

Having been duly posted on the 7th day of January, 1997 and the public having the opportunity to comment on the propriety of the following regulation, the regulation will be duly promulgated and become effective on the 20th day of January, 1997.

RE: **ADMINISTRATIVE REGULATION NO. 1-97**
 Zoning and Development Code, Section 5-6, SSID
 City of Grand Junction

ISSUED BY: _____
 Katherine M. Portner, Acting Community Development Director Date

Topic: Evidence of Title/Title Commitment

Background: Section VII.A.11.b of the SSID (section 5-6 of the Zoning and Development Code) describes an applicant’s requirement to provide proof of ownership. The existing requirement is satisfied by a title commitment. The purpose of such requirement is to identify those persons/entities who have a sufficient legal interest in the property to justify requiring that the consent of such persons be required before a plat is recorded. Thus, the present section contemplates reference to a title commitment to identify those persons with sufficient recorded interests in the affected property, such as each owner and each person who may have an interest via mortgages, judgments, liens, easements, contracts, and other relevant agreements of record. The present provision, read literally, says that the holders of such mortgages, judgments, liens, easements, contracts or agreements shall be required to approve the plat, in writing, signed and notarized, before the plat shall be recorded.

The long-standing administrative practice has been to require that all owners and liens holders who are ‘of record’ must sign the plat prior to recording, in order to show such owner’s/lienor’s consent. Because the beneficiary of a recorded easement has a lesser interest, the City hasn’t required easement holders to consent to the plat prior to recording. In some situations the nature of the easement is such that no identification of the easement is even necessary or possible, based on the information available, *e.g.*, a prescriptive easement which is not of record nor subject to definition as to location. The interests of the holder of a recorded easement (including rights-of-way) are protected by identifying such an easement or right-of-way on the plat; the applicant’s surveyor describes or draws the easement on the plat.

Ordinance 2769 authorizes the Director of Community Development to make changes to the SSID Manual. The purpose of this Administrative Regulation is to revise the above section to make clear that only owners and lien holders are required to consent to a final

plat. Of record easements which are identifiable on a plat will continue to be shown but no consent of the beneficiary of such an interest will be required.

Administrative Change: Section VII.A.11.b of the SSID (section 5-6 of the Zoning and Development Code) is hereby amended to read as follows:

- b. Minor Subdivisions and Major Subdivisions: Final--An exact copy of a current certificate of title which shall identify the names of each owner of all property included on the plat and each person who has a recorded interest (*e.g.*, mortgages, judgments, liens, easements, contracts, other relevant agreements of record) which affects the property covered by the plat. The owner(s) and holders of recorded security interests (*i.e.*, *mortgagors and beneficiaries of deeds of trust*) shall show their consent on the final plat before the plat is recorded.
- c. This requirement shall not be construed to create any rights in others nor to create any duty or obligation of the City to protect or preserve any rights of any person, such as a mortgagor or easement holders.