

2. **Setting a Hearing on Vacating an Alley Right-of-Way through the Center of Melrose Park, Located at 1827 North 26th Street** [File # SPR-2009-064]

[Attach 2](#)

Request to vacate 0.18 acres of alley right-of-way located through the center of Melrose Park at 1827 North 26th Street which is unnecessary for future roadway circulation.

Proposed Ordinance Vacating the Alley Right-of-way Located through the Center of Melrose Park at 1827 North 26th Street

Action: Introduction of a Proposed Ordinance and Set a Hearing for July 13, 2009

Staff presentation: Michelle Hoshide, Associate Planner

3. **Siena View Partial Vacation of Easement, Located at 448 San Juan Street, Lot 1, Block 1** [File # VE-2009-132]

[Attach 3](#)

A request to vacate a portion of a 14-foot multi-purpose easement (approximately 40.39 square feet), located at 448 San Juan Street, Lot 1, Block 1, Siena View Subdivision, Filing No. One, to amend a contractor's error.

Resolution No. 59-09—A Resolution Vacating a Portion of a Multi-Purpose Easement on Lot 1, Block 1, Siena View Subdivision, Filing No. One Located at 448 San Juan Street

®Action: Adopt Resolution No. 59-09

Staff presentation: Lori V. Bowers, Senior Planner

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

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

***4. **Purchase of Road Oil for Chip Seal Program 2009** [Attach 4](#)

Request the purchase of approximately 226,327 gallons of road oil for the Streets Division Annual Chip Seal Program for 2009.

Action: Authorize the City Purchasing Division to Sole Source Purchase Approximately 226,327 gallons of Road Oil from Cobitco, Inc., Denver, Colorado in the Amount of Approximately \$522,816.

Staff presentation: Darren Starr, Solid Waste and Streets Manager
Terry Franklin, Deputy Director of Utilities and Streets
Jay Valentine, Assistant Financial Operations Manager

5. **Public Hearing—Emergency Ordinance to Prohibit Certain Forms of Aggressive Solicitation and Declaring an Emergency** [Attach 5](#)

The City of Grand Junction does not currently have a solicitation ordinance. Acts of solicitation, such as soliciting for money or other things of value, have increased and may continue to do so because of the current economic recession. City staff, with the advice and consent of the City Council legislative committee, believes that it would be in the best interests of the community if an ordinance is enacted that regulates certain aggressive acts of solicitation.

Ordinance No. 4363—An Ordinance to Prohibit Certain Forms of Aggressive Solicitation and Declaring an Emergency

@Action: Hold a Public Hearing and Adopt Ordinance No. 4363

Staff presentation: John Shaver, City Attorney

6. **Public Hearing—Emergency Ordinance to Prohibit Solicitation in City Medians and Rights of Way and Declaring an Emergency** [Attach 6](#)

The City of Grand Junction does not currently have a solicitation ordinance regulating interference or possible interference with traffic on streets, roads and highways within the City. Acts of solicitation in and around streets, roads and highways have increased and may continue to do so because of the current economic recession. City Staff, with the advice and consent of the City Council legislative committee, believes that it would be in the best interests of the community if an ordinance is enacted that regulates solicitation in City medians and rights-of-way.

Ordinance No. 4364—An Ordinance to Prohibit Solicitation in City Medians and Rights-of-Way and Declaring an Emergency

@Action: Hold a Public Hearing and Adopt Ordinance No. 4364

Staff presentation: John Shaver, City Attorney

7. **Public Hearing—Bella Dimora Property Subdivision/Planned Zone Amendment, Located at Patterson Road, Grand Falls Drive and Valentino Way in The Legends and Legends East Subdivisions** [File #PP-2007-304]

[Attach 7](#)

A request for approval to amend and zone property located at Patterson Road, Grand Falls Drive and Valentino Way in The Legends and Legends East Subdivisions to PD, (Planned Development) with a default zone of R-8, (Residential – 8 du/ac) by approval of the Preliminary Development Plan as a Planned Development containing 114 dwelling units on 13.87 +/- acres.

Ordinance No. 4360—An Ordinance Amending the Existing Planned Development Zone by Including Additional Land with a Rezone of the Additional Land to Planned Development and Amending the Preliminary Plan with a Default R-8 (Residential – 8 DU/Ac) Zone District for the Development of 114 Dwelling Units for the Bella Dimora Subdivision, Located South of Patterson Road, North of Grand Falls Drive and Valentino Way

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4360

Staff presentation: Scott D. Peterson, Senior Planner

8. **Public Hearing—Vacation of a Portion of the West Ridges Boulevard Right-of-Way, West of 2335, 2335 ½ and 2337 A Rattlesnake Court** [File # VR-2009-012]

[Attach 8](#)

Request to vacate an undeveloped portion of the West Ridges Boulevard right-of-way which is unnecessary for future roadway circulation and will allow the adjacent property owners to use and maintain the property.

Ordinance No. 4365—An Ordinance Vacating a Portion of the West Ridges Boulevard Right-of-Way Located West of 2335, 2335 ½ and 2337 A Rattlesnake Court

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4365

Staff presentation: Michelle Hoshide, Associate Planner

9. **Public Hearing—Zoning and Development Code Amendment Regarding Temporary Low-Traffic Storage Yards** [File # TAC-2009-105] [Attach 9](#)

Request approval to amend Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code to permit temporary low-traffic storage yards in the C-2 (General Commercial), I-1 (Light Industrial), and I-2 (General Industrial) zone districts.

Ordinance No. 4366—An Ordinance Amending Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code Regarding Temporary Low-Traffic Storage Yards

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4366

Staff presentation: Greg Moberg, Planning Services Supervisor

10. **Non-Scheduled Citizens & Visitors**

11. **Other Business**

12. **Adjournment**

Attach 1

Minutes of Previous Meetings

GRAND JUNCTION CITY COUNCIL MINUTES OF THE REGULAR MEETING

June 15, 2009

The City Council of the City of Grand Junction convened into regular session on the 15th day of June 2009 at 7:06 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Tom Kenyon, Gregg Palmer, and Council President Bruce Hill. Councilmembers Bill Pitts and Linda Romer Todd were absent. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Hill called the meeting to order. Councilmember Palmer led in the Pledge of Allegiance followed by invocation by Pastor Joe Gross, Redlands Community Church.

Appointment

Councilmember Kenyon moved to appoint Dwain Watson to the Grand Junction Regional Airport Authority for a four year term to expire May 2013. Councilmember Coons seconded the motion.

Councilmember Palmer stated he does not know Mr. Watson but noted that the current member in that position has done a good job and his peers have selected him as chair. He said he has a difficult time not considering a four-year incumbent serving on a difficult board who has also earned the respect of his peers by being elected chair. While he respects the recommendation being brought forward, he asked the Council to consider reappointing Mr. Stevens and consider bringing back the board chair if Mr. Watson's appointment is not approved.

Councilmember Coons asked interviewers to make their comment.

Council President Hill, the only member of the interview team present, agreed it is not unique and in this case there were a number of interviews. He too sometimes questions going through the process when there is an incumbent wanting to continue. The recommended appointee had different experience including being a pilot and so the interview committee looked at Mr. Watson as the candidate most appropriate at this time. He is very appreciative of Mr. Stevens work these past four years.

Motion carried by roll call vote with Councilmembers Kenyon and Palmer voting NO. Councilmember Coons stated that she has a difficult time second-guessing the interview committee's recommendation.

Councilmember Palmer noted that having voted no, he does not know Mr. Watson and looks forward to working and serving with him.

Citizen Comments

There were none.

Council Comments

There were none.

CONSENT CALENDAR

Councilmember Coons read the Consent Calendar, and then moved to approve the Consent Calendar items #1 through #6. Councilmember Kenyon seconded the motion. Motion carried by roll call vote.

1. **Minutes of Previous Meetings**

Action: Approve the Minutes of the June 1, 2009 and the June 3, 2009 Regular Meetings

2. **Setting a Hearing on the Peiffer Annexation, Located at 2454 Bella Pago Drive** [File #ANX-2009-113]

Request to annex 2.10 acres, located at 2454 Bella Pago Drive. The Peiffer Annexation consists of one (1) parcel and includes a portion of Bella Pago Drive.

a. **Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction**

Resolution No. 51-09—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Peiffer Annexation, Located at 2454 Bella Pago Drive and Including a Portion of the Bella Pago Drive Right-of-Way

Action: Adopt Resolution No. 51-09

b. **Setting a Hearing on Proposed Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Peiffer Annexation, Approximately 2.10 Acres, Located at 2454 Bella Pago Drive and Including a Portion of the Bella Pago Drive Right-of-Way

Action: Introduction of a Proposed Ordinance and Set a Hearing for August 3, 2009

3. **Setting a Hearing on the Maverik Annexation, Located at 2948 F Road and 603 29 ½ Road** [File #ANX-2009-023]

Request to annex 3.02 acres, located at 2948 F Road and 603 29 ½ Road. The Maverik Annexation consists of two parcels and contains 0.62 acres of the 29 ½ Road right-of-way. A Growth Plan Amendment is part of this development and will come forward in July.

a. **Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction**

Resolution No. 52-09—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Maverik Annexation, Located at 2948 F Road and 603 29 ½ Road Including a Portion of the 29 ½ Road Right-of-Way

Action: Adopt Resolution No. 52-09

b. **Setting a Hearing on Proposed Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Maverik Annexation, Approximately 3.02 Acres, Located at 2948 F Road and 603 29 ½ Road Including a Portion of the 29 ½ Road Right-of-Way

Action: Introduction of a Proposed Ordinance and Set a Hearing for August 31, 2009

4. **Setting a Hearing on Monument Village Commercial Center Annexation, Located at 2152 Broadway** [File #ANX-2009-116]

Request to annex 5.77 acres, located at 2152 Broadway. The Monument Village Commercial Center Annexation consists of one parcel and 1.54 acres of public right-of-way. Right-of-way includes a portion of 21 1/2 Road, also known as Monument Village Drive, all of Monument Lane and a portion of Rio Hondo Road.

a. **Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction**

Resolution No. 53-09—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Monument Village Commercial Center Annexation, Located at 2152 Broadway and Includes Portions of Right-of-Way for Monument Village Drive and Rio Hondo Road and all of Monument Lane

Action: *Adopt Resolution No. 53-09*

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Monument Village Commercial Center Annexation, Approximately 5.77 Acres, Located at 2152 Broadway and Includes Portions of Right-of-Way for Monument Village Drive and Rio Hondo Road and all of Monument Lane

Action: *Introduction of a Proposed Ordinance and Set a Hearing for August 3, 2009*

5. **Setting a Hearing on Vacating a Portion of the West Ridges Boulevard Right-of-Way, West of 2335, 2335 ½ and 2337 A Rattlesnake Court** [File # VR-2009-012]

Request to vacate an undeveloped portion of the West Ridges Boulevard right-of-way which is unnecessary for future roadway circulation and will allow the adjacent property owners to use and maintain.

Proposed Ordinance Vacating a Portion of the West Ridges Boulevard Right-of-Way Located West of 2335, 2335 ½ and 2337 A Rattlesnake Court

Action: *Introduction of a Proposed Ordinance and Set a Hearing for June 29, 2009*

6. **Setting a Hearing on a Zoning and Development Code Amendment Regarding Temporary Low-Traffic Storage Yards** [File # TAC-2009-105]

The City of Grand Junction requests approval to amend Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code to permit temporary low-traffic storage yards in the C-2 (General Commercial), I-1 (Light Industrial), and I-2 (General Industrial) zone districts.

Proposed Ordinance Amending Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code Regarding Temporary Low-Traffic Storage Yards

Action: *Introduction of a Proposed Ordinance and Set a Hearing for June 29, 2009*

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing—Inclusion into the Downtown Development Authority (DDA) Boundaries for the Mesa County Public Library

In preparation for an eventual redevelopment as part of the City Center Catalyst Project, the Mesa County Public Library District (MCPLD) has requested inclusion into the DDA for all of their downtown Grand Junction properties. A portion of the MCPLD properties in the vicinity are already included in the DDA; several are not: 520 N. 5th Street, 517 Chipeta Avenue, 525 Chipeta Avenue, and 529 Chipeta Avenue. The request has been considered and approved by the DDA Board of Directors.

The public hearing was opened at 7:15 p.m.

Heidi Hoffman Ham, DDA Executive Director, presented this item. She advised that the inclusion of these properties is part of the City Center Catalyst Project. There will be other properties that will come forward later. The DDA board has approved the inclusion.

Councilmember Palmer asked if there are any tax implications by bringing them into the boundaries. Ms. Ham answered there is not as they are tax exempt.

There were no public comments.

The public hearing was closed at 7:17 p.m.

Ordinance No. 4359—An Ordinance of the City Council of Grand Junction, Colorado Approving Expanding the Boundaries for the Grand Junction, Colorado Downtown Development Authority

Councilmember Palmer moved to adopt Ordinance No. 4359 and ordered it published. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Public Hearing—Amending the Code to Require 4” Sewer Line to Each Unit of a Multi Unit Structure or Multiple Units on a Property

City Staff would like to coordinate sewer line requirements for multi residential unit structures and properties with multiple residential units with those required by special districts in the area. Amending the City's Code will provide consistency to City residents and give Planning and Development Review Staff more guidance and support of the requirements.

The public hearing was opened at 7:18 p.m.

John Shaver, City Attorney, deferred this matter to Bret Guillory, Utilities Engineer, who presented this item. He explained the purpose of the ordinance. There are multiple unit

properties in the sewer service area that share four-inch sewer lines and a lot of potential problems occur when that happens. If a line becomes plugged, a sewer backs up into all the units. Other sanitation districts have similar rules (Central and Orchard Mesa Sanitation Districts).

Councilmember Palmer asked if this change will increase the cost per unit. Mr. Guillory advised all four lines can be placed in the same trench; the net change would be three to five dollars per foot per line or on a four unit complex about \$200 per line.

Councilmember Coons asked about the larger than four-unit structures. Mr. Guillory said a six-inch line would have to serve the structure and then four-inch lines would feed the individual units.

Councilmember Kenyon asked how this will affect existing structures. Mr. Guillory advised a separate tap would be required for any additional living unit. This applies to new construction.

Councilmember Beckstein asked, if the existing line fails, would they have to then bring it up to the new Code? Mr. Guillory said that is what this new rule is trying to avoid.

Councilmember Palmer asked what happens if the home was substantially remodeled. Mr. Guillory responded that if it can be accommodated reasonably, the separate lines would be required.

Councilmember Kenyon asked if they then have to pay for four sewer taps. Mr. Guillory said the tap fee would be the same; tap fees are assessed per equivalent residential units (EQU's).

Council President Hill asked for clarification on the intent that it only applies to new construction. City Attorney Shaver said there are sewer regulations over and above this Code change and Staff does have that discretion. However, that can be added into the ordinance for clarity.

Councilmember Beckstein asked for additional clarification on non-conforming uses and failures that require the structure to be updated to Code.

City Attorney Shaver said there are non-conforming uses and non-conforming sites. The standard of less than fifty percent would be applied to determine if the structure must be brought up to Code. There is not a percentage when it comes to these Codes, plumbing or electrical. If it is a catastrophic event to the line, then it would have to be upgraded to the new standard.

Council President Hill asked about the septic elimination program, if a multi-unit structure is switched to sewer, will they have to run individual lines? Mr. Guillory said if that couldn't be replaced, for reasons such as being inaccessible, that would be a case

where they may replace the line to the structure with a six inch line but the individual lines would not have to be replaced.

Councilmember Palmer said he is uncomfortable with no “come-into-compliance” date. He wants to see predictability as he is uncomfortable with “case by case” basis.

City Manager Kadrich said she believes the intent is to apply this to all new construction and reconstruction when practical; those cases would be rare. Upgrading the line coming to the unit would help minimize any future risks.

Jody Kole, Grand Junction Housing Authority Executive Director, 1011 N. 10th, said while she understands the intent, she advocates for affordable housing. Her cost estimates were much higher than those presented by Mr. Guillory in the range of \$2000 more. She received the bids from Shaw Construction. They are the contractor for the Housing Authority’s Walnut Park project so she anticipates seeing this as an added cost if approved.

Mr. Guillory said he based his estimates on recent bids they received for a sewer project.

There were no other public comments.

The public hearing was closed at 7:47 p.m.

Councilmember Palmer asked what would be the benefit of the change. Mr. Guillory responded that the result is a more reliable way for a property owner to discharge their sewage. If that line is blocked or fails, more than one user is affected rather than just the one. It will allow the City to provide more reliable sewer service.

Council President Hill asked about what problem this would be solving. Mr. Guillory advised it is to prevent a problem and provide more reliable service.

Councilmember Coons said she is concerned about the impact on the affordable housing. She was concerned because the cost estimates were so disparate. She suggested tabling the matter until the cost estimates could be clarified.

Council President Hill asked if this was presented to the homebuilding associations. Mr. Guillory said it has not.

Councilmember Kenyon said he was uncomfortable with the cost estimates. He would like to run it by the homebuilders associations and also allow the Housing Authority to review it further. He is also uncomfortable with how this will affect remodels.

Councilmember Coons said she is not against the change, but wants to really know the financial impacts.

Council President Hill asked, if a four-plex is being built, can they, by their own accord, install four separate lines? Mr. Guillory answered yes; if the structure is condominiumized, separate lines are already required.

Council President Hill said he would like to see the policy that allows flexibility and also send the proposal to the construction industry to get feedback and estimates on the additional cost.

Ordinance No. 4360—An Ordinance Amending Section 38-35, Article II of Chapter 38 of the Grand Junction Code of Ordinances Pertaining to Sewer Line Connections

Councilmember Palmer moved to adopt Ordinance No. 4360 and ordered it published. Councilmember Beckstein seconded the motion. Motion failed by roll call vote with Councilmembers Coons, Kenyon, Palmer and Council President Hill voting NO.

Public Hearing—Lang Industrial Park Annexation and Zoning, Located at 2764 C ¾ Road, 2765 and 2767 Riverside Parkway [File #ANX-2009-072]

A request to annex and zone 4.86 acres located at 2764 C ¾ Road, 2765 and 2767 Riverside Parkway to I-1 (Light Industrial) zone district. The Lang Industrial Park Annexation consists of three (3) parcels.

a. Accepting Petition

Resolution No. 54-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Lang Industrial Park Annexation, Located at 2764 C ¾ Road, 2765 and 2767 Riverside Parkway is Eligible for Annexation

The public hearing was opened at 8:00 p.m.

Michelle Hoshide, Associate Planner, presented this item. She described the request, the location, and the site. She asked that the Staff Report and attachments be entered into the record. The request meets the criteria of the Zoning and Development Code. The Planning Commission and Staff recommend approval. The applicant is present. Jeffrey Fleming, 2419 Hidden Valley Drive, a planner for the project, stated that the property is in a part of town that is redeveloping due to the Riverside Parkway. The area is redeveloping and improving and it makes sense that the property be brought into the City and be zoned Light Industrial.

There were no public comments.

The public hearing was closed at 8:03 p.m.

b. Annexation Ordinance

Ordinance No. 4361—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Lang Industrial Park Annexation, Approximately 4.86 Acres, Located at 2764 C $\frac{3}{4}$ Road, 2765 and 2767 Riverside Parkway

c. Zoning Ordinance

Ordinance No. 4362—An Ordinance Zoning the Lang Industrial Park Annexation to I-1 (Light Industrial), Located at 2764 C $\frac{3}{4}$ Road, 2765 and 2767 Riverside Parkway

Councilmember Palmer moved to adopt Resolution No. 54-09 and Ordinance Nos. 4361 and 4362 and ordered them published. Councilmember Kenyon seconded the motion. Motion carried by roll call vote.

Revocable Permit for a Sign, Located in the Dedicated Right-of-Way at 2452 F Road
[File # RVP-2009-108]

Request for a Revocable Permit to allow an existing sign to remain in the dedicated right-of-way at 2452 F Road.

Judith Rice, Associate Planner, presented this item. She described the request, the location, and the site. The sign to remain is located in the right-of-way in front of the Bank of the West building on F Road. The aerial photo shows the right-of-way is currently landscaped. It was only recently discovered that the sign was not on the property of the building thus requiring the application for the revocable permit.

Resolution No. 55-09— A Resolution Concerning the Issuance of a Revocable Permit to Twenty Four Fifty Two, LLC Located at 2452 F Road
Councilmember Kenyon moved to adopt Resolution No. 55-09. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Revocable Permit for Improvements and Structure in the Right-of-Way Located at 211 Hale Avenue [File # RVP-2009-114]

Request for a Revocable Permit to allow existing improvements and structure to remain in dedicated right-of-way in Hale Avenue.

Ronnie Edwards, Associate Planner, presented this item. She described the request, the location, and the site. She said the building is 15.45 feet into the right-of-way and the City became aware when the company wanted to expand their business and it was addressed during the construction of the Riverside Parkway when the curve into Hale Avenue had to come out of the right-of way to avoid the existing building. There is no expansion of the building proposed. She said the requests meets the criteria of the Code and meets the goals and policies of the Growth Plan.

Resolution No. 56-09—A Resolution Concerning the Issuance of a Revocable Permit to William R. Jarvis, DBA Hale Avenue, LLC, Located at 211 Hale Avenue

Councilmember Beckstein moved to adopt Resolution No. 56-09. Councilmember Kenyon seconded the motion. Motion carried by roll call vote.

Construction Contract for the 29 Road and I-70B South Phase

The 29 Road and I-70B South Phase Project is a part of the overall 29 Road and I-70B Interchange and will construct the portion 29 Road from D Road to D ½ Road, along with a realigned section of D ½ Road just east of 29 Road.

Tim Moore, Public Works and Planning Director, presented this item. He explained the two phases and how that helps with determining what portion the City is paying and what portion the County is paying. The north piece is unique but came out of the 1601 process with CDOT. The project is now in three phases. The third phase is the center piece, which is the interchange. The three prong approach has allowed more time to work with the railroad and opened up the opportunity to apply for some stimulus funds. (The Recovery Act application will be in the summer with results being in February 2010.) The three phase approach can also take advantage of the favorable bidding environment as well as minimizing disruption of traffic.

There were five bidders for the South Phase. Oldcastle SW Group, Inc. dba United Companies was the low bidder.

Councilmember Palmer asked about any cost savings that would be lost for mobilization. He asked if there would be more cost savings in putting them together.

Mr. Moore said United Companies bid on both and could have bid them as a combination. Mr. Moore said he did not know if the companies took that into consideration.

Councilmember Coons asked if these phases are independent enough that it makes no difference that there are two separate projects. Mr. Moore agreed noting it was also thought that allowed more spreading out of the work.

Councilmember Kenyon moved to authorize the City Manager to sign a Construction Contract for the 29 Road and I-70B South Phase with Oldcastle SW Group, Inc., dba United Companies of Mesa County in the amount of \$1,815,206.48. Councilmember Coons seconded the motion.

Councilmember Palmer said it is so nice to get to this phase of the project. The community has been asking about the progress of 29 Road.

Motion carried by roll call vote.

Construction Contract for the 29 Road and I-70B North Phase

The 29 Road and I-70B North Phase Project is a part of the overall 29 Road and I-70B Interchange and will construct sections of Teller Avenue, Melody Lane, Sparn Street, and Gunnison Avenue; just north of I-70B and west of 29 Road.

Tim Moore, Public Works and Planning Director, presented this item. He said the project is the same thought process as the South Phase but the North Phase is somewhat more elaborate; there is more commercial in that phase. There were six bidders for this project. The low bidder was Sorter Construction on this phase.

Councilmember Coons moved to authorize the City Manager to sign a Construction Contract for the 29 Road and I-70B North Phase with Sorter Construction, Inc. in the amount of \$1,349,422.85. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Acceptance of Ownership of a Portion of the I-70B North Frontage Road from the Colorado Department of Transportation

The City has requested that the Colorado Department of Transportation (CDOT) relinquish a portion of the North Frontage Road located between approximate Mileposts 8.25 and 8.75 to facilitate construction and maintenance by the City for improvements associated with the 29 Road & I-70B Interchange Project.

Tim Moore, Public Works and Planning Director, presented this item. He advised this is the last piece of his presentation. There have been several accidents at the intersection of I-70B and Melody Lane. The property transfer and subsequent improvements will bring the access back to the frontage road and allow for a signalized intersection past 29 Road. The acceptance of that property will make the street a City street rather than a frontage road for the State Highway. That is the last step in the 1601 process.

Resolution No. 57-09—A Resolution Accepting Ownership of a Portion of the I-70 Business Loop North Frontage Road from the Colorado Department of Transportation

Councilmember Kenyon moved to adopt Resolution No. 57-09, accepting a portion of I-70B North Frontage Road from Melody Lane to Morning Glory Lane from the Colorado Department of Transportation. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting adjourned at 8:29 p.m.

Stephanie Tuin, MMC
City Clerk

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

June 17, 2009

The City Council of the City of Grand Junction convened into regular session on the 17th day of June 2009 at 7:01 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Tom Kenyon, Gregg Palmer, Bill Pitts and Council President Bruce Hill. Councilmembers Teresa Coons and Linda Romer Todd were absent. Also present were City Manager Laurie Kadrach, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Hill called the meeting to order. Councilmember Kenyon led in the Pledge of Allegiance.

Council President Hill recognized former Mayor/Councilmember Gregg Palmer for his award as Lion of the Year. Councilmember Palmer thanked Council President Hill for mentioning it, noting it was a surprise and it is a pleasure being associated with a service group that does good for the community.

CONSENT CALENDAR

There were no items on the Consent calendar

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing—2009 CDBG Action Plan [File #2009-CDBG]

City Council will consider final adoption of the 2009 Program Year Action Plan. This annual plan is required by the Department of Housing and Urban Development (HUD) for the use of Community Development Block Grant (CDBG) funds. The Action Plan includes the CDBG projects for the 2009 Program Year City Council approved for funding on May 18, 2009.

The public hearing was opened at 7:03 p.m.

Kristen Ashbeck, Senior Planner, presented this item. She reviewed the history of the program. This is the 14th year of participation in the CDBG program. The City's allocation is \$344,418 and the City received notice that this year's allocation was down \$21. In addition to the allocation, there are \$110,000 being returned so the total allocation is \$454,418. Also, the City received \$91,783 in stimulus funds that the Council allocated last month. The City is awaiting the release of those funds.

The purpose of the hearing tonight is to approve two more amendments and then adopt the 2009 Action Plan.

The first amendment was originally allocated to the Head Start Program who could not use the funds. Those were returned and will be included in the new allocation of funds. The first being to approve a revision to the Program Year 2008 Action Plan so that unspent funds for the Riverside Task Force may be used for demolition and site finish instead of acquisition.

Ms. Ashbeck then reviewed the other projects as follows:

- 1) City of Grand Junction Program Administration \$30,000
- 2) Homeward Bound of the Grand Valley Purchase Van \$26,000
- 3) St. Mary's Foundation Senior Companion Program \$12,000
- 4) Grand Junction Housing Authority Walnut Park Apartments \$100,000
- 5) Riverside Task Force Property Acquisition \$173,201
- 6) Mesa Developmental Services Office Remodel \$40,000
- 7) Housing Resources Garden Village Learning Center \$8,217
(in addition to \$91,783 stimulus funds previously approved)
- 8) Western Slope Center for Children Remodel \$65,000

The allocation of these funds leverages over \$2.1 million in other funding. There are some projects that are yet to be completed for the 2008 funding year. She reviewed those.

They will take public comments for the next 30 days and then submit the Plan to HUD for final approval.

Council President Hill then asked those wishing to speak to come forward.

Dan Whalen, Housing Resources of Western Colorado, 336 Iron Horse Court, thanked the Council for the Garden Village Learning Center funding. The Learning Center will include a Community Center for the residents and the public. The \$100,000 will help them leverage more funding. The Learning Center is for empowerment. Placing low income folks in these homes will help them move on.

Annette Aveda, 2539 A Shetland Court, Mesa Development Services, thanked the Council for the funds to remodel their office at 950 Grand.

Juanita Trujillo, 319 W. Ouray Avenue, representing the Riverside Task Force, thanked the Council for the funding to expand their campus.

Jacquie Pike, 952 Walnut, Senior Companion Program, thanked the Council for the funding. She has been with the program for 16 years and stated the elderly can, on average, stay in their own home after they no longer drive if they have a little bit of help.

This funding provides mileage reimbursement for those that provide transportation for the elderly.

Dan Prinster, 679 Sperber Lane, past President and Board Member for the Western Slope Center for Children, thanked the Council for the funding for the Center. He explained the purpose of the Center.

There were no other public comments.

The public hearing was closed at 7:14 p.m.

Council President Hill noted for the record that the City Council has previously reviewed these applications in detail at a workshop, thus have few questions for the Staff at this meeting.

Resolution No. 58-09—A Resolution Adopting the 2009 Program Year Action Plan as a Part of the City of Grand Junction 2006 Five-Year Consolidated Plan for the Grand Junction Community Development Block Grant (CDBG) Program

Councilmember Palmer moved to adopt Resolution No. 58-09. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Airport Improvement Program Grant for Ramp Rehabilitation at Grand Junction Regional Airport

AIP-38 is a small grant for the balance of the FAA's 2009 Entitlement funds for the Grand Junction Regional Airport and will be used for design only of the General Aviation Ramp Rehabilitation. The grant amount is \$673,403.00. The Supplemental Co-sponsorship Agreement is required by the FAA as part of the grant acceptance by the City.

Rex Tippetts, Airport Director, presented this item. These two grants are reimbursements for work already done; the first one is for design of the ramp rehabilitation.

Councilmember Pitts asked for clarification.

Mr. Tippetts advised they paid for the design work out of operation funds and these grant funds will reimburse them.

Councilmember Palmer moved to authorize the Mayor to sign the Original FAA AIP-38 Grant Documents and authorize the City Manager to sign the Supplemental Co-sponsorship Agreement for AIP-38. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Airport Improvement Program Grant for Utility Relocation at Grand Junction Regional Airport

AIP-40 is a small grant for the balance of the FAA's 2009 Entitlement funds for the Grand Junction Regional Airport and will be used to partially fund utility relocation in the Cargo area. The grant amount is \$74,387.00. The Supplemental Co-sponsorship Agreement is required by the FAA as part of the grant acceptance by the City.

Rex Tippetts, Airport Director, presented this item. He explained this is the balance of the grant monies that was approved less than thirty days ago.

Councilmember Palmer recognized Mr. Tippetts' effort to attend this meeting as he was out-of-town. He acknowledged all the work that the leadership at the Airport has accomplished.

Councilmember Palmer moved to authorize the Mayor to sign the Original FAA AIP-40 Grant Documents and authorize the City Manager to sign the Supplemental Co-Sponsorship Agreement for AIP-40. Councilmember Kenyon seconded the motion. Motion carried.

Revocation of a Revocable Permit Issued to Depot Preservation and Restoration Company LLC

Staff met with Jim Leany, Manager and Registered Agent of The Depot Preservation and Restoration Company, LLC, and is presenting, by way of the attached draft resolution, Mr. Leany's request.

John Shaver, City Attorney, presented this item. He explained how this issue was coming before the City Council, at the request of Mr. Jim Leany. He showed the area in question and then deferred to the applicant.

Jim Leany, 515 Rondo Drive, stated his reasons for the request. He has no use or benefit and zero interest in retaining the permit. He sold the train station to the Jackson Hole Brewing Company five years ago.

Councilmember Kenyon asked if the permit was transferrable at the time of the train depot sale. He said the City Attorney told him there could be no transfer. The property is currently up for sale.

Councilmember Kenyon asked if Mr. Leany paid for the improvements. Mr. Leany said it was paid out of grants, \$500,000 of which \$168,000 came from the City.

Councilmember Kenyon asked if Mr. Leany has been maintaining the facilities. Mr. Leany said he has twice but when he received notice that he did not own the improvements, he stopped maintaining them.

Councilmember Palmer asked for clarification on the transfer of the permit at the time of sale to which Mr. Leany responded that it could have been transferred but the purchasers declined.

Councilmember Palmer asked if he will need to remove the jersey barriers if the revocable permit is revoked. Mr. Leany said that could be requested. He recalled an accident before the barriers existed noting the barrier has saved lives. His obligation is only to maintain the site.

Councilmember Pitts asked who pays the light bill. Mr. Leany said the City has always paid that bill.

Council President Hill asked where the City right-of-way is on the photo. City Attorney Shaver said the barriers are in the right-of-way. Council President Hill asked if some of the parking is also in the City-right-of-way. City Attorney Shaver responded affirmatively.

Councilmember Kenyon inquired if it is the applicant's obligation to maintain the area included within the permit. City Attorney Shaver responded affirmatively. Further, City Attorney Shaver advised that the permit does require the applicant return the property back to original condition if the permit is revoked. Councilmember Kenyon noted it must be up to the City Manager as to how the property should be restored. City Attorney Shaver advised that the traffic engineers could review the situation first. City Attorney Shaver said the revocation could be conditioned on Mr. Leany meeting certain obligations.

Councilmember Pitts asked where the property line will be if the permit is revoked; will a survey need to be done? City Attorney Shaver advised the City could establish that property line. The current or future owner may not have the desire for any part of the parking lot depending on the planned use.

Councilmember Palmer asked if the removal of the barrier affects the current property. City Attorney Shaver said in his opinion, yes, there would be a loss of circulation.

Councilmember Palmer asked if the current owners have been contacted to see if they have an interest in order to retain that parking. City Attorney Shaver said he has not contacted the new owners. He added that the permit could have been transferred to the new owners.

Councilmember Kenyon said he thought the permit should be revoked but to do so knowing all the impacts first before a final decision is made. He would like to work toward revoking it. He suggested having Staff review it first but give Mr. Leany an idea of the direction the Council is going.

Councilmember Pitts agreed with Staff bringing a resolution back to Council.

Councilmember Palmer thought the new owners should be contacted as this may affect the parking and circulation.

Councilmember Beckstein agreed in referring it back to Staff.

City Attorney Shaver said he would suggest that Mr. Leany make contact with the current owners and bring that back to Staff.

Council President Hill summarized that the permit was issued as part of a development plan to the benefit the property owner and the public. He recalled the configuration prior to the permit. The Council needs to know where the City property line is and if the current owner has an interest in the permit. He would also like a history of the development property on this property; then it could be brought back to Council.

Mr. Leany said he has owned the property for a decade. He described the configuration of the property prior. They actually lost parking with the barrier. The parking lot is City owned. He offered to provide details to the Staff to put the information together for the City Council.

The Council thanked Mr. Leany. The matter will come back with more information.

Purchase of Aggregate and Road Material in 2009 for Streets and Water Divisions

This approval request is for a contract award for the purchase of various sizes of aggregate and road materials for the City's Streets and Water Divisions for 2009.

Terry Franklin, Deputy Director of Utilities and Streets, presented this item. He explained how they remove the fill, take it to the gravel pit, and then bring new aggregate back to the site. Then he explained the crack fill program and the need for the road material as well as the chip seal program. It looks like there will be a \$15,000 savings dependent on how the material spreads out.

Councilmember Pitts asked about the quantity of chips proposed. Mr. Franklin assured him it was enough.

Councilmember Kenyon moved to authorize the Purchasing Division to enter into a contract with White Water Building Materials and Grand Junction Concrete Pipe Co. to provide aggregate and road materials for the Streets Division, as well as a contract with Gary Rinderle Construction to provide aggregate for the Water Division, for a combined estimated amount of \$193,700. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting was adjourned at 7:56 p.m.

Stephanie Tuin, MMC
City Clerk

Attach 2

Setting a Hearing on Vacating an Alley-Melrose Park

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Vacating an Alley Right-of-Way located through the center of Melrose Park located at 1827 North 26 th Street.		
File #	SPR-2009-064		
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	June 17, 2009		
Author Name & Title	Michelle Hoshide – Associate Planner		
Presenter Name & Title	Michelle Hoshide – Associate Planner		

Summary: Request to vacate 0.18 acres of alley right-of-way located through the center of Melrose Park at 1827 North 26th Street which is unnecessary for future roadway circulation.

Budget: N/A

Action Requested/Recommendation: Introduce a proposed ordinance and set a public hearing for July 13, 2009

Attachments:

1. Site Location Map
2. Aerial Photo Map
3. Future Land Use Map
4. Existing City Zoning Map
5. Proposed Ordinance

Background Information: See attached report

BACKGROUND INFORMATION				
Location:		Melrose Park located at 1827 North 26 th Street		
Applicant:		City of Grand Junction		
Existing Land Use:		Public Park		
Proposed Land Use:		Public Park		
Surrounding Land Use:	North	Single Family Residential		
	South	Single Family Residential		
	East	Single Family Residential		
	West	Single Family Residential		
Existing Zoning:		N/A		
Proposed Zoning:		CSR (Community Services and Recreation)		
Surrounding Zoning:	North	R-8 (Residential 8 du/ac)		
	South	R-8 (Residential 8 du/ac)		
	East	R-8 (Residential 8 du/ac)		
	West	R-8 (Residential 8 du/ac)		
Growth Plan Designation:		Public		
Zoning within density range?	X	Yes		No

ANALYSIS

1. Background

The City of Grand Junction has made a request to vacate the alley right-of-way located through the center of Melrose Park at 1827 North 26th Street. The vacation will facilitate optimal use of Melrose Park. The alley right-of-way to be vacated has never been developed or used as a right-of-way; instead it has been used as part of Melrose Park since the park was built over 50 years ago.

2. Section 2.11.C of the Zoning and Development Code

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

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

The vacation of the right-of-way will not impact the Grand Valley Circulation Plan, Growth Plan or policies adopted by the City of Grand Junction. The alley running through Melrose Park has never been used for traffic circulation and never will be used for traffic circulation because of the existence of Melrose Park.

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

No parcel will be landlocked as a result of the vacation because the existing street patterns in this area provide adequate connectivity and access to surrounding parcels.

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

Access will not be restricted to any parcel as a result of this vacation because all surrounding parcels currently access existing developed right-of-way.

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

The vacation will not cause any adverse impacts on the health, safety or welfare of the general community and the quality of public facilities. Services provided to any parcel of land will not be reduced if this alley is vacated.

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

Adequate public facilities and services will not be inhibited to any property. All adjacent parcels have access to public facilities and services through existing right-of-way.

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

The vacation will facilitate optimal use of Melrose Park.

FINDINGS OF FACTS/CONCLUSION

After reviewing the City of Grand Junction application, SPR-2009-064 for the vacation of an undeveloped portion of alley right-of-way, the following finding of facts and conclusion has been determined:

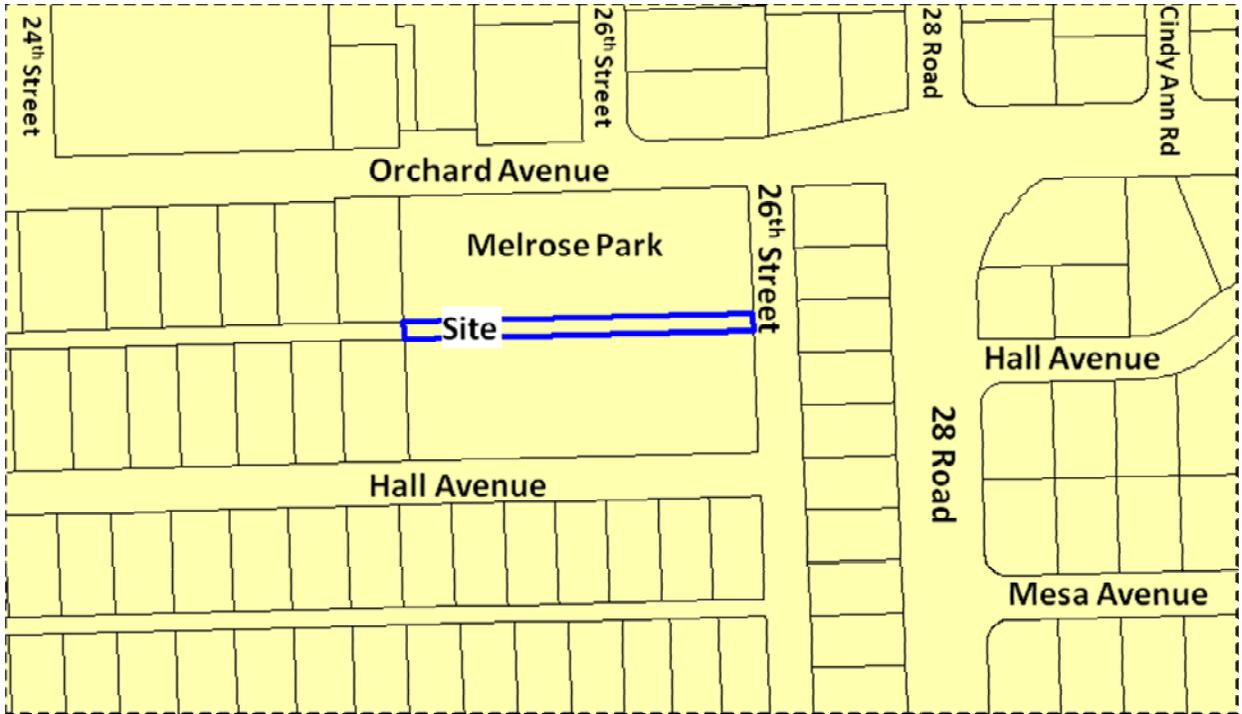
- 1.) The request is consistent with the goals and polices of the Growth Plan
- 2.) The review criteria in Section 2.11.C of the Zoning and Development Code have all been met.

PLANNING COMMISSION RECOMMENDATION:

On June 9, 2009, Planning Commission forwarded a recommendation of approval of the requested right-of-way vacation, SPR-2009-064, to the City Council with the findings and conclusions listed above.

Site Location Map

Figure 1



Aerial Photo Map

Figure 2



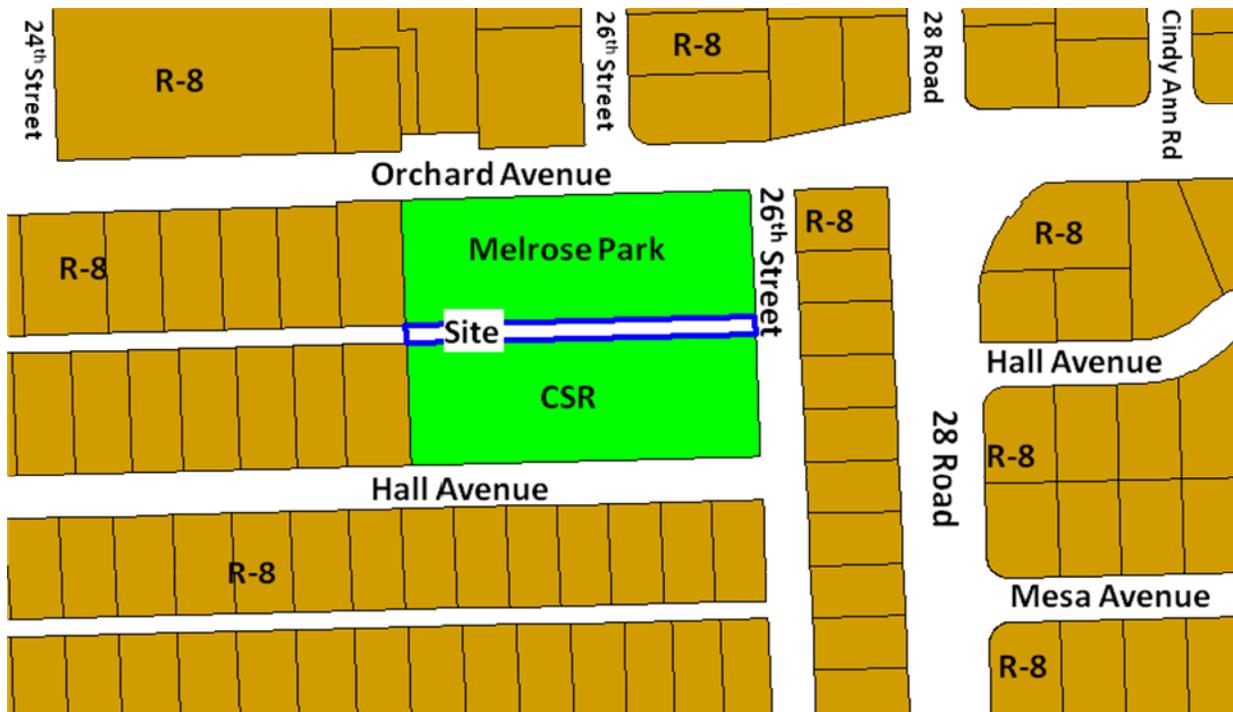
Future Land Use Map

Figure 3



Existing City Zoning

Figure 4



CITY OF GRAND JUNCTION

ORDINANCE NO.

AN ORDINANCE VACATING THE ALLEY RIGHT-OF-WAY LOCATED THROUGH THE CENTER OF MELROSE PARK AT 1827 NORTH 26TH STREET

RECITALS:

A request to vacate the alley right-of-way located through the center of Melrose Park at 1827 North 26th Street. This request has been made by the City of Grand Junction.

The City Council finds that the request to vacate the herein described portion of the Melrose Park Alley right-of-way is consistent with the Growth Plan and Section 2.11 of the Zoning and Development Code.

The Planning Commission, having heard and considered the request on June 9, 2009, found the criteria of the Zoning and Development Code to have been met, and recommends that the vacation be approved as requested.

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

A certain parcel of land lying in the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section 12, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of that certain 20.00 foot wide alley lying within Block No. 1, Melrose Park, as same is recorded in Plat Book 9, Page 2, Public Records of Mesa County, Colorado, lying West of the West right of way for North 26th Street, also being the East line of Lots 1 and 9, Block No. 1 of said Melrose Park AND lying East of the West line of Lots 7 and 15, Block No. 1 of said Melrose Park.

CONTAINING 7,794 Square Feet, more or less.

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

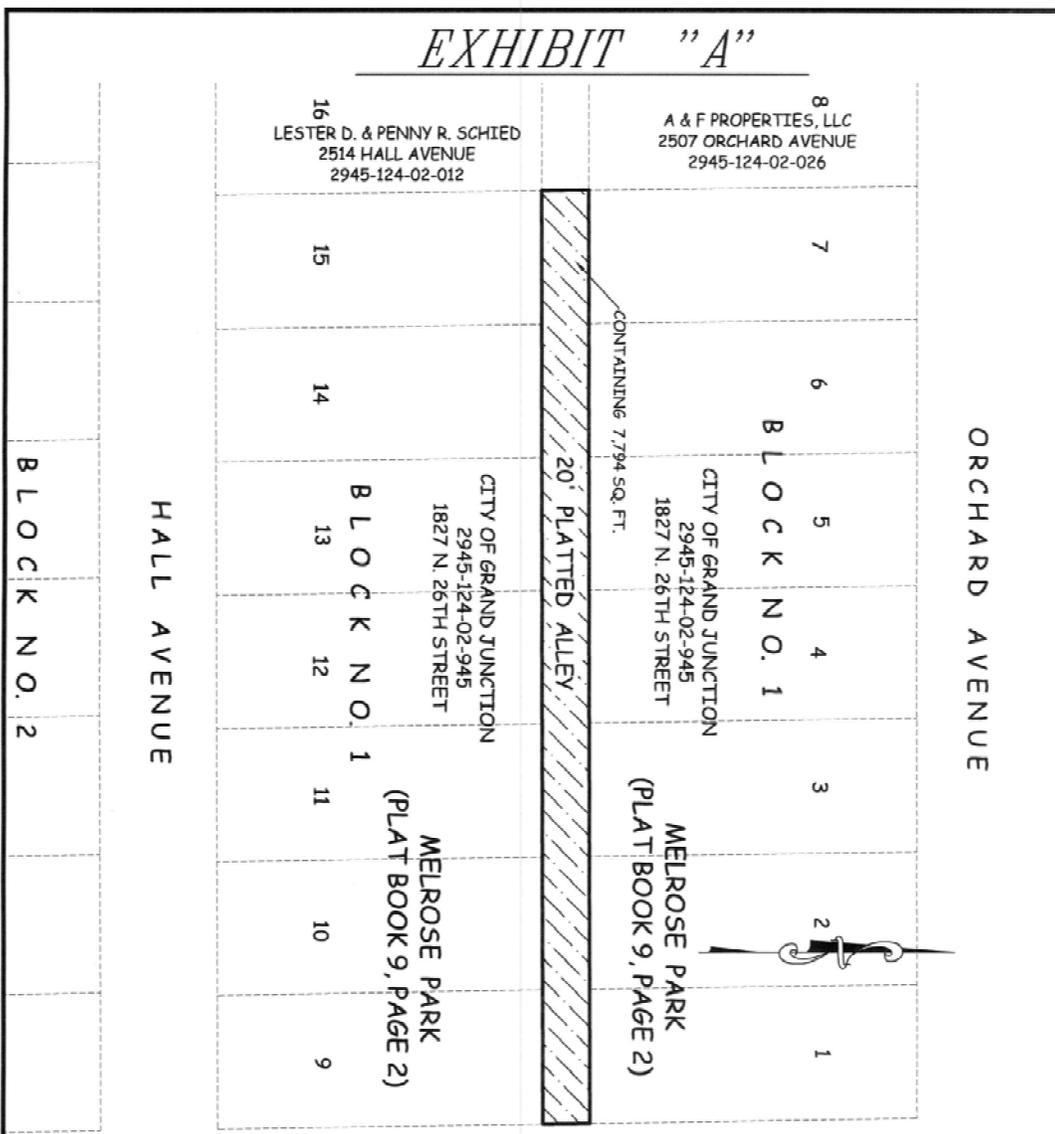
PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

President of City Council

City Clerk

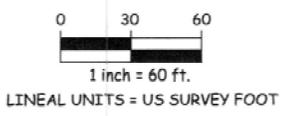
EXHIBIT "A"



HALL AVENUE
ORCHARD AVENUE
NORTH 26TH STREET

- ABBREVIATIONS**
- R.O.W. RIGHT OF WAY
 - SEC. SECTION
 - TWP. TOWNSHIP
 - RGE. RANGE
 - U.M. UTE MERIDIAN
 - P.O.C. POINT OF COMMENCEMENT
 - P.O.B. POINT OF BEGINNING
 - SSMH SANITARY SEWER MAN HOLE

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



THIS IS NOT A SURVEY

DRAWN BY: PTK
DATE: 4-23-09
SCALE: 1" = 60'
APPR. BY: PTK

CITY OF GRAND JUNCTION
2945-124-02-945
ALLEY VACATION, MELROSE PARK
NE 1/4 SE 1/4 SEC 12, TWP 1S, RGE 1W, U.M.



Attach 3

Siena View Partial Vacation of Easement

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Siena View Partial Vacation of Easement		
File #	VE-2009-132		
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	June 18, 2009		
Author Name & Title	Lori V. Bowers, Senior Planner		
Presenter Name & Title	Lori V. Bowers, Senior Planner		

Summary: A request to vacate a portion of a 14-foot multi-purpose easement (approximately 40.39 square feet), located at 448 San Juan Street, Lot 1, Block 1, Siena View Subdivision, Filing No. One, to amend a contractor's error.

Budget: N/A

Action Requested/Recommendation: Adopt the Resolution.

Attachments:

1. Site Location Map/Aerial Photo Map
2. Future Land Use Map/Existing City and County Zoning Map
3. Depiction of contractor's error
4. Resolution

Background Information: See attached Staff Report

BACKGROUND INFORMATION				
Location:		448 San Juan Street		
Applicants:		G.D. Builders, Inc. – owner and developer		
Existing Land Use:		Residential		
Proposed Land Use:		Residential		
Surrounding Land Use:	North	Residential		
	South	Residential		
	East	Residential		
	West	Residential		
Existing Zoning:		R-8 (Residential – 8)		
Proposed Zoning:		No change		
Surrounding Zoning:	North	R-8 (Residential – 8)		
	South	R-8 (Residential – 8)		
	East	R-8 (Residential – 8)		
	West	R-8 (Residential – 8)		
Growth Plan Designation:		RM (Residential Medium 4 to 8 units/acre)		
Zoning within density range?		X	Yes	No

ANALYSIS

1. Background:

The property was annexed into the City in 2003 as the Siena View Annexation. The final plat was recorded in 2006. As part of the final plat it was determined that a landscape tract would not be required along D 1/2 Road since there were no lots that backed up to D 1/2 Road. The two lots with frontage on D 1/2 Road are corner lots that take access from San Juan Street. It was stipulated that these lots were allowed to have backyard fences along D 1/2 Road, setback five feet from the right-of-way, thereby creating a side yard along D 1/2 Road.

In February, 2008 a Planning Clearance was issued for construction of a single family residence at 448 San Juan Street, which is the northeast corner lot of the subdivision; also known as Lot 1, Block 1, Siena View Subdivision.

A construction error took place and the northwest corner of the house encroaches into the 14-foot multi-purpose easement by almost two feet; please see Exhibit 1. The developer proposes a vacation of 40.39 square feet of the multi-purpose easement to remedy this situation; please see Exhibit B, which is attached to the Resolution.

Utility locates were performed and letters supporting the vacation of this portion of the easement have been obtained from all the utility companies that have claim to this easement.

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

The vacation of the easement shall conform to the following:

- g. The Growth Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City.

The easement to be vacated does not affect the goals and policies of the Growth Plan. It does not affect the major street plan as the area to be vacated is not located in a dedicated right-of-way. The vacation does not affect the Pear Park Neighborhood Plan.

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

No parcel will be landlocked as a result of the vacation.

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

Access to the lot, adjoining lots and the multi-purpose easement will not be restricted by this vacation. The vacation is necessary to remove an encroachment into a platted 14-foot multi-purpose easement, caused by a contractor's error.

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

The health, safety and/or welfare of the general community will not be

harmed as there are no utilities located within the area to be vacated. The remainder of the multi-purpose easement is large enough to accommodate the existing utilities that are in place.

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

Adequate public facilities and services are not inhibited by the reduction in size of the multi-purpose easement in the area of the vacation.

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

The vacation of a portion of the easement does not provide any benefits to the City, but the vacation does not harm the City either. The remainder of the multi-purpose easement will continue to function in the manner that it was intended.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Siena View Partial Vacation of Easement application, VE-2009-132 for the vacation of a portion of a 14-foot multi-purpose easement, I make the following findings of fact and conclusions:

1. The requested easement vacation is consistent with the Growth Plan.
2. The review criteria in Section 2.11.C of the Zoning and Development Code have all been met.

PLANNING COMMISSION RECOMMENDATION:

On June 23, 2009 the Planning Commission will review the proposed request. They will forward a recommendation on to the City Council after their Public Hearing.

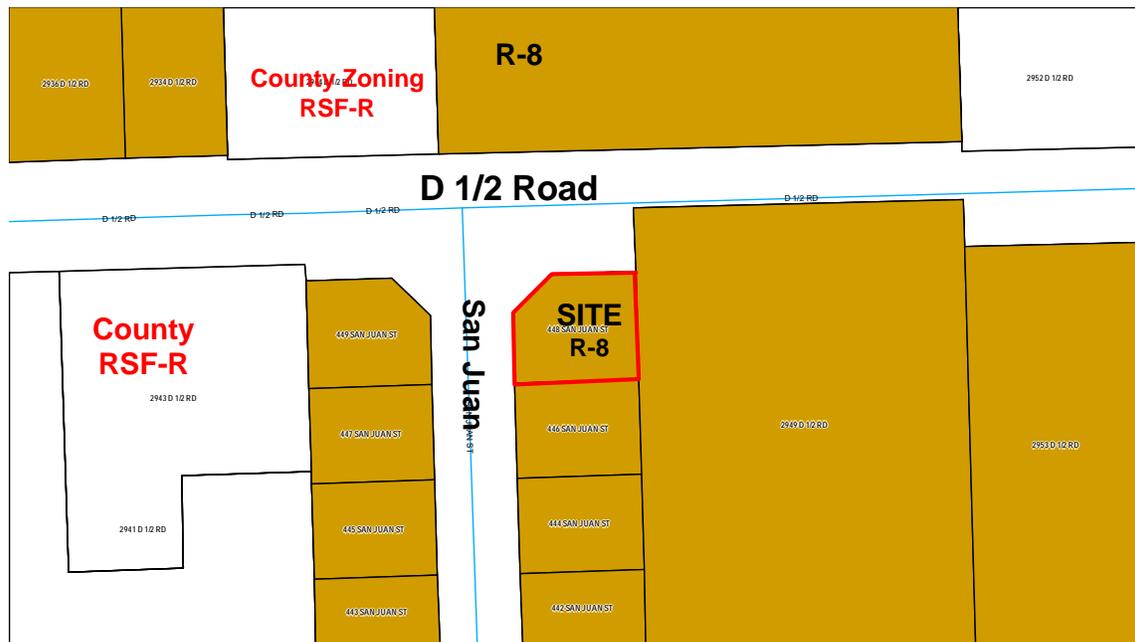
Future Land Use Map

488 San Juan



Existing City and County Zoning

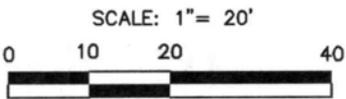
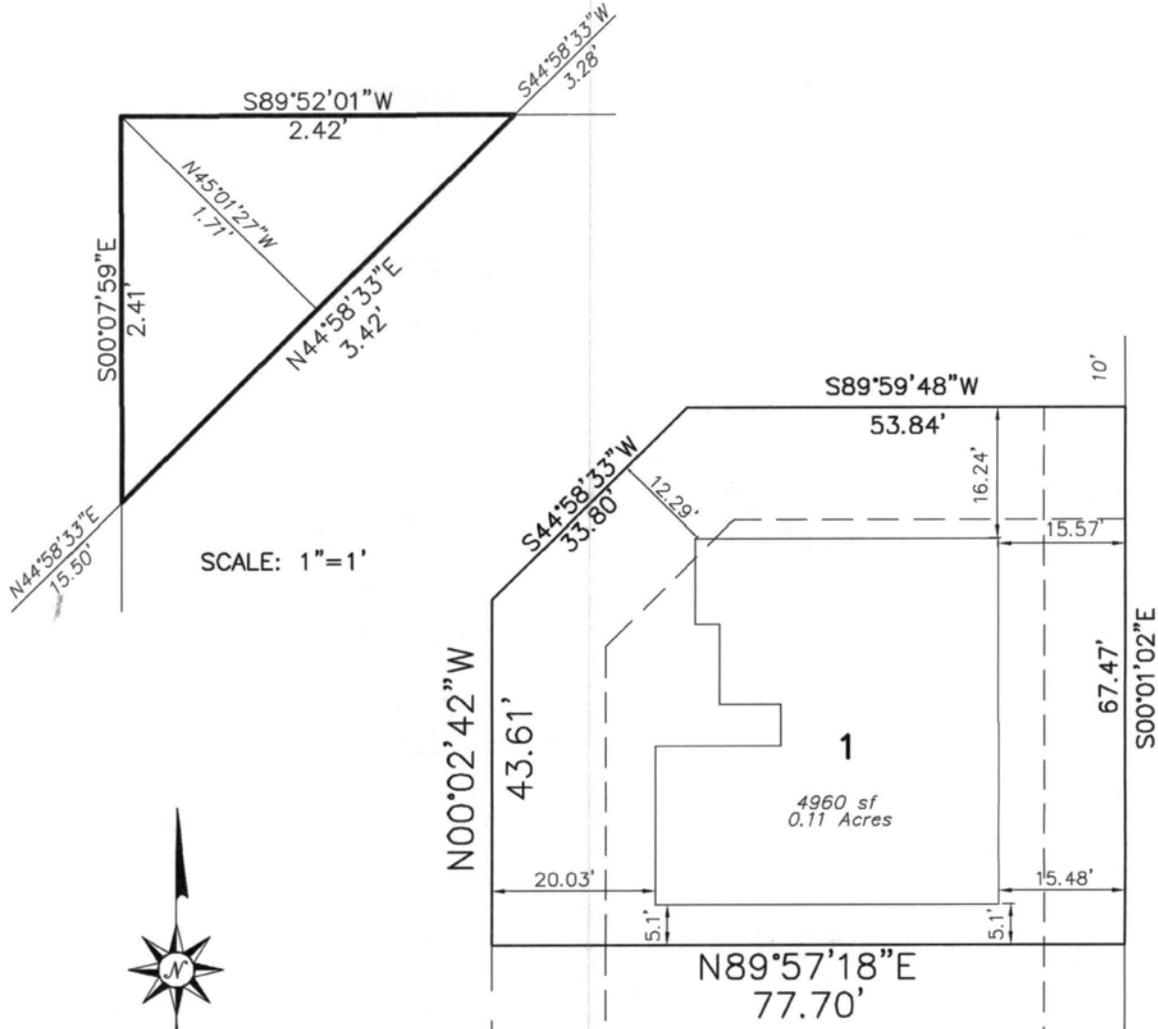
488 San Juan



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

EXHIBIT 1

448 San Juan Street
 LOT 1, BLOCK 1
 SIENA VIEW SUBDIVISION, FILING NO. ONE
 BOOK 4279, PAGE 777, MESA COUNTY RECORDS
 GRAND JUNCTION, MESA COUNTY, COLORADO



448 San Juan Street
 High Desert Surveying, LLC

1673 Highway 50 Unit C
 Grand Junction, Colorado 81503
 Tele: 970-254-8649 Fax: 970-241-0451

PROJ. NO.	SURVEYED	DRAWN	CHK'D	SHEET	OF
09-40				1	1
DATE: April, 2009	BE/JF	rsk	JF		

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO.

A RESOLUTION VACATING A PORTION OF A MULTI-PURPOSE EASEMENT ON
LOT 1, BLOCK 1, SIENA VIEW SUBDIVISION, FILING NO. ONE
LOCATED AT 448 SAN JUAN STREET

Recitals:

A request for the vacation of a portion of a multi-purpose easement, approximately 40.39 square feet, has been submitted in accordance with the Zoning and Development Code. The applicant has requested that the 40.39 square feet of easement, near the Northwest corner of the residential structure be vacated. The easement is shown and dedicated on the plat of Siena View Subdivision, Filing No. One, as recorded in Book 4279 at Pages 777-778, with the Mesa County Clerk and Recorder.

In a public hearing, the Planning Commission reviewed the request for the partial vacation and determined that it satisfied the criteria as set forth and established in Section 2.11.C of the Zoning and Development Code. The proposed vacation is also consistent with the purpose and intent of the Growth Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE AREA DESCRIBED IN EXHIBIT A AND SHOWN ON EXHIBIT B, ATTACHED IS HEREBY VACATED.

PASSED on this _____ day of _____, 2009.

ATTEST:

City Clerk

President of Council

EXHIBIT A

Vacation of a Portion of a 14.00 foot wide Multipurpose Easement

A parcel of land located in Lot 1, Block 1, Siena View Subdivision, Filing No. One, as shown on plat recorded in Book 4279, Page 777, Mesa County records, in the Northeast Quarter of the Southwest Quarter of Section 17, Township 1 South, Range 1 East of the Ute Meridian, Grand Junction, Mesa County, Colorado and being more particularly described as follows:

Commencing at the Northeast corner of Lot 1, Block 1, Siena View Subdivision, Filing No. One, as shown on plat recorded in Book 4279, Page 777, Mesa County records whence the Southeast corner of said Lot 1, Block 1 bears South 00 degrees 01 minutes 02 seconds East, a distance of 67.47 feet, as shown on said plat of Siena View Subdivision, Filing No. One; thence South 00 degrees 01 minutes 02 seconds East, a distance of 14.00 feet; thence South 89 degrees 59 minutes 48 seconds West, a distance of 48.03 feet to the POINT OF BEGINNING; thence South 89 degrees 59 minutes 48 seconds West, a distance of 2.83 feet; thence South 44 degrees 58 minutes 33 seconds West, a distance of 18.20 feet; thence South 00 degrees 02 minutes 42 seconds East, a distance of 2.83 feet; thence North 44 degrees 58 minutes 33 seconds East, a distance of 22.19 feet to the POINT OF BEGINNING.

Said parcel having an area of 0.001 acres or 40.39 square feet, as described.

Dalton Easement Vacation.doc/rsk

Prepared By:
Jeffrey C. Fletcher, PLS 24953
High Desert Surveying, LLC
1673 Highway 50 Unit C
Grand Junction, Colorado 81503

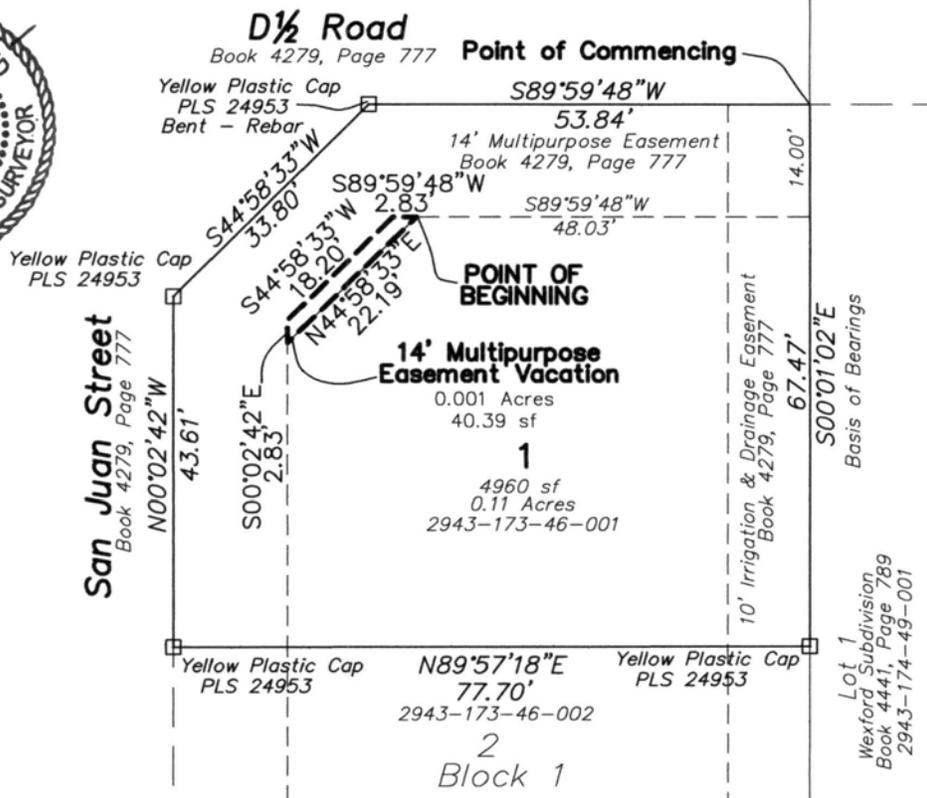
EXHIBIT B

448 San Juan Street
 GD BUILDERS, INC.
 LOT 1, BLOCK 1

SIENA VIEW SUBDIVISION, FILING NO. ONE
 BOOK 4279, PAGE 777, MESA COUNTY RECORDS
 GRAND JUNCTION, MESA COUNTY, COLORADO



Siena View Subdivision
 Filing No. One
 Book 4279, Page 777



GENERAL NOTES

Basis of bearings is the East line of the Lot 1, Block 1, Siena View Subdivision, Filing No. One, as recorded in Book 4279, Page 777, which bears South 00 degrees 01 minutes 02 seconds East, a distance of 67.47 feet, established by observation of the MCGPS control network, which is based on the NAD 83 for Horizontal and NAVD 88 for Vertical Information. Both monuments on this line are Lot Corners, as shown on the face of said plat of Siena View Subdivision, Filing No. One.

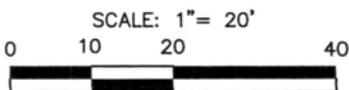
All lined units shown hereon in U.S. Survey feet.

Note: Property corners located during this survey that were within 0.25± feet of the calculated point were accepted as being "in position".

High Desert Surveying, LLC

1673 Highway 50 Unit C
 Grand Junction, Colorado 81503

Tele: 970-254-8649 Fax: 970-241-0451



PROJ. NO. 09-40	SURVEYED	DRAWN	CHK'D	SHEET	OF
DATE: April, 2009	BE/JF	rsk	JF	1	1

Attach 4

Purchase of Road Oil 2009

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Purchase of Road Oil for Chip Seal Program 2009		
File #			
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent		Individual
Date Prepared	June 23, 2009		
Author Name & Title	Duane Hoff Jr., Buyer		
Presenter Name & Title	Terry Franklin, Deputy Director of Utilities and Streets Darren Starr, Solid Waste & Streets Manager		

Summary: Request the purchase of approximately 226,327 gallons of road oil for the Streets Division Annual Chip Seal Program for 2009.

Budget: The Streets Division has \$632,000 budgeted for this expenditure in the General Fund. Of this amount, approximately \$109,184 will be transferred to "budget savings" in the General Fund.

Action Requested/Recommendation: Authorize the City Purchasing Division to sole source purchase approximately 226,327 gallons of road oil from Cobitco, Inc., Denver, Colorado in the amount of approximately \$522,816.

Attachments: N/A

Background Information: Since 2005, the Streets Division has performed quality tests of road oil for the City's Chip Seal program. They found that between the two types of Cationic Rapid Setting Emulsified Asphalt Polymer Modified oils available, which are the CRS-2P and the CRS-2R, that the CRS-2R was deemed superior due to quicker setting, better chip retention, night fogging capability and product durability. Cobitco is the only manufacturer of the CRS-2R in the State. A local vendor, Sem Material, manufactures the CRS-2P product which was found to be an inferior and less expensive polymer. The result of the less expensive polymer includes decreased elastic recovery, toughness and tenacity that cause a stripping of the chips which leads to a decrease in the life of the overlay. While the Cobitco product is a higher initial cost, it has superior tenacity, retention and durability. A Sole Source justification was submitted and approved by City Council in 2008. This sole source is effective through 2010.

Firm	Location	Fee Proposal
Cobitco Inc.	Denver	\$2.31/gallon

Attach 5

Public Hearing Emergency Ordinance Solicitation

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Ordinance to Prohibit Certain Forms of Aggressive Solicitation and Declaring an Emergency		
File #			
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent	<input type="checkbox"/>	Individual <input checked="" type="checkbox"/>
Date Prepared	May 20, 2009		
Author Name & Title	DeLayne Merritt, Staff Attorney		
Presenter Name & Title	John Shaver, City Attorney		

Summary: The City of Grand Junction does not currently have a solicitation ordinance. Acts of solicitation, such as soliciting for money or other things of value, have increased and may continue to do so because of the current economic recession. City staff, with the advice and consent of the City Council legislative committee, believes that it would be in the best interests of the community if an ordinance is enacted that regulates certain aggressive acts of solicitation.

The City Charter provides that on the declaration and finding of a special emergency that an ordinance may be considered and approved as final on the date it is introduced. Because of the serious dangers that are presented to both solicitors and the members of the community when solicitation involves violence, threatening gestures and/or physical contact, City staff recommends that the Council find and declare that aggressive solicitation within the City is a special emergency.

Incidents of solicitors becoming aggressive, demanding and/or persisting after negative responses from the members of the community have increased. Furthermore, additional danger is created because there is a high incidence of solicitors being under the influence. When solicitors are under the influence of intoxicants, the danger of unwanted physical and verbal contact is much greater.

Given these circumstances this ordinance is reasonably necessary in order to preserve the public health, peace and safety.

An emergency ordinance, because it is effective immediately, will afford approximately 60 additional days during which education and enforcement may occur. That time is important to the protection of solicitors and community members. Because certain officers of the Grand Junction Police Department normally assigned to schools are available for other duty during the summer months it is reasonable to enroll them in the important service of education on and enforcement of the proposed ordinance.

Beginning education and enforcement during the summer months allows the Police Department to utilize its staff to maximize the Department's service to and protection of our community.

For the foregoing reasons the City staff recommends that the City Council find that the time saved in adopting this ordinance as an emergency is of value and therefore that the ordinance be adopted as an emergency measure.

Budget: There is no direct budget impact from adoption of the Ordinance. Increased enforcement will have a cost that is unknown at this time. The Grand Junction Police Department and City Attorney will be responsible for enforcement.

Action Requested/Recommendation: Introduction of proposed Ordinance and holding a hearing on June 29, 2009.

Attachments: Proposed Ordinance.

Background Information: The City Attorney and the Grand Junction Police Department are aware that solicitation acts have increased. Because of the economic recession they may increase even more.

Solicitors have become more aggressive and demanding, persisting even after there are negative responses to their requests for funds. Solicitation may include violence or threatening gestures and physical contact and touching that cause fear, a breach of the peace and the possibility of violence.

As there is a general expectation that the City be alert and responsive to the safety and welfare of the community, it is the recommendation of staff that an ordinance be adopted that regulates certain aggressive acts of solicitation.

For reasons stated, the Council finds and declares that an emergency exists and the following is hereby adopted as an emergency ordinance.

ORDINANCE NO. _____

**AN ORDINANCE TO PROHIBIT CERTAIN FORMS OF AGGRESSIVE SOLICITATION
AND DECLARING AN EMERGENCY**

RECITALS:

The purpose of this section is to protect the health, safety and peace of community members from aggressive acts of solicitation within the City of Grand Junction. Acts of solicitation are increasing with the recent economic recession. Solicitors are increasingly more aggressive, demanding and persistent. Solicitors use threatening gestures, physical contact and other tactics that cause fear in and among members of the community.

The City Attorney and the Grand Junction Police Department have determined that there is a need for more consistent and direct enforcement of solicitation acts. To allow persons to continue acts of solicitation in an aggressive manner is detrimental to the safety of the citizens. A new ordinance specifically regulating certain acts of aggressive solicitation will provide important safeguards to the community.

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

A new Section shall be added to Chapter 24 of the Code of Ordinances, City of Grand Junction, Colorado, regarding regulation of certain acts of solicitation. The Ordinance establishes regulations for the enforcement of acts of solicitation. Section 24-25 shall read as follows:

Sec. 24-25. Prohibition against certain forms of aggressive solicitation.

- (1) For the purpose of this section, the following words and terms shall be defined as follows:

Aggressive manner shall mean:

- a. approaching or speaking to a person or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or to

damage or cause loss of property or otherwise to be intimidated into giving money or other thing(s) of value;

- b. continuing to solicit from a person after the person has given a negative response to such soliciting or otherwise indicated that he/she does not want to be solicited;
- c. touching or causing physical contact with another person or their property (including but not limited to motor vehicles) without that person's consent in the course of soliciting;
- d. intentionally blocking, detaining or interfering with the free passage of a person, pedestrian, bicycle or motor vehicle by any means, including unreasonably causing a pedestrian or bicycle or vehicle operator to take action to avoid or evade contact with a solicitor;
- e. using violent or threatening gestures or words or both toward a person being solicited;
- f. following the person being solicited, either asking or with the intent of asking that person for money or other things of value;
- g. speaking in an unreasonably loud volume under the circumstances; or
- h. soliciting money from a person who is waiting in line for entry to a building or for another purpose.

Soliciting shall mean asking for money or things of value, with the intention that the money or thing(s) be transferred at that time and at that place. "Soliciting" includes using the spoken, written or printed word; gestures, signs or other means to obtain or try to obtain an immediate donation of money or other thing(s) of value or soliciting the sale of goods or services.

Public place shall mean a place owned or controlled by the City, State or Federal government to which the public has access, including but not limited to any street, highway, parking lot, plaza, transportation facility, school, office, park, or playground.

Financial institution shall mean any banking corporation, credit union, or foreign exchange office as defined in the Colorado Revised Statutes (C.R.S.).

Check cashing business shall mean any person duly licensed to engage in the business of cashing checks, drafts or money orders for consideration.

Automated teller machine shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

Automated teller machine facility shall mean the area comprised of one or more automatic teller machines, and any adjacent space, which is made available to banking customers during and after regular banking hours.

(2) Prohibited acts.

- a. No person shall solicit in an aggressive manner in any public place.
- b. No person shall solicit on private property without permission from the owner or other person lawfully in possession of such property. See, 24-9 GJCO *Invitation Required to Enter Posted Premises*.
- c. No person shall solicit within fifteen feet of the entrance of a public toilet(s).
- d. No person shall solicit within fifteen feet of any entrance or exit of any financial institution or check cashing business or within fifteen feet of any automated teller machine or automated teller machine facility without the consent of the owner of the property or another person legally in possession of such property or facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.
- f. No person shall solicit an operator or other occupant of a motor vehicle while such vehicle is located on any street, public parking lot or other private property to which the public is a business invitee for the purpose of performing or offering to perform a service in connection with such vehicle or otherwise soliciting the sale of goods or services. Provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle.
- f. No person shall solicit from any operator or occupant of a motor vehicle on any street, public parking lot or other private property to which the public is a business invitee for the purpose of or in exchange for blocking,

occupying, or reserving a parking space or directing the operator or occupant to a parking space.

- g. No person shall solicit after consuming alcohol, a controlled substance(s) or other intoxicants.
- h. No person shall solicit by stating that funds and/or a thing(s) of value is/are needed to meet a specific need when the solicitor has the funds and/or thing(s) to meet that need or does not intend to use funds and/or thing(s) to meet that need or does not have that need.
- i. No person shall solicit in any public transportation vehicle; or at any bus or train station, bus shelter or bus stop or in any public parking lot or parking structure.
- j. No person shall solicit in a group of two or more persons.
- k. No person shall solicit within fifteen feet of an entrance to a public or private building.
- l. No person shall solicit within fifteen feet of any commercial vendor that is permitted to vend, sell or otherwise operate in the Downtown Shopping Park.
- m. No person shall solicit within fifteen feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance of the telephone booth or facility.

(3) Penalties.

Any violation of the provisions of this ordinance constitutes a misdemeanor punishable in accordance with the penalties provided in section 1-9 of the Grand Junction Code of Ordinances.

(4) Severance.

If any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.

ALL OTHER PROVISIONS OF CHAPTER 24 SHALL REMAIN IN FULL FORCE AND EFFECT.

PASSED AND ADOPTED as an emergency ordinance of the City Council of the City of Grand Junction, Colorado this 29th day of June, 2009.

Bruce Hill
President of the Council

Attest:

Stephanie Tuin
City Clerk

Attach 6

Public Hearing Emergency Ordinance Medians and ROW's

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Ordinance to Prohibit Solicitation in City Medians and Rights-of-Way and Declaring an Emergency		
File #			
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent	<input type="checkbox"/>	Individual <input checked="" type="checkbox"/>
Date Prepared	May 20, 2009		
Author Name & Title	DeLayne Merritt, Staff Attorney		
Presenter Name & Title	John Shaver, City Attorney		

Summary: The City of Grand Junction does not currently have a solicitation ordinance regulating interference or possible interference with traffic on streets, roads and highways within the City. Acts of solicitation in and around streets, roads and highways have increased and may continue to do so because of the current economic recession. City Staff, with the advice and consent of the City Council legislative committee, believes that it would be in the best interests of the community if an ordinance is enacted that regulates solicitation in City medians and rights-of-way.

The City Charter provides that on the declaration and finding of a special emergency that an ordinance may be considered and approved as final on the date it is introduced. Because of the serious hazards that are presented to both solicitors and the driving public when solicitation occurs in the medians, rights of way and/or in close proximity to intersections of roadways the City staff recommends that the Council find and declare that continued solicitation on streets, roadways and highways within the City is a special emergency.

Incidents of persons standing in traffic and/or crossing traffic to position themselves in medians for purposes of solicitation have increased. Furthermore, additional danger is created because there is a high incidence of solicitors being under the influence. When solicitors are at or near medians and rights of way and are under the influence of intoxicants, the hazards are much greater.

Given these circumstances this ordinance is reasonably necessary in order to preserve the public health, peace and safety.

An emergency ordinance, because it does not require two readings and is effective immediately, will afford law enforcement approximately 60 additional days during which education and enforcement may occur. That time is important to the protection of solicitors and motorists because certain officers of the Grand Junction Police Department normally assigned to schools are available for other duty during the summer months. Due to the officers availability it is reasonable to enroll them in the important service of education about and enforcement of the proposed ordinance. Beginning education and enforcement during the summer months allows the Police Department to utilize its staff to maximize the Department's service to and protection of our community.

For the foregoing reasons the City staff recommends that the City Council find that the time saved in adopting this ordinance as an emergency is of significant value and therefore that the ordinance be adopted as an emergency measure.

Budget: There is no direct budget impact from adoption of the Ordinance. Increased enforcement will have a cost that is unknown at this time. The Grand Junction Police Department and City Attorney will be responsible for enforcement.

Action Requested/Recommendation: Introduction of proposed Ordinance and holding a hearing on June 29, 2009.

Attachments: Proposed Ordinance.

Background Information: The City Attorney and the Grand Junction Police Department are aware that solicitation acts have increased. Because of the economic recession they may increase even more.

The landscape medians and rights of way are not proper locations for persons to linger for purposes of solicitation. Delay or distraction of traffic compromises the safe and efficient operation of the streets, especially when solicitation occurs at or near intersections that are controlled by stop signs and signal lights. The City has multiple large medians at which solicitors often gather. Commonly at those locations drivers'

attention may be distracted because: 1) they are not expecting people to be on the median(s), 2) the solicitors may act unpredictably and 3) drivers may proceed quickly from or tarry at the location causing the potential for crashes.

As there is a general expectation that the City be alert and responsive to the safety and welfare of the community, it is the recommendation of staff that an ordinance be adopted that regulates solicitation on City medians and rights of way.

For the reasons stated, the Council finds and declares that an emergency exists and the following is hereby adopted as an emergency ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO PROHIBIT SOLICITATION IN CITY MEDIANS AND RIGHTS-OF-WAY AND DECLARING AN EMERGENCY

RECITALS:

The purpose of this section is to prevent dangers to persons and property, to prevent delays and to avoid interference with the flow of traffic on streets, roadways and highways within the City of Grand Junction. Medians are often designed to deal with and/or accommodate specific traffic problems and/or needs for pedestrians. Landscaped medians are not parks and are not proper locations for persons to linger for purposes of solicitation. Any delay or distraction that may occur by virtue of a person lingering on or about a median for any purpose other than as a refuge from traffic while crossing the street as a pedestrian could result in a crash and/or otherwise compromise the safe and efficient operation of the streets.

In the City, solicitors are known to stand in medians near traffic lights/controlled intersections in order to contact the operator or occupant(s) of a motor vehicle on the street(s) and in the process, stop, delay and distract motorists creating a hazard to the solicitor, the operator of the motor vehicle and the other users of the streets. Medians are not designed for the prolonged occupancy of a person. To allow persons to use the medians in such a manner constitutes a significant hazard to them and to motorists which should be eliminated. A new ordinance specifically regulating solicitation on or near City medians and rights of way will provide safeguards for motorists and other proper users of the streets.

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

A new Section shall be added to Chapter 24 of the Code of Ordinances, City of Grand Junction, Colorado, regarding regulation of certain acts of solicitation. The Ordinance establishes regulations for the enforcement of acts of solicitation. Section 24-26 shall read as follows:

Sec. 24-26. Prohibition against soliciting in medians and rights of way.

It is unlawful for any person to solicit either employment, business, contributions or sales of any kind or to collect money for the same from the operator or any occupant of a motor vehicle traveling upon any street, roadway or highway with the City when such soliciting or attempt at soliciting:

1. causes the person performing the soliciting or attempted soliciting to enter onto the traveled portion of a street, roadway or highway. For purposes of this ordinance the traveled portion of the street, roadway or highway shall mean that portion of the street, roadway or highway surface improved, designed or ordinarily used by motor vehicle traffic. See 2003 *Model Traffic Code for Colorado* Definitions 102 (28) "Highway" & (64) "Roadway".
2. involves the person performing the soliciting or attempted soliciting when located upon any median, island or street divider, including but not limited to medians that are landscaped, painted or otherwise constructed, that separate traffic for vehicular travel into opposite or different directions.
3. involves the person performing the soliciting or attempted soliciting at a place located within the right of way at a distance less than 50 feet from an intersection controlled by a stop sign or signal light. The distance shall be determined by straight line measurement from the edge of the curb of the intersecting roadway.
4. is located such that a vehicle(s) cannot or does not move into a legal parking space, lot or area to safely conduct the transaction.

Soliciting shall mean asking for money or things of value, with the intention that the money or thing(s) be transferred at that time and at that place. "Soliciting" includes using the spoken, written or printed word; gestures, signs or other means to obtain or try to obtain an immediate donation of money or other thing(s) of value or soliciting the sale of goods or services.

Penalties.

Any violation of the provisions of this ordinance constitutes a misdemeanor punishable in accordance with the penalties provided in section 1-9 of the Grand Junction Code of Ordinances.

Severance.

If any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.

ALL OTHER PROVISIONS OF CHAPTER 24 SHALL REMAIN IN FULL FORCE AND EFFECT.

PASSED AND ADOPTED as an emergency ordinance of the City Council of the City of Grand Junction, Colorado this 29th day of June 2009.

Bruce Hill
President of the Council

Attest:

Stephanie Tuin
City Clerk

Attach 7

Public Hearing Bella Dimora

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Bella Dimora Subdivision/Planned Zone Amendment – Located at Patterson Road, Grand Falls Drive and Valentino Way in The Legends and Legends East Subdivisions		
File #	PP-2007-304		
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	June 12, 2009		
Author Name & Title	Scott D. Peterson, Senior Planner		
Presenter Name & Title	Scott D. Peterson, Senior Planner		

Summary: A request for approval to amend and zone property located at Patterson Road, Grand Falls Drive and Valentino Way in The Legends and Legends East Subdivisions to PD, (Planned Development) with a default zone of R-8, (Residential – 8 du/ac) by approval of the Preliminary Development Plan as a Planned Development containing 114 dwelling units on 13.87 +/- acres.

Budget: N/A.

Action Requested/Recommendation: Hold a public hearing and consider final passage of a proposed Ordinance amending and zoning properties to Planned Development by approval of a Preliminary Development Plan.

Attachments:

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

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

ANALYSIS:

Background:

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

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

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

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

The applicants now wish to develop this 9.44 acre property and incorporate it with the currently vacant adjacent 4.43 acres known as Lot 18, Block 3, Legends East, Filing Three and request that the Planning Commission and City Council amend the Preliminary Development Plan and PD, (Planned Development) Zoning District for the proposed Bella Dimora Subdivision (In 2006, the Preliminary Plan for Legends East was approved that included 29 single-family attached dwelling units on the property now known as Lot 18, Block 3, Filing Three. The approval of this Preliminary Development Plan would also amend the approved Preliminary Plan for Legends East).

Density: The proposed density for Bella Dimora will be approximately 8.21 dwelling units per acre. The Growth Plan Future Land Use Map indicates this area to be Residential Medium High (8 – 12 du/ac). However, since the applicants had previously developed single-family detached homes in The Vistas/Legends/Legends East Subdivisions that were lower than the required densities per the Growth Plan, therefore, the applicants must now “make up” for those lower densities in this “phase” of the Planned Development, more specifically to develop a minimum of 114 dwelling units with this proposed development in order to meet minimum density requirements of 6.4 du/ac which equates to 80% of the Growth Plan designation (Section 3.6 B. 9. a. of the Zoning and Development Code) for the approved The Vistas/Legends/Legends East plans. This plan does allow overall densities to meet minimum density standards.

Access and Street Design: The proposed development has three (3) access points; Legends Way, Verona Drive and W. Naples Drive. All proposed streets, with the

exception of Legends Way were approved as an Alternate Street right-of-way design per Chapter 15 of the TEDS Manual (Transportation Engineering Design Standards). For an alternate street design, no on-street parking will be allowed except in designated parking areas with the exception of E. Naples Drive which allows parking on both side of the street from Siena/Ravenna Court to Verona Drive.

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

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

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

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

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

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

Long-Term Community Benefit

The intent and purpose of the PD zone is to provide flexibility not available through strict application and interpretation of the standards established in Chapter 3 of the Zoning and Development Code. The Zoning and Development Code also states that PD, (Planned Development) zoning should be used only when long-term community

benefits, which may be achieved through high quality planned development, will be derived. Long-term benefits include, but are not limited to:

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

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

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

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

Default Zone

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

Density: 8 dwelling units to the acre

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

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

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

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

Maximum building height: 35'

Deviations

1. Building Setbacks:

20' Front Yard

15' Adjacent Side Street (Corner Lot)

10' Rear Yard

14' Rear Yard Setback (Adjacent to Patterson Road)

15' Rear Yard Setback (Adjacent to Legends Way)

Standard setbacks apply unless otherwise noted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Not applicable since the applicant is requesting to zone both properties to PD, Planned Development with an underlying default

zone of R-8, (Residential – 8 du/ac) and is also within the allowable density range as defined by the Growth Plan Future Land Use Map.

f. The community will benefit from the proposed zone.

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

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

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

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

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

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

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

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

Adequate circulation and access will be provided to serve all properties. Four ingress/egress points are proposed to provide access to the development. Internal streets with the exception of

Legends Way were approved by the City under the Alternate Residential Street Standards as allowed in the TEDS Manual (Transportation Engineering Design Standards).

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

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

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

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

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

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

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

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

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

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

therefore the entire Legends Subdivision PD zone district is over 20 acres in size.

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

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

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

2) The Subdivision standards in Chapter Six.

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

3) The Zoning standards in Chapter Three.

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

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

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

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

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

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

The proposed subdivision will have little or no adverse or negative impacts upon the natural or social environment. All adjacent

properties are currently developed with either single-family detached or attached housing units.

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

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

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

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

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

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

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

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

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

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

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

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

The proposed subdivision is in compliance with the applicable density as allowed under the Growth Plan designation of

Residential Medium High (8 -12 du/ac), the Grand Valley Circulation Plan and Urban Trails Plan. A Pedestrian Easement will be dedicated to the City of Grand Junction at the time of Final Plan approval for ingress and egress by the public on all pedestrian paths.

- 2) Conditions of any prior approvals.

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

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

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

- 4) Quality site design practices.

The proposed subdivision provides quality site design practices as identified in the attached Site and Preliminary Plan through the use of the following; construction of 6' tall masonry wall adjacent to Patterson Road, open space areas in each phase of development that will include extensive landscaping, pedestrian paths and park benches and all applicable requirements of the Zoning and Development Code pertaining to the PD, Planned Development zoning district with a default zoning district of R-8, Residential – 8 du/ac.

- d) The approved ODP, if applicable.

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

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

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

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

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

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

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

FINDINGS OF FACT/CONCLUSIONS/CONDITION OF APPROVAL:

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

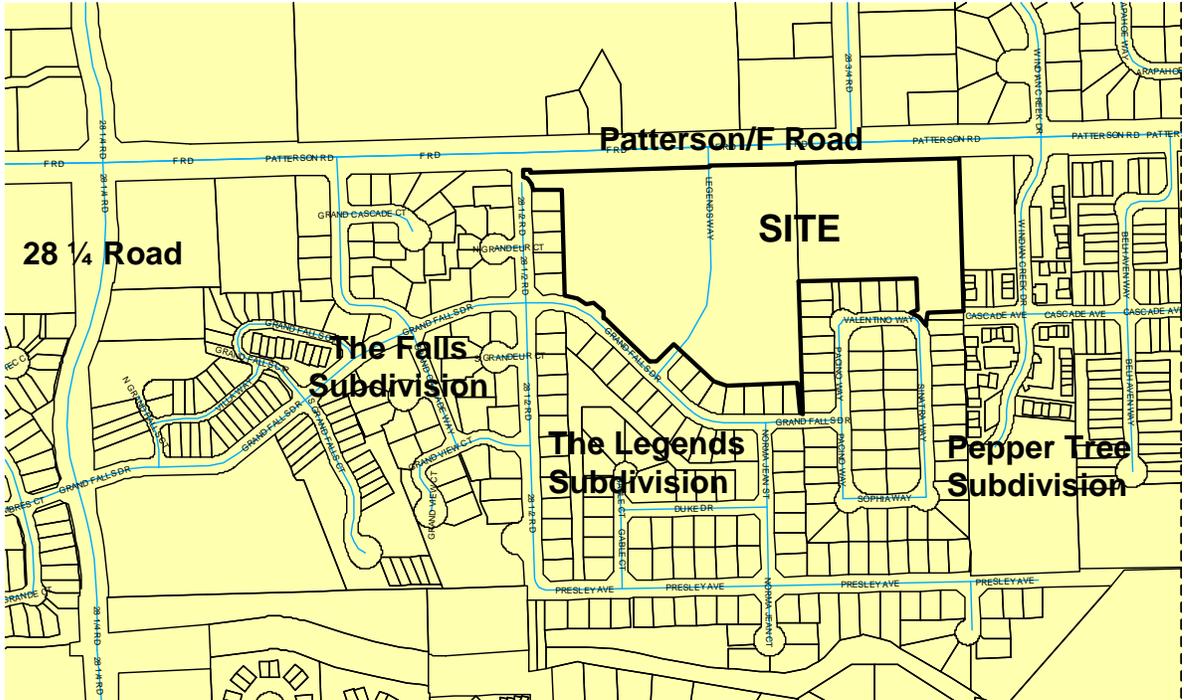
3. The requested Preliminary Development Plan and Rezone to PD, Planned Development is consistent with the Growth Plan.
4. The review criteria in Section 2.12 C. 2. of the Zoning and Development Code have all been met.
5. The review criteria in Section 2.8 B. of the Zoning and Development Code have all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

PLANNING COMMISSION RECOMMENDATION:

Planning Commission at their May 12, 2009 meeting recommended approval of the requested Preliminary Development Plan and Rezone to PD, Planned Development for the Bella Dimora subdivision, PP-2007-304 to the City Council with the findings, conclusions and condition of approval as identified in the Staff Report.

Site Location Map

Figure 1



Aerial Photo Map

Figure 2



Future Land Use Map

Figure 3



Existing City Zoning

Figure 4



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

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

Recitals:

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE CURRENT PLANNED DEVELOPMENT ZONE IS AMENDED AND ALSO INCLUDE ADDITIONAL LAND AREA FOR THE AREA

DESCRIBED BELOW WITH THE FOLLOWING STANDARDS, DEFAULT ZONE AND DEVIATIONS:

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

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

- B. This Ordinance is further conditioned:

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

Easement will be dedicated to the City of Grand Junction at the time of Final Plan approval for ingress and egress by the public on all pedestrian paths.

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

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

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

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

7. Deviations

Building Setbacks:

20' Front Yard

15' Adjacent Side Street (Corner Lot)

10' Rear Yard

14' Rear Yard Setback (Adjacent to Patterson Road)

15' Rear Yard Setback (Adjacent to Legends Way)

Standard setbacks apply unless otherwise noted.

Masonry Wall: Six foot (6') tall masonry screen wall required to be located a minimum five feet (5') from north property line adjacent to Patterson Road per Section 6.5 G. 5. e. of the Zoning and Development Code. Applicant is proposing to construct the masonry wall on the property line in

order to give the unit property owners a larger backyard area as the rear yard setback adjacent to Patterson Road is 14'. Applicant is also proposing to construct the masonry wall in 30' segments and shift from the property line two feet (2') along Patterson Road which gives the wall architectural relief rather than constructing a standard monolithic wall. A detached sidewalk also exists along Patterson Road with varying landscape buffer dimensions between the sidewalk and wall so that the proposed wall would not be constructed directly adjacent to the sidewalk. Minimum Lot Area/Width: There are no minimum lot areas or widths with this subdivision proposal.

8. Condition of Approval:

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

INTRODUCED on first reading on the 3rd day of June, 2009 and ordered published.

ADOPTED on second reading this _____ day of _____ 2009.

ATTEST:

President of the Council

Stephanie Tuin
City Clerk

Attach 8

Public Hearing Vacation West Ridges

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Vacating a portion of the West Ridges Boulevard Right-of-Way West of 2335, 2335 ½, and 2337 A Rattlesnake Court		
File #	VR-2009-012		
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	June 17, 2009		
Author Name & Title	Michelle Hoshide – Associate Planner		
Presenter Name & Title	Michelle Hoshide – Associate Planner		

Summary: Request to vacate an undeveloped portion of the West Ridges Boulevard right-of-way which is unnecessary for future roadway circulation and will allow the adjacent property owners to use and maintain the property.

Budget: N/A

Action Requested/Recommendation: Hold a public hearing and consider final passage of the ordinance.

Attachments:

1. Site Location Map
2. Aerial Photo
3. Aerial Photo Close Up
4. Future Land Use
5. Ordinance

Background Information: See attached report

BACKGROUND INFORMATION				
Location:		A portion of the West Ridges Boulevard right-of-way located west of 2335, 2335 ½, and 2337 A Rattlesnake Court		
Applicant:		Janet and Joseph Raczak, Martin and Ulrike Magdalenski and Daniel and Deborah Olson		
Existing Land Use:		Right-of-way		
Proposed Land Use:		Residential		
Surrounding Land Use:	North	Redlands Mesa Golf Course Hole #10		
	South	Redlands Mesa Golf Course		
	East	Residential		
	West	Golf Club House		
Existing Zoning:		N/A		
Proposed Zoning:		PD		
Surrounding Zoning:	North	PD		
	South	PD		
	East	PD		
	West	PD		
Growth Plan Designation:		N/A		
Zoning within density range?	X	Yes		No

ANALYSIS

2. Background

The applicants have made a request to vacate a portion of the existing West Ridges Boulevard right-of-way that runs adjacent to their properties located at 2335, 2335 ½ and 2337 A Rattlesnake Court. The request to vacate this portion of right-of-way will remove excess right-of-way from West Ridges Boulevard.

Originally, in 1980, the West Ridges Boulevard right-of-way was platted to run through the existing Redland Mesa Gold Course. To build the golf course, Redlands Mesa vacated a portion of the unused right-of-way. The request to vacate the right-of-way located adjacent to properties 2335, 2335 ½, and 2337 A Rattlesnake Court will vacate the remaining excess right-of-way of the West Ridges Boulevard.

This vacation will allow the recipients to obtain responsibility of maintenance of the right-of-way and remove responsibility of maintenance from the City.

2. Section 2.11.C of the Zoning and Development Code

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

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

The proposed vacation of this portion of right-of-way will not impact the Grand Valley Circulation Plan, Growth Plan or policies adopted by the City of Grand Junction. There are no future plans to develop this portion of the right-of-way as a road.

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

No parcel will be landlocked as a result of the vacation.

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

All surrounding parcels use alternative right-of-way for access. Access will not be restricted to any parcel as a result of this vacation.

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

The vacation will not cause any adverse impacts on the health, safety or welfare of the general community and the quality of public facilities. Services provided to any parcel of land will not be reduced if this portion of right-of-way is vacated. A 10' easement will be retained to ensure no adverse impacts on the public results from the vacation of this right-of-way.

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

A 10' utility easement will be reserved and retained to ensure that the existing telephone, electric and cable lines and other public facilities and services will not be inhibited.

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

The vacation will allow the City to transfer maintenance responsibility to the deeded recipients of the right-of-way.

FINDINGS OF FACTS/CONCLUSION

After reviewing the West Ridges Boulevard Right-of-Way Vacation application, VR-2009-012 for the vacation of public right-of-way, the following finding of facts and conclusions has been determined:

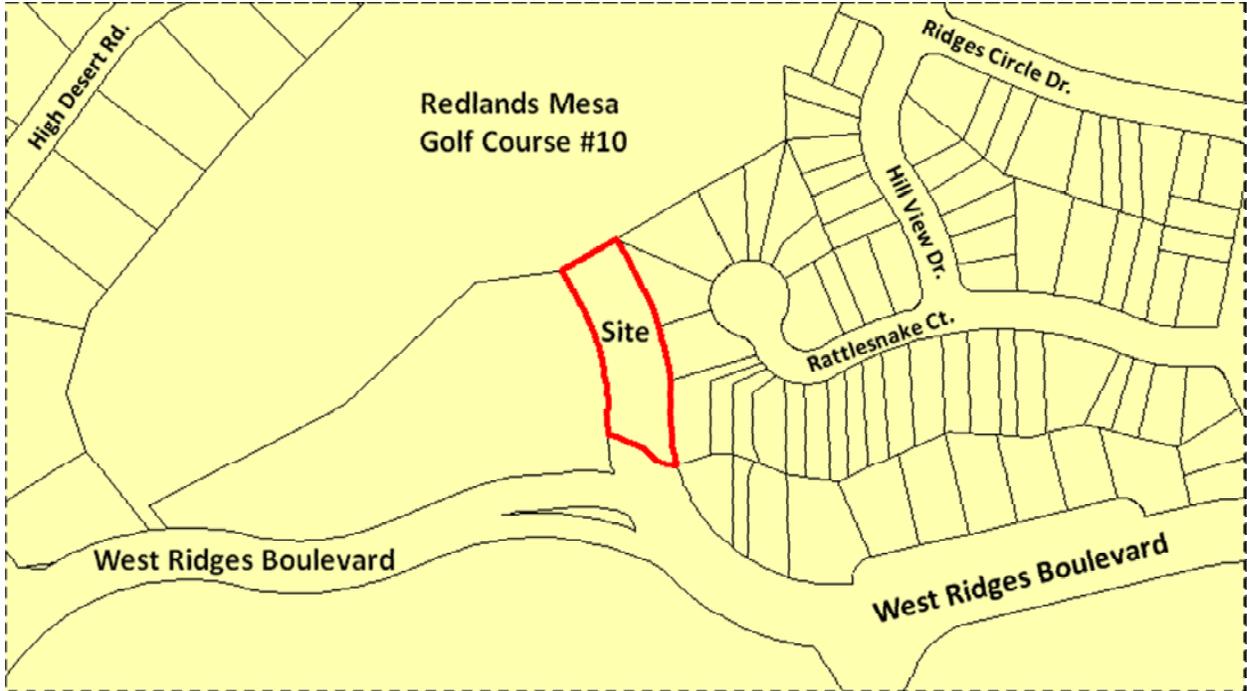
- 3.) The request is consistent with the goals and policies of the Growth Plan
- 4.) The review criteria in Section 2.11.C of the Zoning and Development Code have all been met.
- 5.) The City shall reserve and retain a 10 foot easement.

PLANNING COMMISSION RECOMMENDATION:

On May 26, 2009, Planning Commission forwarded a recommendation of approval of the requested right-of-way vacation, VR-2009-012, to the City Council with the findings and conclusions listed above.

Site Location Map

Figure 1



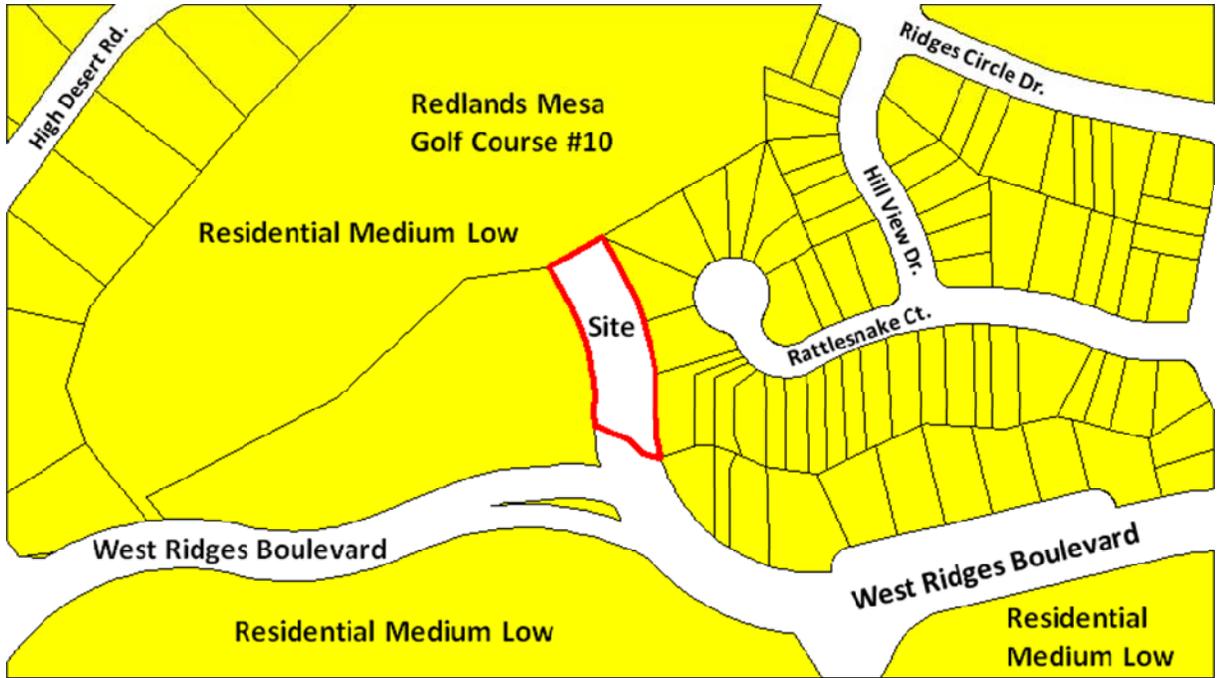
Aerial Photo Map

Figure 2



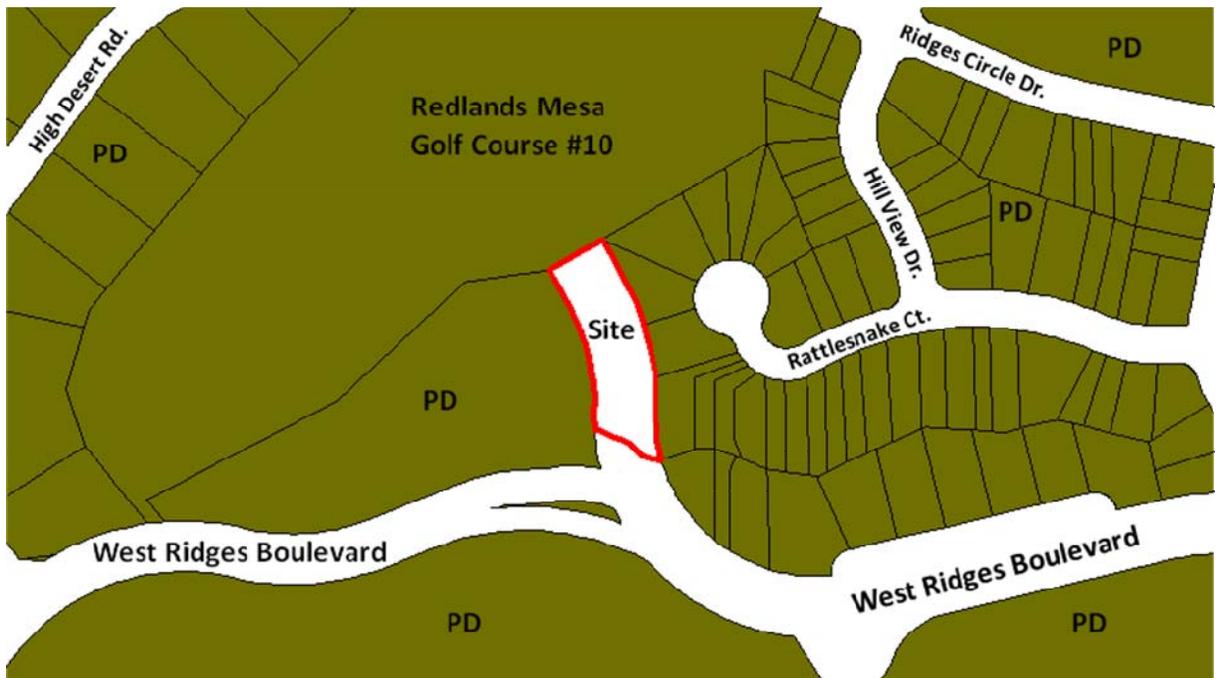
Future Land Use Map

Figure 3



Existing City Zoning Map

Figure 4



CITY OF GRAND JUNCTION

ORDINANCE NO.

**AN ORDINANCE VACATING A PORTION OF THE WEST RIDGES BOULEVARD
RIGHT-OF-WAY LOCATED WEST OF 2335, 2335 ½ AND 2337 A RATTLESNAKE
COURT**

RECITALS:

A request to vacate a portion of the West Ridges right-of-way west of 2335, 2335 ½ and 2337 A Rattlesnake Court. The City shall reserve and retain a perpetual 10 foot Utility Easement on, along, over, under, through and across the eastern portion of the right-of-way to be vacated.

The City Council finds that the request to vacate the herein described portion of the West Ridges Boulevard right-of-way with the reservation to retain an easement is consistent with the Growth Plan and Section 2.11 of the Zoning and Development Code.

The Planning Commission, having heard and considered the request on May 26, 2009, found the criteria of the Zoning and Development Code to have been met, and recommends that the vacation be approved as requested subject to the condition that the City shall reserve and retain a perpetual Utility Easement on, along, over, under, through and across 10 feet of the area of the hereinafter described right-of-way.

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

A PORTION OF THE DEDICATED STREET PLATTED AS WEST RIDGES BOULEVARD BY THE RIDGES FILING NO. FIVE SUBDIVISION PLAT RECORDED IN PLAT BOOK 12 AT PAGES 316 THROUGH 320 IN THE OFFICE OF THE CLERK AND RECORDER OF MESA COUNTY, COLORADO AND BEING A PART OF THE SOUTHEAST ¼ NORTHWEST ¼ OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 1 WEST OF THE UTE MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ¼ CORNER OF SAID SECTION 20 (MESA COUNTY SURVEY MONUMENT NO. 1194) THENCE SOUTH 26°55'53" WEST 2051.25 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE WESTERLY RIGHT OF WAY OF WEST RIDGES BOULEVARD AS DEDICATED AND ALSO BEING THE NORTHEAST CORNER OF BLOCK 8, REDLANDS MESA FILING NO. 1, PLAT BOOK 17 AT PAGES 254-362 AND ALSO BEING THE SOUTHWEST CORNER OF THAT PORTION OF WEST RIDGES BOULEVARD AS PREVIOUSLY VACATED BY MESA COUNTY RESOLUTION NO. MCM 84-76 RECORDED IN BOOK 1500 AT PAGE 205.

THENCE SOUTHERLY ALONG THE WESTERLY RIGHT OF WAY OF WEST RIDGES BOULEVARD THE FOLLOWING THREE (3) COURSES:

1. SOUTH 28°58'00" EAST 43.04 FEET;
2. 148.29 FEET ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS IS 260.00 FEET (CHORD BEARS S12°37'37"E 146.29 FT.)
3. 26.76 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS IS 290.00 FEET (CHORD BEARS S01°02'34"W 26.75 FT.)

THENCE DEPARTING SAID WESTERLY RIGHT OF WAY EASTERLY 75.72 FEET ALONG THE ARC OF A NON-TANGENTIAL CURVE TO THE RIGHT WHOSE CENTRAL RADIUS POINT BEARS S07°57'44"W 97.17 FEET (CHORD BEARS S59°43'12"E 73.82 FT.)

THENCE SOUTH 37°24'08" EAST 15.34 FEET

THENCE NORTH 75°10'39"EAST 14.28 FEET TO THE EASTERLY RIGHT OF WAY LINE OF WEST RIDGES BOULEVARD SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT44A OF THE REPLAT OF LOTS 22A THROUGH 30A, BLOCK 25, THE RIDGES FILING NO. FIVE, PLAT BOOK 12 PAGE 348.

THENCE NORTHERLY ALONG THE EASTERLY RIGHT OF WAY OF WEST RIDGES BOULEVARD THE FOLLOWING THREE (3) COURSES:

1. 67.94 FEET ALONG THE ARC OF A NON-TANGENTIAL CURVE TO THE RIGHT WHOSE CENTRAL RADIUS POINT BEARS N75°10'39"E 210.00 FEET (CHORD BEARS N05°33'17"W 67.64 FT.)
2. 193.92 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS IS 340.00 FEET (CHORD BEARS N12°37'37"W 191.30 FT.)
3. NORTH 28°58'00"WEST 43.04 FEET TO THE NORTHWEST CORNER OF LOT 19A, BLOCK 25, THE RIDGES FILING NO. FIVE.

THENCE DEPARTING SAID EASTERLY RIGHT OF WAY SOUTH 61°02'00" WEST 80.00 ALONG THE SOUTHERLY LINE OF VACATED WEST RIDGES BOULEVARD IN BOOK 1500 AT PAGE 205 TO THE POINT OF BEGINNING, CONTAINING 20,755 SQUARE FEET MORE OR LESS.

SUBJECT TO AND ENCUMBERED BY A 10 FOOT WIDE UTILITY EASEMENT RESERVED AND RETAINED BY THE CITY OF GRAND JUNCTION ALONG THE EASTERLY BOUNDARY OF THE HEREIN DESCRIBED PARCEL.

BASIS OF BEARINGS IS THE NORTH LINE OF THE NE ¼ OF SECTION 20, T1S, R1W U.M. OF N 89°49'07"W 2,615.83 FEET BETWEEN FOUND MESA COUNTY SURVEY MONUMENTS: NE SECTION CORNER MON. # 553 AND NORTH ¼ CORNER MON.#1194.

The described right-of-way in the attached Exhibit A which is incorporated herein as if fully rewritten is hereby vacated and a 10 foot perpetual Utility Easement is hereby reserved and retained for City-approved utilities including the installation, operation, maintenance and repair of said utilities and appurtenances which may include but are not limited to electric lines, cable TV lines, natural gas pipelines, sanitary sewer lines, storm sewers, waterlines, telephone lines, equivalent other public utility providers and appurtenant facilities.

Introduced for first reading on this 15th day of June, 2009

PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

President of City Council

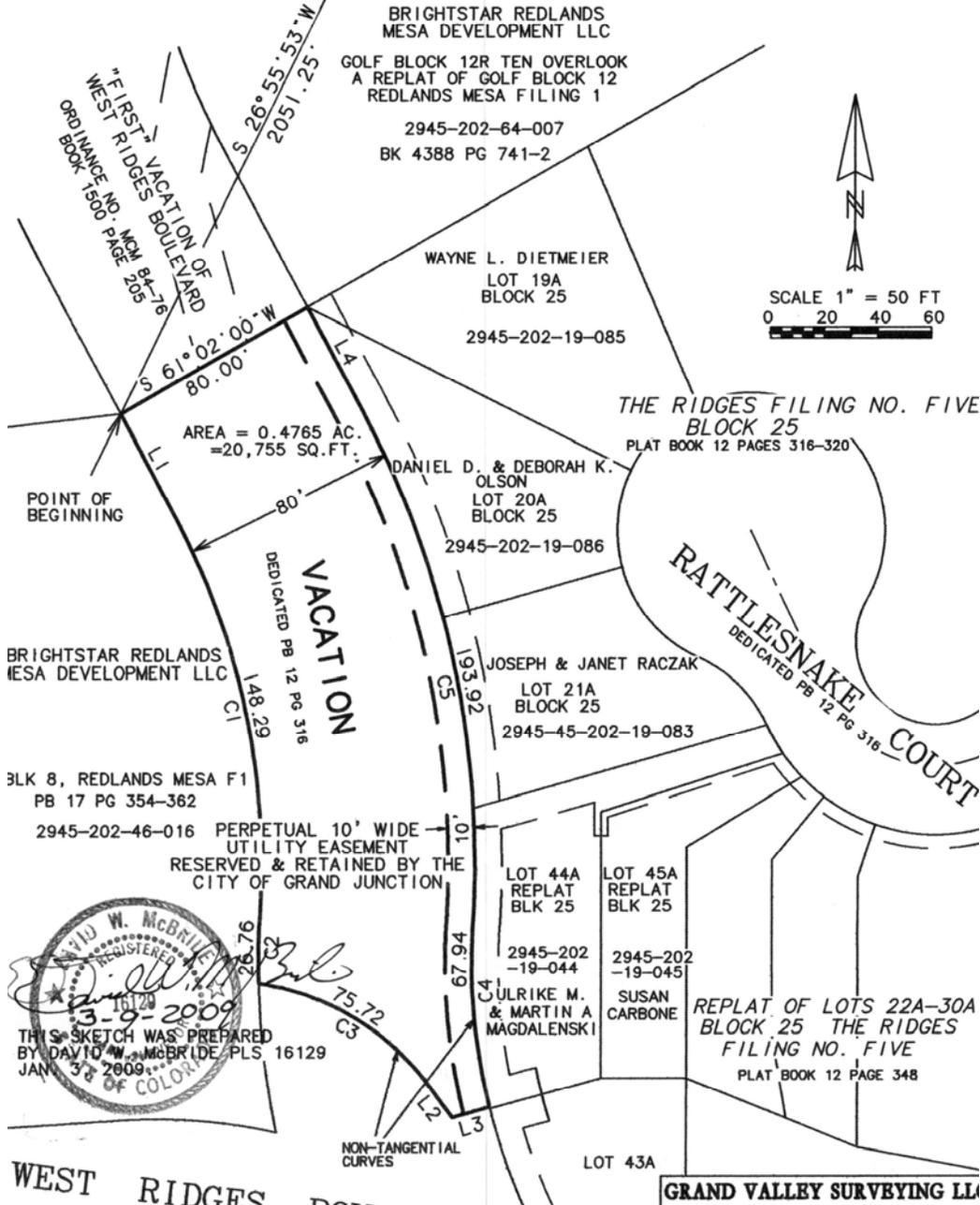
City Clerk

Exhibit A

CITY OF GRAND JUNCTION, MESA COUNTY, COLORADO
SE1/4 NW1/4 SECTION 20, T1S, R1W, U.M.

CURVE	DELTA ANGLE	RADIUS	ARC	CHORD	CHORD BEARING
C 1	32° 40' 44"	260.00'	148.29'	146.29'	S 12° 37' 37" E
C 2	5° 17' 12"	290.00'	26.76'	26.75'	S 01° 02' 34" W
C 3	44° 38' 09"	97.19'	75.72'	73.82'	S 59° 43' 12" E NON-TANG.
C 4	18° 32' 08"	210.00'	67.94'	67.64'	N 05° 33' 17" W NON-TANG.
C 5	32° 40' 44"	340.00'	193.92'	191.30'	N 12° 37' 37" W

LINE	BEARING	DISTANCE	POINT OF COMMENCEMENT	BASIS OF BEARINGS	MCSM #553
L 1	S28° 58' 00" E	43.04'	MCSM #1194		NE CORNER SECTION 20
L 2	S37° 24' 08" E	15.34'	N 1/4 COR SECTION 20	N 89° 49' 07" W	
L 3	N75° 10' 39" E	14.28'		2,615.83'	
L 4	N28° 58' 00" W	43.04'			



GRAND VALLEY SURVEYING LL

Attach 9

Public Hearing Zoning Code Amendment

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Zoning and Development Code Amendment Regarding Temporary Low Traffic Storage Yards		
File #	TAC-2009-105		
Meeting Day, Date	Monday, June 29, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	June 8, 2009		
Author Name & Title	Greg Moberg, Planning Services Supervisor		
Presenter Name & Title	Greg Moberg, Planning Services Supervisor		

Summary: Request approval to amend Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code to permit temporary low-traffic storage yards in the C-2 (General Commercial), I-1 (Light Industrial), and I-2 (General Industrial) zone districts.

Budget: N/A

Action Requested/Recommendation: Hold a public hearing and consider final passage of proposed Ordinance.

Attachments:

1. Proposed ordinance.

STAFF ANALYSIS:**Background**

Over the last six months the Planning Division has had several requests to allow temporary low-traffic storage yards, on properties within the City, for more than four (4) months. The requests have been in the C-2 and I-1 zone districts and were for storage associated with the oil and gas industry. As the economy began to weaken, drilling within the area began to diminish and the number of new gas wells began to shrink. With the creation of fewer gas wells, the need to store surplus equipment has become

an issue for the industry. The proposed storage sites will generate less than thirty (30) average daily trips (the City's definition of a "low-traffic storage yard), however each request needed to occupy a site for more than four (4) months. Currently the Code limits a temporary use permit to a maximum of four (4) months. The Planning Division did approve two temporary use permits that allowed both uses to move onto properties while applications to approve the uses permanently were processed.

Currently Permitted

Temporary uses are allowed to locate within the City providing the use meets the regulations outlined in Section 2.2 D.2. and Section 4.3 L. of the Zoning and Development Code . These regulations include standards and restrictions that ensure safety and minimize adverse impacts that the use may have on City infrastructure and neighboring properties. These regulations include the following:

1. An authorized use (i.e. an allowed use listed in Table 3.5 and not a use allowed by conditional use permit) is allowed on property located within any nonresidential zone.
2. Multiple temporary uses are not allowed on a single property and the temporary use cannot be detrimental to the public health, safety and general welfare.
3. The temporary use must be compatible with existing land uses, cannot cause traffic to exceed the capacity of affected streets and must have adequate off-street parking.
4. Access to public right-of-way must comply with City requirements, required setbacks must be adhered to and signage is limited to a maximum of thirty-two (32) square feet.
5. Prior to allowing a temporary use at least thirty (30) calendar days must have passed since any previous temporary use was located on the property and the use is limited to a maximum of four (4) months.

Proposed Amendments

The amendments being proposed permits temporary low-traffic storage yards in the C-2, I-1, and I-2 zone districts. The proposal would allow temporary low-traffic storage yards in these zone districts for up to one (1) year with the opportunity to request an additional one (1) year extension. All other allowed temporary uses would remain limited to the existing 120 and 30 day requirements.

CONSISTENCY WITH GROWTH PLAN:

The proposed amendments are consistent with the goals and policies of the Growth Plan, including, but not limited to the following:

Goal 1: To achieve a balance of open space, agricultural, residential and nonresidential land use opportunities that reflects the residents' respect for the natural environment, the integrity of the community's neighborhoods, the economic needs of the residents and business owners, the rights of private property owners and the needs of the urbanizing community as a whole.

Policy 1.9: The City and County will direct the location of heavy commercial and industrial uses with outdoor storage and operations in parts of the community that are screened from view from arterial streets. Where these uses are adjacent to arterial streets, they should be designed to minimize views of outdoor storage loading and operations areas.

Goal 5: To ensure that urban growth and development make efficient use of investments in streets, utilities and other public facilities.

Policy 5.2: The City and County will encourage development that uses existing facilities and is compatible with existing development.

Goal 17: To promote a healthy, sustainable, diverse economy.

Policy 17.1: The City and County will support efforts to attract and retain moderate-sized, clean and stable industries that provide appropriate and diverse employment opportunities for community residents.

Policy 17.2: The City and County may consider incentives to attract prospective industrial employers and encourage expansions of existing industries that are consistent with the goals and policies of the Urban Area Plan.

PLANNING COMMISSION RECOMMENDATION:

During its regular June 9, 2009 meeting, the Planning Commission reviewed the proposed amendments and found that the requested amendments furthered the intent and purpose of the Growth Plan by ensuring that the Zoning and Development Code is maintained in a manner that addresses development issues in an efficient and effective manner. The Planning Commission then made a recommendation of approval to the City Council for adoption of the proposed amendments.

CITY OF GRAND JUNCTION

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 2.2 D.2. AND SECTION 4.3 L. OF THE ZONING AND DEVELOPMENT CODE REGARDING TEMPORARY LOW-TRAFFIC STORAGE YARDS

RECITALS:

The City of Grand Junction considers proposed updates and changes to the Zoning and Development Code (Code) on a regular basis to ensure that the Code is addressing development issues in an efficient and effective manner. Certain updates and changes to the Code are desirable to maintain the Code's effectiveness and to ensure that the goals and policies of the Growth Plan are being implemented.

The City of Grand Junction wishes to amend and update Section 2.2 D.2. and Section 4.3 L. of the Code to permit temporary low-traffic storage yards in the C-2 (General Commercial), I-1 (Light Industrial) and I-2 (Heavy Industrial) zone districts.

The City Council finds that the request to amend the Code is consistent with the goals and policies of the Growth Plan.

The Planning Commission, having heard and considered the request, found the proposed amendments further the goals and policies of the Growth Plan and recommended approval of the proposed revisions to the Zoning and Development Code.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE ZONING AND DEVELOPMENT CODE BE AMENDED AS FOLLOWS:

Amend Section 2.2 D.2. as follows [beginning with subsection (12)]:

- (12) ~~At least thirty (30) calendar days have passed since any temporary use on the parcel or lot; and~~ **A temporary low-traffic storage yard may be permitted in a C-2, I-1, or I-2 zone district for up to one (1) year from the date of issuance. One (1) extension of one (1) year may be granted by the Director upon showing of good cause. Any additional extensions may be granted by the Planning Commission. The Planning Commission must find good cause for granting an extension(s).**

- (13) ~~The~~ **All other temporary uses will shall not exceed four (4) months 120 calendar days and shall not be allowed until a minimum of thirty (30) calendar days have passed since any previous temporary use on the parcel or lot.**
- (14) **Prior to the issuance of a temporary use permit, the Director may require the applicant to post security with the City as required to cover expected costs of enforcement, monitoring, clean-up and site restoration.**

Amend Section 4.3 L. as follows:

L. Temporary Uses and Structures.

1. The temporary use permit is a mechanism by which the City may allow a use to locate within the City on a ~~short-term~~ **temporary** basis and by which seasonal or transient uses ~~can~~ **may also** be allowed.
2. Prior to conducting or establishing a temporary use or temporary structure, approval of a temporary use permit by the ~~Community Development Department~~ **Public Works and Planning Department** is required.
3. Any allowed use **or structure** in nonresidential zones may be **approved for a temporary use permit**, provided that: ~~to facilitate~~
 - a. ~~Compatibility with Surrounding Area.~~ The allowance of a temporary use and/or temporary structure shall not be detrimental to the public health, safety and general welfare. ~~and~~ The use shall be consistent with the purpose and intent of this Code and the specific zoning district in which it will be located and the use shall be compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use. ~~The use, value and qualities of the neighborhood surrounding the temporary use shall not be adversely affected by the use or activities associated with it;~~
 - b. Factors such as location, noise, odor, light, dust control and hours of operation may be **specifically** considered ~~in addition to any others~~ when determining compatibility;
 - c. The location and/or intensity of the temporary use and/or temporary structure is such that adverse effects on adjacent parcels will be minimized, as determined by the Director; and
 - d. **Erosion, sedimentation, and other pollution of surface and subsurface water is adequately controlled; and**
 - de. Particular attention shall be ~~paid~~ **given** to the type and volume of traffic generated and/or ~~the impacted by that~~ the temporary use/temporary structure **will have** and its effect on traffic circulation in the neighborhood. **The Director shall determine that increased traffic does not unduly impact the**

neighborhood. A finding that traffic does unduly impact the neighborhood shall be a basis for denial of a permit.

Introduced for first reading on this 15th day of June, 2009.

PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

Bruce Hill
President of City Council

Stephanie Tuin
City Clerk