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**CITY COUNCIL AGENDA  
WEDNESDAY, OCTOBER 5, 2016  
250 NORTH 5<sup>TH</sup> STREET  
6:15 P.M. – PRE-MEETING – ADMINISTRATION CONFERENCE ROOM  
7:00 P.M. – REGULAR MEETING – CITY HALL AUDITORIUM**

*To become the most livable community west of the Rockies by 2025*

**Call to Order, Pledge of Allegiance, Invocation**

Pastor Doug Sikes, Grace Point Church

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

**Presentation**

Presentation of Smart Yard Award by Forestry Board Member Elizabeth Neubauer

**Proclamation**

[Proclaiming October 17 - 21, 2016 as Irlen Syndrome Awareness Week in the City of Grand Junction](#)

[Proclaiming October 9-15, 2016 as Fire Prevention Week in the City of Grand Junction](#)

**Citizen Comments**

[Supplemental Document](#)

**Council Reports**

**Consent Agenda**

**1. Approval of Minutes**

- a. [Summary of the September 19, 2016 Workshop](#)
- b. [Minutes of the September 21, 2016 Regular Meeting](#)

**2. Set Public Hearings**

## a. Legislative

- i. [An Ordinance Amending the Grand Junction Municipal Code, Greater Downtown Residential Standards, by Deleting Section 24.12.130\(b\) Residential Standards and Guidelines, Accessory Structures \(Set Hearing for October 19, 2016\)](#)
- ii. [An Ordinance Adopting Amendments to the 2012 Edition of the International Fire Code and Prescribing Regulations Governing Outdoor Burning, Restricted and Unrestricted Burning; Providing for the Issuance of Permits for Certain Burning Activities and Defining Extinguishment Authority \(Set Hearing for November 2, 2016\)](#)

**3. Continue Public Hearing**

## a. Legislative

- i. [An Ordinance Amending Ordinance No. 4599 and Section 21.04.010 of the Municipal Code to Allow Marijuana Testing Facilities in the City of Grand Junction \(Continue Hearing to October 19, 2016\)](#)

**Regular Agenda**

*If any item is removed from the Consent Agenda, it will be heard here*

**4. Public Hearings**

## a. Quasi-judicial

- i. [Ordinance No. 4720 – An Ordinance Vacating Portions of Alley Rights-of-Way Located Between Elm and Kennedy and Mesa and Texas Avenues and a Portion of Texas Avenue Right-of-Way Subject to a Utility Easement and Maintenance Agreement, Located in the Colorado Mesa University Area](#)
- ii. [Ordinance No. 4721 – An Ordinance Vacating Right-of-Way for Noland Avenue, Located West of S. 7<sup>th</sup> Street](#)

**5. Contracts**

- a. [Three contracts for the construction of the Las Colonias Amphitheater to include: slough excavation, trail work and access, and site, building, and civil work.](#)

**6. Non-Scheduled Citizens & Visitors****7. Other Business****8. Adjournment**

# Grand Junction

State of Colorado

## PROCLAMATION

*WHEREAS, approximately 15-20% of the general population suffers from Irlen Syndrome which affects daily function due to the brain's inability to process visual information; and*

*WHEREAS, persons of all ages and ethnicities may experience Syndrome symptoms, which include light sensitivity, headaches or migraines, difficulty or discomfort when reading, eye strain, and distorted print text or environment; and*

*WHEREAS, evidence shows that brain injuries, chronic headaches, and migraines have also been linked to the Syndrome; and*

*WHEREAS, failure to identify and treat Irlen Syndrome can have severe consequences, ranging from academic and workplace failure or ongoing physical and emotional symptoms, to increased likelihood to enter the criminal justice system; and*

*WHEREAS, the Institute's Founder Helen Irlen says, "Irlen Syndrome is more common than heart disease or asthma, and affects daily quality of life in serious ways. By increasing awareness, we hope to move away from costly misdiagnoses and help sufferer's access readily available solutions."; and*

*WHEREAS, "International Irlen Syndrome Awareness Week" highlights the importance and ease of correctly identifying and treating Irlen Syndrome.*

*NOW, THEREFORE, I, Phyllis Norris, by the power vested in me as Mayor of the City of Grand Junction, do hereby proclaim the week of October 17-21, 2016 as*

### **"IRLEN SYNDROME AWARENESS WEEK"**

*in the City of Grand Junction and urge all citizens to learn and share information about Irlen Syndrome in order that those affected may be more quickly diagnosed and treated.*

*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Grand Junction this 5<sup>th</sup> day of October 2016.*

\_\_\_\_\_  
Mayor



# Grand Junction

State of Colorado

## PROCLAMATION

*WHEREAS, public safety is a top priority in Grand Junction; and*

*WHEREAS, safety from fire is important both to citizens and local firefighters, who put their lives on the line with every response to fire; and*

*WHEREAS, first responders are dedicated to reducing the occurrence of fire and fire injuries and death through prevention and fire safety education; and*

*WHEREAS, operating smoke detectors have decreased fire related deaths by over 20% since 2002; and*

*WHEREAS, in 2015 U.S. fire departments responded to over 500 thousand structure fires causing 2,685 fire fatalities, 13,000 civilian fire injuries, and \$10.3 billion in direct property loss; and*

*WHEREAS, the Grand Junction Fire Department is joining the National Fire Protection Association in teaching lifesaving messages; and*

*WHEREAS, Fire Prevention Week's 2016 message of, "Don't Wait – Check the Date! Replace Smoke Alarms Every 10 Years," - Every Bedroom Needs a Working Smoke Alarm, is an important reminder for all citizens of Grand Junction.*

*NOW, THEREFORE, I, Phyllis Norris, by the power vested in me as Mayor of the City of Grand Junction, do hereby proclaim the week of October 9-15 2016, as*

### "FIRE PREVENTION WEEK"

*in the City of Grand Junction. This week is commemorated across North America and supported by the public safety efforts of fire departments, schools, and other safety advocates in partnership with the National Fire Protection Association.*

*For more information on how you can support "Fire Prevention Week" go to [www.FPW.org](http://www.FPW.org).*

*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Grand Junction this day 5<sup>th</sup> day of October, 2016.*

\_\_\_\_\_  
Mayor



**GRAND JUNCTION CITY COUNCIL WORKSHOP SUMMARY  
September 19, 2016 – Noticed Agenda Attached**

Meeting Convened: 5:30 p.m. in the City Hall Auditorium

Meeting Adjourned: 8:21 p.m.

City Council Members present: All.

Staff present: Caton, Moore, Shaver, McInnis, Watkins, Hazelhurst, Romero, Camper, Schoeber, Rainguet, Blevins, and Tuin

Also: Julie Mamo, Jade Joyce, Amy Hamilton (Daily Sentinel), and other members of the public.

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Council President Norris called the meeting to order.

Agenda Topic 1. Structure and Operations of Municipal Court

Municipal Judge McInnis presented that the law is clear that the Judge has the authority to appoint the Court Clerk, assign their duties, and conduct the business of the Court. She referred to a number of excerpts from the City Charter, the Municipal Code, State Statutes, and the Colorado Code of Judicial Conduct. Her concern was the independence of the Court and she feels the current structure has the appearance that it is not. She presented a proposed revision to the organizational chart of the City, specific to the Court, and said she is opposed to the draft ordinance provided that restructures the Court. She also presented a Resolution that she asked the City Council to adopt that directs compliance with all the laws and rules referred to previously.

City Manager Caton then presented what has been done in order to respond to the Judge's concerns: additional security has been added in the courtroom, a glass window at the clerk's counter has been installed, legal staff no longer accesses the area behind the glass window, a computer has been placed on the Judge's bench, a job description for a part-time Court Clerk is being developed, and the budget will be bifurcated so the Judge has control over her portion of the budget. He reviewed the comparison sheet provided that identifies how other municipalities around the State structure their Municipal Courts. He stated that the discussion demonstrates the need for an ordinance detailing the structure and service delivery of the Court. Most of the things in the ordinance are currently in place and are best practices; the ordinance puts it in writing.

City Attorney Shaver noted that the City is in compliance with the laws referred to by the Judge and the ordinance proposed will clarify that delivery of service by the Court. He noted that many cities have a similar ordinance.

After further discussion, the majority of City Council supported the organizational chart presented by the Judge and were not in favor of moving forward with the proposed ordinance. There was a concern expressed about a part-time Judge having the ability to supervise a full-time staff.

Councilmembers noted that they need a chance to review the proposed Resolution presented by the Judge before deciding whether it should go forward.

Agenda Topic 2. Recommendations to City Council from the Vagrancy Committee

Councilmember Chazen introduced the topic and then deferred to Police Chief John Camper. Chief Camper referred to the Options List and explained the priority of the recommendations.

Council discussed many of the recommendations and brought both Julie Mamo, Grand Valley Peace and Justice representative, and Jade Joyce, HomewardBound Director, into the discussion. The conclusion was that the City Manager will propose funding for some of the recommendations in the 2017 budget, specifically the increased camp cleanup and possibly some funding for a Champion/Coordinator. City Manager Caton suggested that the Traveler's Aid Fund would be a good opportunity for community support. These recommendations can then be considered in the budget review process. It was suggested that they continue to work on or plan for the other items including the Crime Prevention through Environmental Design (CPTED) and increased downtown patrols.

Agenda Topic 3. Next Workshop Topics

It was noted that the next two workshops will have budget discussions scheduled.

Agenda Topic 4. Committee and Board Reports

Grand Junction Housing Authority – Councilmember Traylor Smith reported that they received some funding that will help with their acquisition of the Nellie Bechtel Apartments.

Agenda Topic 5. Other Business

Jade Joyce, HomewardBound Director, advised that they are changing their policy so that clients can only stay a maximum of 90 days per calendar year at their facility instead of 180 days but they can earn more shelter days by making progress in their lives such as getting drug addiction counseling, looking for work, etc. The change will start October 1<sup>st</sup>.

With no further business the meeting was adjourned.

**GRAND JUNCTION CITY COUNCIL  
MONDAY, SEPTEMBER 19, 2016**

**PRE-MEETING (DINNER) 5:00 P.M. ADMINISTRATION CONFERENCE ROOM  
WORKSHOP, 5:30 P.M.  
CITY HALL AUDITORIUM  
250 N. 5<sup>TH</sup> STREET**

*To become the most livable community west of the Rockies by 2025*

1. **Discussion of the Structure and Operations of Municipal Court**
2. **Recommendations to City Council from the Vagrancy Committee**
3. **Next Workshop Topics**
4. **Committee and Board Reports**
5. **Other Business**

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

**September 21, 2016**

The City Council of the City of Grand Junction convened into regular session on the 21<sup>st</sup> day of September, 2016 at 7:00 p.m. Those present were Councilmembers Bennett Boeschenstein, Chris Kennedy, Barbara Traylor Smith, Martin Chazen, and Council President Phyllis Norris. Councilmembers Duncan McArthur and Rick Taggart were absent. Also present were City Manager Greg Caton, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Norris called the meeting to order. Councilmember Chazen led the Pledge of Allegiance which was followed by an invocation by Reverend Anna Scott, Two Rivers Center for Spiritual Living.

**Presentations**

**Avalon Theatre Foundation Check Presentation by Robbie Breaux, Avalon Theatre Foundation Board President**

Debbie Kovalik, Director of the Grand Junction Visitor and Convention Bureau (GJVCB), introduced Robbie Breaux of the Avalon Theatre Foundation (ATF). Ms. Breaux addressed the City Council and presented the City with a check for \$150,000, which represents the final payment of ATF's commitment and spoke about the impact the Avalon has had on Downtown Grand Junction. Ms. Breaux provided details on the Avalon's next phase and invited everyone to the Avalon Theatre for a reception on September 22<sup>nd</sup>.

**Two 2016 Starburst Awards for Phase I, Las Colonias Park and Matchett Park/Indian Wash to the Parks and Recreation Department Presentation by Colorado Lottery Director Laura Solano and Colin Waters**

Traci Wieland, Parks and Recreation Department Superintendent, introduced Colin Waters, Director of Colorado Lottery Public Relations. Mr. Waters addressed the City Council and presented the City of Grand Junction Parks and Recreation Department with two 2016 Starburst Awards and stated the rarity of two awards given to the same jurisdiction.



**Proclamation****Proclaiming September 21, 2016 as Sister City Day in the City of Grand Junction**

Councilmember Boeschstein read the proclamation. Anna Stout, Founder and President of the Foundation for Cultural Exchange, was present to receive the proclamation. Ms. Stout thanked the City of Grand Junction for the trusting relationship which began eleven years ago and its impact on El Espino. She commented on the art exhibit from El Salvador art students upstairs in City Hall and stated that another El Espino art exhibit will be on display in the Mesa County Courthouse beginning September 26<sup>th</sup>.

**Citizens Comments**

Bruce Lohmiller, 536 29 Road, #4, spoke to Council regarding Whitman Park, open camping, Night Patrols, and spoke about the collective. He noted that Donald Trump, Jr., is coming to Grand Junction to speak about hunting, but Mr. Trump should also talk about immigration. Mr. Lohmiller mentioned cease fires and that Donald Trump should not be saying people should be nuked.

**Council Comments**

Councilmember Boeschstein listed the meetings and events he had attended which included the Downtown Development Authority (DDA) and the Downtown Grand Junction Business Improvement District (DGJBID) meetings, Club 20 debates, Avalon Theatre Foundation Board meeting, Urban Trails Committee meeting, Colorado Mesa University (CMU) donors celebration, Chautauqua event at Cross Orchards Historic Site, Homeless and Vagrancy Committee meeting, Riverfront Commission meeting, Grand Junction Symphony Concert, and the Horizon Drive Association Business Improvement District (HDABID) meeting.

Councilmember Chazen attended the Associated Governments of Northwest Colorado (AGNC) meeting in Steamboat Springs where the State Attorney General, Cynthia Coffman, spoke about protecting the energy industry, the waters of the United States, and the regulation of Federal Public Lands. Councilmember Chazen also attended the DDA/DGJBID meetings, Homeless and Vagrancy Committee meeting, and the Horizon Drive round-about ribbon cutting ceremony.

Councilmember Kennedy is working on several projects and will provide details at the next regular City Council Meeting. He congratulated the City of Grand Junction Parks

and Recreation Department on receiving the two Starburst Awards and noted that he plans to attend the Avalon Theatre reception.

Councilmember Traylor Smith said she attended the Community Development Block Grant Board meeting and said this Board administers funds that impact the education of young children. She attended the Parks and Recreation Advisory Board (PRAB) meeting and discussed improvements for Stocker Stadium.

Council President Norris said that she attended a water seminar and cut the ribbon for the HDABID and complimented the horse sculptures purchased by the HDABID. Council President Norris and City Manager Canton were judges for the Pork and Hops Challenge. Council President Norris attended an event where Governor John Hickenlooper spoke about the 16 in 2016 Trails Project. Governor Hickenlooper asked on the status of the Palisade Plunge, the Shooting Range, and the City trail connections. Council President Norris answered questions from a group of third graders who were taking a tour of City Hall.

### **Consent Agenda**

Councilmember Kennedy moved to adopt Consent Agenda (items #1 and #2). Councilmember Traylor Smith seconded the motion. Motion carried by roll call vote.

#### **1. Approval of Minutes**

- a. Summary of the August 29, 2016 Workshop
- b. Minutes of the September 7, 2016 Regular Meeting

#### **2. Set Public Hearings**

- a. Legislative
  - i. An Ordinance Amending Ordinance No. 4599 and Section 21.04.010 of the Municipal Code to Allow Marijuana Testing Facilities in the City of Grand Junction (Set Hearing for October 5, 2016)
- b. Quasi-judicial
  - i. An Ordinance Vacating Portions of Alley Rights-of-Way Located Between Elm and Kennedy and Mesa and Texas Avenues and a Portion of Texas Avenue Right-of-Way and Retaining a Utility Easement Over Texas Avenue, Located in the Colorado Mesa University Area (Set Hearing for October 5, 2016)
  - ii. An Ordinance Vacating Right-of-Way for Noland Avenue, Located West of S. 7<sup>th</sup> Street (Set Hearing for October 5, 2016)

**Construction Contract for the B $\frac{1}{2}$  Road Overpass at U.S. Highway 50 Multimodal Conversion Project**

Greg Lanning, Public Works Director, presented this item and said the City received bids on Thursday, September 8, 2016 for the U.S. Highway 50 (Hwy. 50) and B $\frac{1}{2}$  Road Path Project. Mr. Lanning described the project and reviewed its history which detailed the federal grant from the Transportation Alternative Program (TAP) that was awarded to the City to partially fund a project to move the eastbound lane to the westbound lane on the existing bridge overpass and convert the previous eastbound lane to a trail for bicycles and pedestrians to safely cross Hwy. 50 above grade with level, LED lighting, a concrete barrier down the middle, and a new bridge railing/fencing on the overpass. Additionally, a 10-foot wide detached path/sidewalk will be constructed along the south side of B $\frac{1}{2}$  Road between 27 $\frac{1}{2}$  Road and 27 $\frac{3}{4}$  Road. This project will provide connectivity into the City's Community Development Block Grant Sidewalk Project on the south side of Hwy. 50, as well as to Mesa County's existing bike path that currently starts at 27 $\frac{3}{4}$  Road. Mr. Lanning noted that the bids were favorable and if approved, construction is slated to begin in mid-October 2016.

Councilmember Boeschstein lauded the project and the grant funding.

Councilmember Chazen supports the project and its budget. He asked if landscaping is included in this contract. Mr. Lanning said landscaping did not meet the grant intent but is a future possibility.

Councilmember Traylor Smith asked if the reimbursement would go directly to the Colorado Department of Transportation (CDOT). Mr. Lanning said yes.

Councilmember Kennedy asked if this project will impact the recent paving on Hwy. 50. Mr. Lanning said it would not. Councilmember Kennedy asked if conduit could be installed. Mr. Lanning said it is not included in this project but there will be other opportunities to install conduit in the future.

Councilmember Chazen asked if there are any contingencies for the grant. Mr. Lanning deferred to City Attorney Shaver who said there is a request that the motion be contingent on CDOT's written letter of approval.

Councilmember Traylor Smith moved to authorize the Purchasing Division to enter into a contract with Mountain Valley Contracting, Inc., for the construction of the B $\frac{1}{2}$  Road

Overpass at Hwy. 50 Multimodal Conversion Project for a price of \$1,163,938.55.

Councilmember Kennedy seconded the motion. Motion carried by roll call vote.

**Ordinance No. 4718 – An Ordinance Approving a Loan from the Colorado Water Resources and Power Development Authority to Finance Improvements to the City’s Water System; Authorizing the Form and Execution of the Loan Agreement and a Governmental Agency Bond to Evidence Such Loan; Authorizing the Execution and Delivery of Documents Related Thereto; and Prescribing Other Details in Connection Therewith**

The City Water Department has applied for a loan from the Colorado Water Resources and Power Development Authority to facilitate rehabilitation of the City Water Treatment Plant filters. City Council approved debt funding for this project during the 2016 budget review process.

The public hearing was opened at 7:46 p.m.

Public Works Director Greg Lanning presented this item noting this project has previously been before the City Council. Mr. Lanning explained this step in the process and described the City’s benefit for the project’s completion.

Councilmember Traylor Smith asked if ratepayers will see any efficiency benefits due to the new filter system. Mr. Lanning said there will be some savings which could impact the future rates.

Councilmember Kennedy asked about a reference in the Ordinance naming authorized officers and if this was a standard procedure. City Attorney Shaver said the Colorado Water Power Authority wants a reliable list with specific names of the authorized officers, if and when those persons are no longer hold these positions, an amended ordinance would be brought forward.

There were no public comments.

The public hearing was closed at 7:52 p.m.

Councilmember Kennedy moved to adopt Ordinance No. 4718 An Ordinance Approving a Loan from the Colorado Water Resources and Power Development Authority to Finance Improvements to the City’s Water System; Authorizing the Form and Execution of the Loan Agreement and a Governmental Agency Bond to Evidence Such Loan; Authorizing the Execution and Delivery of Documents Related Thereto; and Prescribing Other Details in Connection Therewith, and Authorize the President of the Council to enter into the contract for a loan up to \$1,700,000 on final passage and order final publication in pamphlet form. Councilmember Boeschenstein seconded the motion. Motion carried by roll call vote.

**Ordinance No. 4719 – An Ordinance Amending the 24 Road Corridor Design Standards**

The proposed ordinance amends the 24 Road Corridor Design Standards, Title 25, of Volume II: Development Regulations of the Grand Junction Municipal Code (GJMC). The purpose of the amendments is to clarify existing requirements, eliminate redundancies, and provide a more user friendly text to assist in the development of the 24 Road Corridor Sub-area Plan.

The public hearing was opened at 7:54 p.m.

Dave Thornton, Principal Planner, introduced this item and stated that on August 13, 2015, the City Council and the Planning Commission discussed a work plan for amending the Zoning and Development Code by eliminating redundancies and clarifying standards. Mr. Thornton described the vision and concepts of the Corridor Plan and stated that the Corridor Design Standards were adopted at the same time with the vision and concepts staying intact. Mr. Thornton distinguished between the guidelines and the standards. He delineated the impact area, the boundaries, and what key elements are being preserved. Mr. Thornton reviewed each proposed change and stated the findings, facts, and conclusions. Mr. Thornton said with these changes, the Code section has been reduced by one third. The Planning Commission recommended approval.

Councilmember Kennedy asked if there is a possibility that something may have been missed due to the lack of reference to the rest of the Zoning and Development Code. Mr. Thornton said Planners met with a developer, who pointed out all the applicable sections, and that this is an added layer to the Zoning and Development Code. Councilmember Kennedy asked about the size of the two existing signs located at a car dealership and a lodging facility. Mr. Thornton said the signs are in compliance but at the maximum size. Councilmember Kennedy said he will support the change.

Councilmember Boeschstein noted this is a major entry point into the City and inquired about how the 100 year flood plan for Leach Creek is incorporated in the plan. Mr. Thornton said the flood plan is not part of the Corridor Plan but it will be brought up to the developer. Councilmember Boeschstein said illustrations are very important and he suggested there be pictures in the Design Standards.

Councilmember Chazen lauded the amount of work in this proposal and asked if the requirements would be retroactive and was there any discussion on Design Standards and Mixed-Use zoning for this project. Mr. Thornton said the Mixed-Use zoning was still in place, however if a land owner wanted to change from that zoning there would have to be a request.

Councilmember Chazen complimented the Planning Commission on their work but felt that the zoning issue needed to be addressed soon.

Council President Norris expressed her concern on changing guidelines becoming Design Standards, specifically regarding the requirements for windows and doors considering the cost. Council President Norris also expressed concern for the necessity of big box standards and those standards relative to Leach Creek.

Mr. Thornton explained big box standards really help the appearance and visibility along the corridor and help eliminate confusion. The new language will clarify the details.

Council President Norris was concerned that by changing to Design Standards it will make development even more expensive and it will stifle development.

Mr. Thornton pointed out two examples where the new Design Standard will be cheaper.

Councilmember Traylor Smith asked if Mr. Thornton talked to developers. Mr. Thornton said notices were sent to all landowners along the corridor. He spoke to the landowners and developers who came to the Planning Commission meeting and those that expressed their opinions liked the new Design Standards.

Councilmember Kennedy said it is important to maintain high building standards and noted that some developers share that vision.

City Attorney Shaver said there is an integration statement that ties this back to the rest of the Code.

Council President Norris said she wanted to make sure that development can happen in this corridor.

There were no public comments.

The public hearing was closed at 8:35 p.m.

Councilmember Boeschstein moved to adopt Ordinance No. 4719 An Ordinance Amending the 24 Road Corridor Design Standards on final passage and ordered final

publication in pamphlet form. Councilmember Kennedy seconded the motion. Motion carried by roll call vote.

### **Non-Scheduled Citizens & Visitors**

There were none.

**Other Business**

There was none.

**Adjournment**

The meeting was adjourned at 8:36 p.m.

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Stephanie Tuin, MMC  
City Clerk



## Grand Junction City Council

### Regular Session

Item #2 a i

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**Meeting Date:** October 5, 2016

**Requested by:** Staff

**Submitted by:** Kristen Ashbeck,  
Senior Planner

**Department:** Admin – Com. Dev.

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### Information

#### **SUBJECT:**

An Ordinance Amending the Grand Junction Municipal Code, Greater Downtown Residential Standards, by Deleting Section 24.12.130(b) Residential Standards and Guidelines, Accessory Structures

#### **RECOMMENDATION:**

The Planning Commission recommended approval of the proposal at their September 13, 2016 meeting.

#### **EXECUTIVE SUMMARY:**

The proposed ordinance amends the Greater Downtown Overlay, Title 24 of the Grand Junction Municipal Code (GJMC) Development Regulations by deleting standards for maximum height and size for accessory structures in the residential area of the District. Compatibility of accessory structures can be adequately addressed through the general provisions of the Development Code and specific architectural standards in the Greater Downtown standards.

#### **BACKGROUND OR DETAILED INFORMATION:**

The City Council has requested that staff propose amendments to City codes and regulations as needed to be dynamic and responsive. The proposed amendment will promote improvements and investment in the downtown area.

As the Greater Downtown Plan and Overlay District were being developed, downtown residential property owners expressed desires to maintain the character of the historic neighborhoods in the original square mile, yet allow for upgrades to properties to retain the existing homes as viable for modern lifestyles.



To that end, the Greater Downtown Overlay District as adopted by City Council in 2013, includes guidelines and standards for the residential areas of downtown that address site planning and architectural considerations. The guidelines and standards were intended to allow for property modifications yet promote compatibility with existing character of the downtown historic residential neighborhoods. For the most part, this has been implemented without concerns. However, there are some adopted standards regarding accessory structures that have been difficult for property owners to work with when proposing property improvements. These specific standards are listed and further discussed below.

#### **24.12.130. CURRENT STANDARDS FOR ACCESSORY STRUCTURES**

##### **(b) Accessory Structures**

- (1) Accessory structures shall be no taller than the highest eave line of the principal structure.
- (2) The footprint size of an accessory structure shall be a maximum of 35 percent of the footprint of the principal structure.

#### **ANALYSIS**

Literal interpretation of the current standards has been found to be too restrictive when proposing typical accessory structures, particularly in the downtown residential areas. Many downtown homes are single story; thus, making it difficult for an accessory structure to meet eave line requirements, particularly if the proposed accessory structure is a two-story such as a garage with an accessory dwelling unit above. In addition, typical homes in the downtown residential area are small in size. Thus, the 35 percent of home size standard is not realistic for proposing a modern-sized accessory structure.

The primary intent of addressing accessory structures in the downtown residential area is to ensure architectural compatibility. This can be accomplished through the other standards already included in the Greater Downtown Overlay District rather than through the additional standards for accessory structures.

In addition, the Zoning and Development Code includes provisions that address the scale and compatibility of accessory structure and those would still apply to the downtown residential area; including:

- Accessory structures shall not be located in the front yard or the exterior side yard of a corner lot.
- In residential zone districts (R-2 and higher), the size of accessory structures is limited to a maximum of 75 percent of the square footage of the principal structure or 10 percent of the parcel size, whichever is greater.
- An accessory dwelling unit cannot exceed 700 square feet or 50% of the floor area of the primary residence, whichever is less.

**FISCAL IMPACT:**

N/A

**SUGGESTED MOTION:**

I MOVE to (approve or deny) a Proposed Ordinance Amending the Grand Junction Municipal Code, Greater Downtown Residential Standards, by Deleting Section 24.12.130(b), Residential Standards and Guidelines, Accessory Structures, and Set a Hearing for October 19, 2016.

**Attachments**

ATTACHMENT 1 – Planning Commission Staff Report  
ATTACHMENT 2 – Proposed Ordinance



Date: August 19, 2016  
 Author: Kristen Ashbeck  
 Title/ Phone Ext: Community Services Coordinator/X 1491  
 Proposed Schedule: Planning  
 Commission: September 13, 2016  
 1<sup>st</sup> Reading: October 5, 2016  
 2nd Reading: October 19, 2016

**PLANNING COMMISSION AGENDA ITEM**

<b>Subject:</b> Amending Section of the Zoning and Development Code Greater Downtown Overlay District to Delete Section 24.12.130(b) Regarding Accessory Structures
<b>Action Requested/Recommendation:</b> Forward a recommendation to City Council to amend the Grand Junction Municipal Code, deleting Section 24.12.130(b), Residential Areas Standards and Guidelines, Accessory Structures
<b>Presenter(s) Name &amp; Title:</b> Kristen Ashbeck, Community Services Coordinator

**Executive Summary:**

The proposed ordinance amends the Zoning and Development Code, Title 21, of the Grand Junction Municipal Code (GJMC) by deleting standards for accessory structures in the Greater Downtown Overlay District.

**Background, Analysis and Options:**

**24.12.130. CURRENT STANDARDS FOR ACCESSORY STRUCTURES**

(b) Accessory Structures

- (3) Accessory structures shall be no taller than the highest eave line of the principal structure.
- (4) The footprint size of an accessory structure shall be a maximum of 35 percent of the footprint of the principal structure.

**ANALYSIS**

Literal interpretation of the current standards has been found to be too restrictive when proposing typical accessory structures, particularly in the downtown residential areas. Many downtown homes are single story; thus, making it difficult for an accessory structure to meet eave line requirements, particularly if the proposed accessory structure is a 2-story such as a garage with an accessory dwelling unit above. In addition, typical homes in the downtown residential area are small in size. Thus, the

35% of home size standard is not realistic for proposing a modern-sized accessory structure.

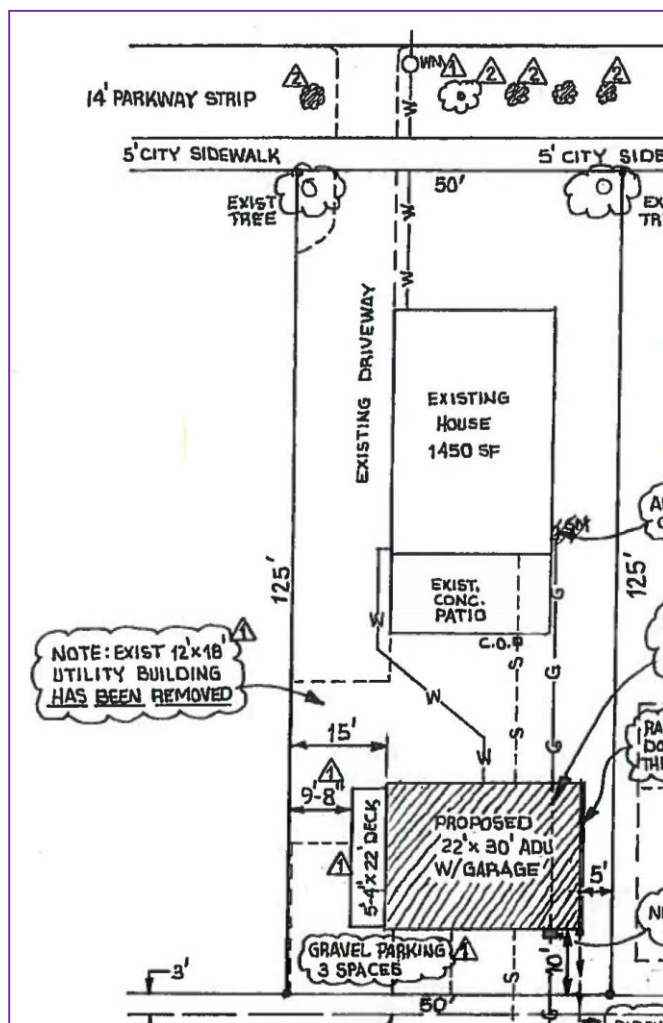
The primary intent of addressing accessory structures in the downtown residential area is to ensure architectural compatibility. This can be accomplished through the other standards already included in the Greater Downtown Overlay District rather than through the additional standards for accessory structures. The other standards address:

- Building Style and Character
- General Setbacks and Accessory Structure Setbacks
- Building Mass/Scale and Proportion
- Roof shape
- Fenestration
- Materials

In addition, the Zoning and Development Code includes some provisions that address the scale and compatibility of accessory structure such as:

- Accessory structures shall not be located in the front yard or the exterior side yard of a corner lot.
- In residential zone districts (R-2 and higher), the size of accessory structures is limited to a maximum of 75 percent of the square footage of the principal structure or 10 percent of the parcel size, whichever is greater.
- An accessory dwelling unit cannot exceed 700 square feet or 50% of the floor area of the primary residence, whichever is less.

## EXAMPLE OF TYPICAL PROPOSAL



- 1-1/2 to 2 story structure – many houses downtown are single story. Thus, proposal cannot meet current eave requirement; and/or
- Accommodate garage or shop with accessory dwelling unit above.
- Smaller existing home size limits size of accessory structure under current standards. In this case, approximately 500 square feet would be maximum but proposal is 660 square feet; however
- Overall, the proposed accessory structure does not seem out of character with the neighborhood.
- Compatibility will be achieved through other standards in the Overlay District such as Building Mass/Scale and Proportion, Roof Character and Materials

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

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

**Policy B.** Encourage mixed-use development and identification for increased density.

By eliminating specific regulations regarding size and height of accessory structures, downtown homeowners will be given greater flexibility for accessory structure design to include accessory dwelling units which increase housing options within the community.

**Goal 6:** Land use decisions will encourage preservation of existing buildings and their appropriate reuse.

By eliminating specific regulations regarding size and height of accessory structures, downtown homeowners will be given greater flexibility for accessory structure design which, in turn, promotes the preservation of the existing home.

**How this item relates to the Economic Development Plan:**

The purpose of the adopted Economic Development Plan is to present a clear plan of action for improving business conditions and attracting and retaining employees. The proposed amendment meets this intent by encouraging downtown homeowners to improve their property, potentially provide additional housing options and continue to improve the community standing as a viable, healthy and safe community.

**Board or Committee Recommendation:**

The Planning Commission will make a recommendation to City Council on September 13, 2016.

**Other issues:**

No other issues have been identified.

**Previously presented or discussed:**

The Planning Commission discussed this at their workshop on August 18, 2016 and a public hearing was held before the Planning Commission on September 13, 2016.

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE GRAND JUNCTION MUNICIPAL CODE,  
GREATER DOWNTOWN RESIDENTIAL STANDARDS, BY DELETING SECTION  
24.12.130(b) RESIDENTIAL STANDARDS AND GUIDELINES, ACCESSORY  
STRUCTURES**

Recitals:

This ordinance amends the Zoning and Development Code, Title 21, of the Grand Junction Municipal Code (GJMC) to delete standards for accessory structures in Residential areas of the Greater Downtown Overlay District. Literal interpretation of the current standards has been found to be too restrictive when proposing typical accessory structures, particularly in the downtown residential areas. Many downtown homes are single story; thus, making it difficult for an accessory structure to meet eave line requirements, particularly if the proposed accessory structure is a 2-story such as a garage with an accessory dwelling unit above. In addition, typical homes in the downtown residential area are small in size. Thus, the 35% of home size standard is not realistic for proposing a modern-sized accessory structure.

The primary intent of addressing accessory structures in the downtown residential area is to ensure architectural compatibility. This can be accomplished through the other standards already included in the Greater Downtown Overlay District rather than through the additional standards for accessory structures.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of amending Section 24.12.130 to eliminate Section (b), Accessory Structures.

The Planning Commission and City Council find that the amendment is in conformance with the stated criteria of Section 21.02.140 of the Grand Junction Municipal Code.

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

Section 24.12.130(b) is deleted in its entirety as follows (deletions struck through):

**24.12.130 Standards.**

~~(b) Accessory Structures.~~

~~(1) Accessory structures shall be no taller than the highest eave line of the principal structure.~~

~~2) The footprint size of an accessory structure shall be a maximum of 35 percent of the footprint of the principal structure.~~

All other parts of Section 24.12.130 shall remain in full force and effect.

Introduced on first reading this \_\_\_\_ day of \_\_\_\_\_, 2016 and ordered published in pamphlet form.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016 and ordered published in pamphlet form.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk





## Grand Junction City Council

### Regular Session

Item #2 a ii

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**Meeting Date:** October 5, 2016

**Requested by:** Ken Watkins, Fire  
Chief

**Submitted by:** Chuck Mathis, Fire  
Marshal

**Department:** Fire

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### Information

#### **SUBJECT:**

An Ordinance Adopting Amendments to the 2012 Edition of the International Fire Code and Prescribing Regulations Governing Outdoor Burning, Restricted and Unrestricted Burning; Providing for the Issuance of Permits for Certain Burning Activities and Defining Extinguishment Authority

#### **RECOMMENDATION:**

Introduce a proposed ordinance prescribing regulations governing outdoor burning including restricted and unrestricted burning within City limits and set a hearing for November 2, 2016.

#### **EXECUTIVE SUMMARY:**

Outdoor burning, including open burning and recreational fires has been a topic for City Council consideration. Research by staff is recommending an ordinance to restrict outdoor burning within City limits as a matter of public safety and air quality. Exceptions for agriculture burning and maintenance of waterways, fire mitigation and training and specific allowances for cooking and recreational fires are included.

#### **BACKGROUND OR DETAILED INFORMATION:**

On May 16, 2016 staff presented an overview to City Council on open burning within the Grand Junction Fire Department response area. The presentation included information on the City's burn permit program, properties permitted in the City and rural fire protection district, brush fire and emergency medical incidents related to open burning

and current City ordinances. In addition, a comparison of open burning and permit requirements in other western slope communities was presented.

Based on City Council comments, the fire department conducted further research on open burning permit locations and property size, burning practices of local irrigation companies, enforcement of restrictions on burning, and progress of a proposed county-wide permit system.

In 2015, a total of 464 burn permits (out of 1598 total permits) were issued for properties within City limits. Mesa County Assessor records identified these 464 properties as follows:

- 15 were commercial properties
- 7 were industrial properties
- 28 were agricultural properties
- 414 were residential properties

The majority of these properties were smaller parcels, including over half of the 464 permits issued within City limits were for properties of one acre or less. Permits were distributed as follows:

- 235 of the properties were one acre or less
- 35 of the properties were two to three acres
- 56 of the properties were three to eight acres
- 67 of the properties were ranged from eight to 289 acres

The three major irrigation providers (Grand Valley Irrigation, Grand Valley Water Users, and Orchard Mesa Irrigation) were contacted to understand how they used burning to maintain the irrigation waterways throughout the City. For the most part, the three providers use burning or mowing to maintain the canals and along the banks. Laterals that are not piped are maintained by the individual property owners. All three companies do most all of their burning in the spring vs in the fall.

The majority of outdoor burning complaints that the fire department or dispatch receives within City limits is for backyard campfires and trash burning. In addition, with most of the burn permits issued for smaller parcels, staff believes that restricting outdoor burning within City limits is reasonable. Development of an ordinance to reduce nuisance burning and community complaints, while also allowing reasonable exceptions for worthwhile burning is an important consideration. The attached ordinance addresses these concerns and allows exceptions that will minimize enforcement.

**FISCAL IMPACT:**

Burn permit revenue will decrease from \$29,450 in 2016 to an estimated \$11,000 in 2017. However, the fire department will capture part-time labor savings of \$7,000 with moving to the Mesa County burn permit system. These adjustments have been tentatively made in the 2017 budget.

**SUGGESTED MOTION:**

I MOVE to (approve or deny) a Proposed Ordinance Adopting Amendments to the 2012 Edition of the International Fire Code and Prescribing Regulations Governing Outdoor Burning, Restricted and Unrestricted Burning; Providing for the Issuance of Permits for Certain Burning Activities and Defining Extinguishment Authority and Set a Hearing for November 2, 2016.

**Attachments**

ATTACHMENT 1 – Proposed Ordinance

**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ADOPTING AMENDMENTS TO THE 2012 EDITION OF THE INTERNATIONAL FIRE CODE AND PRESCRIBING REGULATIONS GOVERNING OUTDOOR BURNING, RESTRICTED AND UNRESTRICTED BURNING; PROVIDING FOR THE ISSUANCE OF PERMITS FOR CERTAIN BURNING ACTIVITIES AND DEFINING EXTINGUISHMENT AUTHORITY.**

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

That the Code of Ordinances of the City of Grand Junction, also known as the Grand Junction Municipal Code (GJMC), is hereby amended as follows: (the numbers of the sections hereby adopted are intended to be consistent with the existing numbering system of the GJMC and the City Clerk or her designee is authorized to number and codify the sections in accordance with that system.)

**15.44.040 OUTDOOR BURNING. (Amending sections 307.1, 307.3 and 307.4.1 of the IFC)**

(a) Any outdoor burning not expressly allowed, not expressly prohibited or not otherwise specifically addressed under this part or GJMC 8.08.010 (NUISANCES) shall be conducted only pursuant to GJMC §15.44.040 and pursuant to and in accordance with a permit issued by the Grand Junction Fire Department (GJFD) or its designee.

(b) Outdoor Burning as allowed or prohibited in this ordinance is not considered a stationary source for purposes of applicability of other air quality regulations.

(c) Outdoor Burning regulations do not extend to indoor burning practices which are subject to the requirements stated in the most recently adopted version of the International Fire Code (IFC) or by City ordinance.

(d) Where conflicts occur between this ordinance and the most recently adopted version of the IFC, the provisions of this ordinance shall apply. Nothing shall preclude the Fire Official designated by the IFC from enforcing regulatory provisions provided in the most recently adopted version of the IFC that are more restrictive in nature than this ordinance.

(e) Requirements that are essential for the public safety of an existing or proposed burning activity, which are not specifically provided for by this ordinance or by the most recently adopted version of the IFC, shall be determined by the City's Fire Official.

## **UNRESTRICTED BURNING:**

(a) Maintenance of canals, irrigation and drainage ditches owned and/or operated by a Drainage District or Canal and/or Irrigation Company or District to include private and/or incorporated laterals.

(b) Agricultural Burns as permitted by Mesa County and State of Colorado regulations. Agricultural burns shall comply with the process and safety provisions provided in the applicable County and/or State permitting procedures and regulations.

(c) Ceremonial bonfires approved by the Fire Official conducted by non-profit organizations, religious institutions, school district(s) or government(s) that are subject to regulatory, process and safety provisions stated in the most recently adopted IFC.

(d) Open-flame cooking devices in the form of LP-gas or charcoal burner grills that are subject to regulatory and safety provisions stated in the most recently adopted IFC.

(e) Solid-wood fueled cooking fires utilized in outdoor kitchens (permanent masonry fireplaces/pizza ovens), barbecue (also BBQ) smoke houses, BBQ smokers and in-ground cooking pits or devices.

(f) Solid-wood fueled, liquid-fueled or gas-fueled open-flame recreational devices in the form of portable outdoor fireplaces, heaters and decorative devices such as tiki-torches, lanterns, candles or similar items that are subject to regulatory and safety provisions stated in the most recently adopted IFC. These include permanent outdoor fireplaces approved in accordance with the International Residential Code or International Building Code.

(g) Permanent fuel gas outdoor fire places built in accordance with International Residential Code or International Building Code.

(h) Recreational fires located in developed municipal, county or state approved picnic or campground areas contained in permanent fire pits or fire grates.

(i) Professional firework displays in accordance with State law(s) and the most recent locally adopted version of the IFC.

(j) Burning (flaring) of natural gas at the sewer treatment plant and when performed in conjunction with drilling, completion and workover operations of oil and gas wells and when the flaring operation of the wells is reasonably necessary in the opinion of the well operator to avoid serious hazard to safety.

(k) Fire suppression or Grand Junction Fire Department (GJFD) training activities.

(l) Valid construction or operational permits involving burning and/or open flames issued by the GJFD in accordance with GJMC and the most recently adopted version of the IFC as amended.

**RESTRICTED BURNING:**

A. All outdoor burning, open burning, recreational fires and bonfires unless expressly permitted by this ordinance.

B. Where burning is allowed by this ordinance or other legal means, the burning of household waste or rubbish is prohibited including, but not limited to:

(a) natural or synthetic rubber products, including tires;

(b) waste oil and/or used oil filters and any waste automotive, machine fluid or lubricant, pesticide, herbicide and/or any other chemical, process fluid or the constituents thereof;

(c) insulated wire;

(d) plastic, including polyvinyl chloride ("PVC") pipe, tubing, and connectors;

(e) tar, asphalt, asphalt shingles, or tar paper;

(f) railroad ties;

(g) wood, wood waste, or lumber which has been painted, stained or which has been treated with preservatives containing arsenic, chromium, pentachlorophenol, or creosote;

(h) batteries;

(i) motor vehicle bodies;

(j) pathogenic wastes; and

(k) asbestos or asbestos containing materials.

C. This ordinance applies to any kind of salvage operation as defined herein; open burning for or as part of any salvage operation is prohibited.

D. When burning vegetative material, as defined herein is allowed, activities shall maintain strict adherence to conditions below:

- 1) Prescribed burns for fire fuels management, as back fires to prevent or control wildfire or for other similar, specific may be allowed by the Fire Official on a case-by-case basis when the prescribed burn is i) permitted in advance and ii) the permittee does not deviate from the activity-specific permit requirements required by the Fire Official.
- 2) Agricultural burns shall be for management, control or eradication of pestilence, plague and/or other disease, insects, vermin or other agricultural emergency(ies.)
- 3) Prescribed burning for the purposes of recognized silvicultural, range or wildlife management practices, prevention and control of disease or pests and reducing the impact of wildland fire may be allowed by the Fire Official.

(a) Notwithstanding 1), 2) and 3) above, burning of vegetative material is prohibited in the event of the State and/or Mesa County imposing ozone, PM 10, 2.5 or other nonattainment area(s) restrictions or otherwise declaring a “no burn” day on a “high pollution day” as defined by GJMC 8.20.030 or the imposition of any other general or specific air quality controls.

(b) Burning of vegetative material is prohibited when atmospheric conditions or local circumstances such as drought make such fires hazardous; burning is not permitted when sustained winds occur or are the prevailing condition and/or when a red flag warning has been issued by the National Weather Service.

(c) Burning is not prohibited, including but not limited to burning pursuant to a valid open burning permit, when the Fire Chief or his designee issues burn restrictions and/or a burn ban in accordance with GJMC 15.44.040.

(d) Burning of vegetative material shall:

(i) be conducted at least 50 feet from any structure (including combustible fences), occupied dwelling, workplace or any other place where people congregate, which is on property owned by or under possessory control of, another person; and,

(ii) burning shall begin no earlier than one hour after sunrise and shall be extinguished no later than one hour before sunset; and,

(iii) burning shall at all times be attended by a competent person until fully extinguished and the person shall be in immediate possession of a valid open burning permit; and,

(iv) the attendant to the burning shall have an adequate extinguishing source available for immediate use sufficient for the type and size of the fire; and

(v) the owner or agent shall notify GJFD or its designee prior to burning by obtaining a valid open burning permit for the time period in which the burning is taking place; and,

(vi) the burning of vegetative material in excess of 1-inch in diameter is prohibited; and,

(vii) the burning of trees stumps, grass clippings and leaves is prohibited; and,

(viii) no person shall burn upon the land of another without permission of the owner thereof; and,

(ix) the vegetative material to be burned shall be as dry as practicable.

#### **EXTINGUISHMENT AUTHORITY:**

When open burning or other types of burning creates or adds to a hazardous situation or when parameters set forth in this ordinance, GJMC 15.44.040, and the most recently adopted version of the IFC have not been followed or a required permit for the open burning or other burning activities has not been obtained, the Fire Official is authorized to order the extinguishment of the open burning or other burning activities. Extinguishment may be by the permit holder, another competent person or the Fire Department personnel.

#### **DEFINITIONS:**

A. "burning" or "open burning" means any manner of burning, whether caused, suffered or allowed, not in a device or chamber designed to achieve combustion, where the products of combustion are emitted, directly or indirectly, into the open air; open burning does not include detonation of manufactured explosives;

B. "bonfire" means an outdoor fire utilized for ceremonial purposes which is limited to solid wood fuel with a size of no greater than 8 feet in diameter and 4 feet in height and conducted by non-profit organizations, religious institutions, school districts, or governments.

C. "Fire Official" means the Fire Chief or other designated authority charged with the administration and enforcement of this ordinance, GJMC 15.44 and/or the most recently adopted version of the IFC as a duly authorized designee.

D. "household waste" means any waste including garbage and trash, derived from households including single and multiple residences, hotels and motels and other places used for temporary or permanent human habitation;



E. "nonattainment area" means an area which has been designated under the Clean Air Act as nonattainment for one or more of the national ambient air quality standards by the federal environmental protection agency;

F. "open burning" means the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or portable outdoor fire places. For the purposes of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open;

G. "portable outdoor fireplace" means a portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top (*i.e.*, commercially purchased metal or stone chimenaes, fireplaces and burn bowls utilized for outdoor purposes);

H. "recreational fire" means an outdoor fire burning materials other than rubbish or household waste where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fire place, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purpose (*i.e.*, fire pits, fire rings, campfires);

I "rubbish" means combustible and noncombustible waste materials, including residue from the burning of coal, wood, coke, or other combustible material, paper, rags, cartons, cans, metals, mineral matter, glass crockery, dust and discarded refrigerators and appliances.

J. "salvage operation" means any operation to salvage or reclaim any material for use or sale, such as reprocessing of used motor oils, metals, wire, chemicals, shipping containers, or drums and specifically including automobile graveyards and junkyards; and

K. "vegetative material" means plant material, including:

(1) bushes, shrubs and clippings from bushes and shrubs resulting from maintenance of yards or other private or public land(s). No vegetative waste larger than 1" in diameter shall be burned; and

(2) field stubble, grass and weeds in fields, and vegetation along fences, ditches/ditch banks; and

(3) wood waste, including chipped tree stumps, tree limbs, bark, and scraps resulting from maintenance or trees. No vegetative waste larger than 1" in diameter shall be burned nor shall any waste treated with any compound(s) containing chromium, copper, arsenic, pentachlorophenol, creosote, tar or paint be burned.



**Grand Junction City Council**

**Regular Session**

**Item #3 a i**

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**Meeting Date:** October 5, 2016

**Requested by:** John Shaver,  
City Attorney

**Submitted by:** Kathy Portner,  
Community Svcs Mgr

**Department:** City Attorney's Office

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**Information**

**SUBJECT:**

An Ordinance Amending Ordinance No. 4599 and Section 21.04.010 of the Municipal Code to Allow Marijuana Testing Facilities in the City of Grand Junction

**RECOMMENDATION:**

Adopt an Ordinance Amending Ordinance No. 4599 and Section 21.04.010 of the Municipal Code to Allow Marijuana Testing Facilities in the City of Grand Junction.

**EXECUTIVE SUMMARY:**

On September 4, 2013 the City Council adopted Ordinance No. 4599 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the City. This request is to remove the prohibition of marijuana testing facilities in the City of Grand Junction and to establish the appropriate zone districts for such facilities.

**BACKGROUND OR DETAILED INFORMATION:**

In late 2015 the City, Mesa County, Colorado Mesa University (CMU) and the Grand Junction Economic Partnership (GJEP), were successful in establishing the Colorado Jumpstart ("Jumpstart") business development grant program in Mesa County. The Jumpstart grant program was the result of legislation which was supported by many local leaders and enterprises including Representative Willett and Senator Scott, the publisher of the Daily Sentinel Mr. Jay Seaton, CMU President Foster and Grand Junction Area Chamber of Commerce CEO Schwenke and her Board. In January of 2016 the State of Colorado awarded the first Jumpstart incentives to three companies in Mesa County. Since January, a fourth company has been selected for the program.

These four companies have committed to invest in the area and will bring new jobs, economic gains and the capital investment to the community.

In 2015 and 2016 the Colorado legislature approved marijuana testing facility legislation under SB 15-196 and HB 16-1064. These bills are summarized as follows:

SB 15-196 requires the Department of Agriculture to administer an industrial hemp certified seed program. In administering this program, the Commissioner of Agriculture, in consultation with the Industrial Hemp Committee and independent seed producers, will create rules for the program and designate laboratories that industrial hemp registrants may use for THC concentration testing purposes. The bill also permits retail marijuana testing facility licensees to test industrial hemp for THC concentration levels. In addition to current law providing criminal immunity from those processing, selling, and distributing industrial hemp, the SB 15-196 also extends that immunity to transporting and possessing hemp.

HB 16-1064 expanded the types of licenses the State can issue for medical marijuana facilities to include Medical Marijuana Testing Labs. Testing of recreational marijuana has been in existence since 2013 when the State passed a package of bills in the wake of Amendment 64. Counties and municipalities already have the statutory authority to issue licenses for retail marijuana testing facilities. HB 1064 simply extends this authority to the licensing of medical marijuana testing facilities as well. Currently, each marijuana business applicant must apply to both the State and the local authorities for a license - this legislation is in keeping with the current dual licensing process that is already in place for all other types of marijuana facilities allowed by local communities. If the Ordinance is adopted the testing facility must fully comply with State standards and will, if fees and charges are applicable at either the State or local level be responsible for payment of those.

One of the Jumpstart companies, Source Certain, is proposing to develop a laboratory and deploy its advanced analytical processes for genetic research and its ability to mark and trace chemical properties of agricultural products. If successful in securing a contract with the State of Colorado, one of the products to be tested would be marijuana. Operating under the name of TSW Analytical, the company will help the State confirm that the product being sold is being produced by licensed and legal sources.

The use table of the Zoning and Development Code (Section 21.04.010) establishes the appropriate zone districts for land uses. The general use category of "Industrial Services, Contractors and Trade Shops, Oil and Gas Support Operations without hazardous materials" includes research and development laboratories. To clarify that marijuana testing facilities would be included in that general use category, a specific line-item principal use category is proposed as "Research, Testing & Laboratory Facilities—Indoors (including marijuana testing facilities)" as allowed in B-2 (downtown business), C-1 (light commercial), C-2 (general commercial), MU (mixed use), BP

(business park mixed use), IO (industrial/office park), I-1 (light industrial) and I-2 (general industrial) zone districts.

**FISCAL IMPACT:**

Approval of this the proposed ordinance will allow a business to locate within the City of Grand Junction bringing new jobs, economic gains and the capital investment to the community.

**SUGGESTED MOTION:**

I MOVE to Continue the Public Hearing for a Proposed Ordinance Amending Ordinance No. 4599 and Section 21.04.010 of the Municipal Code to Allow Marijuana Testing Facilities in the City of Grand Junction to October 19, 2016.

**Attachments**

ATTACHMENT 1 – Ordinance No. 4599  
ATTACHMENT 2 – Proposed Ordinance

## ORDINANCE NO. 4599

### **AN ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, AND RETAIL MARIJUANA STORES, AND AMENDING THE GRAND JUNCTION MUNICIPAL CODE BY THE ADDITION OF A NEW SECTION PROHIBITING CERTAIN USES RELATING TO MARIJUANA**

#### **RECITALS:**

The Grand Junction Municipal Code regulates a variety of businesses and land uses that occur and/or are proposed to occur within the City. On November 6, 2012 Colorado voters approved Amendment 64 which is now known as Article XVIII, Section 16 of the Colorado Constitution ("Amendment 64.") The Amendment decriminalized certain activity with respect to the use, possession, transportation and distribution of marijuana. With the adoption of Amendment 64 comes the possibility of business and commercial activity(ies) and enterprise(s) being allowed subject to State and local licensing or the local prohibition of the same.

Considering that in April 2011 the City electors overwhelmingly decided to prohibit medical marijuana related facilities within the City of Grand Junction; that marijuana continues to be prohibited as a Schedule I controlled substance under Federal law; that the City Council may, consistent with the provisions of Amendment 64, consider the adoption of an ordinance which would prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the City; and that the City Council has duly and fully considered the matter and determined that it is in the best interest of the citizens of Grand Junction to prohibit certain marijuana related commercial and industrial activities and enterprises, the City Council does hereby enact the following prohibitions, exclusions and proscriptions related to and concerning marijuana within the City.

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

Title 5 of the Grand Junction Municipal Code is amended to include a new article 15, as follows (additions shown in ALL CAPS, except section designations, which are shown in the actual case as they will appear in the Code).

Title 5, Article 15 Grand Junction Municipal Code

#### **5.15.010 MARIJUANA**

UNDER THE AUTHORITY GRANTED IN ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION (AMENDMENT 64) AND THE CHARTER OF THE CITY OF GRAND JUNCTION THIS ORDINANCE IS ADOPTED BY THE CITY COUNCIL TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, RETAIL MARIJUANA STORES AND ALL BUSINESS AND LAND USES

RELATED TO MARIJUANA IN THE CITY AND IN FURTHERANCE OF ITS STATED INTENT, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS.

AFTER DUE AND CAREFUL CONSIDERATION OF ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION AND THE CONTROLLED SUBSTANCE ACT (21 U.S.C. 811) AND THE REAL AND POSSIBLE PRIMARY AND SECONDARY EFFECTS OF THE CULTIVATION AND DISPENSING OF MARIJUANA AND/OR THE MANUFACTURING AND SALE OF MARIJUANA INFUSED PRODUCTS, THOSE BUSINESSES, OPERATIONS AND LAND USES HAVE BEEN FOUND TO ADVERSELY AFFECT THE HEALTH, SAFETY AND WELFARE OF THE CITY AND ITS INHABITANTS.

THEREFORE, IT IS AND SHALL BE UPON PASSAGE OF THIS ORDINANCE UNLAWFUL FOR ANY PERSON TO OPERATE, CAUSE TO BE OPERATED OR PERMIT TO BE OPERATED A MARIJUANA CULTIVATION FACILITY(IES), MARIJUANA PRODUCT MANUFACTURING FACILITY(IES), MARIJUANA TESTING FACILITY(IES) AND/OR A RETAIL MARIJUANA STORE(S), BUSINESS OR OPERATION RELATED THERETO IN THE CITY AND NO CITY LICENSES, PERMITS OR APPROVALS SHALL ISSUE FOR THE SAME.

#### **5.15.011 DEFINITIONS**

ALL DEFINITIONS PROVIDED IN GJMC 5.14.011 AND ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION ARE ADOPTED HEREIN UNLESS SPECIFICALLY AMENDED HEREBY.

“MARIJUANA, MARIJUANA ACESSORIES, MARIJUANA CULTIVATION FACILITY, MARIJUANA ESTABLISHMENT, MARIJUANA PRODUCT MANUFACTURING FACILITY, MARIJUANA PRODUCTS, MARIJUANA TESTING FACILITY, RETAIL MARIJUANA STORE” ALL SHALL HAVE THE SAME MEANING AS SET FORTH IN ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION OR AS MAY BE MORE FULLY DEFINED IN ANY APPLICABLE STATE LAW OR REGULATION. COLLECTIVELY THESE MAY BE KNOWN AS AND/OR REFERRED TO AS “MARIJUANA BUSINESSES”

“MARIJUANA” MAY ALTERNATIVELY BE SPELLED “MARIHUANA.”

“PERSON” SHALL MEAN A NATURAL PERSON, PARTNERSHIP, ASSOCIATION, COMPANY, CORPORATION, LIMITED LIABILITY COMPANY OR OTHER ORGANIZATION OR ENTITY OR A MANAGER, AGENT, OWNER, OFFICER OR EMPLOYEE THEREOF.

“POSSESS OR POSSESSION” MEANS HAVING PHYSICAL CONTROL OF AN OBJECT, OR CONTROL OF THE PREMISES IN WHICH AN OBJECT IS LOCATED, OR HAVING THE POWER AND INTENT TO CONTROL AN OBJECT, WITHOUT REGARD TO WHETHER THE ONE IN POSSESSION HAS OWNERSHIP OF THE OBJECT. POSSESSION MAY BE HELD BY MORE THAN ONE PERSON AT A TIME. USE OF THE OBJECT IS NOT REQUIRED FOR POSSESSION.

“PRODUCE OR PRODUCTION” MEANS (I) ALL PHASES OF GROWTH OF MARIJUANA FROM SEED TO HARVEST, (II) COMBINING MARIJUANA WITH ANY OTHER SUBSTANCE FOR DISTRIBUTION, INCLUDING STORAGE AND PACKAGING FOR RESALE, OR (III) PREPARING, COMPOUNDING, PROCESSING, ENCAPSULATING, PACKING OR REPACKAGING, LABELING OR RE-LABELING OF MARIJUANA OR ITS DERIVATIVES WHETHER ALONE OR MIXED WITH ANY AMOUNT OF ANY OTHER SUBSTANCE.

“SALE” “SELL” “OFFER FOR SALE” “OFFER TO SELL” MEANS AND INCLUDES EVERY CONTRACT OR TRANSACTION WHETHER ORAL OR WRITTEN THAT CONTEMPLATES THE EXCHANGE OF VALUE, WHETHER MONEY OR SOMETHING ELSE, TANGIBLE OR INTANGIBLE, FOR A PRODUCT OR COMMODITY.

#### **5.15.012 APPLICABILITY AND EFFECTIVE DATE**

THIS ARTICLE SHALL APPLY TO ALL PROPERTY AND PERSONS WITHIN THE CITY OF GRAND JUNCTION.

IT SHALL BE UNLAWFUL AND A VIOLATION UNDER THIS CHAPTER FOR A PERSON TO ESTABLISH, OPERATE, CAUSE OR PERMIT TO BE OPERATED, OR CONTINUE TO OPERATE WITHIN THE CITY AND WITHIN ANY AREA ANNEXED TO THE CITY AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, A MARIJUANA CULTIVATION FACILITY, A MARIJUANA ESTABLISHMENT, A MARIJUANA PRODUCT MANUFACTURING FACILITY, A MARIJUANA TESTING FACILITY, A RETAIL MARIJUANA STORE AND/OR TO CONDUCT ANY BUSINESS AS EITHER A PRIMARY, INCIDENTAL OR OCCASIONAL ACTIVITY OR ANY OTHER OPERATION INVOLVING THE SALE OF AND/OR THE OFFER TO SELL MARIJUANA AND/OR THE ESTABLISHMENT OF A LAND USE, HOME OCCUPATION, BUSINESS OR COMMERCIAL ACTIVITY CONCERNING MARIJUANA.

PURSUANT TO THE PROHIBITION SET FORTH ABOVE ANY APPLICATION FOR A LICENSE TO OPERATE A MARIJUANA FACILITY, ESTABLISHMENT OR COMMERCIAL OPERATION SHALL BE DEEMED DENIED UPON THE DATE OF FILING THE SAME WITH THE CITY. APPLICATIONS FOR LICENSES MAY BE FILED WITH THE FINANCE DEPARTMENT.

#### **5.15.013 MEDICAL AND PERSONAL USE MARIJUANA**

NOTHING IN THIS CHAPTER SHALL PROHIBIT OR OTHERWISE IMPAIR OR BE CONSTRUED TO PROHIBIT OR IMPAIR THE CULTIVATION, USE OR POSSESSION OF MEDICAL AND/OR PERSONAL USE MARIJUANA BY A PATIENT AND/OR BY A PRIMARY CAREGIVER FOR HIS/HER PATIENTS PROVIDED THAT SUCH PATIENT OR PRIMARY CAREGIVER OR A PERSON ACTING IN ACCORDANCE WITH ALL APPLICABLE PROVISIONS OF ARTICLE XVIII, SEC. 14(1)(C) AND/OR ARTICLE XVIII, SEC. 16(2) OF THE COLORADO CONSTITUTION, 12-43.3-101 ET. SEQ. C.R.S. AS AMENDED, 25-1.5-106 C.R.S. AND/OR THE REGULATIONS PROMULGATED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, THE COLORADO DEPARTMENT OF REVENUE OR ANY OTHER



STATE AND/OR FEDERAL AGENCY WITH REGULATORY AUTHORITY AND THE LAWS OF THE CITY.

#### **5.15.014 PENALTY**

A VIOLATION OF ANY PROVISION OF THIS CHAPTER SHALL CONSTITUTE A MISDEMEANOR OFFENSE PUNISHABLE IN ACCORDANCE WITH SECTION 1.04.090 OF THE GRAND JUNCTION MUNICIPAL CODE. A PERSON COMMITTING A VIOLATION SHALL BE GUILTY OF A SEPARATE OFFENSE FOR EACH AND EVERY DAY DURING WHICH THE OFFENSE IS COMMITTED OR CONTINUED TO BE PERMITTED BY SUCH PERSON AND SHALL BE PUNISHED ACCORDINGLY.

THE ESTABLISHMENT, OPERATION AND/OR CONTINUATION OF ANY ACTIVITY IN VIOLATION OF THIS ARTICLE IS SPECIFICALLY DETERMINED TO CONSTITUTE A PUBLIC NUISANCE AND MAY BE ABATED BY THE CITY AS A NUISANCE AND MAY BE ENJOINED BY THE CITY IN AN ACTION BROUGHT BY BEFORE THE MUNICIPAL COURT.

THE REMEDIES SET FORTH IN THIS ARTICLE ARE AND SHALL BE DEEMED CUMULATIVE AND SHALL BE IN ADDITION TO ANY OTHER REMEDY(IES) AT LAW OR IN EQUITY THAT THE CITY MAY POSSESS OR ASSERT.

#### **5.15.015 SEVERABILITY**

THIS ORDINANCE IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF THE CITY.

IF ANY PROVISION OF THIS ORDINANCE IS FOUND TO BE UNCONSTITUTIONAL OR ILLEGAL, SUCH FINDING SHALL ONLY INVALIDATE THAT PART OR PORTION FOUND TO VIOLATE THE LAW. ALL OTHER PROVISIONS SHALL BE DEEMED SEVERED OR SEVERABLE AND SHALL CONTINUE IN FULL FORCE AND EFFECT.

All other provisions of Title 5 of the Grand Junction Municipal Code shall remain in full force and effect.

Section 21.04.010(d) of the Grand Junction Municipal Code shall be amended as follows (additions underlined):

- (d) **Prohibited Uses.** A blank space indicates the listed use is not allowed within the district, unless otherwise expressly allowed by another provision of this code. Marijuana related business, whether retail, commercial, industrial or agricultural, is prohibited in all zone districts in accordance with Title 5, Article 15, GJMC.

21.04.010 USE TABLE under the "Retail Sales and Service" category, the Table shall be footnoted to refer to Title 5, Article 15 GJMC.

All other provisions of Section 21.04.010 and 21.04.0140 shall remain in full force and effect.

21.04.040(g)(4) shall be amended to include MARIJUANA BUSINESSES as disallowed home occupations.

All other provisions of Section 21.04.0140 shall remain in full force and effect.

INTRODUCED ON FIRST READING AND ORDERED PUBLISHED in pamphlet form this 7th day of August, 2013.

PASSED, ADOPTED, and ordered published in pamphlet form this 4th day of September 2013.



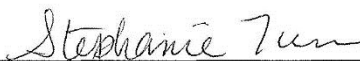
Stephanie Turner  
City Clerk

Sam Susser  
President of the Council

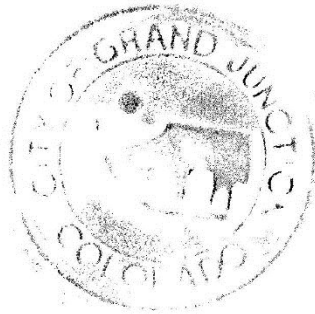
I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4599 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 7<sup>th</sup> day of August, 2013 and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 4<sup>th</sup> day of September, 2013, at which Ordinance No. 4599 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 6<sup>th</sup> day of September 2013.

  
\_\_\_\_\_  
Stephanie Tuin, MMC  
City Clerk

Published: August 9, 2013  
Published: September 6, 2013  
Effective: October 6, 2013



**ORDINANCE NO. \_\_\_\_**  
**AN ORDINANCE AMENDING ORDINANCE NO. 4599 AND SECTION 21.04.010 OF THE**  
**MUNICIPAL CODE TO ALLOW MARIJUANA TESTING FACILITIES IN THE CITY OF**  
**GRAND JUNCTION**

**RECITALS:**

The Grand Junction Municipal Code regulates a variety of businesses and land uses that occur and/or are proposed to occur within the City. On September 4, 2013 the City Council adopted Ordinance 4599 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the City. Ordinance 4599 was codified as Title 5, Article 15 Section 010 *et. seq.* of the Grand Junction Municipal Code (GJMC).

In late 2015 the City, Mesa County and Colorado Mesa University, by, with and through the efforts of the Grand Junction Economic Partnership (GJEP), were successful in establishing the *Colorado Jumpstart* (“*Jumpstart*”) business development grant program. The *Jumpstart* endeavor was the result of the introduction and passage of legislation which was supported by many local leaders and enterprises including Representative Willett and Senator Scott, the publisher of the *Daily Sentinel* Mr. Jay Seaton, CMU President Foster and Grand Junction Area Chamber of Commerce CEO Schwenke and her Board. In January of 2016 the State of Colorado awarded the first *Jumpstart* incentives to the Grand Junction community/the businesses that had applied for incentives here. Because of the benefits of *Jumpstart* four businesses have been selected for the program and have committed to invest in Grand Junction, bringing new jobs and the economic gains associated with those jobs and the capital investment that will be necessary for those jobs.

One of the *Jumpstart* companies will be developing a laboratory and deploying its advanced analytical processes for genetic research and its ability to mark/trace chemical properties of agricultural products; if successful in securing a contract with the State of Colorado, one of the products to be tested by the company would be marijuana.

The use table of the Zoning and Development Code (Section 21.04.010) establishes the appropriate zone districts for land uses. The general use category of “Industrial Services, Contractors and Trade Shops, Oil and Gas Support Operations without hazardous materials” includes research and development laboratories. To clarify that marijuana testing facilities would be included in that general use category, a specific line-item principal use category is proposed as “Research, Testing & Laboratory Facilities—Indoors (including marijuana testing facilities)” as allowed in B-2 (downtown business), C-1 (light commercial), C-2 (general commercial), MU (mixed use), BP (business park mixed use), IO (industrial/office park), I-1 (light industrial) and I-2 (general industrial) zone districts.

While the City Council acknowledges that marijuana is controversial, whether for medical or recreation use, and that the policies related to its sale and use are difficult and complex, the Council, having duly and fully considered an amendment to Ordinance 4599 to allow marijuana testing facilities, does hereby endorse the following amendment to the GJMC to allow, authorize

and provide the opportunity for marijuana testing and testing facility(ies) to locate and conduct business within the City.

As part of its consideration of and determination of support for the amendment, the City Council notes that the Colorado legislature in both the 2015 and 2016 sessions approved marijuana testing facility legislation (SB 15-196 and HB 16-1064) with both bills becoming law. To the extent applicable, necessary or required the City Council adopts by reference the processes, standards and requirements of C.R.S. 12-43.3-301, 12-43.4-405 and the regulations promulgated by Colorado regulatory agencies having jurisdiction, including but not limited to the Colorado Department of Health and Public Environment, on, over, or pertaining to marijuana testing and the authorization, regulation and/or licensing of the same.

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

Title 5 of the Grand Junction Municipal Code is amended as follows. Amendments to the relevant parts of the Code are shown in ~~strikethrough~~ and *ALL CAPS BOLD ITALIC* typeface.

Title 5, Article 15 GJMC

#### 5.15.010 MARIJUANA

UNDER THE AUTHORITY GRANTED IN ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION (AMENDMENT 64) AND THE CHARTER OF THE CITY OF GRAND JUNCTION THIS ORDINANCE IS ADOPTED BY THE CITY COUNCIL TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, ~~MARIJUANA TESTING FACILITIES~~, RETAIL MARIJUANA STORES AND ALL BUSINESS AND LAND USES RELATED TO MARIJUANA IN THE CITY AND IN FURTHERANCE OF ITS STATED INTENT, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS.

#### 5.15.012 APPLICABILITY AND EFFECTIVE DATE

THIS ARTICLE SHALL APPLY TO ALL PROPERTY AND PERSONS WITHIN THE CITY OF GRAND JUNCTION.

IT SHALL BE UNLAWFUL AND A VIOLATION UNDER THIS CHAPTER FOR A PERSON TO ESTABLISH, OPERATE, CAUSE OR PERMIT TO BE OPERATED, OR CONTINUE TO OPERATE WITHIN THE CITY AND WITHIN ANY AREA ANNEXED TO THE CITY AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, A MARIJUANA CULTIVATION FACILITY, A MARIJUANA ESTABLISHMENT, A MARIJUANA PRODUCT MANUFACTURING FACILITY, A ~~MARIJUANA TESTING FACILITY~~, A RETAIL MARIJUANA STORE AND/OR TO CONDUCT ANY BUSINESS AS EITHER A PRIMARY, INCIDENTAL OR OCCASIONAL ACTIVITY OR ANY OTHER OPERATION INVOLVING THE SALE OF AND/OR THE OFFER TO SELL MARIJAUANA AND/OR THE ESTABLISHMENT OF A LAND USE, HOME OCCUPATION, BUSINESS OR COMMERCIAL ACTIVITY CONCERNING MARIJUANA.

PURSUANT TO THE PROHIBITION SET FORTH ABOVE ANY APPLICATION FOR A LICENSE TO OPERATE A MARIJUANA FACILITY, ESTABLISHMENT OR COMMERCIAL OPERATION **EXCEPT A MARIJUANA TESTING FACILITY**, SHALL BE DEEMED DENIED UPON THE DATE OF FILING THE SAME WITH THE CITY. APPLICATIONS FOR LICENSES MAY BE FILED WITH THE FINANCE DEPARTMENT. **AN APPLICATION FOR A MARIJUANA TESTING FACILITY MAY BE FILED WITH THE COMMUNITY DEVELOPMENT DIVISION.**

**IF AN APPLICATION FOR A MARIJUANA TESTING FACILITY IS GRANTED BY THE CITY, THE FACILITY SHALL CONDUCT ITS OPERATIONS IN ACCORDANCE WITH THE PROCESSES, STANDARDS AND REQUIREMENTS OF C.R.S. 12-43.3-301, 12-43.4-405 AND THE REGULATIONS PROMULGATED BY COLORADO REGULATORY AGENCIES HAVING JURISDICTION, INCLUDING BUT NOT LIMITED TO THE COLORADO DEPARTMENT OF HEALTH AND PUBLIC ENVIRONMENT, ON OR OVER OR PERTAINING TO MARIJUANA TESTING AND THE AUTHORIZATION OF/LICENSING OF THE SAME. FURTHERMORE, AS DETERMINED NECESSARY OR REQUIRED THE CITY MANAGER, IN CONSULTATION WITH THE CITY ATTORNEY MAY ISSUE ADMINISTRATIVE REGULATIONS PERTAINING TO THE LICENSURE OF A MARIJUANA TESTING FACILITY IN ACCORDANCE WITH GJMC 2.12.010. THOSE REGULATIONS MAY INCLUDE BUT NOT BE LIMITED TO THE PAYMENT OF FEES; THE LICENSEE SHALL BE OBLIGATED TO PAY ANY AND ALL APPLICABLE STATE AND LOCAL FEES AND CHARGES AND COMPLY WITH ALL APPLICABLE LAW.**

#### 5.15.015 SEVERABILITY

THIS ORDINANCE IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE CITY. IF ANY PROVISION OF THIS ORDINANCE IS FOUND TO BE UNCONSTITUTIONAL OR ILLEGAL, SUCH FINDING SHALL ONLY INVALIDATE THAT PART OR PORTION FOUND TO VIOLATE THE LAW. ALL OTHER PROVISIONS SHALL BE DEEMED SEVERED OR SEVERABLE AND SHALL CONTINUE IN FULL FORCE AND EFFECT.

ALL OTHER PROVISIONS OF TITLE 5 OF THE GRAND JUNCTION MUNICIPAL CODE SHALL REMAIN IN FULL FORCE AND EFFECT.

SECTION 21.04.010(D) OF THE GRAND JUNCTION MUNICIPAL CODE SHALL BE AMENDED AS FOLLOWS:

(D) PROHIBITED USES. A BLANK SPACE INDICATES THE LISTED USE IS NOT ALLOWED WITHIN THE DISTRICT, UNLESS OTHERWISE EXPRESSLY ALLOWED BY ANOTHER PROVISION OF THIS CODE.

MARIJUANA RELATED BUSINESS, WHETHER RETAIL, COMMERCIAL, INDUSTRIAL OR AGRICULTURAL, **EXCEPT MARIJUANA TESTING FACILITY(IES)** ARE PROHIBITED IN ALL ZONE DISTRICTS IN ACCORDANCE WITH TITLE 5, ARTICLE 15, GJMC. **MARIJUANA TESTING FACILITY(IES) IS(ARE) ALLOWED IN THE ZONE DISTRICTS SHOWN.**

**MARIJUANA TESTING FACILITES SHALL BE CATEGORIZED AS/UNDER THE “INDUSTRIAL SERVICES, CONTRACTORS AND TRADE SHOPS, OIL AND GAS SUPPORT OPERATIONS WITHOUT HAZARDOUS MATERIALS” CATEGORY OF THE USE ZONE MATRIX AS “RESEARCH, TESTING & LABORATORY FACILITES – INDOORS (INCLUDING MARIJUANA TESTING FACILITES” AS ALLOWED USES IN B-2, C-1, C-2, MU, BP, IO, I-1 AND I-2 ZONE DISTRICTS.**

Key: A = Allowed; C = Conditional; Blank Cell = Not Permitted																										
USE CATEGORY	PRINCIPAL USE	R-R	R-E	R-1	R-2	R-4	R-5	R-8	R-12	R-16	R-24	R-O	B-1	B-2	C-1	C-2	CSR	M-U	BP	I-O	I-1	I-2	MX-	Std.		
INDUSTRIAL																										
Industrial Services, Contractors and Trade Shops, Oil and Gas Support Operations without hazardous materials	Indoor Operations and Storage														C	A	A		A		A	A	A			
	Indoor Operations and Outdoor Storage (Including Heavy Vehicles)																A			C	A	A	A		<a href="#">See GJMC 21.03.090</a>	<a href="#">21.04.040 (h)</a>
	Outdoor Storage And Operations																A				A	A	A		<a href="#">21.04.040 (h)</a>	
	Research, Testing & Laboratory Facilities-- Indoors (includes Marijuana Testing Facilities)																		A	A	A	A	A		<a href="#">See Title 5, Article 15 GJMC</a>	

21.04.010 USE TABLE UNDER THE "RETAIL SALES AND SERVICE" CATEGORY, THE TABLE SHALL BE FOOTNOTED TO REFER TO TITLE 5, ARTICLE 15 GJMC.

ALL OTHER PROVISIONS OF SECTION 21.04.010 AND 21.04.014 SHALL REMAIN IN FULL FORCE AND EFFECT.

INTRODUCED ON FIRST READING AND ORDERED PUBLISHED in pamphlet form this 21<sup>st</sup> day of September, 2016.

PASSED, ADOPTED, and ordered published in pamphlet form this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Phyllis Norris, President of the Council

ATTEST:

\_\_\_\_\_  
Stephanie Tuin, City Clerk



**Grand Junction City Council**

**Regular Session**

**Item #4 a i**

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**Meeting Date:** October 5, 2016

**Requested by:** Colorado Mesa University

**Submitted by:** Scott Peterson, Senior Planner

**Department:** Admin. – Com. Dev.

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**Information**

**SUBJECT:**

An Ordinance Vacating Portions of Alley Rights-of-Way, Located Between Elm and Kennedy and Mesa and Texas Avenues and a Portion of Texas Avenue Right-of-Way Subject to a Utility Easement and Maintenance Agreement, Located in the Colorado Mesa University Area

**RECOMMENDATION:**

The Planning Commission recommended approval of this application at their September 13, 2016 meeting.

**EXECUTIVE SUMMARY:**

The applicant, Colorado Mesa University (CMU), requests the City vacate portions of public alley right-of-way between Elm and Kennedy and Mesa and Texas Avenues along with a portion of public street right-of-way of Texas Avenue. These right-of-ways are adjacent to properties owned by CMU with the exception of one property which CMU is negotiating to purchase. The vacations will facilitate the construction of a new engineering building on campus and add additional parking.

**BACKGROUND OR DETAILED INFORMATION:**

Colorado Mesa University requests the vacation of alley and street right-of-ways (0.37 acres total) in order to aid in the continued westward expansion efforts planned for the campus.



#### Alley Between Elm and Kennedy:

This area of campus is proposed to be the location of the new CMU Engineering Building, a 65,000 +/- sq. ft. building that will house Mechanical Engineering, Civil Engineering, the John McConnell Math and Science Center and future Computer Science classrooms. The current properties abutting this portion of alley are owned by CMU with the exception of one property (701 Elm Avenue) located at the intersection of N. 7<sup>th</sup> Street and Elm Avenue. This property contains a five-unit multi-family apartment building, however CMU is in discussions with the owner to potentially purchase the property in the near future. Presently, this alley does not contain any City public utilities (water, sewer, storm sewer, etc.) therefore, there is no need for the City to retain a utility easement as part of this vacation process. The alley does contain Xcel Energy infrastructure (electric and natural gas), however these existing utilities will be moved and relocated by Xcel Energy as part of the construction of the new engineering building and if necessary, appropriate easements to Xcel Energy will be dedicated at that time. As a condition of approval of the vacations, CMU will also need to meet all Grand Junction Fire Department requirements for construction of the Engineering Building and may be required to construct access drives around the site compliant with the 2012 International Fire Code. CMU will also be required to provide and record a private "Easement Agreement" across CMU property(s) for the benefit of the remaining property owners located at 701 Elm Avenue and 760 Kennedy Avenue. This condition is required as these two remaining properties will have no "legal access" to the rear of their properties once the alley is vacated.

#### Alley Between Mesa and Texas Avenues and Texas Avenue Right-of-Way:

The current properties abutting this portion of alley and street right-of-way vacations between Mesa and Texas Avenues are all owned by Colorado Mesa University. Presently, the alley does not contain any City public utilities (water, sewer, storm sewer, etc.) therefore, there is no need for the City to retain a utility easement as part of this vacation process. The alley does contain an electrical line for Xcel Energy, however this existing electrical line will be moved and/or relocated by Xcel Energy, if necessary as part of the construction of a new campus parking lot and if necessary, appropriate easements to Xcel Energy will be dedicated at that time.

Within the portion of Texas Avenue requested for vacation, the City presently has water and sanitary sewer mains. Therefore, those utilities shall be subject to the terms and conditions of the recently approved "Colorado Mesa University and City of Grand Junction Utility Easement and Maintenance Agreement-CMU Main Campus".

Based on the conditions recommended by the Fire Department and CMU's intention to develop and construct fire access lanes, it is staff's assessment that the proposed vacations would not impede traffic, pedestrian movement or access to private property or obstruct emergency access.

### **FISCAL IMPACT:**

Council directed staff to evaluate on a case by case basis the value of selling Right-of-Way (ROW) at the time of a vacation request. ROW recently acquired by the City has been valued at \$5.00 to \$6.00 per square foot, resulting in a value of \$81,239 to \$97,487 for the proposed vacation. However, based on past City Council direction, the City has not been compensated for vacated ROW.

### **SUGGESTED MOTION:**

I MOVE to (approve or deny) Ordinance No. 4720 – An Ordinance Vacating Portions of Alley Rights-of-Way, Located Between Elm and Kennedy and Mesa and Texas Avenues and a Portion of Texas Avenue Right-of-Way Subject to a Utility Easement and Maintenance Agreement, Located in the Colorado Mesa University Area on Final Passage and Order Final Publication in Pamphlet Form.

### **Attachments**

ATTACHMENT 1 – Planning Commission Staff Report which includes the Site Location Map, Surrounding Land Use Map, Future Land Use Map, Land Use Zone Map, Proposed Land Use Map.

ATTACHMENT 2 – Proposed Ordinance

**PLANNING COMMISSION AGENDA ITEM**

<p><b>Subject:</b> Alley &amp; Street Right-of-Way Vacations, Located within the CMU area between Elm &amp; Kennedy and Mesa &amp; Texas Avenue's.</p>
<p><b>Action Requested/Recommendation:</b> Forward a recommendation to City Council to vacate portions of public alley right-of-way between Elm &amp; Kennedy and Mesa &amp; Texas Avenues and portion of public street right-of-way for Texas Avenue as part of Colorado Mesa University expansion projects.</p>
<p><b>Presenters Name &amp; Title:</b> Scott D. Peterson, Senior Planner</p>

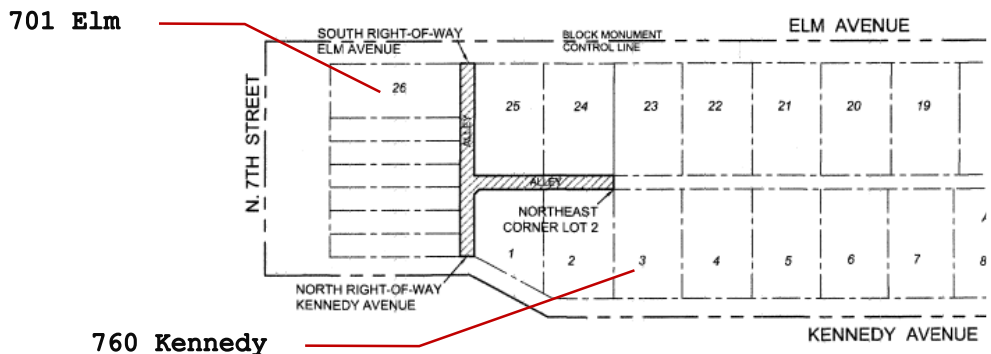
**Executive Summary:**

The applicant, Colorado Mesa University (CMU), requests the City vacate portions of public alley right-of-way between Elm & Kennedy and Mesa & Texas Avenues along with a portion of public street right-of-way of Texas Avenue. These right-of-ways are adjacent to properties owned by CMU with the exception of one property which CMU is negotiating to purchase. The vacations will facilitate the construction of a new engineering building on campus and add additional parking.

**Background, Analysis and Options:**

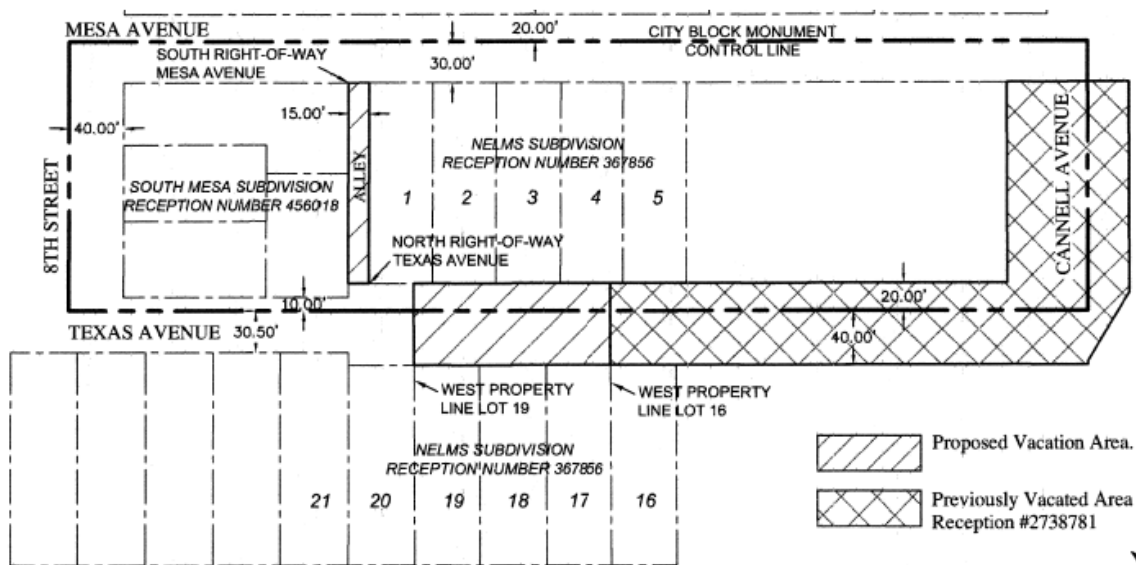
Colorado Mesa University requests the vacation of alley and street right-of-ways (0.37 acres total) in order to aid in the continued westward expansion efforts planned for the campus.

**Alley Between Elm & Kennedy:**



This area of campus is proposed to be the location of the new CMU Engineering Building, a 65,000 +/- sq. ft. building that will house Mechanical Engineering, Civil Engineering, the John McConnell Math & Science Center and future Computer Science classrooms. The current properties abutting this portion of alley are owned by CMU with the exception of one property (701 Elm Avenue) located at the intersection of N. 7<sup>th</sup> Street and Elm Avenue. This property contains a five-unit multi-family apartment building, however CMU is in discussions with the owner to potentially purchase the property in the near future. Presently, this alley does not contain any City public utilities (water, sewer, storm sewer, etc.) therefore, there is no need for the City to retain a utility easement as part of this vacation process. The alley does contain Xcel Energy infrastructure (electric and natural gas), however these existing utilities will be moved and relocated by Xcel Energy as part of the construction of the new engineering building and if necessary, appropriate easements to Xcel Energy will be dedicated at that time. As a condition of approval of the vacations, CMU will also need to meet all Grand Junction Fire Department requirements for construction of the engineering building and may be required to construct access drives around the site compliant with the 2012 International Fire Code. CMU will also be required to provide and record a private "Easement Agreement" across CMU property(s) for the benefit of the remaining property owners located at 701 Elm Avenue and 760 Kennedy Avenue. This condition is required as these two remaining properties will have no "legal access" to the rear of their properties once the alley is vacated.

**Alley Between Mesa & Texas and Texas Avenue Right-of-Way:**



The current properties abutting this portion of alley and street right-of-way vacations between Mesa and Texas Avenues are all owned by Colorado Mesa University. Presently, the alley does not contain any City public utilities (water, sewer, storm sewer, etc.) therefore, there is no need for the City to retain a utility easement as part of this vacation process. The alley does contain an electrical line for Xcel Energy, however this existing electrical line will be moved and/or relocated by Xcel Energy, if necessary as part of the construction of a new campus parking lot and if necessary, appropriate easements to Xcel Energy will be dedicated at that time.

Within the portion of Texas Avenue requested for vacation, the City presently has water and sanitary sewer mains. Therefore, a utility easement shall be retained for maintenance, operation and repair of existing utility infrastructure within the Texas Avenue right-of-way. Previously, the City has required that the utility easement be granted as a temporary utility easement, due to the expectation that some utilities will be relocated or removed with the changes and improvements being made to the CMU campus. Under the temporary utility easement, CMU will work with the City and the appropriate public utility agencies to determine the final location of the utilities and the relocation of the utilities. Once the utilities have been relocated or it is determined that the utilities need not be moved, CMU shall grant new permanent utility easements. Upon the City's acceptance of the new utility easements, the City Manager shall release all interests in the temporary utility easements.

Based on the conditions recommended by the Fire Department and CMU's intention to develop and construct fire access lanes, it is staff's assessment that the proposed vacations would not impede traffic, pedestrian movement or access to private property or obstruct emergency access.

#### **Neighborhood Meeting:**

The applicant held a Neighborhood Meeting on August 2, 2016. Over 23 area residents attended the meeting with the applicant providing a powerpoint presentation with an update on various activities going on across campus and information regarding the most recent iteration of the ongoing right-of-way vacation process.

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

The proposed right-of-way vacations support the following goal and policy of the Comprehensive plan:

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

**Policy A:** Through the Comprehensive Plan's policies the City and County will improve as a regional center of commerce, culture and tourism.

In addition to the goal and policy above the Grand Junction Comprehensive Plan states: "Due to the inefficiencies of low density sprawl, a significant amount of projected future growth is focused inward on vacant and underutilized land throughout the community. This takes advantage of land that already has roads, utilities and public services. Infill and redevelopment is especially focused in the City Center (includes Downtown, North Avenue, Colorado Mesa University area, and the area around St. Mary's Hospital). Reinvestment and revitalization of these areas, and maintaining and expanding a 'strong downtown', is a high priority of the Comprehensive Plan and essential for the area's regional economy. (Guiding Principle 1: Centers - Downtown)"

Vacating these portions of alley and street right-of-ways supports the University in their ongoing facilities and building expansion, enhances a healthy, diverse economy and improves the City as a regional center of commerce, culture and tourism.

**Economic Development Plan:**

The purpose of the adopted Economic Development Plan by City Council is to present a clear plan of action for improving business conditions and attracting and retaining employees. Though the proposed portions of alley and street right-of-way vacation requests specifically does not further the goals of the Economic Development Plan, it does allow the CMU campus to continue its westward expansion efforts in order to grow the campus for the benefit of students, community, higher educational opportunities and purports a vibrant and growing economy. Higher education is a key economic development component of Grand Junction's status as a regional center.

**Board or Committee Recommendation:**

N/A

**Previously presented or discussed:**

This proposal has not been previously discussed.

**Attachments:**

- Staff Report/Background Information
- Location Map
- Surrounding Land Use Map
- Future Land Use Map
- Land Use Zone Map
- Proposed Land Use Map
- Ordinance

<b>BACKGROUND INFORMATION</b>					
<b>Location:</b>		Portions of public alley right-of-way between Elm & Kennedy and Mesa & Texas Avenue's and portion of public street right-of-way for Texas Avenue			
<b>Applicant:</b>		Colorado Mesa University			
<b>Existing Land Use:</b>		Alley and street right's-of-way			
<b>Proposed Land Use:</b>		Colorado Mesa University land use development (new engineering building and additional parking lots)			
<b>Surrounding Land Use:</b>	<b>North</b>	Seventh-Day Adventist Church, Colorado Mesa University properties and privately held properties			
	<b>South</b>	New Life Christian Church, Colorado Mesa University properties and privately held properties			
	<b>East</b>	Colorado Mesa University properties and privately held properties			
	<b>West</b>	Colorado Mesa University properties and privately held properties			
<b>Existing Zoning:</b>		R-8 (Residential – 8 du/ac) and R-O (Residential Office)			
<b>Proposed Zoning:</b>		N/A			
<b>Surrounding Zoning:</b>	<b>North</b>	R-8 (Residential – 8 du/ac)			
	<b>South</b>	R-8 (Residential – 8 du/ac)			
	<b>East</b>	R-8 (Residential – 8 du/ac)			
	<b>West</b>	R-8 (Residential – 8 du/ac) and R-O (Residential Office)			
<b>Future Land Use Designation:</b>		Residential Medium High (8 – 16 du/ac)			
<b>Zoning within density range?</b>		X	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>

The proposed request falls under Section 21.02.100 – Vacation of public right-of-way or easement. The purpose of this section is to permit the vacation of surplus rights-of-way and/or easements. This type of request is available for vacation of any street, alley, easement or other public reservation subject to the criteria contained within the section.

The following is staff's review and comments relating to the criteria under Section 21.02.100:

**City Fire Department Review of Rights-of-Way Vacation Request:**

The Grand Junction Fire Department does not object to the University's overall desire to vacate certain public right-of-ways in an effort to implement the University's master plan. The Fire Department has indicated that if fire apparatus roads are required around the

proposed engineering building, these roads shall be constructed in accordance with the 2012 International Fire Code and Appendices as well as any local City of Grand Junction ordinances (i.e. Ordinance No. 4500) that pertain specifically to the Grand Junction Fire Department and their operations. The decision to require fire apparatus roads will be determined when the Fire Department reviews the proposed engineering building plans.

**Sections 21.02.100 of the Grand Junction Zoning and Development Code:**

The vacation of portions of the existing alley and street right's-of-way shall conform to the following:

*(1) The Comprehensive Plan, Grand Valley Circulation Plan and other adopted plans and policies of the City,*

Granting the requests to vacate portions of an existing alley and street right-of-ways meets Goal 12, Policy A of the Comprehensive Plan by supporting the University in their facilities and building expansion projects, enhances a healthy, diverse economy and improves the City as a regional center of commerce, culture and tourism. The requested vacation also does not conflict with the Grand Valley Circulation Plan and other adopted plans and policies of the City.

Therefore, this criterion has been met.

*(2) No parcel shall be landlocked as a result of the vacation.*

No parcels shall be landlocked as a result of the proposed vacations as all properties have access to street right-of-ways.

Therefore, this criterion has been met.

*(3) 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;*

All properties abutting the proposed portions of alley and street requested for vacation are under the control of CMU with the exception of one property, 701 Elm Avenue. Access to the rear of this property and the property located at 760 Kennedy will be restricted, as the two properties will not have legal access to the remaining adjacent alley. Therefore, CMU will be required, as a condition of the vacations, to provide and record a private "Easement Agreement" across CMU property(s) for the benefit of the remaining property owners located at 701 Elm Avenue and 760 Kennedy Avenue. This recorded easement will ensure that the remaining residents will continue to be provided access to the rear of their properties from the remaining alley right-of-way.

Therefore, this criterion can be met with the recording of an access easement.



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

There are no City utilities currently located within the alleys requested for vacation however, Xcel Energy utilities are located within the alley but will be moved prior to construction of the new engineering building. The Fire Department has not reviewed the plans for the new engineering building but has indicated that the applicant may be required to construct access roads around the new building in accordance with the 2012 International Fire Code. The requested vacation does not adversely impact police/fire protection to the remaining properties.

For the portion of Texas Avenue requested to be vacated, the City will retain a utility easement for maintenance, operation and repair of existing utility infrastructure, such as water and sanitary sewer mains.

As was approved with the 2015 street right-of-way vacation requests for portions of Cannell, Hall, Texas, Elm, Kennedy and Bunting Avenue's, CMU has agreed to construct and pave access roads in accordance with the 2012 International Fire Code, etc., and keep all drive aisles free of obstructions for emergency vehicle access and maneuverability of fire equipment and garbage trucks. CMU also agreed that the fire access lanes be asphalt paved and maintained to help mitigate and control dust for the neighborhood and residents still living in the area. Concerning the maintenance of the recycled asphalt/materials parking lot areas, magnesium chloride (MC) should be applied as needed to keep the dust suppressed (City file # VAC-2015-182).

Therefore, the requested vacations have 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.

Therefore, this criterion has been met.

*(5) The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter 21.06 of the Grand Junction Zoning and Development Code; and*

No adverse comments concerning the proposed right-of-way vacations were received from the utility review agencies during the staff review process, including Xcel Energy. Water and sanitary sewer are not located within the alleys, therefore there is no reason for the City to retain a utility easement. Any existing utilities located within the alley's will need to be moved and/or relocated as part of the construction of the new engineering building and, if necessary, appropriate easements to Xcel Energy will be dedicated at that time.

For the portion of Texas Avenue requested to be vacated, the City will retain a utility easement for maintenance, operation and repair of existing utility infrastructure for the existing water and sanitary sewer mains.

Therefore, this criterion has been met.

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

Maintenance requirements for the City will be reduced as a result of the proposed portions of alley and street right-of-way vacations since the City will not have to maintain the rights-of-way. Water and sewer are not located within the portion of the alley's to be vacated. City water and sanitary sewer is located within Texas Avenue; however, a utility easement will be retained to cover this existing infrastructure. The benefit to the City is the expansion of CMU and its mission to educate and by enhancing and preserving Grand Junction as a regional center. The proposed alley and street right-of-way vacations are needed by CMU as part of their continued campus expansion to the west.

Therefore, this criterion has been met.

#### **FINDINGS OF FACT/CONCLUSIONS AND CONDITIONS:**

After reviewing the Colorado Mesa University applications, VAC-2016-368 & VAC-2016-416 to vacate portions of public alley and street right-of-ways, the following findings of fact, conclusions and conditions have been determined:

1. The requested alley and street rights-of-way vacation are consistent with the goals and polices of the Comprehensive Plan, specifically, Goal 12.
2. The review criteria, items 1 through 6 in Section 21.02.100 of the Grand Junction Zoning and Development Code have been met or addressed.
3. With the vacation, the Applicant shall dedicate and record a private "Easement Agreement" across CMU property(s) for the benefit of the remaining property owners located at 701 Elm Avenue and 760 Kennedy Avenue.
4. With the vacation, the Applicant will need to meet all Grand Junction Fire Department requirements for construction of the engineering building.
5. The Applicant shall coordinate relocation of utilities upon construction of the new engineering building and dedicate applicable utility easements to Xcel Energy as necessary.
6. As a condition of vacation, the City shall retain a utility easement over the portion of Texas Avenue right-of-way requested for vacation for maintenance, operation and repair of existing utility infrastructure.
7. CMU has agreed to maintain the proposed parking lots to reduce dust. If constructed with anything other than asphalt paving, then magnesium chloride shall be applied as needed.

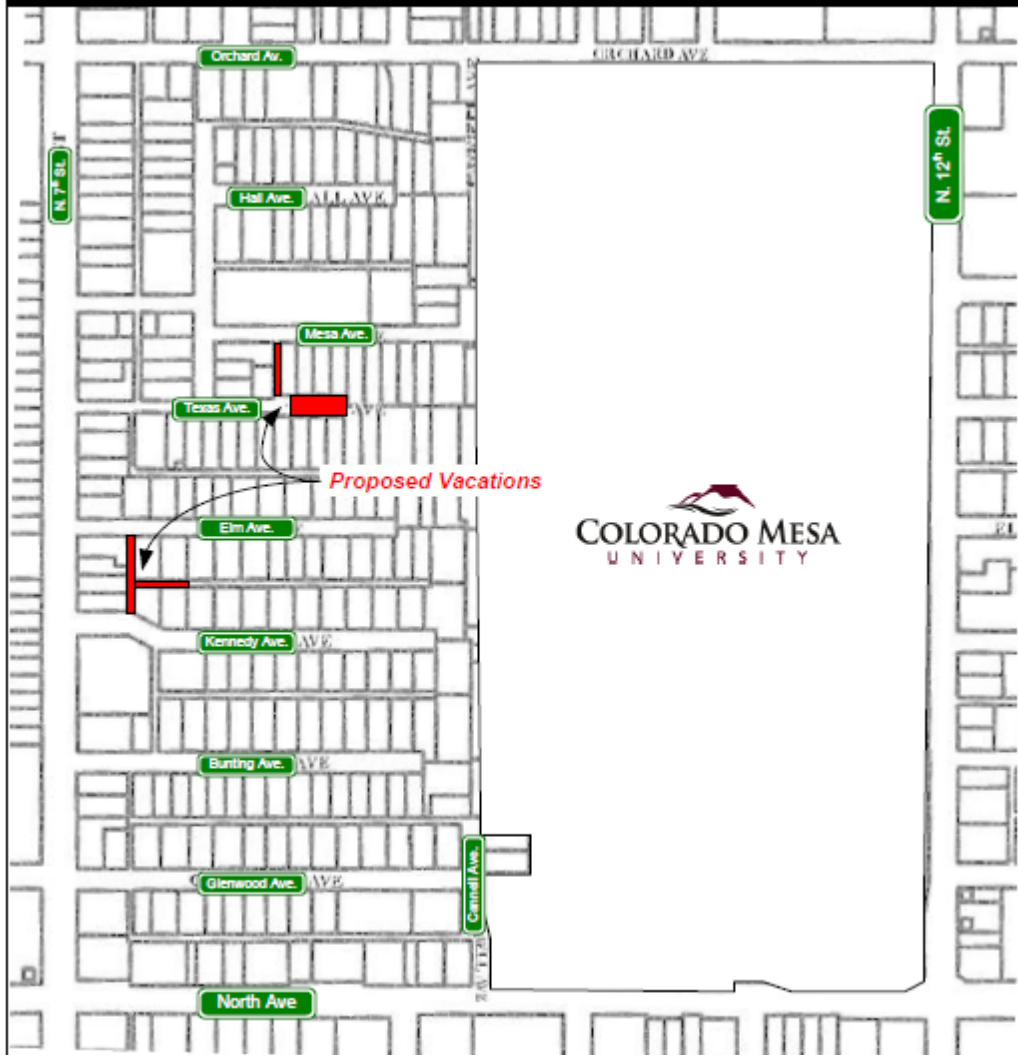
**STAFF RECOMMENDATION:**

I recommend that the Planning Commission forward a recommendation of conditional approval of the requested alley and street right-of-way vacations, VAC-2016-368 & VAC-2016-416 to the City Council with the findings, conclusions and conditions stated in the staff report.

**RECOMMENDED PLANNING COMMISSION MOTION:**

Madam Chairman, on items VAC-2016-368 & VAC-2016-416, I move we forward a recommendation of conditional approval to the City Council to vacate portions of public alley right-of-way between Elm & Kennedy and Mesa & Texas Avenues and portion of public street right-of-way for Texas Avenue as part of Colorado Mesa University expansion projects, with the findings of fact, conclusions and conditions stated in the staff report.

# LOCATION MAP



**SURROUNDING LAND USE MAP (2015 Air Photo)**



- Proposed Alley Vacation
- Property Owned by CMU
- Multi-Family
- Non-Residential
- P Campus Parking

- 1 Softball Field
- 2 Garfield Hall
- 3 Rugby Field
- 4 Bunting Student Housing
- 5 North Ave. Hall

# FUTURE LAND USE MAP



# LAND USE ZONE MAP





- ① On Street Parking
  - ② Evergreen Groundcover
  - ③ Outdoor Classroom Patio
  - ④ Seat Wall
  - ⑤ Sculptural Low Panel
  - ⑥ Decomposed Granite Paveement with Sealing
  - ⑦ Entry Plaza with Decorative Paveement
  - ⑧ Canopy Tree
  - ⑨ Signage Element
  - ⑩ McCarroll Garden
  - ⑪ Sleep Yard and Service Area
  - ⑫ Alley Benches
- Alley Vacation Area
- Access Route

SENNETT WASHNE GIDDY ARCHITECTS

Date: July 2016  
 Scale: 1/8" = 1'-0"



Prepared by:  
**THOMAS A. LOGUE**  
 LAND DEVELOPMENT CONSULTANT

Prepared For:  
**COLORADO MESA UNIVERSITY**

**ALLEY VACATION**  
 GRAND JUNCTION, COLORADO

*PROPOSED LAND USE*  
 SHEET 1 OF 1



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE VACATING PORTIONS OF ALLEY RIGHTS-OF-WAY LOCATED BETWEEN ELM AND KENNEDY AND MESA AND TEXAS AVENUES AND A PORTION OF TEXAS AVENUE RIGHT-OF-WAY SUBJECT TO A UTILITY EASEMENT AND MAINTENANCE AGREEMENT**

**LOCATED IN THE COLORADO MESA UNIVERSITY AREA**

**RECITALS:**

Colorado Mesa University has requested to vacate portions of alley rights-of-way located between Elm and Kennedy and Mesa and Texas Avenue's and a portion of Texas Avenue right-of-way in order to enable the continued westward expansion efforts planned for the campus, specifically in the future to develop new residence halls, classroom buildings, parking lots and campus improvements.

The properties abutting the sections of alley and street rights-of-way for which vacation are sought are either owned by Colorado Mesa University, with the exception of one property which CMU is in process of negotiations to purchase (701 Elm Avenue). City staff does not expect that the proposed right-of-way vacations would impede traffic, pedestrian movement or access to private property. As a condition of approval, CMU will need to meet all Grand Junction Fire Department requirements for construction of the engineering building and may be required to construct access around the site compliant with the 2012 International Fire Code. CMU will also be required to provide and record a private "Easement Agreement" across CMU property(s) for the benefit of the remaining property owners located at 701 Elm Avenue and 760 Kennedy Avenue. This condition is required as the remaining properties will have no "legal access" to the rear of their properties once the alleys are vacated.

Presently, the requested alley between Elm and Kennedy and Mesa and Texas Avenue's does not contain any City public utilities (water, sewer, storm sewer, etc.) therefore, there is no need to retain a Utility Easement as part of the vacation process. Any existing electric utilities located within the right-of-way will be moved and relocated by Xcel Energy as part of the construction of the new engineering building and parking lot areas and appropriate easements to Xcel Energy will be dedicated at that time, if necessary. Within the portion of Texas Avenue requested for vacation, the City presently has water and sanitary sewer mains. Therefore, those utilities shall be subject to the terms and conditions of the recently approved "Colorado Mesa University and City of Grand Junction Utility Easement and Maintenance Agreement-CMU Main Campus".

The City Council finds that the requests are consistent with the Comprehensive Plan, the Grand Valley Circulation Plan and Section 21.02.100 of the Grand Junction Zoning and Development Code. Applicant is also required to meet all Grand Junction Fire Department requirements.

The Planning Commission, having heard and considered the requests, found the criteria of the Code to have been met, and recommends that portions of alley and street right-of-way vacations be approved and that the applicant meet all Grand Junction Fire Department requirements.

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

The following described dedicated rights-of-way are hereby vacated subject to the listed conditions:

1. Applicant shall pay all recording/documentary fees for the Vacation Ordinance, any easement documents and dedication documents.
2. Applicant shall dedicate and record a "Easement Agreement" across CMU property(s) for the benefit of the remaining property owners located at 701 Elm Avenue and 760 Kennedy Avenue.
3. Applicant shall coordinate relocation of utilities upon construction of the new engineering building and parking lot areas and dedicate applicable utility easements to Xcel Energy as necessary in order to continue to provide utility services to the current residential and CMU owned properties within these blocks.
4. Applicant will need to meet all Grand Junction Fire Department requirements for construction of the engineering building.
5. Within the portion of Texas Avenue requested for vacation, the City presently has water and sanitary sewer mains. Therefore, those utilities shall be subject to the terms and conditions of the recently approved "Colorado Mesa University and City of Grand Junction Utility Easement and Maintenance Agreement-CMU Main Campus".

The following rights-of-way are shown on Exhibits A and B as part of this vacation description.

Dedicated rights-of-way to be vacated:

### **VACATION AREA 1**

A portion of the Alleys shown on the Plat of Amended Kennedy Subdivision at reception #670067 of the Mesa County Records situated in the SE1/4 of Section 11, Township 1

South, Range 1 West of the Ute Principal Meridian, in the City of Grand Junction, County of Mesa, State of Colorado; being more particularly described as follows:

All of an Alley of said Amended Kennedy Subdivision adjoining the South Right-of-Way line of Elm Avenue and continuing South and adjoining the North Right-of-Way line of Kennedy Avenue also a portion of an Alley of said Amended Kennedy Subdivision beginning at the Northeast corner of Lot 2 of said Amended Kennedy Subdivision and the Southeast corner of the South 121 feet of the North 125 feet of Lot 24 of Elm Avenue Subdivision reception #320445 then continuing West and adjoining the East Right-of-Way line of an Alley.

Said description contains an area of 0.123 acres more or less, as described herein and depicted on "EXHIBIT A" attached hereto.

## **VACATION AREA 2**

A portion of Texas Avenue and Alley as shown on the Plat of Nelms Subdivision at reception #367856 of the Mesa County Records situated in the SE1/4 of Section 11, Township 1 South, Range 1 West of the Ute Principal Meridian, in the City of Grand Junction, County of Mesa, State of Colorado; being more particularly described as follows:

All of a 60.00 foot Right-Of-Way for Texas Avenue as shown on said Plat of Nelms Subdivision beginning at the West property line of Lot 16 of said Nelms Subdivision and adjoining the West Right-Of-Way line of previously vacated Texas Avenue Right-of-Way recorded at reception #2738781 and continuing West to the West property line of Lot 19 of said Nelms Subdivision and also all of a 15 foot Alley Right-Of-Way of said Nelms Subdivision beginning at the South Right-Of-Way line of Mesa Avenue and continuing South to the North Right-Of-Way of Texas Avenue and adjoining South Mesa Subdivision recorded reception #456018 on the West.

Said description contains an area of 0.25 acres more or less, as described herein and depicted on "EXHIBIT B" attached hereto.

Introduced for first reading on this 21<sup>st</sup> day of September, 2016 and ordered published in pamphlet form.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 and ordered published in pamphlet form.

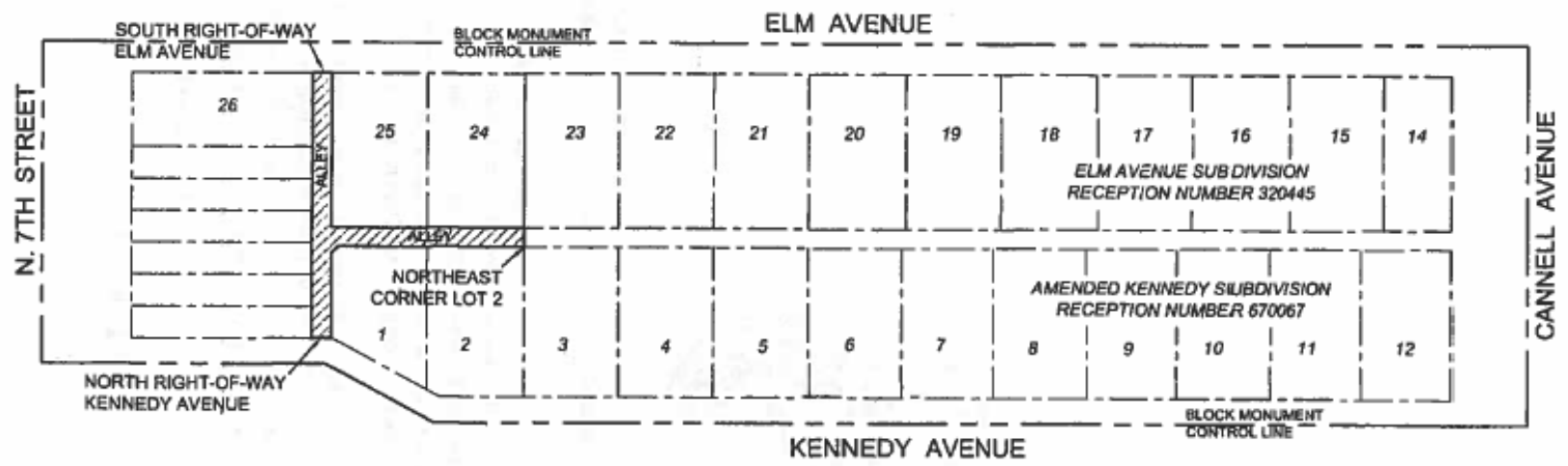
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President of City Council

ATTEST:

\_\_\_\_\_  
City Clerk

**EXHIBIT "A"**  
**SOUTHEAST 1/4 OF SECTION 11,**  
**TOWNSHIP 1 SOUTH, RANGE 1 WEST, UTE MERIDIAN,**  
**IN THE CITY OF GRAND JUNCTION,**  
**COUNTY OF MESA, STATE OF COLORADO**



Subject area.



\*This Exhibit is not intended to be used for establishing or verifying property boundary lines.  
 \*Title information shown is from Mesa County Clerk and Recorders Office.  
 \*Linear units are in U.S. Survey Feet.

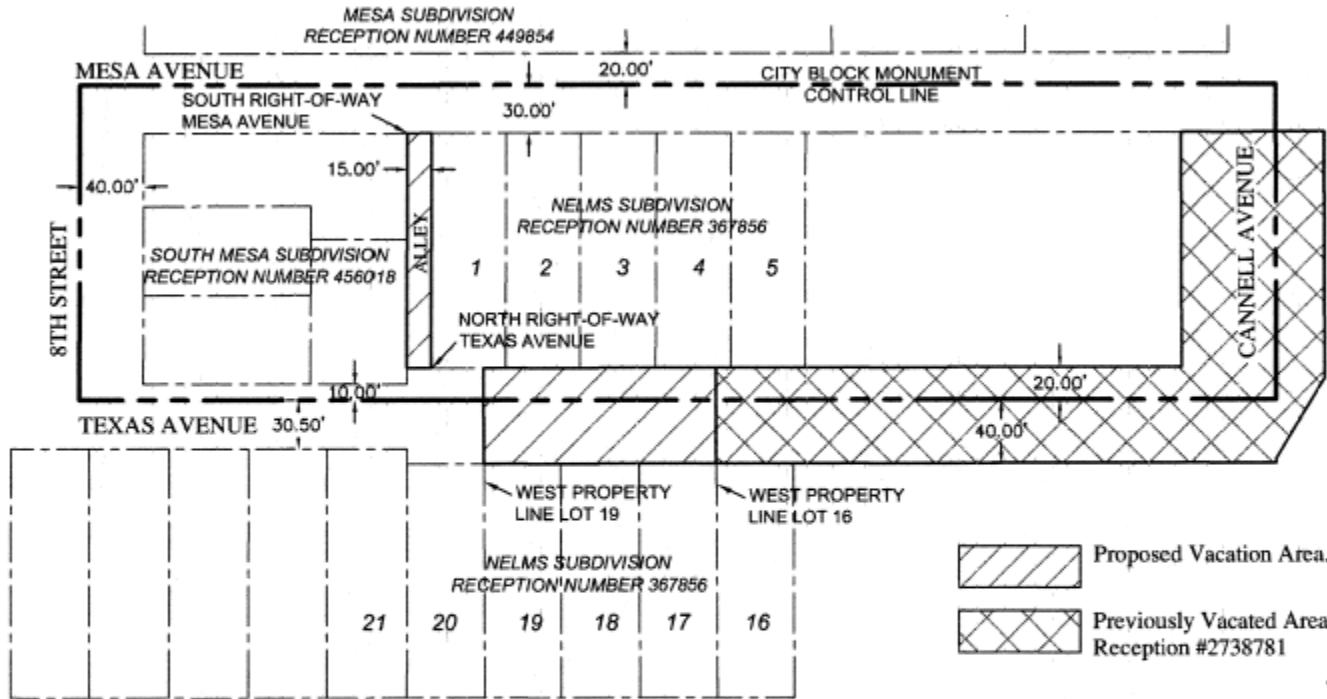




CHRISTOPHER C. RANSIER  
 CO PLS 38089

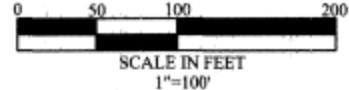


717 Centauri Drive • Grand Jct., CO 81506  
 970.201.4081 • [crsurveying@brusnan.net](mailto:crsurveying@brusnan.net)

**EXHIBIT "B"**  
**SOUTHEAST 1/4 OF SECTION 11,**  
**TOWNSHIP 1 SOUTH, RANGE 1 WEST, UTE MERIDIAN,**  
**IN THE CITY OF GRAND JUNCTION,**  
**COUNTY OF MESA, STATE OF COLORADO**



 Proposed Vacation Area.  
 Previously Vacated Area  
 Reception #2738781



\*This Exhibit is not intended to be used for establishing or verifying property boundary lines.  
 \*Title information shown is from Mesa County Clerk and Recorders Office.  
 \*Linear units are in U.S. Survey Feet.



CHRISTOPHER C. RANSIER  
 CO PLS 38089



717 Centauri Drive • Grand Jct., CO 81506  
 970.201.4081 • crsurveying@bresnan.net



**Grand Junction City Council**

**Regular Session**

**Item #4 a ii**

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**Meeting Date:** October 5, 2016

**Requested by:** Atlasta Solar Store,  
LLC – Darin Carei

**Submitted By:** Brian Rusche, Senior  
Planner

**Department:** Admin. – Com. Dev.

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**Information**

**SUBJECT:**

An Ordinance Vacating Right-of-Way for Noland Avenue, located West of S. 7<sup>th</sup> Street

**RECOMMENDATION:**

The Planning Commission recommended approval of the requested right-of-way vacation at their September 13, 2016 meeting.

**EXECUTIVE SUMMARY:**

A request to vacate a portion of public right-of-way, also known as Noland Avenue, which is no longer needed, adjacent to 1111 S. 7<sup>th</sup> Street in a C-2 (General Commercial) zone district.

**BACKGROUND OR DETAILED INFORMATION:**

Atlasta Solar Store LLC, requests approval from the City of Grand Junction to vacate a small portion of Noland Avenue (approximately 2216 sq. ft. or 0.050 acres – see attached vacation exhibit) located west of S. 7<sup>th</sup> Street. The right-of-way has never been improved with either asphalt paving or concrete. However, there is water, sewer, and storm sewer infrastructure located in the right-of-way and the City owns the parcel on the opposite (south) side of Noland Avenue. Because of the existing utilities and City ownership to the south, the applicant is requesting that only a portion of the right-of-way be vacated.

**FISCAL IMPACT:**

Council directed staff to evaluate on a case by case basis the value of selling right-of-way (ROW) at the time of a vacation request. ROW recently acquired by the City has been valued at \$5.00 to \$6.00 per square foot, resulting in a value of \$11,080 to \$13,296 for the proposed vacation. However, based on past City Council direction, the City has not been compensated for vacated ROW.

**SUGGESTED MOTION:**

I MOVE to (approve or deny) Ordinance No. 4721 – An Ordinance Vacating Right-of-Way for Noland Avenue, Located West of S. 7<sup>th</sup> Street, on Final Passage and Order Final Publication in Pamphlet Form.

**Attachments**

ATTACHMENT 1 – Planning Commission Staff Report which includes the Site Location Map, the Aerial Photo Map, the Comprehensive Plan Future Land Use Map, and the Zoning Map

ATTACHMENT 2 – Proposed Ordinance





Date: August 31, 2016  
 Author: Brian Rusche  
 Title/ Phone Ext: Senior Planner / x4058  
 Proposed Schedule: Planning  
Commission September 13, 2016; City  
Council 1<sup>st</sup> Reading – September 21, 2016  
 2nd Reading (if applicable):  
October 5, 2016  
 File # (if applicable): VAC-2016-376

## PLANNING COMMISSION AGENDA ITEM

<b>Subject:</b> Noland Avenue ROW Vacation
<b>Action Requested/Recommendation:</b> Forward a recommendation to City Council to vacate a portion of public right-of-way, also known as Noland Avenue, which is no longer needed, adjacent to 1111 S. 7th Street in a C-2 (General Commercial) zone district.
<b>Presenter(s) Name &amp; Title:</b> Brian Rusche – Senior Planner

### Executive Summary:

Forward a recommendation to City Council to vacate a portion of public right-of-way, also known as Noland Avenue, which is no longer needed, adjacent to 1111 S. 7th Street in a C-2 (General Commercial) zone district.

### Background, Analysis and Options:

Atlasta Solar Store LLC, requests approval from the City of Grand Junction to vacate a small portion of Noland Avenue (approximately 2216 sq. ft. or 0.050 acres – see attached vacation exhibit) located west of S. 7<sup>th</sup> Street. The right-of-way has never been improved with either asphalt paving or concrete. However, there is water, sewer, and storm sewer infrastructure located in the right-of-way and the City owns the parcel on the opposite (south) side of Noland Avenue. Because of the existing utilities and City ownership to the south, the applicant is requesting that only a portion of the right-of-way be vacated.

### Neighborhood Meeting:

Because the right-of-way has never been improved, the request does not vacate the entire portion of the right-of-way and the adjacent property is the only beneficiary, no neighborhood meeting was held.

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

**Goal 9:** Develop a well-balanced transportation system that supports automobile, local transit, pedestrian, bicycle, air, and freight movement while protecting air, water and natural resources.

**Policy C:** The Regional Transportation Plan will be used as a basis for development review and to help prioritize capital improvement programming. The City and County will maintain Capital Improvement Plans (CIPs) which prioritize road and alley improvements based on needs for traffic flow, safety enhancements, maintenance and linkages.

**How this item relates to the Economic Development Plan:**

The purpose of the adopted Economic Development Plan by City Council is to present a clear plan of action for improving business conditions and attracting and retaining employees. Though the proposed right-of-way vacation request does not specifically further the goals of the Economic Development Plan, it does allow the land to be used by the adjoining property while eliminating responsibility of the City of Grand Junction for construction and maintenance.

**Board or Committee Recommendation:**

There is no other committee or board recommendation.

**Other issues:**

No other issues have been identified.

**Previously presented or discussed:**

This request has not previously been presented or discussed.

**Attachments:**

1. Background information
2. Staff report
3. Site Location Map
4. Aerial Photo Map
5. Future Land Use Map
6. Zoning Map
7. Ordinance

BACKGROUND INFORMATION					
Location:		Noland Avenue west of S. 7 <sup>th</sup> Street			
Applicants:		Atlasta Solar Store LLC – Darin Carei			
Existing Land Use:		Unimproved right-of-way for Noland Avenue			
Proposed Land Use:		Incorporate into the site development at 1111 South 7 <sup>th</sup> Street			
Surrounding Land Use:	North	Commercial			
	South	Riverside Parkway			
	East	Industrial			
	West	Industrial			
Existing Zoning:		N/A – right-of-way			
Proposed Zoning:		C-2 (General Commercial)			
Surrounding Zoning:	North	C-2 (General Commercial)			
	South	C-2 (General Commercial)			
	East	C-2 (General Commercial)			
	West	C-2 (General Commercial)			
Future Land Use Designation:		Commercial			
Zoning within density range?		X	Yes		No

Section 21.02.100 of the Grand Junction Municipal Code

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

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

The vacation of this portion of Noland Avenue removes an unimproved section of right-of-way that is rendered unnecessary by the Riverside Parkway, yet retains sufficient room for existing public utilities. Vacating the right-of-way will allow the land to be used by the adjoining properties while eliminating responsibility of the City of Grand Junction for construction and maintenance.

The vacation of this right-of-way does not conflict with the Comprehensive Plan, the Grand Valley Circulation Plan or any other adopted plans of the City.

Therefore, this criterion has been met.

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

No parcels are landlocked if this portion of Noland Avenue is vacated.

Therefore, this criterion has been met.

- 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.*

The vacation of this section of Noland Avenue does not change the access or restrict access to any properties; access has been dictated by the configuration of the Riverside Parkway. The vacation will increase total square footage of the adjacent parcel, maximizing future (re)development potential.

Therefore, this criterion has been met.

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

The review of the proposed vacation elicited the following comments:

Development Engineer: All City of GJ utilities are well outside this proposed area of vacation. No concerns or comments.

Xcel Energy: Xcel Energy has no comments.

Grand Junction Fire Department: GJFD has no objections to the proposed project.

As no other adverse impacts on the health, safety, and/or welfare of the general community have been raised and the quality of public facilities and services provided to any parcel of land will not be reduced as a result of this vacation request, therefore this criterion has been met.

- e. *The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter 21.06 of the Grand Junction Municipal Code.*

All existing public facilities or services are located outside of the portion of right-of-way that is being considered for vacation.

Therefore, this criterion has been met.

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

The proposed vacation provides a public benefit by eliminating future construction and maintenance costs for this section of right-of-way while placing the land into private ownership and therefore taxable.

Therefore, this criterion has been met.

#### FINDINGS OF FACT/CONCLUSIONS

After reviewing the Noland Avenue Right-Of-Way Vacation, VAC-2016-376 for the vacation of a public right-of-way, I make the following findings of fact and conclusions:

1. The requested right-of-way vacation is consistent with the Comprehensive Plan.
2. The review criteria in Section 21.02.100 of the Grand Junction Municipal Code have all been met.

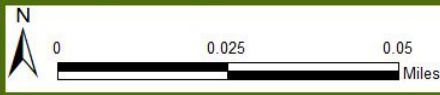
#### STAFF RECOMMENDATION:

I recommend that the Planning Commission forward a recommendation of approval of the requested right-of-way vacation, VAC-2016-376 to the City Council with the findings and conclusions listed above.

#### RECOMMENDED PLANNING COMMISSION MOTION:

Madam Chairman, on item VAC-2016-376, I move we forward a recommendation of approval to the City Council on the request to vacate a portion of Noland Avenue west of S. 7<sup>th</sup> Street with the findings of fact and conclusions in the staff report.

# Site Location Map

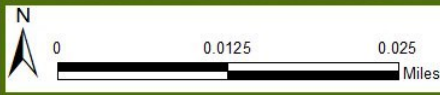
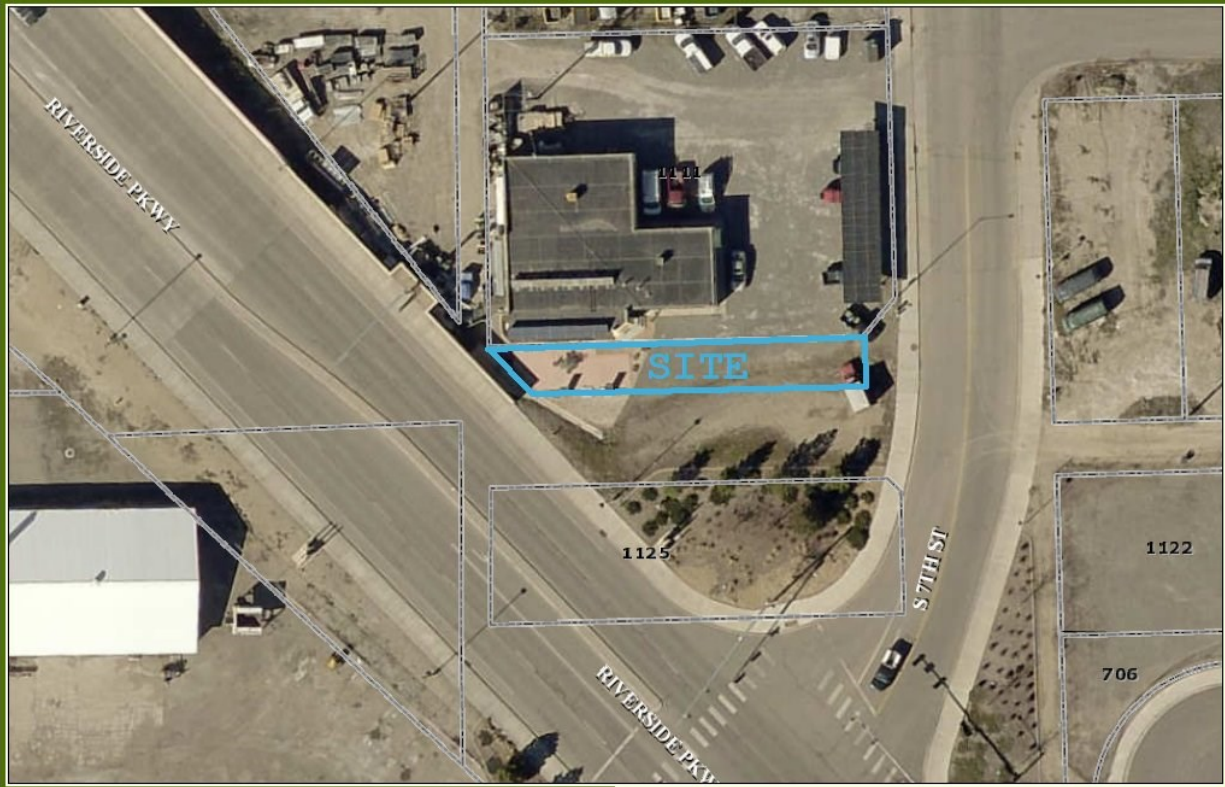


Printed: 8/26/2016

1 inch = 90 feet



# Aerial Photo Map



Printed: 8/26/2016

1 inch = 45 feet



# Comprehensive Plan Future Land Use Map



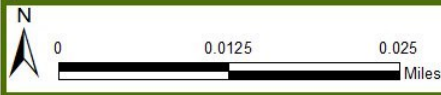
Printed: 8/26/2016

1 inch = 45 feet





# Zoning Map



Printed: 8/26/2016

1 inch = 45 feet



**CITY OF GRAND JUNCTION**

**ORDINANCE NO.**

**AN ORDINANCE VACATING RIGHT-OF-WAY FOR  
NOLAND AVENUE  
LOCATED WEST OF S. 7<sup>TH</sup> STREET**

**RECITALS:**

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

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.

The City Council finds that the request is consistent with the Comprehensive Plan, the Grand Valley Circulation Plan and Section 21.02.100 of the Grand Junction Municipal Code.

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

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

1. 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:

**ROW VACATION DESCRIPTION**

A certain parcel of land lying in the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section 23, Township 1 South, Range 1 West of the Ute Principal Meridian, City of Grand Junction, County of Mesa, State of Colorado and being more particularly described as follows:

BEGINNING at a point on the West line of Lot 1, Block 9, Amended Plat of Benton Canon's First Subdivision, as same is recorded in Plat Book 4, Page 39, Public Records of Mesa County, Colorado, said point being 89.75 feet South of the Northwest corner of said Lot 1 and assuming the North line of said Lot 1 bears N 89°54'28" W with all other bearings contained herein being relative thereto;

THENCE from said Point of Beginning, S 89°54'27" E along a line parallel with

and 89.75 feet South of, the North line of said Lot 1, a distance of 145.77 feet; thence S 00°05'33" W, a distance of 16.00 feet; thence N 89°54'28" W, a distance of 131.21 feet; thence N 42°12'39" W, a distance of 21.63 feet, more or less, to the Point of Beginning.

CONTAINING 2,216 Square Feet or 0.050 Acres, more or less, as described.

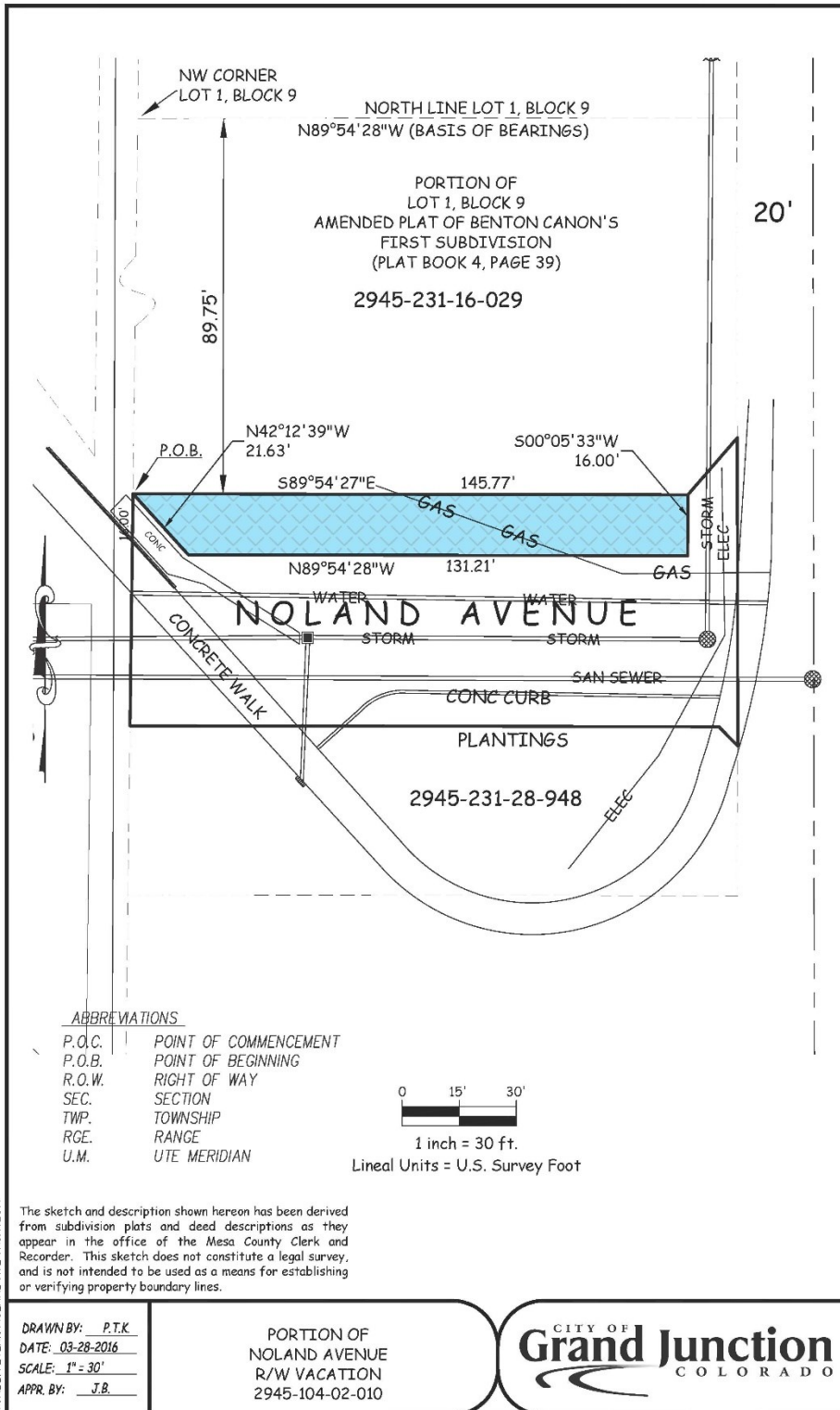
Introduced for first reading on this 21<sup>st</sup> day of September, 2016 and ordered published in pamphlet form.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 and ordered published in pamphlet form.

\_\_\_\_\_  
President of City Council

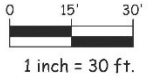
ATTEST:

\_\_\_\_\_  
City Clerk



**ABBREVIATIONS**

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- R.O.W. RIGHT OF WAY
- SEC. SECTION
- TWP. TOWNSHIP
- RGE. RANGE
- U.M. UTE MERIDIAN



Lineal Units = U.S. Survey Foot

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

DRAWN BY: P.T.K.  
 DATE: 03-28-2016  
 SCALE: 1" = 30'  
 APPR. BY: J.B.

PORTION OF  
 NOLAND AVENUE  
 R/W VACATION  
 2945-104-02-010



N/CADD/PETER/NOLAND AVE VACATION



## Grand Junction City Council

### Regular Session

Item #5 a

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**Meeting Date:** October 5, 2016

**Requested by:** Rob Schoeber, Parks  
and Recreation  
Director

**Submitted by:** Traci Wieland, Recreation  
Superintendent

**Department:** Parks and Recreation

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### Information

#### **SUBJECT:**

Three contracts for the construction of the Las Colonias Amphitheater to include: slough excavation, trail work and access, and site, building, and civil work.

#### **RECOMMENDATION:**

Staff recommends authorization of the following contracts:

1. Con-Sy, Inc. for the slough channel excavation in the amount of \$214,767.20
2. Mountain Valley Constructing for the trail and access construction in the amount of \$181,025.75
3. Asset Engineering Limited for the construction of the Las Colonias Amphitheater to include site, building, and civil work in the amount of \$2,957,599.96

#### **EXECUTIVE SUMMARY:**

Las Colonias Park is a 130 acre parcel located south of the downtown area along the Colorado River. City Council adopted the current master plan for Las Colonias Park on July 3, 2013. The first phase of development was completed in 2015 and includes a restroom/shelter, parking, playground, trail connections and native arboretum. The second phase of this park master plan includes one of the most highly visible and signature areas of the park – an outdoor amphitheater.

The amphitheater is designed as a multi-functional venue for crowds varying in size from 500 – 5,000. The overall design for this phase has included input from three professional architectural firms as well as multiple City departments including Parks & Recreation, Fire, Police, Engineering & Planning, Traffic, and Public Works. The building includes a 40' x 60' stage and other support amenities including green room,

restroom, and side wings. The landscaped seating area will feature a gently sloped lawn extending toward the parkway with views back toward the Colorado River. Additional site improvements will include trail relocation, slough excavation, and park access.

The anticipated construction timeline will be as follows:  
 Slough excavation: October 17 – December 31, 2016  
 Trail and median access: October 17 – November 30, 2016  
 Amphitheater construction: November 14, 2016 – fall of 2017

**BACKGROUND OR DETAILED INFORMATION:**

The project was bid using three separate bid packages: slough excavation, trail work and access, and amphitheater site, civil, and building in an effort to receive the most competitive bids possible.

**Slough Excavation**

A formal Invitation for Bids was issued via BidNet (an on-line site for government agencies to post solicitations), posted on the City’s Purchasing website, sent to the Grand Junction Chamber of Commerce and the Western Colorado Contractors Association, and advertised in The Daily Sentinel. Six companies submitted formal bids, which were found to be responsive and responsible in the following amount:

<b>FIRM</b>	<b>LOCATION</b>	<b>COST</b>
<i>Con-Sy, Inc.</i>	<i>Grand Junction, CO</i>	<i>\$214,767.20*</i>
Mountain Valley Contracting, Inc.	Grand Junction, CO	\$384,979.55
Colorado West Contracting, Inc.	Grand Junction, CO	\$396,080.12
Oldcastle SW Group, Inc. dba United Companies	Grand Junction, CO	\$453,020.00
M M Skyline Contracting, Inc.	Grand Junction, CO	\$467,931.60
M.A. Concrete Construction, Inc.	Grand Junction, CO	\$579,509.40

\*The Con-Sy cost total includes the addition of Add Alternate #1 for demo, haul, and place existing concrete path of \$1,600. Total also includes negotiated pricing reduction of \$20,000 for the excavation component.

**Trail Work and Access**

A formal Invitation for Bids was issued via BidNet (an on-line site for government agencies to post solicitations), posted on the City’s Purchasing website, sent to the Grand Junction Chamber of Commerce and the Western Colorado Contractors Association, and advertised in The Daily Sentinel. Four companies submitted formal bids, which were found to be responsive and responsible in the following amount:

<b>FIRM</b>	<b>LOCATION</b>	<b>COST</b>
<b>Mountain Valley Contracting, Inc.</b>	<b>Grand Junction, CO</b>	<b>\$181,025.75</b>
M M Skyline Contracting, Inc.	Grand Junction, CO	\$217,664.20
All Concrete Solutions, LLC	Grand Junction, CO	\$233,448.95
Oldcastle SW Group, Inc. dba United Companies	Grand Junction, CO	\$290,097.50

### **Amphitheater**

A formal Invitation for Bids was issued via BidNet (an on-line site for government agencies to post solicitations), posted on the City's Purchasing website, sent to the Grand Junction Chamber of Commerce and the Western Colorado Contractors Association, and advertised in The Daily Sentinel. Two companies submitted formal bids, of which one was found to be responsive and responsible in the following amount:

<b>FIRM</b>	<b>LOCATION</b>	<b>COST</b>
<b>Asset Engineering Limited</b>	<b>Grand Junction, CO</b>	<b>\$2,957,599.96*</b>
Ford Construction Company, Inc.	Grand Junction, CO	\$3,243,653.40**

\*Asset Engineering Limited total includes \$214,754.72 of negotiations, deductions, and acceptance of a deductive alternate for half the number of chairs, tables, and carts. For complete list of these items, see worksheet on page 6.

\*\*Ford Construction's bid was the high bid, and it exceeded their pre-qualification amount with the City. Therefore, negotiations were undertaken with Asset Engineering for the final project cost.

Below is a short summary and timeline as it relates to project costs and total funding.

#### **November 2015:**

Funding **Estimate** - \$3,702,666; assumes full funding from DOLA and DDA

Project Estimate – \$3,500,000; based on conceptual and preliminary design estimates

#### **May 2016:**

Funding **Estimate** - \$3,517,666; DOLA grant was secured at \$300,000 less than request amount; however, two additional foundations were secured for \$50,000. DDA funding was contingent upon a \$3.5 million functional project and would be reviewed by the DDA board when bids were received in September.

Project **Estimate** - \$3,892,080; A list of add alternates was created totaling \$212,000 in reductions leaving the project approximately \$162,000 short of funding estimate. Council voted to direct staff to secure bids to determine if project was viable. Value engineering and add alternates included in project estimate include elimination of the access road from Riverside Parkway, ADA lift for stage, scissor lift, and chairs/tables/carts, as well as modifications to the landscaping of the seating area, tree installation, irrigation design, and concession area materials.

### **July 2016:**

Funding **Estimate** - \$3,517,666; assumes full funding from DDA

Project **Estimate** - \$3,892,080; The following is a list of add alternates that were created for inclusion in the bid package to be advertised in August:

- Slough alternate – demo, haul, and place concrete path
- Slough alternate – Watson Island control structure
- Slough alternate – seeding and willow pole planting
- Slough alternate – topsoil and erosion control blankets
- Building alternate – stagefront ADA lift
- Building alternate – on stage scissor lift
- Building alternate – folding chairs and rolling carts
- Building alternate – basic AV equipment
- Building alternate – phasing east wing
- Site alternate – benches
- Site alternate – trash/recycling bins
- Site alternate – sod
- Site alternate – trees by City
- Trail and Access alternate – asphalt road off of Riverside Parkway
- Civil alternate – concrete in concession area instead of asphalt

The project estimate also included several costs that could be completed by the City more efficiently as opposed to inclusion in any of the associated bid packages, such as quality control testing, construction administration, equipment rental for use of recycled asphalt, Xcel Energy, sewer/water taps, and plant investment fees. These costs total \$209,909.

### **September 2016**

Funding **Total** - \$3,517,666; Funding from the DDA was secured with a \$500,000 commitment at the September 22 DDA meeting.

Total Project Budget – \$3,796,456.60; A value engineering exercise was completed and negotiations were conducted with two of the contractors to meet the funding total. The negotiations and deductions are items that resulted in minor impacts to the project. The negotiations and deductions are:

1. *Items that can be provided by the City at a reduced price with the same, or better, results.* For example, crushed granite was an expense, provided by a



contractor, that would have cost almost \$100,000. Purchase and install by the City saved over \$63,000.

2. *Items that are not imperative to the facility being operational.* For example, furniture and fixtures can be purchased in future years as budget allows, renting for a short period of time, or by soliciting private business for marketing opportunities.
3. *Items that will not be noticed by the general user.* For example, use of an acrylic paint instead of epoxy paint for the exposed steel will not be noticeable or impactful to future users.

Through the value engineering exercise and negotiations, over \$200,000 was reduced from the total project; however, a funding gap still occurred. To fill the funding gap, staff recommends the use of revenue from Conservation Trust Fund and Open Space Fund.

The following page includes a full breakdown of the project including secured funding, negotiated items, deducts, self-provided items, and other project costs.

<b>Las Colonias Amphitheater</b>	<b>Amount</b>
Funding	3,517,666.00
Additional Internal Sources	116,750.00
<b>Total Revenue</b>	<b>3,634,416.00</b>
<b>Total Construction Administration/Quality Control</b>	<b>127,909.00</b>
Slough	233,167.20
Slough negotiated deduct	(20,000.00)
Slough Alternate - demo, haul and place concrete path	1,600.00
<b>Total Slough</b>	<b>214,767.20</b>
<b>Total Trail and Access</b>	<b>181,025.75</b>
Amphitheater	3,172,354.68
Negotiations - Epoxy paint to acrylic for exposed steel	(2,000.00)
Negotiations - Sheet waterproofing to hydrocide dampproofing	(5,000.00)
Negotiations - Electric to manual operation on overhead door	(6,301.96)
Negotiations - Pre-painted panels to resemble rusted	(4,500.00)
Negotiations - Slope concrete and thinset tile floor; epoxy grout to grout sealer	(10,955.46)
Negotiation - Fence and gate change from welded wire to vinyl chain-link	(56,724.62)
Reduced bonding	(1,472.00)
Deduct - Decomposed granite (purchased and installed by City)*	(98,849.40)
Deduct - Native seed (purchased and installed by City)**	(4,035.41)
Deduct - Metal edger (purchased and installed by City)***	(7,685.50)
Deduct - Lawn seed (replaced with City provided sod)****	(5,230.37)
Alternate - 1/2 Folding Chairs and Rolling carts	(12,000.00)
<b>Total Amphitheater Site/Building/Civil</b>	<b>2,957,599.96</b>
<b>Provided by City</b>	
Decomposed granite (results in deduct for Amphitheater)*	35,350.40
Native seed (results in deduct for Amphitheater)**	1,035.41
Metal edging (results in deduct for Amphitheater)***	5,185.00
Sod instead of Seed (results in deduct for Amphitheater)****	20,000.00
Vibroscreen for recycled asphalt	2,000.00
Trees	9,543.28
<b>Total Provided by City</b>	<b>73,114.09</b>
<b>Other</b>	
Xcel Energy	55,000.00
Plant Investment Fees	25,000.00
<b>Total Other</b>	<b>80,000.00</b>
<b>Total</b>	<b>3,634,416.00</b>

**FISCAL IMPACT:**

Funds for this project have been secured from eight outside funding sources and internal funding sources including the Conservation Trust Fund (CTF) and Open Space Fees as follows.

**Sources**

DOLA Grant	\$1,600,000
Conservation Trust Funds	358,368
Parkland Expansion Open Space Funds	596,048
DDA Contribution	500,000
Riverfront Foundation	75,000
Goodwin Foundation	50,000
Gates Family Foundation	25,000
El Pomar Foundation	25,000
Bacon Family Foundation	125,000
Lions Club	<u>280,000</u>
<b>Total Project Sources</b>	<b>\$3,634,416</b>

**Expenditures**

<b>Construction Contract Con-Sy, Inc.</b>	<b>\$ 214,767</b>
<b>Construction Contract Mountain Valley Const.</b>	<b>181,026</b>
<b>Construction Contract Asset Engineering</b>	<b>2,957,600</b>
Construction Admin./Xcel/Water Taps/City Provided Items	<u>281,023</u>
<b>Total Project Expenditures</b>	<b>\$3,634,416</b>

Year to date Conservation Trust Funds and Open Space Funds are well ahead of initial projections for 2016. Open Space is anticipated approximately \$230,000 higher and CTF is anticipated \$67,000 higher than originally budgeted. Total CTF and Open Space funded originally budgeted for the project were \$837,666. Staff recommends utilizing an additional \$116,750 from these sources to fund a functional project at a total of \$3,634,416. The total project cost share for internal sources (CTF and Open Space) is 26%.

**SUGGESTED MOTIONS:**

**Slough Excavation**

I MOVE to (authorize or deny) the Purchasing Division to Enter into a Contract with Con-Sy, Inc. for the Excavation of the Slough Channel as Part of the Las Colonias Amphitheater Project in the Amount of \$214,767.20.

**Trail Work and Access**

I MOVE to (authorize or deny) the Purchasing Division to Enter into a Contract with Mountain Valley Contracting for the Construction of the Trail and Median Access for the Las Colonias Amphitheater in the Amount of \$181,025.75.

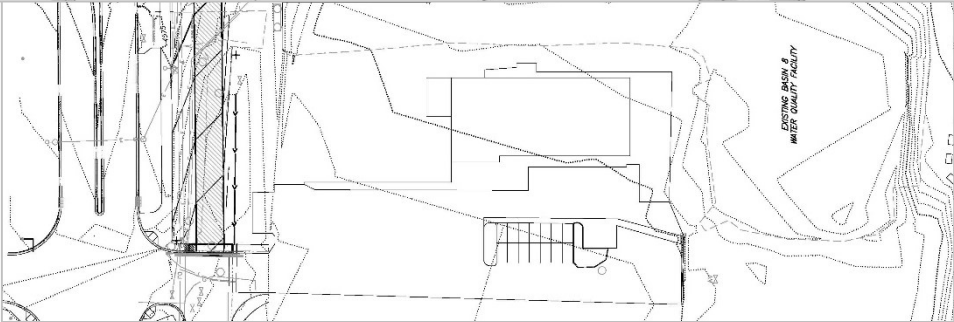
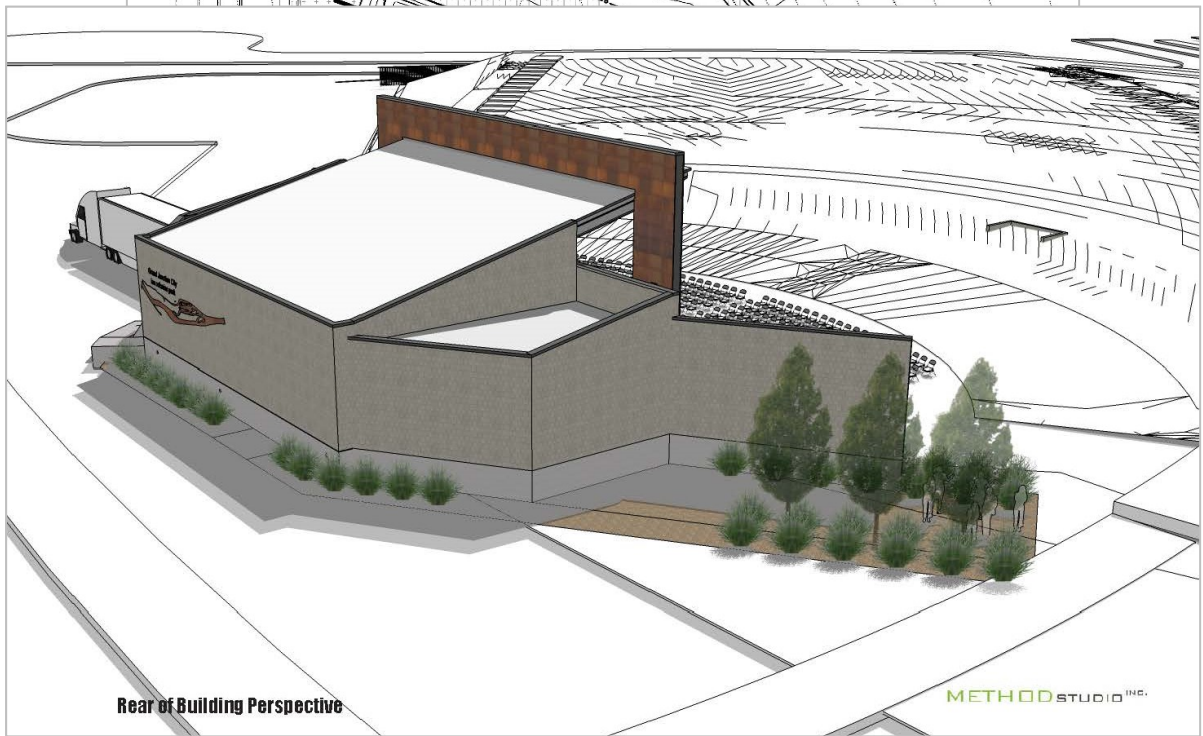
**Amphitheater**

I MOVE to (authorize or deny) the Purchasing Division to Enter into a Contract with Asset Engineering Limited for the Construction of the Las Colonias Amphitheater to include Site, Building, and Civil Work in the Amount of \$2,957,599.96.

**Attachments**

ATTACHMENT 1 – Site Map

ATTACHMENT 2 – Artist Rendering



CITY COUNCIL MEETING

CITIZEN PRESENTATION

Date: 10/5/96

Citizen's Name: Duane J. Smelly

Address: 536 29th

Phone Number: \_\_\_\_\_

Subject: Whitman Park Night Patrol Mr. Shaver's  
the lawyer who presented

*Please include your address, zip code and telephone number. They are helpful when we try to contact you in response to your questions, comments or concerns. Thank you.*