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File 1994-0150

Name: Office/Retail - Site Plan Review - 1036 4th Street

P r e s e n t	S c a n n e d	<p>A few items are denoted with an asterisk (*), which means they are to be scanned for permanent record on the ISYS retrieval system. In some instances, items are found on the list but are not present in the scanned electronic development file because they are already scanned elsewhere on the system. These scanned documents are denoted with (**) and will be found on the ISYS query system in their designated categories.</p> <p>Documents specific to certain files, not found in the standard checklist materials, are listed at the bottom of the page. Remaining items, (not selected for scanning), will be listed and marked present. This index can serve as a quick guide for the contents of each file.</p>
X	X	Table of Contents
		*Review Sheet Summary
		*Application form
X		Review Sheets
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X	X	*General project report
		Reduced copy of final plans or drawings
X		Reduction of assessor's map.
		Evidence of title, deeds, easements
		*Mailing list to adjacent property owners
		Public notice cards
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		Other bound or non-bound reports
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X	X	*Review Comments
X	X	*Petitioner's response to comments
		*Staff Reports
		*Planning Commission staff report and exhibits
		*City Council staff report and exhibits
		*Summary sheet of final conditions

DOCUMENT DESCRIPTION:

X		Special Warranty Deed – not recorded – not conveyed to City			
X	X	Correspondence			
X		Memorandum of Improvements Agrmt & Guarantee – do not have the original will be scanned with this file			
X	X	Release of Power of Attorney – Bk 2141 / Pg 466 – do not have the original – will be scanned with this file			
X	X	Release of Improvements Agrmt & Guarantee – Bk 2141 / Pg 467 - ** - to be scanned with the file because we do not have the original			
X	X	Planning Clearance – ** - 9/14/94			
X		Power of Attorney for Alley Improvement – 9/14/94			

Milius file



Grand Junction Community Development Department
Planning • Zoning • Code Enforcement
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(303) 244-1430 FAX (303) 244-1599

January 12, 1995

William S. Milius, Jr.
1036 N. 4th St.
Grand Junction, CO 81501

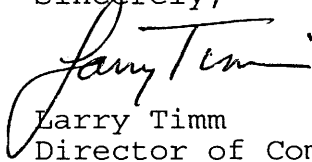
Dear Mr. Milius:

This is in follow-up to the site plan review process for the change in use of your property at 1036 N. 4th Street. As a result of the concerns you raised during the process, staff has initiated a new procedure for the review of re-use of existing buildings. The focus of the new review process is on mitigating any additional traffic, drainage or parking impacts a change of use might have and making requirements limited to that mitigation.

Under the new procedure the requirements for handicap ramp improvements and the Power of Attorney for alley improvements would not apply to the property for the Sylvan Learning Center because the past uses on the site as a whole generated as much, if not more, traffic than the current uses. Therefore the City is releasing the improvements agreement for the installation of a handicap ramp and Power of Attorney for alley improvements, and refunding the \$1,200.00 that was deposited as a guarantee.

We apologize for any inconvenience the review and requirements may have caused. Your input was valuable in shaping the new procedures and policies for the review of re-use of existing buildings.

Sincerely,


Larry Timm
Director of Community Development

cc: MKA
file



STATEMENT TO BE PLACED ON ESCROW:

By deposit of the stated amount into escrow to secure the installation of a handicapped access ramp, applicant does not waive any rights to obtain administrative, judicial or legislative review of this exaction or the demand for a "Traffic Capacity Payment" or the imposition of a site plan review. Interest earned on escrowed funds shall be credited to applicant when the escrowed amount is finally distributed.

G:\DATA\KR\ESCROW.DPT

WM. S. MILIUS, JR.
ENTERPRISES
STIX, INC.

*LARRY TRIM
What's happening?
Mark A. April 24*

April 24, 1995

Mark Achen, City Manager
City of Grand Junction
250 North Fifth St.
Grand Junction, Co. 81501

Re: 1036 North Fourth St.

Dear Mark:

The copy of the enclosed letter is for your information; it seems that some city matters apparently need your individual attention.

Thanks for your help.

Best Regards:

BILL

Wm. S. Milius, Jr.

WM. S. MILIUS, JR.
ENTERPRISES
STIX, INC.

April 24, 1995

Larry Timm, Director
Grand Junction Community Development Department
250 No. Fifth St.
Grand Junction, Co. 81501

Re: 1036 North 4th St.

Dear Mr. Timm:

It has been over 100 days since your letter of January 12, 1995.

I am sure you have been keeping yourself busy. However, I have not received the following:

- a) The improvements agreement for the installation of a handicap ramp at 4th and North Ave.
- b) Power of Attorney for alley improvements.
- c) Refund of \$1200.00 deposit as a guarantee.
- d) Payment of Interest on the deposit.

As I have been patient with the City, both as to the 1036 No. 4th, project and the return of the above, I beleive it to be reasonable to expect this completed by May 4, 1995.

Thank you in advance for your attention.

Suncerely:



Wm. S. Milius, Jr.

cc: Mark Achen, City Manager

425

417 NORTH AVENUE • GRAND JUNCTION, CO 81501 • (303) 242-2651



Grand Junction Community Development Department
Planning • Zoning • Code Enforcement
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(303) 244-1430 FAX (303) 244-1599

April 28, 1995

William S. Milius, Jr.
425 North Avenue
Grand Junction CO 81501

RE: 1036 North 4th Street (Our File #150-94)

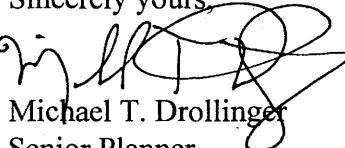
Dear Mr. Milius,

I have been asked by Larry Timm to follow up on your letter of April 24, 1995. In regards to the items which you had listed, please find attached:

1. The release of the Improvements Agreement and Guarantee for the installation of a handicap ramp at 4th and North Avenue.
2. The release of your alley POA for the above address.

The refund of you deposit guarantee will be mailed upon issuance of the check on Friday, May 5th.

The above should satisfactorily address the items in your letter. I apologize for the processing delay and thank you for your patience.

Sincerely yours,

Michael T. Drollinger
Senior Planner

Encls.

cc: File
Larry Timm, Community Development Department Director
Mark Achen, City Manager

h:\cityfil\150-946.wpd

RELEASE OF POWER OF ATTORNEY

1715547 03:35 PM 04/27/95
MONIKA TODD CLK&REC MESA COUNTY CO

The City of Grand Junction releases and terminates the Power of Attorney issued September 14, 1995, by William S. Milius, Jr. for alley improvements.

This document affects the lands described as Lots 1, 2 & 3, Block 8 in the City of Grand Junction and commonly known as 1036 N. 4th Street.

DATED this 27th day of April, 1995.

CITY OF GRAND JUNCTION

Mark K. Achen

Mark/K. Achen
City Manager

STATE OF COLORADO)

) ss.

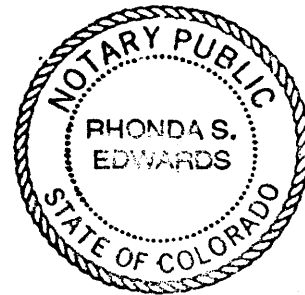
COUNTY OF MESA)

On the 27 day of April, 1995, the foregoing Release of Power of Attorney was acknowledged before me by:

Rhonda S. Edwards

My notarial commission expires: 9/20/97
Witness my hand and official seal.

Rhonda S Edwards



RELEASE OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department

FILE # 150-94

BOOK 2141 PAGE 467

This memorandum relates to a certain recorded Improvements Agreement and Guarantee dated September 14, 1994 19 , and recording at Book 2107, Page 772 of the land records of Mesa County, Colorado, by and between Bill Milius (Developer) and the City of Grand Junction (City) pertaining to 1036 N. 4th Street (FILE #150-94) (Project).

Whereas, Developer has installed and constructed certain public and private improvements at and for the Project, which completion was guaranteed by the execution of an Improvements Agreement and Guarantee, and

Whereas, the City of Grand Junction and all other agencies possessing regulatory authority over the Project and/or the improvements have inspected the improvements and have accepted the same,

NOW THEREFORE, officials of the City of Grand Junction and other officials duly representing their agencies, possessing and representing by their signatures, affixed thereto, that they possess sufficient authority to ~~accept improvements and~~ release the portion of the guarantee pertaining to the improvements under their jurisdiction, do accept, sign and release said improvements agreement and guarantee.

CITY OF GRAND JUNCTION:

By:	<u>N/A</u>	
	<u>City Engineer</u>	<u> </u> Date
	<u>N/A</u>	
	<u>City Utilities Manager</u>	<u> </u> Date
	<u>N/A</u>	
	<u>Fire Marshall</u>	<u> </u> Date

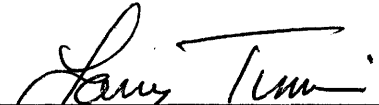
UTE WATER:

By:	<u>N/A</u>	
		<u> </u> Date

GRAND JUNCTION DRAINAGE:

By:	<u>N/A</u>	
		<u> </u> Date

In accordance with the above signatures, I hereby certify that the Improvements Agreement & Guarantee and the recording evidencing the agreement and guarantee, at Book 2107, Page 772 of the Mesa County land records, ~~have been completed and accepted and in accordance with the provisions of the Grand Junction Zoning and Development Code~~ are hereby released.

 4/27/95

WM. S. MILIUS, JR.
ENTERPRISES
STIX INC.

Copy Larry Timm
Date 5/8/95
P.S. Larry has no one actually
talked to Milius?
5/9/95
CR
No...

May 3, 1995

Mark Achen, City Manager
City of Grand Junction
250 North Fifth St.
Grand Junction, Co. 81501

Re: 1036 North Fourth St.

Dear Mark:

As you will see from the copy of the enclosed letter Larry Timm and Michael Drollinger still 'don't get it'. I hope this matter can be satisfactorily settled at this time. However, I am angry enough now and have expended enough of my time so that I wouldn't have any qualms about pushing this matter further until I am wholly satisfied.

Thanks again for your help and I sincerely hope this is the last time this has to come up.

Best Regards:

Bill

Wm. S. Milius, Jr.

WM. S. MILIUS, JR.
ENTERPRISES
STIX, INC.

May 3, 1995

Larry Timm, Director
Michael Drollinger, Senior Planner
Grand Junction Community Development Department
250 No. Fifth St.
Grand Junction, Co. 81501

Re: 1036 North 4th St.

Attn: Messrs Timm and Drollinger:

Your letter of April 28, 1995 is not satisfactory. First, the letter was addressed to you, Mr. Timm and I would expect you to take responsibility for your failures. Second, not one of the four matters outlined in my letter of April 24, 1995 has been completed in a proper manner. Third, you created this overall problem by overstepping your authority and then after you were overruled, you arrogantly chose to not follow thru on the correct resolution.

Mr. Timm, you are the Director of this department; the letter of April 24, was addressed to you; and I am sure the reason you personally wrote the letter of January 12, 1995 was at the instruction of Mark Achen, the City Manager; therefore; you should be the one personally to resolve this problem. I have been quite patient with you and your associates and I am not going to continue to tolerate your bureaucratic babble, as in your letter of January 12, your inattention or your arrogance. I expect this matter to be completely resolved to my satisfaction no later than May 15, 1995.

Specifically the resolution of the overall matter will be as follows:

a) The return of the original 'Improvements Agreement' I signed on September 14, 1995 for the installation of a handicap ramp on the southeast corner of Fourth and North Ave. As you went to the extreme step of recording this agreement with the county, I; therefore; also want the original of the 'Release of Improvements', not just a copy. These original documents I am entitled to and I expect to have them delivered. It's your problem now to deliver them.

b) The return of the original 'Power of Attorney for Alley Improvement' I signed on September 14, 1995. Again, since this was recorded with the county, I also want the original 'Release of Power of Attorney', again not just a copy. As I am entitled to these original documents; it is now your problem to deliver them also.

c) Since you made no effort to return my \$1,200.00 deposit for over 100 days, you show considerable contempt for a city taxpayer by not being willing to make any extra effort to return that money except on a regular city 'pay day'. The attitude is: I screwed up; but; I am not going to go an extra step to fix my mistake; let the taxpayer conform to the regulations; I'll just hide behind them. Your philosophy is I should be thankful to have the money returned in another 10 days.

d) Mr. Drollinger's letter of April 28, did not mention the payment of interest on the deposit. Interest was agreed to at the time of the deposit on September 14, 1994; should the deposit be returned. It is not my intention to let you renege on the payment of interest. During this period in which the city held the deposit U. S. Government Bonds of six month maturity yielded 6.0%. I believe then that 6.0% would be a fair interest rate as, of course The City of Grand Junction is not of the credit quality as the U. S. Government. The per diem amount of 6.0% on \$1,200.00 is \$.20. As of May 5, 1995 this amounts to \$46.60. Mr. Timm you cost the Taxpayers of Grand Junction an additional \$22.60 due to your practiced indifference.

Let me be perfectly clear; your problem with me began when I made a request for a simple building permit to remodel the interior of a small commercial building in a commercial zone. You two then held up the permit with a lot of bureaucratic red tape, that is make work for you and your staff, so as to justify your bureaucratic fiefdom. Your gamesmanship held up my project in excess of six weeks, costing me and the new tenant income.

Then to further the problem you would not allow a permit to be issued until you had tried to extract your pound of flesh. That is you had to have the 'Improvements Agreement' for the handicap ramp, a \$1,200.00 deposit for it and the 'Power of Attorney for Alley Improvement'. This fellows is what most people would call extortion or in simpler terms black mail, these are both serious offenses, if you didn't have the city to hide behind.

I will expect all of the above to be accomplished and delivered by May 15, 1995.

Sincerely:

A handwritten signature in black ink, appearing to read "Wm S Milius Jr.", written in a cursive style.

Wm. S. Milius Jr.

cc:Mark Achen, City Manager
Kirk Rider, Younge & Hockensmith



Grand Junction Community Development Department
Planning • Zoning • Code Enforcement
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(303) 244-1430 FAX (303) 244-1599

May 5, 1995

William S. Milius, Jr.
425 North Avenue
Grand Junction CO 81501

RE: 1036 North 4th Street (Our File #150-94)

Dear Mr. Milius,

This is a follow up to your May 3, 1995 letter. I hope that the following will clarify and resolve any outstanding items regarding this matter:

1. The original Improvements Agreement and the original POA for alley improvements are enclosed. Routinely, all improvements agreements and powers of attorney are recorded with the County Clerk. The original documents are retained in the file which is part of the public record and are not normally requested by or returned to the petitioner. Your letter of April 24th did not indicate that you wanted the original. Had we understood that you wanted the original, we would have returned it.
2. The originals for the release of the POA and the Improvements Agreement remain at the Mesa County Clerk and Recorder until such time that they copy them for their microfilm records. The lag time between recording and forwarding of the originals can be up to a month. As soon as the originals are returned to us, we will forward them to you. In the interim you already have copies of both items which were forwarded to you with the April 28th letter.
3. Enclosed is a check for \$1218.74. This is for the return of the original \$1200 deposit and \$18.74 in accrued interest. Due to the policy change pertaining to "change of uses", no improvements agreement was required in your case. For this reason, we are paying you interest on the \$1200 deposit at the rate of the City's current short term interest earnings - that would include bank deposits, government pool holdings, and mutual funds. Overall City short term investments averaged 3% for the period.

Contrary to your statement in Section d. of your May 3, 1995 letter, the City did not agree to pay interest on September 14th. A few years ago, the City did have provisions for interest bearing deposits in its improvements agreements. However, then there was also a transaction fee of 2% of the deposit or \$100 per check for processing. Over a year ago now, the City changed to a no interest, no fees deposit for improvements agreements. Had we agreed to

Sep. 4 1994 4:39PM

YOUNG & HOCKENSMITH

Michael Drollinger
No. 1651 P. 2/3

YOUNGE & HOCKENSMITH
PROFESSIONAL CORPORATION

DAN G. GRIFFIN
KIRK RIDER
RONALD W. GIBBS
CATHY P. HOLLINGSWORTH *
EARL G. RHODES
YEULIN V. WILLETT

BRENT A. CARLSON *
DOUGLAS E. BRIGGS
PHILLIP A. CHAMBERS

* ALSO ADMITTED IN CALIFORNIA

ATTORNEYS AT LAW
200 GRAND AVENUE, SUITE 500
P. O. BOX 1768
GRAND JUNCTION, COLORADO 81502-1768
303-242-2645 FAX 303-241-5719

OF COUNSEL
THOMAS K. YOUNGE
FRANK M. HOCKENSMITH

RECEIVED GRA
PLANNING D
SEP 6 1994

September 1, 1994

VIA FACSIMILE
(303) 244-1599

Dan Wilson
City Attorney
250 North Fifth Street
Grand Junction, CO 81501

Call Michael D.
Call if you need to.
Dan W
9/6/94
CK

Dear Dan:

This letter will confirm the gist of our August 31, 1994, telephone call, concerning our firm's representation of Milius Enterprises, Inc. Bill Milius is a longtime client of our firm and his companies' own assorted Grand Junction real estate. The City of Grand Junction is also a longtime client of our firm, and we are designated counsel for CIRSA, the City of Grand Junction's insurance provider.

Over many years, I think Bill has established a reputation as an upright and fair-minded property owner who meets his public and private obligations. Bill called me this week concerning a matter that has arisen in the course of a small remodeling project he is undertaking at one of his properties. In the course of pulling a building permit, his contractor was advised that a full Site Plan Review may be required before the permit may be issued. Bill has asked us to determine whether this requirement is warranted under applicable ordinances, and whether some less expensive and more expeditious solution may be found.

Before contacting your development department, I wanted to be certain we weren't on thin ice either in ethical terms or in terms of our professional relationship. You have given me permission to seek a solution on behalf of our client with the understanding that the City of Grand Junction might find it objectionable for us to actually sue the City of Grand Junction on behalf of our client. As counsel to CIRSA across a wide area of the state, we wouldn't be in a position to bring suit for consequential damages in any case; I've

Dan Wilson
September 1, 1994
Page (2)

agreed with you that we would definitely consult further before seeking any other kind of relief through litigation as well.

I thank you for your understanding and have every hope that the matter can be resolved in a satisfactory way well short of litigation.

Very Truly Yours,

YOUNGE & HOCKENSMITH,
Professional Corporation

By *Kirk Rider*
Kirk Rider

KR:dac

xc: Bill Milius

G:\DATA\KR\WILSON\LTR

DAN G. GRIFFIN
KIRK RIDER
RONALD W. GIBBS
CATHY P. HOLLINGSWORTH *
EARL G. RHODES
YEULIN V. WILLETT

BRENT A. CARLSON *
DOUGLAS E. BRIGGS
PHILLIP A. CHAMBERS

* ALSO ADMITTED IN CALIFORNIA

YOUNGE & HOCKENSMITH
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

200 GRAND AVENUE, SUITE 500

P. O. BOX 1768

GRAND JUNCTION, COLORADO 81502-1768

303-242-2645 FAX 303-241-5719

OF COUNSEL
THOMAS K. YOUNGE
FRANK M. HOCKENSMITH

September 1, 1994

HAND DELIVERED

150 94

Michael Drollinger
Senior Planner
City of Grand Junction Community
Development Department
250 North Fifth Street
Grand Junction, CO 81501

Dear Mr. Drollinger:

Our client, William S. Milius, Jr., has applied for a building permit for remodeling of a small (36 X 48) building located at 1036 North Fourth Street. Your department has advised Mr. Milius that a Site Plan Review be required before this permit may be issued. Based on Mr. Milius' meeting with you this week, the Site Plan Review Submittal Checklist will consist of the following items:

1. Application Fee
2. Submittal Checklist
3. Review Agency Cover Sheet
4. Planning Clearance
5. 11" X 17" Reduction of Assessor's Map
6. Evidence of Title
7. General Project Report
8. Site Plan
9. Landscape Plan

Again, according to the Submittal Checklist you provided to Mr. Milius, the Site Plan Review will have to be conducted by six different agencies:

1. City Community Development
2. City Development Engineering

3. City Fire Department
4. City Attorney
5. County Building Department
6. City Police Department

With all due respect, we don't believe this minor remodeling project warrants the cost and delay that attends any Site Plan Review process, no matter how simplified. We base this on the following facts, not all of which may have been conveyed to you by our client.

The property in question was originally used in connection with the retail liquor store operation carried on in the larger building immediately to the North. The retail liquor store operations were conducted at the larger property, while the business' shipping and receiving operations, along with its "back office" business operations, were conducted at the subject property. Admittedly, some inventory was kept in this building during this period, but it wouldn't be accurate to call it a warehouse facility.

In the late 1980s, the property was foreclosed upon by a bank lender and repossessed. Before losing possession of the property, the liquor store operator maliciously trashed both buildings. This consisted in each case of removing HVAC equipment and duct work, removing all plumbing fixtures, destroying or damaging walls and partitions, and rendering the property unfit for habitation. Our client bought these properties from the bank in about 1989. Both properties were unoccupied until 1990, when the larger facility was rented to the American Automobile Association. At that time, a drop ceiling was installed, partitions were put in place, plumbing and HVAC facilities were restored and the exterior was improved by the addition of a wider glass door entrance and a mansard roof trim. A Site Plan Review was not requested in connection with this remodeling/repair project.

The subject building continued to be vacant, because rents would not support the rehabilitation work necessary to make it fit for habitation. Briefly during this time, our client carried on a used office furniture business from the property. Also, other office tenants of our client were allowed to store possessions in the building on a seasonal basis. This may explain why Mr. Milius remarked to you that the building's past use was a "warehouse" use.

Our client now has made arrangements to lease this second building to a third party, and he wants to essentially restore the property to its original condition and make its exterior compatible with the neighboring property. New HVAC and plumbing will be installed, along with a drop ceiling. The destroyed partitions from the previous office will

Mr. Michael Drolling
September 1, 1994
Page (3)

be installed again, while the previously existing bathroom will be restored, but upgraded to ADA compliance. The only real change from the prior building configuration will be an addition of one more partition to create one additional 18' X 20' office. On the outside, mansard roof trim will be added, along with a wider glass front entrance.

As I have stated, we don't believe that this restoration/remodeling project warrants the cost and delay of a Site Plan Review. The project is, for practical purposes, a repair of vandalism previously committed. Moreover, the "change in use" is not substantial enough to trigger the imposition of the Site Plan Review, unless the change in use is the change resulting from the property's finally being occupied by a paying tenant after several years of vacancy. The office use in store for this small (1,728 square foot) property is clearly permitted under its existing zoning; the combined office uses of this property and the neighboring property taken together entail much less traffic and parking burden than the original retail and office uses.

The preparation of a Site Plan Review application in accordance with the Drawing Standards Checklist you provided is not warranted in these circumstances, I hope you will agree. In the spirit of cooperation, however, our client has prepared a sketch plan of the property to satisfy you that traffic and parking concerns are being addressed appropriately. Please let me know immediately if any further requirements need to be met before a building permit may be issued.

Very Truly Yours,

YOUNGE & HOCKENSMITH,
Professional Corporation

By 
Kirk Rider

KR:dac

Enclosure

xc: Bill Milius

G:\DATA\KR\DROLL1.LTR

DAN G. GRIFFIN
KIRK RIDER
RONALD W. GIBBS
CATHY P. HOLLINGSWORTH *
EARL G. RHODES
YEULIN V. WILLETT

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* ALSO ADMITTED IN CALIFORNIA

YOUNGE & HOCKENSMITH
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

200 GRAND AVENUE, SUITE 500

P. O. BOX 1768

GRAND JUNCTION, COLORADO 81502-1768

303-242-2645 FAX 303-241-5719

OF COUNSEL
THOMAS K. YOUNGE
FRANK M. HOCKENSMITH

September 2, 1994

HAND DELIVERED

Michael Drollinger
Senior Planner
City of Grand Junction Community
Development Department
250 North Fifth Street
Grand Junction, CO 81501

Original
Do NOT Remove
From Office

150 94

GENERAL PROJECT REPORT
1036 NORTH FOURTH STREET REMODEL

Our client, William S. Milius, Jr., has applied for a building permit for remodeling of a small (36 X 48) building located at 1036 North Fourth Street. Your department has advised Mr. Milius that a Site Plan Review is required before this permit may be issued.

The property in question was originally used in connection with the retail liquor store operation carried on in the larger building immediately to the North. The retail liquor store operations were conducted at the larger property, while the business' shipping and receiving operations, along with its "back office" business operations, were conducted at the subject property. Admittedly, some inventory was kept in this building during this period, but it wouldn't be accurate to call it a warehouse facility.

In the late 1980s, the property was foreclosed upon by a bank lender and repossessed. Before losing possession of the property, the liquor store operator maliciously trashed both buildings. This consisted in each case of removing HVAC equipment and duct work, removing all plumbing fixtures, destroying or damaging walls and partitions, and rendering the property unfit for habitation. Our client bought these properties from the bank in about 1989. Both properties were unoccupied until 1990, when the larger facility was rented to the American Automobile Association. At that time, a drop ceiling was installed, partitions were put in place, plumbing and HVAC facilities were restored and the exterior was improved by the addition of a wider glass door entrance and a mansard roof trim.

Mr. Michael Drolling

September 2, 1994

Page (2)

Our client now has made arrangements to lease this second building to a third party, and he wants to essentially restore the property to its original condition and make its exterior compatible with the neighboring property. New HVAC ducting and plumbing will be installed, along with a drop ceiling. The destroyed partitions from the previous office will be installed again, while the previously existing bathroom will be restored, but upgraded to ADA compliance. The only real change from the prior building configuration will be an addition of one more partition to create one additional 18' X 20' office. On the outside, mansard roof trim will be added, along with a wider glass front entrance.

We ask that you expedite the Site Plan Review as much as possible, and invite you to call Mr. Milius with any questions at any time.

Very Truly Yours,

YOUNGE & HOCKENSMITH,
Professional Corporation

By 
Kirk Rider

KR:dac

xc: Bill Milius

G:\DATA\KR\DROLL2.LTR

REVIEW COMMENTS

Page 1 of 2

FILE # 150-94 TITLE HEADING: Site Plan Review - Offices

LOCATION: 1036 N. 4th St.

PETITIONER: William S. Milius, Jr.

PETITIONER'S ADDRESS/TELEPHONE: 1036 N. 4th St.
Grand Junction, CO 81501
242-2651

PETITIONER'S REPRESENTATIVE: Delbert McClure

STAFF REPRESENTATIVE: Michael Drollinger

NOTE: WRITTEN RESPONSE BY THE PETITIONER TO THE REVIEW COMMENTS IS REQUIRED. A PLANNING CLEARANCE WILL NOT BE ISSUED UNTIL ALL ISSUES HAVE BEEN RESOLVED.

CITY POLICE DEPARTMENT
Dave Stassen

9/07/94
244-3587

If the owner plans to use the area just to the North of the alley for parking, he might want to place some sort of barrier (bumper blocks, large landscaping) along the alley. This would help to prevent people from using the parking lot as a cut through to North Avenue. This would also present traffic conflict between cars entering the lot from N. 4th St. and cars cutting through the lot from the alley.

CITY FIRE DEPARTMENT
Hank Masterson

9/06/94
244-1414

The Fire Department has no requirements.

CITY DEVELOPMENT ENGINEER
Jody Kliska

9/08/94
244-1591

Power of attorney for future alley improvements is required.

Installation of a handicap ramp at the corner of North Avenue is required.

Please consider closing the driveway closest to North Avenue. Blocks or curbing should be placed in front of the parking along the alley to control the access. The attached curb cut standards indicate driveways need to be located a minimum of 60' from the intersection.

COMMUNITY DEVELOPMENT DEPARTMENT
Michael Drollinger

9/09/94
244-1439

Based on the building size provided by the applicant (1728 sq.ft.), the building would require six (6) parking spaces for an office use and nine (9) parking spaces for a retail use. The petitioner is proposing seven (7) parking stalls, which is sufficient for office use of the structure. Retail use of the structure would require that two (2) additional parking stalls be provided.

YOUNGE & HOCKENSMITH
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

200 GRAND AVENUE, SUITE 500

P. O. BOX 1768

GRAND JUNCTION, COLORADO 81502-1768

303-242-2645 FAX 303-241-5719

OF COUNSEL

THOMAS K. YOUNGE
FRANK M. HOCKENSMITH

DAN G. GRIFFIN
KIRK RIDER
RONALD W. GIBBS
CATHY P. HOLLINGSWORTH *
EARL G. RHODES
YEULIN V. WILLETT

BRENT A. CARLSON *
DOUGLAS E. BRIGGS
PHILLIP A. CHAMBERS

* ALSO ADMITTED IN CALIFORNIA



September 9, 1994

HAND DELIVERED

Michael Drollinger
Senior Planner
City of Grand Junction Community
Development Department
250 North Fifth Street
Grand Junction, CO 81501

SITE PLAN REVIEW - RESPONSE TO COMMENTS

Set forth below is Petitioner's response to the Review Comments generated in this process. This response will follow the sequence of the comments provided.

CITY POLICE DEPARTMENT

Petitioner is willing to place bumper blocks along the alley as suggested. Petitioner previously placed bumper blocks along the North Avenue frontage of the property in an effort to eliminate the Grand Junction Police Department's use of the parking lot as a turn around and cut through to North Avenue. It may be hoped that adding bumper blocks along the alley will further reduce this practice, which now stands at 2-3 cruisers per day.

CITY DEVELOPMENT ENGINEER

Petitioner will grant a Power of Attorney for the creation of a special alley improvement district for the purpose of hard surfacing the alley on the terms currently being offered to property owners in the downtown area. Given the current use and traffic flow on this property, petitioner is not in a position to close the driveway closest to North Avenue. The North Avenue driveway is not being used, and no other parking access exists to the larger office building on the north part of the property. Petitioner is willing to place bumper

Mr. Michael Drollinger
September 9, 1994
Page (2)

blocks along the alley as suggested by the City Development Engineer. It is not reasonable for the City to require petitioner to install a handicap ramp on the building corner some 100 feet from this interior remodeling project; this is a cost appropriately to be borne by the City.

Petitioner has been informed since receiving the Review Comments that a transportation capacity payment may be required in this instance. This payment is supposed to defray the costs of meeting increased transportation capacity needs that result from a development. Petitioner has been told this requirement is triggered when a "change of use" occurs at a property. Petitioner objects to any TCP for a series of reasons. First of all, petitioner disputes that the extremely minor interior remodeling job in question (essentially the addition of one 18 foot partition) constitutes a change in use, even if the phrase "allowed use site development" can somehow be interpreted to mean "change in use". Second, petitioner challenges the assumption that any increased traffic handling capacity would or should be developed at Fourth Street and North Avenue as the result of any development that petitioner might undertake. Third, if any change in use has occurred, the change in use has been from a bustling retail use at both properties to a quiet office use. If anything, petitioner should receive a payment from the City for reducing traffic burden at the site.


COMMUNITY DEVELOPMENT DEPARTMENT

Petitioner confirms that the building to be remodeled will be engaged in an office use and not a retail use.

We trust this is satisfactory for your purposes, and look forward to receiving the Planning Clearance soon.

Very Truly Yours,

YOUNGE & HOCKENSMITH,
Professional Corporation

By 
Kirk Rider

KR:ib

xc: Bill Milius
G:\DATA\KR\DROLL3.LTR



Grand Junction Community Development Department
Planning • Zoning • Code Enforcement
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(970) 244-1430 FAX (970) 244-1599

June 5, 1995

William S. Milius, Jr.
425 North Avenue
Grand Junction CO 81501

RE: 1036 North 4th Street (Our File #150-94)

Dear Mr. Milius,

Enclosed, as requested, please find the originals for the release of the POA and the Improvements Agreement which were just returned to us from the Clerk and Recorder's office and represent the last outstanding items from your letter of April 24th.

Sincerely yours,

A handwritten signature in black ink, appearing to read "M. Drollinger".

Michael T. Drollinger
Senior Planner

Encls.

cc: File
Larry Timm, Community Development Director
Mark Achen, City Manager

h:\cityfil\1994\150-948.wpd

RELEASE OF POWER OF ATTORNEY

1715547 03:35 PM 04/27/95
MONIKA TODD CLK&REC MESA COUNTY CO

The City of Grand Junction releases and terminates the Power of Attorney issued September 14, 1995, by William S. Milius, Jr. for alley improvements.

This document affects the lands described as Lots 1, 2 & 3, Block 8 in the City of Grand Junction and commonly known as 1036 N. 4th Street.

DATED this 27th day of April, 1995.

CITY OF GRAND JUNCTION

Mark K. Achen

Mark/K. Achen
City Manager

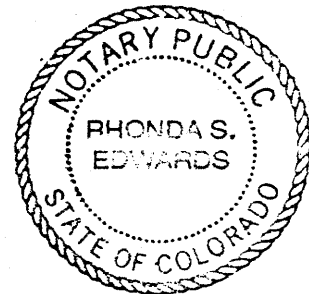
STATE OF COLORADO)
) ss.
COUNTY OF MESA)

On the 27 day of April, 1995, the foregoing Release of Power of Attorney was acknowledged before me by:

Rhonda S. Edwards

My notarial commission expires: 9/20/97
Witness my hand and official seal.

Rhonda S. Edwards



RELEASE OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department

FILE # 150-94 BOOK 2141 PAGE 467

This memorandum relates to a certain recorded Improvements Agreement and Guarantee dated September 14, 1994 19, and recording at Book 2107, Page 772 of the land records of Mesa County, Colorado, by and between Bill Milius (Developer) and the City of Grand Junction (City) pertaining to 1036 N. 4th Street (FILE #150-94) (Project).

Whereas, Developer has installed and constructed certain public and private improvements at and for the Project, which completion was guaranteed by the execution of an Improvements Agreement and Guarantee, and

Whereas, the City of Grand Junction and all other agencies possessing regulatory authority over the Project and/or the improvements have inspected the improvements and have accepted the same,

NOW THEREFORE, officials of the City of Grand Junction and other officials duly representing their agencies, possessing and representing by their signatures, affixed thereto, that they possess sufficient authority to ~~accept improvements and~~ release the portion of the guarantee pertaining to the improvements under their jurisdiction, do accept, sign and release said improvements agreement and guarantee.

CITY OF GRAND JUNCTION:

By:	<u>N/A</u>	
	<u>City Engineer</u>	<u>Date</u>
	<u>N/A</u>	
	<u>City Utilities Manager</u>	<u>Date</u>
	<u>N/A</u>	
	<u>Fire Marshall</u>	<u>Date</u>

UTE WATER:

By:	<u>N/A</u>	
		<u>Date</u>

GRAND JUNCTION DRAINAGE:

By:	<u>N/A</u>	
		<u>Date</u>

In accordance with the above signatures, I hereby certify that the Improvements Agreement & Guarantee and the recording evidencing the agreement and guarantee, at Book 2107, Page 772 of the Mesa County land records, ~~have been completed and accepted and in accordance with the provisions of the Grand Junction Zoning and Development Code~~ are hereby released.

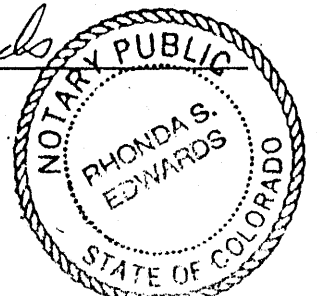
MTD
Larry Timm 4/27/95
 Director of Community Development Date

The foregoing instrument was executed before me this 27th day of April, 1995 by Larry Timm, Director of Community Development for the City of Grand Junction, Colorado.

Witness my hand & official seal.

Rhonda S. Edwards
Notary Public

My commission expires Sept. 20, 1997.



MEMO TO FILE

From: M. Drollinger
Re: #150-94 (1036 N. 4th Street)

The petitioner (Mr. Milius and Delbert McClure) came in for a preapplication conference on 8-31-94. At that time they were told, based on the information which they supplied me (verbal) that a Site Plan Review would be required for the property because the use of the proposed building (office or retail) was to change from the building's present use (vacant) and former use (warehouse/storage with limited office). Staff was concerned about whether proper parking for the proposed use could be provided. Mr. Milius and Mr. McClure were given the required documents and I explained to them what would be required and how to complete the materials.

The following day (9/1) I received a call from the petitioner's attorney (Mr. Rider) who was concerned about the time and need for the SPR. I informed him of the requirements and indicated to him that because the proposal was relatively straightforward we could have review comments to the petitioner in about week after a complete application was submitted. The same day Mr. Rider supplied me with a letter detailing the history of the building and the petitioner's objections to the SPR. The info in the letter corresponded with what I had been told the day before. My opinion as to the necessity of the SPR remained unchanged.

Mr. Rider submitted a complete application for review (under protest) on the 2nd of September. Review agencies were given only one week to respond (until 9-9-94) rather than the usual 10 days to accommodate the petitioner. Review agency comments were compiled and forwarded to Mr. Milius on the 9th. About one hour later, I received a call from Mr. Rider who protested a number of the SPR review comments. I also informed him that a TCP would have to be paid prior to the issuance of a Planning Clearance. He formalized his comments and objections in a response to review comments dated Sept. 9th. He objected to the requirement for a handicapped ramp, the request to close a driveway, and the TCP. I consulted with Mark Relph regarding the above (Mr. Rider also contacted him). The driveway closure was just a request, while the handicapped ramp and TCP would be required prior to any PC issuance. (see attached E-Mail).

A couple of days after the 9th, Mr. Rider requested the alley POA form and the Improvements Guarantee (which was required to assure installation of the handicapped ramp). Mr. Rider expressed concerns to me about the language in the POA and the improvements agreement and gave me a statement to attach to the improvements agreement. I consulted with John Shaver about the acceptability of the attachment and he stated that he believed it should not be accepted. I informed Mr. Rider that the City documents must be executed as written. I did not hear from Mr. Rider for a couple of days.

On Sept 14th, I got a phone call from Mr. Milius who wanted to come in to get his Planning Clearance. Mr. Milius posted the improvements guarantee (a check for \$1200), signed the alley POA as is and agreed to limit the use of the building to office as per my review comments (since they were unable to provide enough parking spaces for a retail use of the building). The Planning Clearance was issued on September 14th.

To: michaeld
Cc: kathyp,jodyk
From: Mark Relph
Subject: Re: Development @ 1036 N. 4th
Date: 9/12/94 Time: 2:37p

Originated by: JODYK 9/12/94 1:25p
Replied by: MARKR 9/12/94 2:37p

Michael: I talked to Kirk Rider, attorney for Bill Milinus, this morning about the TCP (among other things). I told him that the TCP would apply if the traffic impact is greater with today's proposed use as opposed to when the development was originally approved. I believe that you have to look at the one single parcel with all of the uses. Since the parcel has a couple of buildings with varied uses, this will not be easy to figure. . , JodyK is presently struggling with this a may need your help. Mr. Rider asked that we call Mr. Milinus with the information since he was going to be out of the office this afternoon. Jody, please forward to Michael the information once you have it.

His real focus of discussion was on the code's definition of "change of use", which I believe they may wish to discuss with you. . , again. He did complain about the requirement of constructing the handicap ramp, and closing the curb cut. I explained that by ordinance, development (change-of-use in this case) was required to bring the parcel to current development standards. I did not state that the cost of traffic and pedestrian improvements could be deducted from the TCP. Mr. Rider and Milinus are expecting a call this afternoon.

Mark.

IMPROVEMENTS AGREEMENT
(Site Plan)

1. **Parties:** The parties to this Improvements Agreement ("the Agreement") are WM MILIOS, ("the Developer") and THE CITY OF GRAND JUNCTION, Colorado ("the City").
2. **Effective Date:** The Effective Date of the Agreement will be the date that this agreement is recorded.

FOR valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

RECITALS

The Developer seeks permission to develop property within the City, which property is more particularly described on Exhibit A attached and incorporated by this reference hereinafter known as "the Property." The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements and limiting the harmful effects of substandard development. The purpose of this Agreement is to protect the City from the cost of completing improvements itself and is not executed for the benefit to materialmen, laborers, or others providing work, services or materials to the Developer. The mutual promises, covenants and obligations contained in this Agreement are authorized by state law, the Colorado Constitution and the City's land development Code.

DEVELOPER'S OBLIGATION

3. **Improvements:** The Developer will design, construct and install, at its own expense, those improvements listed on Exhibit B attached hereto and incorporated herein by this reference. The Developer agrees to pay the City for inspection services performed by the City, in addition to amounts shown on Exhibit B. The City estimates that \$ 50 will be required for City inspection of the required improvements. The Developer's obligation to complete the improvements is and will be independent of any obligations of the City contained herein.
4. **Security:** To secure the performance of its obligations under this Agreement (except its obligations for warranty under paragraph 6), the Developer will enter into an agreement acceptable to the City to post a good and sufficient letter of credit, or deposit with the City cash equivalent to the estimated cost of construction of the improvements or provide a bank disbursement agreement acceptable to the City.

5. **Standards:** The Developer will construct the Improvements according to the standards and specifications required by the City Engineer or as otherwise adopted by the City.

6. **Warranty:** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of twelve (12) months from the date that the City Engineer accepts or approves, in writing, the improvements completed by the Developer.

7. **Commencement and Completion Periods:** The improvements, each and every one of them, will be completed within eight months from the Effective Date of this Agreement (the "Completion Period").

8. **Compliance with Law:** The Developer shall comply with all relevant federal, state and local laws, ordinances and regulations in effect at the time of site plan/development approval when fulfilling its obligations under this Agreement.

9. **Notice of Defect:** The Developer's Engineer shall provide timely notice to the Developer, contractor, issuer of security and the City Engineer whenever inspection reveals, or the Developer's Engineer otherwise has knowledge, that an improvement does not conform to City standards and any specifications, or is otherwise defective. The Developer will have thirty (30) days from the issuance of such notice to correct the defect.

10. **Acceptance of Improvements:** The City's final acceptance and/or approval of improvements will not be given or obtained until Developer presents a document or documents, for the benefit of the City, showing that the Developer owns the improvements in fee simple and that there are no liens, encumbrances, or other restrictions on the improvements. Approval and/or Acceptance of any improvements does not constitute a waiver by the City of any rights it may have on account of any defect in, or failure of, the improvement that is detected or which occurs after the approval and/or acceptance.

11. **Use of Proceeds:** The City will use funds deposited with it or drawn under the bank disbursement agreement entered into between the parties, only for the purpose of completing the Improvements or correcting defects in, or failure of, the Improvements.

12. **Events of Default:** The following conditions, occurrences or actions will constitute a default by the Developer during the Completion Period:

- a. Developer's failure to complete each portion of the Improvements in conformance with the agreed upon time schedule; the City may not declare a default until a 14 calendar day notice has been given to the Developer;
- b. Developer's failure to demonstrate reasonable intent to correct defective construction of any improvement within the applicable correction period; the City may not

declare a default until a 14 calendar day notice has been given to the Developer;

- c. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer; in such event the City may immediately declare a default without prior notification to the Developer;
- d. Notification to City, by any lender with a lien on the property, of a default on an obligation; the City may immediately declare a default without prior notification to the Developer;
- e. Initiation of any foreclosure action of any lien or initiation of mechanics lien(s) procedure(s) against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure; the City may immediately declare a default without prior notification to the Developer.

13. Measure of Damages: The measure of damages for breach of this Agreement by Developer will be the reasonable cost of satisfactorily completing the Improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount nor the amount of a letter of credit, the disbursement agreement or cash escrow establish the maximum amount of the Developer's liability.

14. City's Rights Upon Default: When any event of default occurs, the City may draw on the letter of credit or cash deposit to the extent of the face amount of the credit or full amount of the deposit, less ninety percent (90%) of the estimated cost (as shown on Exhibit B) of all improvements previously accepted by the City, or may exercise its rights to disbursement of loan proceeds or other funds under the disbursement agreement. The City will have the right to complete improvements itself or it may contract with a third party for completion, and the Developer grants to the City, its successors, assigns, agents, contractors and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, reconstructing, maintaining and repairing such improvements. Alternatively, the City may assign the proceeds of the letter of credit, the disbursement agreement, cash, or other funds or assets to a subsequent developer (or a lender) who has acquired the Development by purchase, foreclosure or otherwise, who will then have the same rights of completion as the City if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished improvements and provides reasonable security for the obligation. In addition, the City may also enjoin the sale, transfer, or conveyance of the Development, until the Improvements are completed or accepted. These remedies are cumulative in nature and are in addition to any other remedies the City has at law or in equity.

15. **Indemnification:** The Developer expressly agrees to indemnify and hold the City, its officer, employees and assigns harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work at the Development or on the Property pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work pursuant to this Agreement except where such suit is brought by the Developer. The Developer is not an agent or employee of the City for any purpose whatsoever.

16. **No Waiver:** No waiver of any provision of this Agreement by the City will be deemed to or constitute a waiver of any other provision, nor will it be deemed to or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement, signed by both City and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.

17. **Amendment or Modification:** The parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City by the City Manager or his designee and by the Developer or its authorized officer. Such amendment or modification shall be properly notarized before it may be effective.

18. **Attorney's Fees:** Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court awards relief to both parties, the attorney's fees may be equitably divided between the parties by the decision maker.

19. **Vested Rights:** The City does not warrant by this Agreement that the Developer is entitled to any other approval(s) required by the City, if any, before the Developer is entitled to commence development or to transfer ownership of property in the Development.

20. **Third Party Rights:** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

21. **Time:** For the purpose of computing the Abandonment and Completion Periods, and time periods for City action, such times in which war, civil disasters or acts of God occur or exist will not

be included if such times prevent the Developer or City from performing its obligations under the Agreement.

22. Severability: If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term or provision was never part of the Agreement.

23. Benefits: The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors and assigns of the Developer and shall be a covenant(s) running with the Property. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will expressly release the original Developer's guarantee or obligations if it accepts new security from any developer or lender who obtains the Property. However, no other act of the City will constitute a release of the original Developer from this liability under this Agreement.

24. Notice: Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested and addressed as follows:

If to Developer:

WM MILIUS - GNT
425 NORTH AVE
GRAND JUNCTION CO 81601

If to City:

City of Grand Junction
Community Development Director
250 N. 5th Street
Grand Junction, CO 81501

25. Recordation: Developer will pay for any and all costs to record a copy of this Agreement in the Clerk and Recorder's Office of Mesa County, Colorado.

26. Immunity: Nothing contained in this Agreement constitutes a waiver of the City's sovereign immunity under any applicable state law.

27. Personal Jurisdiction and Venue: Personal jurisdiction and venue for any action commenced by either party to this Agreement, whether arising out of, or relating to the Agreement, letter of credit, disbursement agreement or cash deposit will be deemed to be proper only if such action is commenced in Mesa County Colorado.

The Developer expressly waives his right to bring such action in, or to remove such action to, any other court whether state or federal.

28. The improvements guarantee required by the City Code to ensure that the improvements described in this Improvements Agreement are constructed (to City standards) may be in the form of a (I) disbursement agreement between a bank doing business in Mesa County and the City, or (II) a good and sufficient letter of credit acceptable to the City, or (III) depositing with the City cash equivalent to the estimated cost of construction of the improvements. Exhibit C attached hereto and incorporated herein by this reference as if fully set forth is the accepted form of guarantee.

The Finance Department of the City may act as disbursing agent for disbursements to Developer's contractor(s) as required improvements are completed and accepted if agreed to in writing pursuant to a disbursement agreement.

29. The City shall have no responsibility or liability with respect to any street, or any other improvement(s), notwithstanding the use of the same by the public, unless the street or other improvement(s) shall have been accepted by the City.

Prior to requesting final acceptance of streets, storm drainage facilities or other required public improvement(s), the Developer shall furnish to the City Engineer as-built drawings in reproducible form and copies of results of all construction control tests required by City specifications.

30. If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the prescribed location and shall construct the required width of pavement from the edge of gutter on the side of the street being developed to enable an initial two-way traffic flow without on-street parking.

The Developer is also responsible for end-transitions, intersection paving, drainage facilities, adjustments to existing utilities and joints necessary to open the street or sidewalk to use.

City of Grand Junction

By: _____



Mark K. Achen
City Manager



Attest:

Stephanie Nye
Stephanie Nye, City Clerk

Developer

By: [Signature]
President

Attest:

Secretary

Exhibit A

IMPROVEMENTS LIST/DETAIL

DATE: September 1994
 NAME OF DEVELOPMENT: 1036 N. 4TH
 LOCATION: 1036 N 4th Street
 PRINTED NAME OF PERSON PREPARING: _____

	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER				
1. Clearing and grubbing	_____	_____	_____	_____
2. Cut and remove asphalt	_____	_____	_____	_____
3. PVC sanitary sewer main (incl. trenching, bedding & backfill)	_____	_____	_____	_____
4. Sewer Services (incl. trenching, bedding, & backfill)	_____	_____	_____	_____
5. Sanitary sewer manhole(s)	_____	_____	_____	_____
6. Connection to existing manhole(s)	_____	_____	_____	_____
7. Aggregate Base Course	_____	_____	_____	_____
8. Pavement replacement	_____	_____	_____	_____
9. Driveway restoration	_____	_____	_____	_____
10. Utility adjustments	_____	_____	_____	_____
II. DOMESTIC WATER				
1. Clearing and grubbing	_____	_____	_____	_____
2. Cut and remove asphalt	_____	_____	_____	_____
3. Water Main (incl. excavation, bedding, backfill, valves and appurtenances)	_____	_____	_____	_____
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	_____	_____	_____	_____
5. Connect to existing water line	_____	_____	_____	_____
6. Aggregate Base Course	_____	_____	_____	_____
7. Pavement Replacement	_____	_____	_____	_____
8. Utility adjustments	_____	_____	_____	_____
III. STREETS				
1. Clearing and grubbing	_____	_____	_____	_____
2. Earthwork, including excavation and embankment construction	_____	_____	_____	_____
3. Utility relocations	_____	_____	_____	_____
4. Aggregate sub-base course (square yard)	_____	_____	_____	_____
5. Aggregate base course (square yard)	_____	_____	_____	_____
6. Sub-grade stabilization	_____	_____	_____	_____
7. Asphalt or concrete pavement (square yard)	_____	_____	_____	_____
8. Curb, gutter & sidewalk <i>HANDICAP Ramp</i>	_____	_____	_____	<i>\$900</i>
9. Driveway sections (square yard)	_____	_____	_____	_____
10. Crosspans & fillets	_____	_____	_____	_____
11. Retaining walls/structures	_____	_____	_____	_____
12. Storm drainage system	_____	_____	_____	_____

13. Signs and other <u>traffic control devices</u>	_____	_____	_____	<u>\$250</u>
14. Construction staking	_____	_____	_____	_____
15. Dust control	_____	_____	_____	_____
16. Street lights (each)	_____	_____	_____	_____
IV. LANDSCAPING				
1. Design/Architecture	_____	_____	_____	_____
2. Earthwork (includes top soil, fine grading, & berming)	_____	_____	_____	_____
3. Hardscape features (includes walls, fencing, and paving)	_____	_____	_____	_____
4. Plant material and planting	_____	_____	_____	_____
5. Irrigation system	_____	_____	_____	_____
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture)	_____	_____	_____	_____
7. Curbing	_____	_____	_____	_____
8. Retaing walls and structures	_____	_____	_____	_____
9. One year maintenance agreement	_____	_____	_____	_____
V. MISCELLANEOUS				
1. Design/Engineering	_____	_____	_____	_____
2. Surveying	_____	_____	_____	_____
3. Developer's inspection costs	_____	_____	_____	_____
4. Quality control testing	_____	_____	_____	_____
5. Construction traffic control	_____	_____	_____	_____
6. Rights-of-way/Easements	_____	_____	_____	_____
7. City inspection fees	_____	_____	_____	_____
8. Permit fees	_____	_____	_____	<u>\$50</u>
9. Recording costs	_____	_____	_____	_____
10. Bonds	_____	_____	_____	_____
11. Newsletters	_____	_____	_____	_____
12. General Construction Supervision	_____	_____	_____	_____
13. Other _____	_____	_____	_____	_____
14. Other _____	_____	_____	_____	_____

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ 1200.00

SIGNATURE OF DEVELOPER

(If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

9-14-94

DATE

I have reviewed the estimated costs and time schedule shown above and, based on the plan layouts submitted to date and the current costs of construction, I take no exception to the above.

CITY ENGINEER

9-20-94

DATE

COMMUNITY DEVELOPMENT

9/21/94

DATE

MEMORANDUM OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department
File # 150-94

This memorandum relates to an improvements agreement and guarantee dated Sept. 14 1994, by and between Bill Milius (Developer) and the City of Grand Junction (City) pertaining to File # 150-94 (Project) in the City of Grand Junction.

1036 N. 4th Str.
Whereas, Developer is required to install and construct certain public and private improvements as a condition of approval of the Project, which completion is guaranteed by an improvements agreement and guarantee in the sum of \$1200.00, and

Whereas, the City of Grand Junction and other agencies possessing regulatory authority over the Project and/or the improvements to be constructed, must inspect the improvements and accept the same before the improvements agreement and guarantee are released or if not constructed the City may use the proceeds or collateral of the guarantee to install the improvements, and

Whereas, the existence of the improvements agreement and guarantee may affect certain rights, responsibilities and actions of the Developer, the City or any other person or entity,

NOW THEREFORE, this memorandum is recorded to be notice to the world of the existence of said improvements agreement and guarantee. This memorandum is not a complete summary of the improvements agreement and guarantee. Provisions of this memorandum shall not be used to interpret the terms or provisions of the improvements agreement and/or guarantee. In the event of conflict between this memorandum and the unrecorded improvements agreement and/or guarantee, the unrecorded improvements agreement and guarantee shall control. The improvements agreement and guarantee may be inspected at the City of Grand Junction Community Development Department, 250 N. 5th Street, Grand Junction, CO.

CITY OF GRAND JUNCTION:

MTD

Jerry Turner 9/21/94
Director of Community Development date

DEVELOPER:

[Signature] 9-14-94
date

1699443 12:34 PM 10/28/9
MONIKA TODD CLK&REC MESA COUNTY C

After recording mail to:

c/o Community Development Department
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

RELEASE OF POWER OF ATTORNEY

1715547 03:35 PM 04/27/95
MONIKA TODD CLK&REC MESA COUNTY CO

The City of Grand Junction releases and terminates the Power of Attorney issued September 14, 1995, by William S. Milius, Jr. for alley improvements.

This document affects the lands described as Lots 1, 2 & 3, Block 8 in the City of Grand Junction and commonly known as 1036 N. 4th Street.

DATED this 27th day of April, 1995.

CITY OF GRAND JUNCTION

Mark K. Achen

Mark/K. Achen
City Manager

STATE OF COLORADO)

) ss.

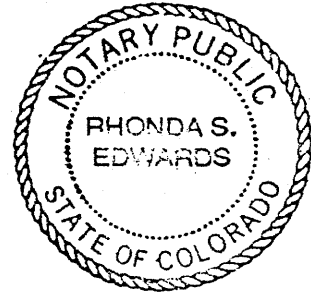
COUNTY OF MESA)

On the 27 day of April, 1995, the foregoing Release of Power of Attorney was acknowledged before me by:

Rhonda S. Edwards

My notarial commission expires: 9/20/97
Witness my hand and official seal.

Rhonda S. Edwards



RELEASE OF IMPROVEMENTS AGREEMENT & GUARANTEE
 Grand Junction Community Development Department

FILE # 150-94

BOOK 2141 PAGE 467

This memorandum relates to a certain recorded Improvements Agreement and Guarantee dated September 14, 1994 19__, and recording at Book 2107, Page 772 of the land records of Mesa County, Colorado, by and between Bill Milius (Developer) and the City of Grand Junction (City) pertaining to 1036 N. 4th Street (FILE #150-94) (Project).

Whereas, Developer has installed and constructed certain public and private improvements at and for the Project, which completion was guaranteed by the execution of an Improvements Agreement and Guarantee, and

Whereas, the City of Grand Junction and all other agencies possessing regulatory authority over the Project and/or the improvements have inspected the improvements and have accepted the same,

NOW THEREFORE, officials of the City of Grand Junction and other officials duly representing their agencies, possessing and representing by their signatures, affixed thereto, that they possess sufficient authority to ~~accept improvements and~~ release the portion of the guarantee pertaining to the improvements under their jurisdiction, do accept, sign and release said improvements agreement and guarantee.

CITY OF GRAND JUNCTION:

By: N/A

 City Engineer Date

N/A

 City Utilities Manager Date

N/A

 Fire Marshall Date

UTE WATER:

By: N/A

 Date

GRAND JUNCTION DRAINAGE:

By: N/A

 Date

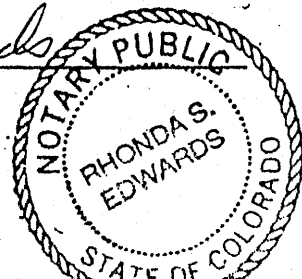
In accordance with the above signatures, I hereby certify that the Improvements Agreement & Guarantee and the recording evidencing the agreement and guarantee, at Book 2107, Page 772 of the Mesa County land records, ~~have been completed and accepted and in accordance with the provisions of the Grand Junction Zoning and Development Code~~ are hereby released.

MTD
Larry Timm 4/27/95
 Director of Community Development Date

The foregoing instrument was executed before me this 27th day of April, 1995 by Larry Timm, Director of Community Development for the City of Grand Junction, Colorado.

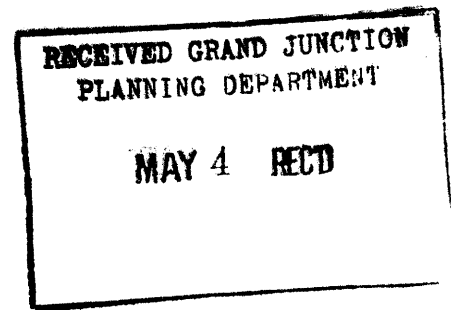
Witness my hand & official seal.

Rhonda S. Edwards
 Notary Public



My commission expires Sept. 20, 1997.

WM. S. MILIUS, JR.
ENTERPRISES
STIX, INC.



May 3, 1995

Larry Timm, Director
Michael Drollinger, Senior Planner
Grand Junction Community Development Department
250 No. Fifth St.
Grand Junction, Co. 81501

Re: 1036 North 4th St.

Attn: Messrs Timm and Drollinger:

Your letter of April 28, 1995 is not satisfactory. First, the letter was addressed to you, Mr. Timm and I would expect you to take responsibility for your failures. Second, not one of the four matters outlined in my letter of April 24, 1995 has been completed in a proper manner. Third, you created this overall problem by overstepping your authority and then after you were overruled, you arrogantly chose to not follow thru on the correct resolution.

Mr. Timm, you are the Director of this department; the letter of April 24, was addressed to you; and I am sure the reason you personally wrote the letter of January 12, 1995 was at the instruction of Mark Achen, the City Manager; therefore; you should be the one personally to resolve this problem. I have been quite patient with you and your associates and I am not going to continue to tolerate your bureaucratic babble, as in your letter of January 12, your inattention or your arrogance. I expect this matter to be completely resolved to my satisfaction no later than May 15, 1995.

Specifically the resolution of the overall matter will be as follows:

a) The return of the original 'Improvements Agreement' I signed on September 14, 1995 for the installation of a handicap ramp on the southeast corner of Fourth and North Ave. As you went to the extreme step of recording this agreement with the county, I, therefore; also want the original of the 'Release of Improvements', not just a copy. These original documents I am entitled to and I expect to have them delivered. It's your problem now to deliver them.

b) The return of the original 'Power of Attorney for Alley Improvement' I signed on September 14, 1995. Again, since this was recorded with the county, I also want the original 'Release of Power of Attorney', again not just a copy. As I am entitled to these original documents; it is now your problem to deliver them also.

c) Since you made no effort to return my \$1,200.00 deposit for over 100 days, you show considerable contempt for a city taxpayer by not being willing to make any extra effort to return that money except on a regular city 'pay day'. The attitude is: I screwed up; but; I am not going to go an extra step to fix my mistake; let the taxpayer conform to the regulations; I'll just hide behind them. Your philosophy is I should be thankful to have the money returned in another 10 days.

d) Mr. Drollinger's letter of April 28, did not mention the payment of interest on the deposit. Interest was agreed to at the time of the deposit on September 14, 1994; should the deposit be returned. It is not my intention to let you renege on the payment of interest. During this period in which the city held the deposit U. S. Government Bonds of six month maturity yielded 6.0%. I believe then that 6.0% would be a fair interest rate as, of course The City of Grand Junction is not of the credit quality as the U. S. Government. The per diem amount of 6.0% on \$1,200.00 is \$.20. As of May 5, 1995 this amounts to \$46.60. Mr. Timm you cost the Taxpayers of Grand Junction an additional \$22.60 due to your practiced indifference.

Let me be perfectly clear; your problem with me began when I made a request for a simple building permit to remodel the interior of a small commercial building in a commercial zone. You two then held up the permit with a lot of bureaucratic red tape, that is make work for you and your staff, so as to justify your bureaucratic fiefdom. Your gamesmanship held up my project in excess of six weeks, costing me and the new tenant income.

Then to further the problem you would not allow a permit to be issued until you had tried to extract your pound of flesh. That is you had to have the 'Improvements Agreement' for the handicap ramp, a \$1,200.00 deposit for it and the 'Power of Attorney for Alley Improvement'. This fellows is what most people would call extortion or in simpler terms black mail, these are both serious offenses, if you didn't have the city to hide behind.

I will expect all of the above to be accomplished and delivered by May 15, 1995.

Sincerely:

A handwritten signature in black ink, appearing to read "Wm S Milius Jr.", written in a cursive style.

Wm. S. Milius Jr.

cc:Mark Achen, City Manager
Kirk Rider, Young & Hockensmith