



DEVELOPMENT APPLICATION
 Community Development Department
 250 North 5th Street Grand Junction, CO 81501
 (303) 244-1430

A Receipt _____
 Date _____
 Rec'd By _____
 File No# 8.1 93

*Original
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 from Office*

We, the undersigned, being the owners of property situated in Mesa County,
 State of Colorado, as described herein do hereby petition this:

PETITION	PHASE	SIZE	LOCATION	ZONE	LAND USE
<input type="checkbox"/> Subdivision Plat/Plan	<input type="checkbox"/> Minor <input type="checkbox"/> Major <input type="checkbox"/> Resub				
<input type="checkbox"/> Rezone				From: To:	
<input type="checkbox"/> Planned Development	<input type="checkbox"/> ODP <input type="checkbox"/> Prelim <input type="checkbox"/> Final				
<input type="checkbox"/> Conditional Use					
<input type="checkbox"/> Zone of Annex					
<input type="checkbox"/> Text Amendment					
<input type="checkbox"/> Special Use					
<input checked="" type="checkbox"/> Vacation			2454 Hwy 6#50	#0	<input type="checkbox"/> Right-of-Way <input checked="" type="checkbox"/> Easement

<input checked="" type="checkbox"/> PROPERTY OWNER	<input checked="" type="checkbox"/> DEVELOPER	<input checked="" type="checkbox"/> REPRESENTATIVE
Resolution Trust Corporation as Receiver for Valley Federal Savings and Loan Association, Grand Junction, Colorado c/o Grainmark Realty Advisors, Inc.	same as owner	Janis Ann Breggin, Esq. Breggin & Associates, P.C. 950 S. Cherry Street, Suite 415
Name	Name	Name
Address 1050 17th Street, Suite 1410 Denver, CO 80265	Address	Address Denver, CO 80222
City/State/Zip 572-3131	City/State/Zip	City/State/Zip 756-8336
Business Phone No.	Business Phone No.	Business Phone No.

NOTE: Legal property owner is owner of record on date of submittal.

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

BY: [Signature] Breggin & Associates, P.C. June 28, 1993
 Signature of Person Completing Application Date
 Resolution Trust Corporation as Receiver for Valley Federal Savings and Loan Association,
 Grand Junction, Colorado
 By: Grainmark Realty Advisors, Inc., Asset Manager
 X BY: [Signature]
 Signature of Property Owner(s) - Attach Additional Sheets if Necessary

SUBMITTAL CHECKLIST

VACATION #81 93

Location: 2454 Hwy 6 #50

Project Name: _____

ITEMS		DISTRIBUTION																				TOTAL REQ'D.
DESCRIPTION	SSID REFERENCE (see attached packet)	<input checked="" type="checkbox"/> City Community Development	<input checked="" type="checkbox"/> City Dev. Eng.	<input checked="" type="checkbox"/> City Utility Eng.	<input checked="" type="checkbox"/> City Property Agent	<input checked="" type="checkbox"/> City Fire Department	<input checked="" type="checkbox"/> City Police Department	<input checked="" type="checkbox"/> City Attorney	<input checked="" type="checkbox"/> City Sanitation	<input checked="" type="checkbox"/> City G.J.P.C. (8 seats)	<input type="checkbox"/> City Downtown Dev. Auth.	<input type="checkbox"/> City Council	<input type="checkbox"/> County Planning	<input type="checkbox"/> Irrigation District	<input type="checkbox"/> Drainage District	<input checked="" type="checkbox"/> Water District	<input type="checkbox"/> Sewer District	<input checked="" type="checkbox"/> U.S. West	<input checked="" type="checkbox"/> Public Service	<input type="checkbox"/> GVRP		
● Application Fee	VII-1	1																				
● Submittal Checklist*	VII-3	1																				
● Review Agency Cover Sheet*	VII-3	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1	1	1	1	
● Application Form*	VII-1	1	1	1	1	1	1	1	1	8	1	1	1	1	1	1	1	1	1	1	1	
● 14"x17" Reduction of Assessor's Map*	VII-1	1	1	1	1	1	1	1	1	8	1	1	1	1	1	1	1	1	1	1	1	
● Names and Addresses	VII-32	1																				
● Legal Description (of easement)	VII-2	1		1											1							
● General Project Report	X-7	1	1	1	1	1	1	1	1	8	1	1	1	1	1	1	1	1	1	1	1	
● Vicinity Sketch	IX-3033	1	2	1	1	1	1	1	1	8	1	1	1	1	1	1	1	1	1	1	1	

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NOTES: 1) An asterisk in the item description column indicates that a form is supplied by the City.
 2) Required submittal items and distribution are indicated by filled in circles, some of which may be filled in during the pre-application conference. Additional items or copies may be subsequently requested in the review process.
 3) Each submitted item must be labeled, named, or otherwise identified as described above in the description column.

RE-APPLICATION CONFERENCE

Date: June 14, 1993
Conference Attendance: Mary Myers, Kristen Ashbeck (via Mail)
Proposal: Easement Vacation
Location: 2454 Hwy 6 & 50

Tax Parcel Number: 2945-091-05-006
Review Fee: \$360

(Fee is due at the time of submittal. Make check payable to the City of Grand Junction.)

Additional ROW required? _____
Adjacent road improvements required? _____
Area identified as a need in the Master Plan of Parks and Recreation? _____
Parks and Open Space fees required? _____ Estimated Amount: _____
Recording fees required? _____ Estimated Amount: _____
Half street improvement fees required? _____ Estimated Amount: _____
Revocable Permit required? _____
State Highway Access Permit required? _____

Applicable Plans, Policies and Guidelines _____

Located in identified floodplain? FIRM panel # _____
Located in other geohazard area? _____

Located in established Airport Zone? Clear Zone, Critical Zone, Area of Influence? _____
Avigation Easement required? _____

While all factors in a development proposal require careful thought, preparation and design, the following "checked" items are brought to the petitioner's attention as needing special attention or consideration. Other items of special concern may be identified during the review process.

- Access/Parking
- Drainage
- Floodplain/Wetlands Mitigation
- Other
- Screening/Buffering
- Landscaping
- Availability of Utilities
- Land Use Compatibility
- Traffic Generation
- Geologic Hazards/Soils

Related Files: _____

It is recommended that the applicant inform the neighboring property owners and tenants of the proposal prior to the public hearing and preferably prior to submittal to the City.

PRE-APPLICATION CONFERENCE

WE RECOGNIZE that we, ourselves, or our representative(s) must be present at all hearings relative to this proposal and it is our responsibility to know when and where those hearings are.

In the event that the petitioner is not represented, the proposed item will be dropped from the agenda, and an additional fee shall be charged to cover rescheduling expenses. Such fee must be paid before the proposed item can again be placed on the agenda. Any changes to the approved plan will require a re-review and approval by the Community Development Department prior to those changes being accepted.

WE UNDERSTAND that incomplete submittals will not be accepted and submittals with insufficient information, identified in the review process, which has not been addressed by the applicant, may be withdrawn from the agenda.

WE FURTHER UNDERSTAND that failure to meet any deadlines as identified by the Community Development Department for the review process may result in the project not being scheduled for hearing or being pulled from the agenda.

Resolution Trust Corporation as Receiver for
Valley Federal Savings and Loan Association
By: Grainmark Realty Advisors, Inc. Asset MGR
Signature(s) of Petitioner(s)
By: [Signature]

Breggin & Associates, P.C.
By: [Signature]
Signature(s) of Representative(s)
Pres. [Signature]

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Resolution Trust Corporation
as Receiver for Valley Federal
c/o Grainmark Realty Advisors
1050 17th Street, #1410
Denver, CO 80265

Michael Epeneter
4840 Penrose Ct.
San Diego, CA 92110-2227

Breggin & Associates, P.C.
950 South Cherry Street
Suite 415
Denver, CO 80222

Gamer Corporation
608 Starlight Drive
Grand Junction, CO 81504

Toys R. Us
461 From Road
Paramus, NJ 07653

Lois Lashbrook
2680 Capra Way
Grand Junction, CO 81506

Richard Salazar
2039 N. Surrey Ct.
Grand Junction, CO 81503

William H. Nelson
PO Box 40
Grand Junction, CO 81502

Arrow Gas Company
PO Box 177
Roswell, NM 88202

Reed Miller, Inc.
PO Box 157
Grand Junction, CO 81502

Veco Drilling Inc.
PO Box 1705
Grand Junction, CO 81502

M.C.M. Acquisition Corp Inc.
2449 US Hwy 6 & 50
Grand Junction CO 81505

Richard E. Ladd
6200 Bryant
Denver, CO 80221

General Project Report

The 10 foot water line easement to be vacated was shown on the plat of the Sawtelle Subdivision recorded July 8, 1982. This subdivision was annexed into the City of Grand Junction in February of 1983. There is no existing water line located within this easement, according to Ute Water Company, and no future plans for its use are expected. Several utility companies are using other easements located on the north and east lines of the subdivision.

A portion of the easement to be vacated is located under an existing building. The existing building is part of the Valley Plaza Office/Retail Center, which was constructed in 1982 and 1983.

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in book or pamphlet form and purporting to be printed and published by authority of the city or town, the same shall be received in evidence in all courts and places without further proof.

Source: R & RE, L. 75, p. 1123, § 1.

C.J.S. See 64 C.J.S., Municipal Corporations, § § 1886, 1887.

Applied in *Rhodes v. People ex rel. Town of Haxtun*, 67 Colo. 4, 185 P. 264 (1919).

31-16-104. Ordinances approved by mayor. Only if an ordinance adopted pursuant to section 31-4-102 (3) or 31-4-302 so provides, any ordinance adopted and all resolutions authorizing the expenditure of money or the entering into of a contract require the approval and signature of the mayor before they become valid, except as otherwise provided in this section. Such ordinance or resolution shall be presented to the mayor within forty-eight hours after the action of the governing body for his signature approving the same. If he disapproves, he shall return such ordinance or resolution to the governing body at its next regular meeting with his objections in writing. The governing body shall cause such objections to be entered at large upon the record and shall proceed at the same or next subsequent meeting to consider the question: "Shall the ordinance or resolution, notwithstanding the mayor's objections, be passed?" If two-thirds of the members elected to the governing body vote in the affirmative, such resolution shall be valid, and such ordinance shall become a law the same as if it had been approved by the mayor. If the mayor fails to return to the next subsequent meeting of the governing body any resolution or ordinance presented to him for his approval, the same shall become a valid ordinance or resolution, as the case may be, in like manner as if it had been approved by him.

Source: R & RE, L. 75, p. 1123, § 1; L. 81, p. 1495, § 9.

Am. Jur.2d. See 56 Am. Jur.2d, Municipal Corporations, Etc., § 357.

C.J.S. See 62 C.J.S., Municipal Corporations, § § 422, 446.

Annotator's note. Since 31-16-104 is similar to former § 31-12-304 prior to the 1975 repeal and reenactment of this title, and laws antecedent thereto, a relevant case construing a prior provision has been included in the annotations to this section.

The duty of the mayor with respect to validating or attesting the ordinances of the town is directory and ministerial, and under this

section an ordinance adopted by a majority of all the members elected to the council, and presented to the mayor for his approval, but not returned by him at the next meeting of the council, is, if regularly recorded and published, a valid ordinance, without the mayor's signature. *Rhodes v. People ex rel. Town of Haxtun*, 67 Colo. 4, 185 P. 264 (1919).

The clerk of a town has no authority to subscribe the mayor's name to an ordinance, and an ordinance so subscribed is not subscribed at all. *Rhodes v. People ex rel. Town of Haxtun*, 67 Colo. 4, 185 P. 264 (1919).

31-16-105. Record and publication of ordinances. All ordinances, as soon as may be after their adoption, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer of the governing body and the clerk. All ordinances of a general or permanent nature and those imposing any fine, penalty, or forfeiture, following adoption and, if required by ordinance adopted pursuant to section 31-4-102 (3) or 31-4-302, compliance with the provisions of section 31-16-104, shall be published in some newspaper published within the limits of the city or town

or, if there are none, in some newspaper of general circulation in the city or town. It is a sufficient defense to any suit or prosecution for such fine, penalty, or forfeiture to show that no publication was made. If there is no newspaper published or having a general circulation within the limits of the city or town, then, upon a resolution being passed by the governing body to that effect, ordinances may be published by posting copies thereof in three public places within the limits of the city or town, to be designated by the governing body. Except for ordinances calling for special elections or necessary to the immediate preservation of the public health or safety and containing the reasons making the same necessary in a separate section, such ordinances shall not take effect and be in force before thirty days after they have been so published. The excepted ordinances shall take effect upon adoption and if required by ordinance adopted pursuant to section 31-4-102 (3) or 31-4-302, compliance with the provisions of section 31-16-104 if they are adopted by an affirmative vote of three-fourths of the members of the governing body of the city or town. The book of ordinances provided for in this section shall be taken and considered in all courts of this state as prima facie evidence that such ordinances have been published as provided by law.

Source: R & RE, L. 75, p. 1123, § 1; L. 81, p. 1496, § 10.

Am. Jur.2d. See 56 Am. Jur.2d, Municipal Corporations, Etc., § 350.

C.J.S. See 62 C.J.S., Municipal Corporations, § § 426, 427.

Annotator's note. Since 31-16-105 is similar to former § 31-12-305 prior to the 1975 repeal and reenactment of this title, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

Law reviews. For article, "Adoption by Reference in Municipal Ordinances", see 22 Rocky Mt. L. Rev. 69 (1949).

If a party litigant raised the objection that the ordinance has been changed, the burden is upon him to prove it, and such proof requires more than merely casting a doubt or suspicion upon the validity of the ordinance. *Handler v. City & County of Denver*, 102 Colo. 53, 77 P.2d 132 (1938).

This section was intended to provide a convenient method of proving the fact that an ordinance had been published as required by law, and not for the purpose of making the book of ordinances the only and exclusive evidence of such fact. *LaFitte v. City of Ft. Collins*, 42 Colo. 293, 93 P. 1098 (1908).

This section does not require the signature of the mayor, or the attestation of the clerk, to give effect to the ordinance, but only requires that the ordinance, as soon as may be after its passage, shall be recorded in a book, etc., and be authenticated by the signature of the presiding officer, etc., thus clearly implying that the signature is not essential to the passing of the

ordinance, but is merely for the purpose of evidencing its authentication, because apparently the signing is after the recording, and the recording is only to occur as soon as may be after the passage. *National Bank of Commerce v. Town of Granada*, 41 F. 87 (8th Cir. 1891).

All bylaws of a general or permanent nature had to be published as required by this section. *National Bank of Commerce v. Town of Granada*, 48 F. 278 (8th Cir. 1891).

This section is mandatory and an ordinance without the requisite publication is a nullity, and consequently of no force or validity. *National Bank of Commerce v. Town of Granada*, 48 F. 278 (8th Cir. 1891).

Publication or posting of ordinances is an essential condition precedent to their validity. *People ex rel. Town of Wray v. Grant*, 48 Colo. 156, 111 P. 69 (1910).

Conviction based on unpublished ordinance. Where an ordinance declared the keeping for sale of any intoxicating liquors a nuisance, and that the same "may be abated as any other nuisance", but the provision quoted was never published, it was held that such provision never became of force, and a judgment convicting the accused party of maintaining a nuisance, and directing the abatement of such nuisance, is no justification for acts done pursuant thereto. *Wolfe v. Abbott*, 54 Colo. 531, 131 P. 386 (1913).

Newspaper publication required when available. If there is a newspaper published, or a newspaper of general circulation, within the town, the ordinance must be published in such

81 93

BREGGIN & ASSOCIATES, P.C.

Attorneys at Law

950 South Cherry Street
Suite 415
Denver, Colorado 80222
(303) 756-8336
Telecopier (303) 756-8262

DO NOT REMOVE
FROM OFFICE

Janis Ann Breggin

June 30, 1993

VIA FEDERAL EXPRESS

Community Development Department
ATTN: Ms. Kristen Ashbeck
250 North 5th Street
Grand Junction, CO 81501

Re: 2454 Hwy 6 & 50

Dear Kris:

Enclosed is the completed application for the easement vacation on the above property along with the duplicate packets for each agency indicated on the application.

Please contact my legal assistant, Mary Myers, with any questions or additional information. Thank you for your assistance.

Sincerely,

BREGGIN & ASSOCIATES, P.C.

By: 
Janis Ann Breggin

JAB/djm
Enclosures

(f:\rtcvalley\vacapp.ltr)
June 30, 1993

REVIEW COMMENTS

Page 1 of 2

FILE #81-93

TITLE HEADING: Easement Vacation

LOCATION: 2454 Highway 6 & 50

PETITIONER: Resolution Trust Corporation for
Valley Federal Savings & Loan Association, Grand Junction

PETITIONER'S ADDRESS/TELEPHONE: c/o Graimark Realty Advisors, Inc.
1050 17th Street, #1410
Denver, CO 80222
(303) 756-8336

PETITIONER'S REPRESENTATIVE: Janis Ann Breggin, Esq.

STAFF REPRESENTATIVE: Kristen Ashbeck

NOTE: WRITTEN RESPONSE BY THE PETITIONER TO THE REVIEW COMMENTS IS REQUIRED ON OR BEFORE 5:00 P.M., JULY 27, 1993.

CITY SOLID WASTE MANAGEMENT DIVISION 7/6/93
Rob Laurin 244-1570

No concern.

U.S. WEST 7/7/93
Leon Peach 244-4964

No comments at this time.

CITY POLICE DEPARTMENT 7/15/93
Martyn Currie 244-3563

No comments.

COMMUNITY DEVELOPMENT DEPARTMENT 7/15/93
Kristen Ashbeck 244-1437

1. If, as the narrative states, there are utilities in the easement along the eastern edge of Lot 1, then the legal description must be revised so it excludes that portion (eastern 15 feet).
2. Approval by the Utilities Coordinating Committee is required. Earliest meeting if August 11, 1993.

CITY UTILITY ENGINEER
Bill Cheney

7/15/93
244-1590

No comment.

GRAND JUNCTION FIRE DEPARTMENT
George Bennett

7/19/93
244-1400

No problems.

PUBLIC SERVICE COMPANY
Dale Clawson

7/20/93
244-2695

Electric & Gas: No objection.

CITY DEVELOPMENT ENGINEER
Gerald Williams

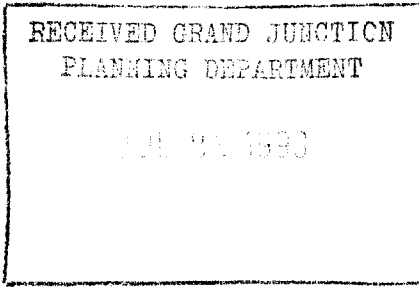
7/21/93
244-1591

No comment.

BREGGIN & ASSOCIATES, P.C.

Attorneys at Law

950 South Cherry Street
Suite 415
Denver, Colorado 80222
(303) 756-8336
Telecopier (303) 756-8262



July 26, 1993

VIA TELECOPY 1-244-1599

Community Development Department
ATTN: Ms. Kristen Ashbeck
250 North 5th Street
Grand Junction, CO 81501

JUL 26 1993

Re: 2454 Hwy 6 & 50

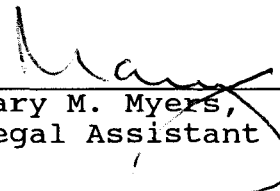
Dear Kris:

Attached is the revised legal for the easement to be vacated (excluding the east 15 feet).

Please call me if you need anything else. Thank you for your assistance.

Sincerely,

BREGGIN & ASSOCIATES, P.C.

By: 
Mary M. Myers,
Legal Assistant

MMM/cjb
Enclosures

STAFF REVIEW

file copy

FILE: 81-93
DATE: July 29, 1993

STAFF: Kristen Ashbeck
REQUEST: Easement Vacation

LOCATION: 2454 Highway 6 & 50

APPLICANT: Resolution Trust Corporation for Valley Federal Savings and Loan Association

EXISTING LAND USE: Commercial

PROPOSED LAND USE: Commercial

SURROUNDING LAND USE:

NORTH: Commercial
SOUTH: Vacant
EAST: Commercial
WEST: Commercial - Part Vacant

EXISTING ZONING: Highway Oriented (HO)

SURROUNDING ZONING:

NORTH: Heavy Commercial (C-2)
SOUTH: Heavy Commercial (C-2)
EAST: Heavy Commercial (C-2)
WEST: Highway Oriented (HO)

EXECUTIVE SUMMARY: A request to vacate an easement on the property located at 2454 Highway 6 & 50.

STAFF ANALYSIS: The existing structure located at 2454 Highway 6 & 50 was constructed on top of the easement which is requested to be vacated. The easement is not utilized by any utility, nor are there plans to do so. The easement is simply an encumbrance on the property. The proposed vacation of the easement through the site meets the criteria set forth in Section 8-3 of the Zoning and Development Code.

STAFF RECOMMENDATION: Approval

PLANNING COMMISSION RECOMMENDATION: Approval

CITY OF GRAND JUNCTION DEVELOPMENT FILE 81-93, EASEMENT VACATION
LOCATED AT 2454 HIGHWAY 6 & 50, IN THE CITY OF GRAND JUNCTION HAS
BEEN REVIEWED AND APPROVED BY THE UTILITY COORDINATING COMMITTEE.

Gary R. Mathews
CHAIRMAN

8-11-93
DATE



City of Grand Junction, Colorado
81501-2668
250 North Fifth Street

September 2, 1993

Ms. Maryanne Novack
Bray & Company Commercial
225 North 5th Street Suite 1020
Grand Junction, Colorado 81501

Dear Maryanne,

The enclosed ordinance was adopted by City Council at second reading on September 1, 1993. This ordinance will not take effect and be in force until 30 days after it has been published. The earliest the ordinance will be published is Friday, September 3, 1993. If you have questions regarding the date of publication and/or the effective date, please contact the Grand Junction City Clerk's office at (303) 244-1509.

Should you need additional information regarding this easement vacation, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kristen".

Kristen Ashbeck
Planner

encl

xc: Janice Breggin, Breggin & Associates, P.C.

