the decision making process (see Staff Report of Ms. Edwards). The Zoning and Development Code states, "[t]he Director **will approve** a simple subdivision if the applicant demonstrates that [the approval criteria are met]." ZDC Section 2.2 E.4. The Director considered all six applicable criteria and found them to be met. Finding no basis to deny the lot consolidation, the Director followed the applicable law and approved it.

With respect to the criteria dealing with the character of the neighborhood and plat, the Director has given several grounds supporting the determination that the character is not negatively affected. See Staff Report.

The Director did not make erroneous findings of fact.

The Director's findings are amply supported by evidence in the record. See Staff Report of Ms. Edwards.

The Director did not fail to consider mitigating measures.

Mitigating measures, including but not limited to requesting the Applicant to pay two sewer tap fees (one for each lot before the consolidation) in order to preserve the financing scheme for the sewer lift station, were considered and imposed. These are referenced in the Staff Report.

The Director was not arbitrary or capricious and did not abuse discretion.

The Director applied the relevant criteria, made sufficient findings of fact to support the decision, and exercised discretion in a reasonable manner.

Therefore, there is no basis for overturning the Director's decision.

March 31, 2009

Ms Rhonda Edwards-Project Manager
Planning Department
250 N 5th St
Grand Junction, CO 81504

RECEIVED

APR 3 2009

COMMUNITY DEVELOPMENT
DEPT.

Re: R&L Subdivision, #SS2009-015

Dear Ronnie,

Thank you for notifying us and providing us with a copy of the request to appeal our simple subdivision. We appreciate the time you have devoted to making sure this project is successful and meets all of the City of Grand Junction zoning codes.

Based on those zoning codes, we support the decision of the Director and the process that was followed in making the decision. In support of the approval we would like to provide comments on each specific section of the code.

Code 2.2E.4 Simple Subdivisions
(lot consolidations, lot splits, boundary adjustments and plat corrections)

Our two lots in Spyglass Ridge meet the definition of a simple subdivision by being a lot consolidation.

a. Purpose The simple subdivision process allows the Director to approve a minor lot adjustment and a lot split and to correct a minor error in the plat

Not applicable to our situation.

b. Applicability. If requested in writing by every owner and every lienor, the Director may allow a simple subdivision process to be used to:

(1) Consolidate one or more lots

By combining 2670 & 2672 Lookout Lane, we meet this criteria.

c. The Director will approve a simple subdivision if the applicant demonstrates that:

(1) All lots comply with this Code, including density/intensity provisions in Section 3.6.B;

In combining our lots we do not effect the density. We actually cause less density by removing a single family home from the subdivision.

- (2) ***Any change to existing easements or right-of-way have been completed in accordance with this Code or otherwise allowed by law.***

We did not change any existing easement or right-of-way.

- (3) ***The right-of-way shown on the Grand Valley Circulation Plan is not changed:***

The right-of-way on the Circulation Plan is not changed.

- (4) ***The character of the plat and neighborhood will not be negatively impacted:***

There is not any negative impact on the neighborhood. We have paid the lift station impact fee for both lots. The character of the neighborhood will continue to remain the same, while we will have adequate room for outdoor living space.

- (5) ***If a new lot is being created, no portion of the property may have been the subject of a previous simple subdivision creating a new lot within the preceding ten years.***

Neither lot has been involved in any prior simple subdivision proceedings.

- (6) ***The final approval shall be the recording of the plat.***

This will be done after the appeal process.

Based on the facts listed above, we have shown that the appeal is without grounds in the Code, and does not warrant a hearing. We sincerely hope, after careful review, that the Director will agree with us.

Please feel free to contact us should you have further questions, or require any additional information. Again, we appreciate all of your hard work on this project.

Sincerely,

Richard W Overholt
Loretta Rector

Richard W Overholt
Loretta Rector
2670 Lookout Ln
970.270.2334



RECEIVED
MAR 27 2009
COMMUNITY DEVELOPMENT
DEPT.

ALAN N. HASSLER, ATTORNEY AT LAW

March 27, 2009

*Hand Delivered
3/30/09
Richard A. Huber
3/30/09*
VIA HAND DELIVERY

Planning and Zoning Commission
City of Grand Junction
250 North 5th Street
Grand Junction, Colorado 81501

Re: File: SS-2009-015
2670 Lookout Lane

Dear Commission:

Enclosed is a "Notice of Appeal of Decision/Finding of Fact," with referenced attachments, for filing on behalf of the Board of Directors of Spyglass Ridge Homeowners Association, Inc.

Should you have questions, please contact me.

Thank you.

Yours truly,

THE HASSLER LAW FIRM, P.C.

Alan N. Hassler
Alan N. Hassler



250 N 5th Street
PO Box 1809
Grand Junction, CO 81502-1809
(970) 244-1579 www.gjcity.org

ANH:kkh

Enclosure

cc: Spyglass Ridge Homeowners Association, Inc.



RECEIVED
MAR 27 2009
COMMUNITY DEVELOPMENT
DEPT.

ALAN N. HASSLER, ATTORNEY AT LAW

March 27, 2009

VIA HAND DELIVERY

Planning and Zoning Commission
City of Grand Junction
250 North 5th Street
Grand Junction, Colorado 81501

Re: File: SS-2009-015
2670 Lookout Lane

Dear Commission:

Enclosed is a "Notice of Appeal of Decision/Finding of Fact," with referenced attachments, for filing on behalf of the Board of Directors of Spyglass Ridge Homeowners Association, Inc.

Should you have questions, please contact me.

Thank you.

Yours truly,

THE HASSLER LAW FIRM, P.C.

Alan N. Hassler

ANH:kkh
Enclosure
cc: Spyglass Ridge Homeowners Association, Inc.

NOTICE OF APPEAL OF DECISION/FINDINGS OF FACT

TO: Planning and Zoning Commission
City of Grand Junction
250 North 5th Street
Grand Junction, Colorado 81501

DATE: March 27, 2009

FILE: SS-2009-015

LOCATION: 2670 Lookout Lane, Grand Junction, Colorado 81503

PETITIONER: Richard Overholt and Loretta Rector
2670 Lookout Lane
Grand Junction, Colorado 81503
270-2344

APPELLANT: Board of Directors
Spyglass Ridge Homeowners Association, Inc.
2694 Lookout Lane
Grand Junction, Colorado 81503

APPELLANT
REPRESENTATIVE: Alan N. Hassler
The Hassler Law Firm, P.C.
Post Office Box 40386
Grand Junction, Colorado 81504
(970) 243-2952

PLANNER: Ronnie Edwards

RECEIVED
MAR 27 2009
COMMUNITY DEVELOPMENT
DEPT.

The Board of Directors, on behalf of the Spyglass Ridge Homeowners Association, Inc. ("Spyglass HOA" herein), by and through its attorneys, The Hassler Law Firm, P.C., Alan N. Hassler appearing, hereby gives Notice of Appeal of the Decision of the Director, which granted an application by Richard Overholt and Loretta Rector, to combine Spyglass Ridge Lots 173 and 174, as a simple resubdivision. The grounds for the appeal are that (1) the Decision misconstrues the legal definition of "lot" and the covenant prohibiting combining lots and applicable law; and (2) there is no evidence in the record that the character of the plat and the neighborhood will not be negatively affected.

I. BACKGROUND

Spyglass HOA filed its timely objection to the application to combine two adjacent lots in Spyglass Ridge, into a single lot. A copy of that letter is attached hereto as Exhibit 1.

The Developer of Spyglass Ridge, SGH Company, LLC, filed a timely objection to the application. Spyglass HOA incorporated the SGH Company, LLC objection into its own objection. A copy of the SGH Company, LLC objection is attached as Exhibit 2.

By letter dated March 5, 2009 (attached hereto as Exhibit 3), the City Attorney's Office indicated that the application would be approved, on the grounds that,

"[a]lthough the covenants provide that lots may not be further subdivided, they expressly allow 'combining portions with an adjoining Lot, provided that no additional building site is created thereby' and that '[n]ot less than one entire Lot, as conveyed, shall be used as a building site.'"

The Record of Decision was issued on March 18, 2009. A copy of that document is attached hereto as Exhibit 4.

The Director's Decision is inconsistent with the provisions of the City of Grand Junction Zoning and Development Code and with state law, in interpreting the Covenants to allow combination of entire lots.

The Director's Decision is based upon erroneous findings of fact, on the evidence made available to him about the character of the neighborhood and the intent of the Covenants.

The Director's Decision constitutes an abuse of discretion, by failing to properly apply the approval criteria set forth in the Zoning and Development Code ("Code" herein), Section 2.2.E.4.

II. LEGAL BASIS OF REQUESTS TO OVERTURN DIRECTOR'S DECISION

A decision is arbitrary and capricious if there is no competent evidence in the record to support it. *Lieb v. Trimble*, 183 P.3d 702, 704 (Colo. App. 2008). Without competent evidentiary support, the decision must be set aside. *State Board, Med. Exam. v. Johnson*, 68 P.3d 500, 502 (Colo. App. 2002), sets out the standard by which the decision is measured:

"In determining whether an administrative agency's decision is arbitrary or capricious, the court must determine whether a reasonable person, considering all

of the evidence in the record, would fairly and honestly be compelled to reach a different conclusion. If not, no abuse of discretion has occurred and the agency decision must be upheld. Wildwood Child & Adult Care Program, Inc. v. Colo. Dep't of Pub. Health & Env't, 985 P.2d 654, 658 (Colo. App. 1999)."

Similarly, a decision that applies an erroneous legal standard cannot be sustained. *Puckett v. City & County of Denver*, 12 P.3d 313, 314 (Colo. App. 2000).

III. SPYGLASS RIDGE COVENANTS DO NOT PERMIT COMBINING ENTIRE LOTS

In its letter, Spyglass HOA incorporated the objections submitted by SGH Company, LLC (Exhibit 2), the Developer of the Spyglass Ridge Subdivision. As set forth in the SGH Company, LLC letter, Article IX, Section 12 of the Declaration of Covenants, Conditions and Restrictions of Spyglass Ridge ("CC&Rs" herein) prohibits subdivision of a lot. The specific wording of that restriction is:

"Section 12. Lots Not to be Subdivided. No Lot shall be subdivided, except for the purpose of *combining portions* with an adjoining Lot, provided that no additional building site is created thereby. No less than one entire Lot, as conveyed, shall be used as a building site." [emphasis added]

The application approved does not combine any *portion* of a lot. Instead, it allows combining of two entire lots, an action not permitted in the CC&Rs. The obvious reason for the reference in the CC&Rs, Article IX, Section 12, to "combining portions" is to allow simple boundary adjustment matters, and not the total elimination of separate lots. Had total lot combination been contemplated in the Covenants, the word "portions" would not be included and would be superfluous.

The City Attorney's explanation of the decision also refers to another portion of the CC&Rs, "that '[n]ot less than one entire Lot, as conveyed, shall be used as a building site.'" This phrase does not contemplate combining lots; it does contemplate the possibility of using more than one lot in common, where a person purchases two lots.

In *Estate of McIntyre v. Lion's Ridge No. 4 Home*, 124 P.3d 860, 862 (Colo. App. 2005), the court considered the question of what constituted a "lot," between the original subdivision plat and future uses, with the restriction, "only one single family dwelling for private residence purposes shall be erected on each lot." The court relied upon *Belleview Construction Co. v. Rugby Hall Comty. Ass'n.*, 320 MD 152, 582 A.2d 493 (1990), for its decision, quoting,

“The court concluded that ‘each lot’ meant each lot as conveyed by the developer, and not each lot that thereafter might be created by any resubdivision. The court reasoned that ‘it almost defies common sense to suggest that although ‘lot’ obvious means a lot as conveyed by the developer virtually everywhere it is used in the deed of restrictions, it should somehow be afforded a different meaning . . . when it is used in this restriction . . .”

Bellevue Construction Co., 321 MD @ 159, 582 A.2d at 496.

While *Estate of McIntyre* deals with the question of resubdivision into multiple lots, and no consolidation, the principle is the same – a lot is a lot, as determined by the developer.

IV. THE DIRECTOR’S DECISION DOES NOT PROPERLY APPLY THE DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION

The application was brought under Code Section 2.2.E.4, Simple Subdivisions. The regulation specifically allows consolidation of more than one lot, and further requires the application to demonstrate, *inter alia*, (c)(4): the character of the plat and the neighborhood will not be negatively impacted.

The Director’s determination that consolidation should be allowed is a determination that the character of the plat and the neighborhood will not be negatively impacted. This is incorrect. As set forth in the Spyglass HOA objection to the application asserted that the application alters the character of the plat and the neighborhood, as follows:

“Spyglass Ridge is a comprehensively planned community. Design goals and the appeal to our members include overall appearance, and the special ambience created by that appearance. These goals are achieved by, among other things, a certain level of uniformity that was to be created by the spacing of houses. If the application is approved, the likelihood and potential of ever achieving the appearance is foreclosed, probably permanently. If combination is allowed, there will be a ‘biggest lot in the neighborhood,’ further detracting from the overall appearance of Spyglass Ridge.

The amenities provided by the Association, and the Association’s budget and future plans are premised on the number of lots platted not being reduced. Allowing the combination of two lots will impact these plans. Eventually, granting the application will lead to expenditures of time and money to demonstrate that the owner of the combined lots is obligated to pay two annual dues, and is obligated to pay two of any future assessment that might be made.”

SGH Company, LLC, also submitted character of the neighborhood evidence. The SGH Company, LLC letter described the Developer's purpose in creating the lots, and the Covenants, as well. (*See Exhibit 2, second and third paragraphs.*) The Decision destroys the purpose and intent of the overall subdivision.

Under the Code, the Director must consider the character of the neighborhood. The Director did not consider the impact on the character of the neighborhood that would result from granting the application.

V. THE DIRECTOR'S DECISION CONSTITUTES ERRONEOUS FINDINGS OF FACT BASED UPON THE EVIDENCE IN THE RECORD

The record contains no evidence that combining lots would not negatively impact the plat and neighborhood. The only record as to the character of the neighborhood are those submitted in the objections, demonstrating both the plat and the neighborhood will be negatively impacted. *See, Section IV, above, quotation from Spyglass HOA objection and citation to SGH Company, LLC objection.* There is no evidence that granting the application would not affect the character of the neighborhood. As such, the Director's Decision is wholly unsupported by fact. The finding implied by approval that the character of the neighborhood will not be impacted, is erroneous, so the Decision must be overturned.

VI. THE DIRECTOR'S DECISION IS ARBITRARY, CAPRICIOUS, AND/OR AN ABUSE OF DISCRETION

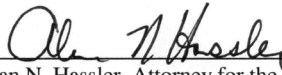
As set forth in Part V, there is no evidence in the record supporting a determination that the character of the neighborhood will not be negatively impacted. Where a decision is not supported by any competent evidence, the decision is arbitrary, capricious, and/or an abuse of discretion.

WHEREFORE, the Appellant respectfully requests that the Commission overturn the Decision of the Director, and deny the application for combination of lots, and prohibit any further approval and the filing of the proposed plat.

Notice of Appeal of Decision/Findings of Fact
March 27, 2009
Page 6

RESPECTFULLY SUBMITTED this 27th day of March, 2009.

SPYGLASS RIDGE HOMEOWNERS
ASSOCIATION, INC. BOARD OF DIRECTORS
By THE HASSLER LAW FIRM, P.C.

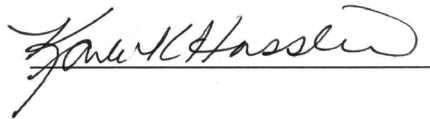
By 
Alan N. Hassler, Attorney for the
Board of Directors

CERTIFICATE OF SERVICE

I certify that on this 27th day of March, 2009, I deposited a true and correct copy of the foregoing NOTICE OF APPEAL OF DECISION/FINDING OF FACT, with referenced exhibits, in the United States mail, with sufficient first class postage prepaid, addressed to:

Shelly S. Dackonish, Esq.
Senior Staff Attorney
City of Grand Junction, City Attorney
250 North 5th Street
Grand Junction, Colorado 81501

Rob Martindale
190 Desert Vista Court
Whitewater, Colorado 81527





RECORD OF DECISION / FINDINGS OF FACT

DATE: March 18, 2009
FILE: SS-2009-015
LOCATION: 2670 Lookout Lane

PETITIONER: Richard Overholt and Loretta Rector
2670 Lookout Lane
Grand Junction, CO 81503
270-2334

REPRESENTATIVE: Rob Martindale
190 Desert Vista Court
Whitewater, CO 81527
256-0687

PLANNER: Ronnie Edwards

PROJECT IS: **Approved**

The Grand Junction Community Development Department, in accordance with Section 2.2.E.4.c of the Zoning and Development Code, approves the subdivision plat for the R & L Subdivision. Final recordation of the plat will need the following fees:

- \$ 15.50 to City of Grand Junction for copy fees
- \$ 11.00 to Mesa County Clerk and Recorder for recording the mylar plat

An electronic copy of the final plat shall be provided to Virginia Breckon of our GIS Department at virginib@gjcity.org along with the mylar, surveyor checklist and current title work for staff review and signatures.

All development projects are subject to a ten day waiting period to allow for any appeal actions per Section 2.18 of the Zoning and Development Code. Staff has supplied a copy of this section with this letter. Concerned neighbors will also be notified of this approval should they wish to request an appeal of this action per the approval criteria in Section 2.18.C.1 of the Zoning and Development Code.

Respectfully,

Ronnie Edwards – rhondae@gjcity.org – 256-4038

City of Grand Junction Review Comments

Date: February 17, 2009 **Comment Round No.** One **Page No.** 1 of 3
Project Name: R & L Subdivision **File No:** SS-2009-015
Project Location: 2670 Lookout Lane (Spyglass #2)

Check appropriate **if comments were mailed, emailed, and/or picked up.**

Property Owner(s): Richard Overholt and Loretta Rector
 Mailing Address: 2670 Lookout Lane 81503
 Email: **Telephone:** 270-2334
 Date Picked Up: _____ **Signature:** _____

Representative(s): Surveyor – Rob Martindale
 Mailing Address: 190 Desert Vista Ct, Whitewater, 81527
 Email: rcm27@msn.com **Telephone:** 256-0687
 Date Picked Up: _____ **Signature:** _____

Developer(s):
 Mailing Address: _____
 Email: _____ **Telephone:** _____
 Date Picked Up: _____ **Signature:** _____

CITY CONTACTS

Project Manager: Ronnie Edwards **Telephone:** 256-4038
Email: rhondae@gjcity.org

Back up Planner: **Telephone:** _____
Email: _____

Development Engineer: Ken Fischer **Telephone:** 244-1451

City of Grand Junction REQUIREMENTS (with appropriate Code citations)

COMMUNITY DEVELOPMENT

Requirement: 1. In this particular instance, there will be two drawings to record. The regular plat, which will show the one lot as proposed with appropriate dedication language, etc. The second drawing may be an 8 1/2 X 11 or 11 X 17 and labeled Special Building Lot Considerations and must show the "view shed" and "slope setback/no disturbance" areas. The City Surveyor does not feel it appropriate to put that information on the regular subdivision plat.

2. Per the City Utility Engineer, a \$1,104.00 lift station impact fee is required to be paid with final approval and plat recordation, as the impact fee was based on a set number of lots within the original subdivision. All other recordation fees will be calculated upon final approval.

Note: Within the Architectural Standards and Guidelines are specific notes concerning Fencing as to height, material and location, besides requiring approval sign-off from the ACC. The City Planning department can only make you aware of these requirements as the ACC must enforce their own regulations.

Note: Applicants need to be aware that Planning Staff has received letters from David Behrhorst of SGH Company, LLC and Spyglass Ridges Homeowners Association, Inc. requesting that staff deny this application as it is in violation of the Subdivision Covenants. As previously stated, Staff cannot enforce private subdivision regulations, but must review all projects with the review criteria as stated in the Zoning and Development Code. A copy of these letters are included.

Code Reference:

Applicant's Response:

Document Reference:

Item 1. I am not sure that it would necessary to re-record a document that is already recorded in the Mesa County Clerk and Recorder's Office. I have referenced the Book and Page of the Special Building Lot Considerations that is currently of record within item 2 of the notes located in the lower left corner of the plat.
Item 2. The applicant agrees to pay the \$1,104.00 lift station impact fee.

CITY DEVELOPMENT ENGINEER

Requirement: Round 1

Review Comment: Provide the size of the sanitary sewer and water lines. Also provide the location of the water and sewer services for both lots.

Code Reference: Submittal Standards for Improvements and Development (SSID), page V-02, item J.

Review Comment: Provide contours

Code Reference: SSID, page V-02, item Q.

Review Comment: The requirement for the Professional Engineer stamp will be waived with the use of a Professional Land Surveyor stamp

Code Reference: SSID, page V-02, item J.

Applicant's Response:

Applicant's Response:

Document Reference:

The size of the sanitary sewer and water lines has been added to the Composite Plan. Also the location of the water and sewer services has been added based on As-built locations provided by Orchard Mesa Sanitation District.

CITY SURVEYOR

Requirement: REVIEW COMMENTS:

Within the descriptive reference at the top center of the sheet, beneath the title, include the recording information for the noted subdivision plat name. (K)

Within the descriptive reference at the top center of the sheet, the abbreviations T and R appear but are not included in the Legend. The letter R is currently used for Radius. (N)

Additional 'ties' shall be shown to other existing points within the subdivision so that the location of this replat can be verified. (11b)

A boundary monument shall be indicated at the Northerly end of the 41.26 foot dimension.

Within the Dedication and Notary Certification, there are several instances of not using the correct plural nouns within the paragraphs.

Code Reference:

Applicant's Response:

Document Reference:

The recording information has been added to the information under the title on the Plat.
The abbreviations T and R have been spelled out as 'Township' and 'Range' on the Plat.
Additional ties have been shown to verify the location of this re-plat.
The boundary monument has been added at the Northerly end of the 41.26' dimension.
The dedication was reviewed and corrected in several locations.

REVIEW AGENCIES

(Responding with "No Comment" or have not responded as of the due date)

The following Review Agencies have responded with "No Comment."

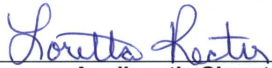
1. Mesa County Building Dept.

The Petitioner is required to submit Packets, labeled as "**Response to Comments**" for the following agencies: Project Manager, Project Engineer, and City Surveyor

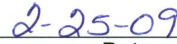
Date due: May 17, 2009

Please provide a written response for each comment and, for any changes made to other plans or documents indicate specifically where the change was made.

I certify that all of the changes noted above have been made to the appropriate documents and plans and there are no other changes other than those noted in the response.



Applicant's Signature



Date

DATE: <u>2-19-09</u>		DOCUMENT #: J <u>129425</u>								
RECEIVED OF: <u>Overholt / Rector</u>										
YR	INDEX	FUND	ORGN	ACCT	PRG	ACTVTY	AMOUNT	CK	CS	CC
DESCR: <u>Sunglass lot 174 lift station fee</u>										
							<u>1104-</u>	<input checked="" type="checkbox"/>		
DESCR: <u>900 605 090 4340 13</u>										
DESCR:										
DESCR:										
DESCR:										
DESCR:										
CITY STAFF: <u>[Signature]</u>								GRAND TOTAL.. <u>1104</u> <input checked="" type="checkbox"/>		

PAID
FEB 19 2009
RB

City of Grand Junction Review Comments

Date: March 19, 2009 **Comment Round No.** Two **Page No.** 1 of 2
Project Name: R & L Subdivision **File No:** SS-2009-015
Project Location: 2670 Lookout Lane (Spyglass #2)

Check appropriate **if comments were mailed, emailed, and/or picked up.**

Property Owner(s): Richard Overholt and Loretta Rector
 Mailing Address: 2670 Lookout Lane 81503
 Email: **Telephone:** 270-2334
 Date Picked Up: **Signature:**

Representative(s): Surveyor – Rob Martindale
 Mailing Address: 190 Desert Vista Ct, Whitewater, 81527
 Email: rcm27@msn.com **Telephone:** 256-0687
 Date Picked Up: **Signature:**

Developer(s):
 Mailing Address:
 Email: **Telephone:**
 Date Picked Up: **Signature:**

CITY CONTACTS

Project Manager: Ronnie Edwards **Telephone:** 256-4038
Email: rhondae@gjcity.org
Back up Planner: **Telephone:**
Email:
Development Engineer: Ken Fischer **Telephone:** 244-1451

Responded by
 dwg / wtk
 2/27/09

City of Grand Junction REQUIREMENTS (with appropriate Code citations)

COMMUNITY DEVELOPMENT

- Requirement: 1. In lieu of recording a second document demonstrating the restrictive areas, the planner will put a note on our copy of the recorded document once received to make our front counter staff aware should existing or future property owners wish to construct any fencing or accessory structures on the site.
2. Applicant needs to be aware that all Administrative Decisions can be appealed by adjacent property owners and the public. Any appeal must be in writing and provided to the Planning Department within 10 days of the decision date by Staff. Section 2.18 of the Zoning and Development Code contains the procedures.

Note: Applicants need to be aware that Planning Staff has received letters from David Behrhorst of SGH Company, LLC and Spyglass Ridges Homeowners Association, Inc. requesting that staff deny this application as it is in violation of the Subdivision Covenants. As previously stated, Staff cannot enforce private subdivision regulations, but must review all projects with the review criteria as stated in the Zoning and Development Code.

Applicant's Response:
Document Reference:

CITY DEVELOPMENT ENGINEER

Requirement: No further comments.

Applicant's Response:
Document Reference:

CITY SURVEYOR

Requirement: There are no additional suggestions or comments regarding this submittal.

A field inspection will be performed immediately upon receipt of the mylar and prior to recordation of the plat to confirm that exterior boundary monuments are in place, embedded in concrete and marked as depicted on the map.

Applicant's Response:
Document Reference:

The Petitioner is required to submit Packets, labeled as "**Response to Comments**" for the following agencies: Project Manager

Date due: June 19, 2009

Please provide a written response for each comment and, for any changes made to other plans or documents indicate specifically where the change was made.

I certify that all of the changes noted above have been made to the appropriate documents and plans and there are no other changes other than those noted in the response.

Applicant's Signature

Date



March 5, 2009

David G. Behrhorst, Manager
SGH Company, LLC
1280 Ute Avenue, #32
Aspen, CO 81611

Kody Zubrod, Earl Nicholson, David Behrhorst, Megal Litten, Kenneth Rosenblatt, Joshua Starr and Rebekah Zeck, Board of Directors
Spyglass Ridge Homeowners Association, Inc.
2694 Lookout Lane
Grand Junction, CO 81503

Re: R&L Subdivision, #SS-2009-015

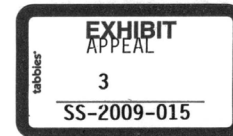
Dear Skip and Spyglass Ridge Homeowners Association Board of Directors:

This letter is a response to your letters to Tim Moore dated January 29, 2009 and January 31, 2009 objecting to the R & L Subdivision, which involves a replat combining two lots within the Spyglass Ridge Subdivision. Although the City has previously responded verbally, you have requested a response in writing. The purpose of this letter is to satisfy that request.

You have argued that the covenants for Spyglass Ridge Subdivision, the lift station agreement between SGH Company, LLC and the City, and the Colorado Common Interest Ownership Act prohibit the lot combination requested by Richard Overholt. In fact, although the covenants provide that lots may not be further subdivided, they expressly allow "combining portions with an adjoining Lot, provided that no additional building site is created thereby" and that "[n]ot less than one entire Lot, as conveyed, shall be used as a building site." Regarding the lift station issues, Mr. Overholt, has paid a lift station impact fee for both lots, and I am unaware of any terms of the lift station agreement which would prohibit lot combinations in Spyglass Ridge Subdivision. I am likewise unaware of any provisions of CCIOA that prohibit a lot combination in this situation.

Regarding the matter of the fence, the City of Grand Junction enforces only City ordinances; it does not enforce the architectural standards of the covenants, conditions and restrictions.

While I appreciate your concerns, those concerns do not provide a sound legal basis for the City to deny Mr. Overholt's request to combine the two adjacent lots he owns. Thank you for your comments and please feel free to contact me if you would like to discuss this further.





CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY

A handwritten signature in black ink, appearing to read "Shelly S. Dackonish", written over a horizontal line.

Shelly S. Dackonish, Senior Staff Attorney

cc: Ronnie Edwards, Associate Planner
Tim Moore, Director of Public Works and Planning
Richard Overholt

January 31, 2009

Hand Delivered

City of Grand Junction
Planning Division
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

Re: R & L Subdivision
SS-2009-015

Dear Sirs:

The Board of Directors of the Spyglass Ridge Homeowners Association objects to the proposal to combine two (2) single family Spyglass Ridge lots into one (1) lot. The Association asks that you find the application alters the character of the plat and of the neighborhood, and to deny the application as required by the City's regulations.

Spyglass Ridge is a comprehensively planned community. Design goals and the appeal to our members include overall appearance, and the special ambience created by that appearance. These goals are achieved by, among other things, a certain level of uniformity that was to be created by the spacing of houses. If the application is approved, the likelihood and potential of ever achieving the appearance is foreclosed, probably permanently. If combination is allowed, there will be a "biggest lot in the neighborhood," further detracting from the overall appearance of Spyglass Ridge.

The amenities provided by the Association, and the Association's budget and future plans are premised on the number of lots platted not being reduced. Allowing the combination of two lots will impact these plans. Eventually, granting the application will lead to expenditures of time and money to demonstrate that the owner of the combined lots is obligated to pay two annual dues, and is obligated to pay two of any future assessment that might be made.

The Application includes a plan to fence a portion of the new lot. The fence permit was granted, conditioned on approval of the subdivision and upon ACC approval of the fence. There has been no application or approval of the fence described in the permit. Previously, the ACC and Applicant arrived at a mutual verbal agreement for a two rail fence along the front setback line and the western boundary of Lot 174. The permit for use of a six and four foot cedar fence is outside the agreement and would violate the fencing restrictions for the lot.


The Association is aware of the letter presented on behalf of SGH Company, LLC, and joins in the objections and reasons set forth in that letter. It is clear that subdivision is prohibited by the covenants, and that subdivision or resubdivision is an effort to revamp a plat as the applicant seeks. The Association asks that you deny the application to preserve the special character of the neighborhood and the plat.

2694 Lookout Lane Grand Junction, CO 81503
Office: 970.424.5600 Email: spyglassridge@bresnan.net

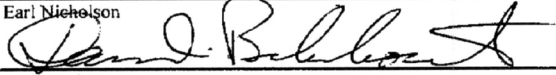


Sincerely,

Spyglass Ridge Homeowners Association, Inc.
Board of Directors

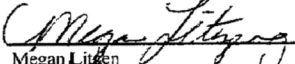


Kody Zubrod

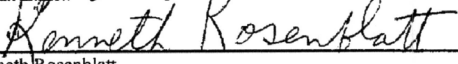


Earl Nicholson

David Behrhorst



Megan Litten



Kenneth Rosenblatt



Joshua Starr



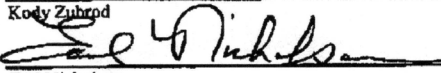
Rebekah Zeck

resubdivision is any effort to revamp a plat as the applicant seeks. The Association asks that you deny the application to preserve the special character of the neighborhood and the plat.

Sincerely,

Spyglass Ridge Homeowners Association, Inc.
Board of Directors

Kody Zubrod



Earl Nicholson

David Behrhorst

Megan Litzen

Kenneth Rosenblatt

Joshua Starr

Rebekah Zeck

SGH COMPANY, LLC
1280 Ute Avenue, #32
Aspen, CO 81611

January 27, 2009

City of Grand Junction
Planning Division
250 North 5th Street
Grand Junction, CO 81501

Re: R & L Subdivision
SS-2009-015

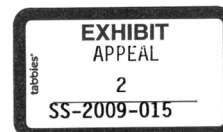
Dear Sir:

As the developer of Spyglass Ridge Subdivision and the owner of a majority of the lots in the Subdivision, SGH Company, LLC objects to the above-referenced request which seeks to combine two (2) single family lots into one (1) lot.

Spyglass Ridge Subdivision was developed after careful planning to address natural issues, such as topography, and market issues, such as view corridors, size and type of housing products, community amenities, etc. Through utilization of a zoning overlay and very comprehensive covenants and design guidelines, the nature and character of the development was created. This nature and character was based upon the total lots in the development and the specific location of each lot.

The covenants for Spyglass Ridge and the Colorado Common Interest Ownership Act ("CCIOA") establish very defined procedures and responsibilities for each lot owner and the homeowner's association ("HOA"). The HOA budget is based upon the number of lots in the Subdivision and pursuant to CCIOA the budget is allocated pro rata as assessments against each lot. This structure does not accommodate a merger of two (2) lots into one (1) lot. Article IX, Section 12 of the covenants prohibits subdivision of a lot. Although the obvious prohibition is against the creation of additional lots, the prohibition is against any re-subdivision.

As part of the infrastructure for Spyglass Ridge the City and SGH Company, LLC entered into an agreement whereby the City acquired ownership of a sewer lift station. This agreement provides for an increased sewer fee based upon the total number of lots in the development. Reduction of the number of lots, the result if this application is approved, is contrary to the terms of the lift station agreement.



City of Grand Junction
January 29, 2009
Page 2

Every owner in Spyglass Ridge receives an extensive package of documents including the subdivision covenants and design guidelines. Further, each purchase agreement contains additional provisions detailing the subdivision review process for new construction and contains an acknowledgement by the purchaser that they have received a copy of the subdivision covenants.

The proposed subdivision application is in violation of the Spyglass Ridge covenants, the lift station agreement with the City and is detrimental to the operational and financial integrity of the homeowners association and should be denied.

Please feel free to contact me if you have any questions.

Sincerely yours,

SGH COMPANY, LLC

By: s/ David G. Behrhorst
David G. Behrhorst, Manager

We, the undersigned, being the owner's of the property adjacent to or situated in the City of Grand Junction, Mesa County, State of Colorado, as described herein do hereby petition this:

Petition for (check all appropriate boxes):

<input type="checkbox"/> Annexation/Zone of Annexation	<input type="checkbox"/> Growth Plan Amendment	<input type="checkbox"/> Sign Package Permit
<input type="checkbox"/> Boundary Agreement	<input type="checkbox"/> Historic Designation	<input type="checkbox"/> Site Plan Review-Major
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Master Plan	<input type="checkbox"/> Site Plan Review-Minor
<input type="checkbox"/> Concept Plan	<input type="checkbox"/> Minor Change	<input type="checkbox"/> Subdivision Plat/Plan-Major Final
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Planned Development-Final	<input type="checkbox"/> Subdivision Plat/Plan-Major Preliminary
<input type="checkbox"/> Condominium Plat	<input type="checkbox"/> Planned Development-ODP	<input checked="" type="checkbox"/> Subdivision Plat/Plan-Simple
<input type="checkbox"/> Extension of Time	<input type="checkbox"/> Planned Development-Preliminary	<input type="checkbox"/> Vacation-ROW/Easement
<input type="checkbox"/> Floodplain Permit	<input type="checkbox"/> Revocable Permit	<input type="checkbox"/> Variance
<input type="checkbox"/> Grading Plan	<input type="checkbox"/> Rezone	<input type="checkbox"/> Other _____

Please fill in blanks for Zone of Annexations, Rezones, and Growth Plan Amendments:

Existing Land Use Designation _____ Existing Zoning _____
Proposed Land Use Designation _____ Proposed Zoning _____

Site Location: 2670 Lookout Ln GJ CO 81503
 Site Tax No.(s): 2945-204-45-100 Site Acreage/Square footage: Site Zoning: R-2 / Cluster
 Project Description: Reflecting the information + description on the Mesa County Assessor (Combine lots 173 + 174 in Spyglass Ridge #2 into 1 lot 2670 Lookout Ln)

Richard Overholt/Loretta Rector	same	same
Property Owner Name	Developer Name	Representative Name
2670 Lookout Ln GJ CO 81503	2670 Lookout Ln GJ CO 81503	
Address	Address	Address
GJ CO 81503	GJ CO 81503	
City/State/Zip	City/State/Zip	City/State/Zip
970-270-2334	970-216-3914	
Business Phone No.	Business Phone No.	Business Phone No.
E-Mail	E-Mail	E-Mail
Fax Number	Fax Number	Fax Number
same as above		
Contact Person	Contact Person	Contact Person
Contact Phone No.	Contact Phone No.	Contact Phone No.

Note Legal property owner is owner of record on date of submittal.
 We hereby acknowledge that we have familiarized ourselves with the rules and regulations with respect to the preparation of this submittal, that the foregoing information is true and complete to the best of our knowledge, and that we assume the responsibility to monitor the status of the application and the review comments. We recognize that we or our representative(s) must be present at all required hearings. In the event that the petitioner is not represented, the item may be dropped from the agenda and an additional fee charged to cover rescheduling expenses before it can again be placed on the agenda.

	1-13-09
Signature of Person Completing Application	Date
	1-13-09
Required Signature of Legal Property Owner(s) - attach additional sheets if necessary	Date

GENERAL PROJECT REPORT
2670 LOOKOUT LN
GRAND JUNCTION, CO 81503

Location: 2670 Lookout Lane
Grand Junction, CO 81503

Acreage: .480 acres

Proposed Use: Combine two lots into one lot for the purpose of increasing the size of our yard.

While there will not be a direct benefit to the general public by allowing us to combine our lots, there will not be any negative impact to the public by allowing the lots to be consolidated into one lot. We are requesting the consolidation to allow for a larger yard. We do not have plans to erect outbuildings, or request a change in zoning or usage. Our plans are to landscape the new portion of our lot.

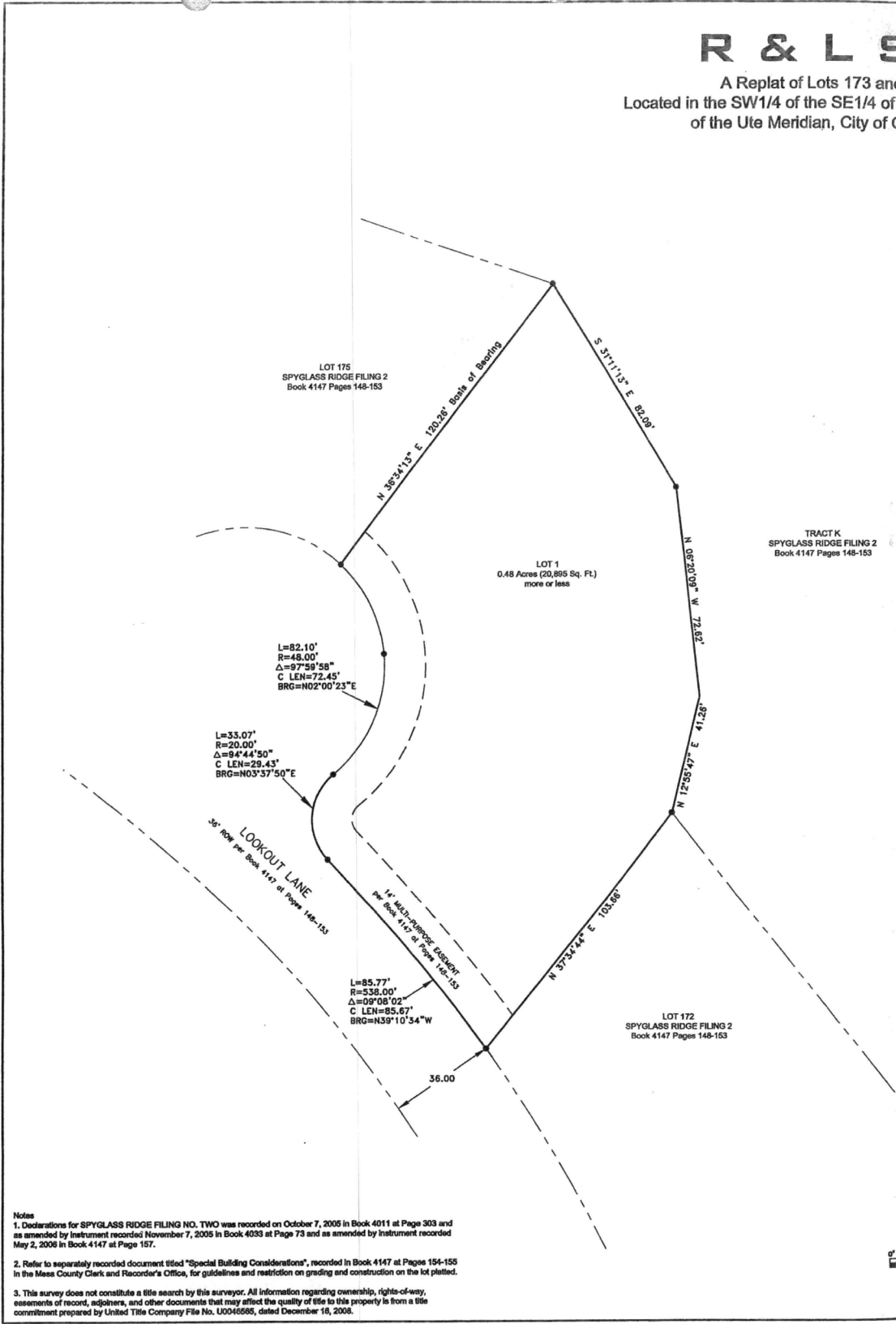
A neighborhood meeting is not required.

The use fits in with the surrounding area. It will continue to be residential, and will not impact site access or traffic patterns. If anything, it will decrease traffic in the cul-de-sac by decreasing the number of single family homes by one home. This will also cause less of an impact on police, fire, sanitation and water facilities.

There will not be any impact on right of ways or existing easements.

R & L E

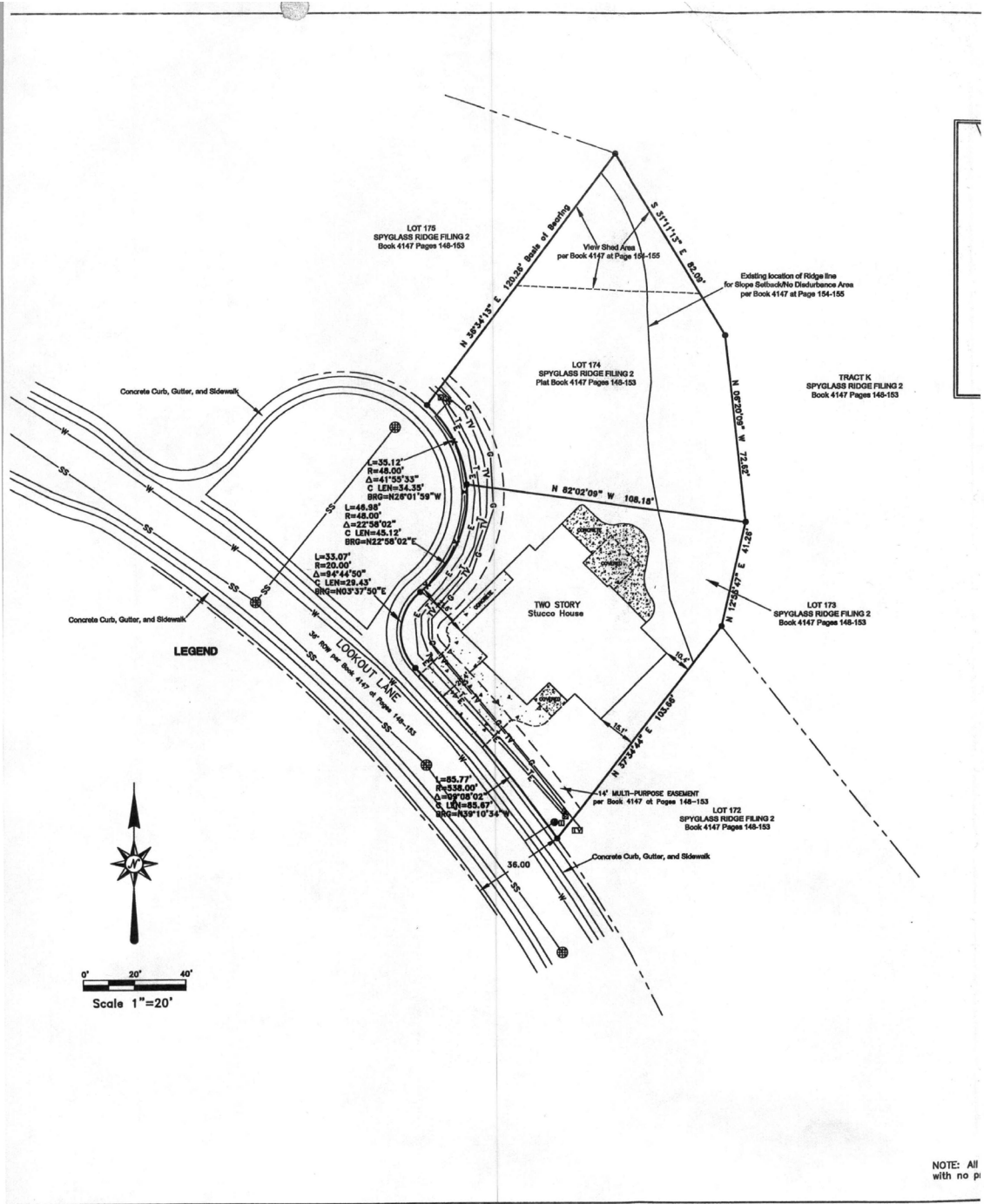
A Replat of Lots 173 and
 Located in the SW1/4 of the SE1/4 of
 of the Ute Meridian, City of C



Notes

1. Declarations for SPYGLASS RIDGE FILING NO. TWO was recorded on October 7, 2005 in Book 4011 at Page 303 and as amended by instrument recorded November 7, 2005 in Book 4033 at Page 73 and as amended by instrument recorded May 2, 2006 in Book 4147 at Page 157.
2. Refer to separately recorded document titled "Special Building Considerations", recorded in Book 4147 at Pages 154-155 in the Mesa County Clerk and Recorder's Office, for guidelines and restriction on grading and construction on the lot platted.
3. This survey does not constitute a title search by this surveyor. All information regarding ownership, rights-of-way, easements of record, adjoiners, and other documents that may affect the quality of title to this property is from a title commitment prepared by United Title Company File No. U0046565, dated December 16, 2005.

ET'S



SLOPE SETBACK/NO DISTURBANCE AREA

