

**FRUITA CITY COUNCIL  
REGULAR MEETING  
JUNE 1 2004  
7:00 P.M.**

**1. CALL TO ORDER AND ROLL CALL**

The regular meeting of the Fruita City Council was called to order by Mayor Adams at 7:00 p.m. Council Members present were Darline Merling, Dave Karisny, Mel Mulder, Bill Tallon and Nick Kohls. Ken Dodgion was absent due to conflicts with his work schedule.

**2. PLEDGE OF ALLEGIANCE AND INVOCATION**

Councilman Tallon led the Council and audience in the Pledge of Allegiance and Councilman Kohls gave the invocation.

**3. AGENDA - ADOPT/AMEND**

" COUNCILMAN MULDER MOVED ADOPTION OF THE AGENDA AS PRESENTED.  
COUNCILMAN KOHLS SECONDED THE MOTION. THERE WERE 5 YES VOTES.

**4. LIQUOR LICENSE**

**A. STONEHAVEN BED AND BREAKFAST LIQUOR PERMIT**

" COUNCILMAN MULDER MOVED APPROVAL OF THE BED AND BREAKFAST LIQUOR PERMIT TO KRISTA WHITAKER OF STONEHAVEN BED AND BREAKFAST. COUNCILMAN TALLON SECONDED THE MOTION. THERE WERE 5 YES VOTES.

**5. PUBLIC PARTICIPATION**

Kelly Baty from the Fruita Times presented the Council with a t-shirt from Charlie the Cat. Charlie the Cat expressed his appreciation to the City Council for helping to make Fruita a great community.

**6. PUBLIC HEARINGS**

**A. 04-4-04 WILDWOOD ACRES AMENDED SKETCH PLAN**

Petitioner            Alan Parkerson  
Location:            Between 17 ½ and 18 Roads south of K 6/10 Rd  
Zone:                 Community Residential

A request to modify the present Sketch plan to allow 15 more dwelling units for a

total of 137, with the following dwelling units existing and proposed: Filing One: 14 dwelling units, Filing Two: 64 Dwelling units, Filing Three: 59 dwelling units and a total of 4.104 acres of publicly dedicated open space along Little Salt Wash

Pat O'Conner presented the amended sketch plan for Wildwood Acres. This plan shows an extension of Wildwood Drive to the west to connect to the adjoining property. This road stub will provide better traffic flow and reduce traffic in the subdivision. This provides five access points for the subdivision. The initial plan had 122 lots and this plan has 137 lots for an additional 15 lots. The exact number of lots was in question at the last hearing.

Bennett Boeschstein addressed the revised sketch plan. The vote was split at the last Council meeting concerning a requirement for the stub to the west and it was approved without the stub. However, the petitioner has responded to that concern with the amended sketch plan. Staff appreciates the petitioners cooperation with the plan.

Councilman Tallon asked why the issue was reconsidered. Pat O'Conner stated that they discussed the issue after the meeting and felt it was beneficial to the subdivision and the City. He also noted that they could accommodate the road stub without loss of a lot. Councilman Tallon felt that the narrative should be corrected to note that the request did not come from the Council as the Council voted to approve the sketch plan as submitted.

Mayor Adams opened the item to a public hearing. With no comments from the audience the hearing was closed.

Councilman Karisny noted that the history of the development indicates ongoing concerns from Wildwood Estates about the traffic through their subdivision. The additional road stub may reduce the concern.

" **COUNCILMAN KOHLS MOVED APPROVAL OF THE AMENDED SKETCH PLAN FOR WILDWOOD ESTATES WITH THE ADDITIONAL ROAD STUB TO THE WEST. COUNCILMAN KARISNY SECONDED THE MOTION. THERE WERE 5 YES VOTES.**

**B. 04-5-04 WILDWOOD ACRES, FILING 2**

**Application:** AMENDED Prelim/Final Plan

**Petitioner:** Alan Parkerson

**Location::** Between 17 ½ and ` 18 Road South of k 6/10 Rd

**Zone:** Community Residential

A request to approve a Preliminary/.Final Plan for 22.1 acre parcel consisting of 64 single family lots with an overall density of 2.89 units per acre in a Community

Residential zone and 2.997 acres of publicly dedicated open space along Little Salt Wash.

Pat O'Conner stated that this amendment reflects the change to the Sketch Plan with the addition of the road stub to the west.

Mayor Adams opened the public hearing. With no comments from the audience the hearing was closed.

Councilman Kohls questioned whether or not the irrigation structure in the southwest corner has been made permanent. Pat O'Conner stated that an agreement has been made but he is not sure if the improvements are completed.

" **COUNCILMAN MULDER MOVED APPROVAL OF THE AMENDED PRELIMINARY AND FINAL PLAN FOR WILDWOOD ESTATES WITH THE ROAD STUB TO THE WEST SUBJECT TO STAFF AND REVIEW AGENCY COMMENTS WITH THE EXCEPTION OF THE COMMENT FROM THE LOWER VALLEY FIRE PROTECTION DISTRICT CONCERNING THE IMPACT FEE. COUNCILMAN KARISNY SECONDED THE MOTION. THERE WERE 5 YES VOTES.**

**C. RESOLUTION 2004-32 APPROVING THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR WILDWOOD ACRES, FILING #2**

Pat O'Conner spoke to the subdivision improvements agreement for Wildwood Acres. He is requesting a change to section 16 for sewer recovery fees. He is requesting that his client be reimbursed for a manhole and 130' of sewer line that is of no benefit to the developer but provides sewer service to the development to the north. If the development to the north builds out prior to filing 3 when these improvements would be made as part of Wildwood Acres, then the developer to the north should construct the improvements and no reimbursement would be required.

Eric Mende felt that the recovery fee should not be granted as the City routinely requires street stubs to have utilities installed in them and it was his recommendation that the sewer recovery fee not be granted to the developer of Wildwood Estates.

Mayor Adams expressed his disagreement noting that the developer should not be required to extend sewer to serve another subdivision. Councilman Kohls asked if the tables were turned and the subdivision to the north developed first and extended the sewer line through Wildwood, would Wildwood be required to pay a recapture fee. Eric Mende stated that they would be required to pay a recapture fee as the sewer line extends onto their property. However, in this case Wildwood Acres is only being required to install the sewer line to the property boundary of their subdivision.

Bennett Boeschstein stated that if there is a trunk sewer line then there is a recapture agreement. For small extensions such as this we have generally not had a recapture agreement.

Councilman Karisny noted that if we consider small recaptures we need to consider them in all cases.

Councilman Mulder noted that if a recovery fee is allowed on the sewer line extension what would prevent one from being granted for the road stub itself.

Mayor Adams opened the public hearing. With no comments from the audience the hearing was closed.

Councilman Tallon stated that he was leaning towards granting the recapture as the developer has put in additional stubs over and above what he is required to do and feels the recovery is warranted. Councilman Karisny felt that consistency is important in applying the recovery fee in various subdivisions. Councilman Karisny asked for some technical data could be compiled to help provide guidelines in the future.

Pat O'Conner stated that in another one of his projects the sewer line was extended along 17 1/4 Road into his subdivision at the developers expense. He is not asking for recapture for the main line that will be shared but just for a recovery fee on this small extension.

" COUNCILMAN MULDER MOVED APPROVAL OF RESOLUTION 2004-32 APPROVING THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR WILDWOOD ACRES, FILING #2 AS PRESENTED WITH NO RECOVERY FEE FOR THE SEWER EXTENSION. THE MOTION DIED FOR LACK OF A SECOND.

" COUNCILMAN KARISNY MOVED APPROVAL OF RESOLUTION 2004-32 APPROVING THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR WILDWOOD ACRES, FILING #2 WITH THE AMENDMENT AS REQUESTED BY THE PETITIONER TO REQUIRE THE DEVELOPER TO THE NORTH TO PAY FOR THE 130' SEWER LINE EXTENSION. COUNCILMAN TALLON SECONDED THE MOTION. THERE WERE 4 YES VOTES. COUNCILMAN MULDER VOTED NO.

**D. 05-1-04 COTTONWOODS, FILING 3**

**Application: Preliminary/Final**  
**Petitioner: Constructors West, Inc**

**Location:** Lot east of Grace Park and South of Windsor Park  
**Zone:** Community Residential

A request to approve a Planned Unit Development Preliminary/Final for 53 units (20 single family and 33 multi-family units), and 3.79 acres of open space with an overall density of 5.3 d/u per acre on 9.99 acres in a Community Residential zone

Ted Ciavonne presented the preliminary and final plan for Cottonwoods Filing #3. This is a Planned Unit Development with 5.3 dwelling units per acre on 9.99 acres. He reviewed the sketch plan noting that they extended the stub to the south which reduced the number of lots by one lot. There has been some minor changes to reconfigure lots around the drainage district easement. They have also made some changes to the open space based on the Council's request. There are 3 acres of open space that would receive a public easement It includes a soft surface trail and play ground. They also provided a traffic circle in Carolina Street. With these modifications they feel the preliminary and final plan is consistent with the direction given by the Council at sketch plan. The open drain will be buried and will also serve as open space and a maintenance access to the easement. Irrigation water will be provided through Cottonwoods 1 and 2. Also, excess drainage was provided in Cottonwoods 1 and 2 which should be sufficient to handle drainage from Cottonwoods 3. He reviewed the height of structures within the subdivision. Each unit has 25' front, 15' rear and 5' side yard setbacks. Cottonwoods 3 has been annexed into the master Home Owners Association. In addition, a sub association will be formed to address the common open space areas as well as the open space. The Planning Commission recommended approval subject to staff comments. They have adjusted some lot lines to allow for 8' between the structure and drainage line. They will prohibit permanent concrete structures on the irrigation and drainage easements. None of the staff recommendations were substantial. However, they are taking a bit of time and will be coming back with the Subdivision Improvements Agreement and PUD Guide.

Bennett Boeschenstein stated that this is a Planned Unit Development. This zone provides a transition between single family units to the east and multi family units in Grace Park. The Ordinance approving the PUD zoning could not be enacted until this information was available. The first reading of the PUD zoning ordinance is on the consent agenda with a public hearing in one month. The subdivision improvements agreement should be presented at the next Council meeting. The petitioner has addressed staff comments from the sketch plan. They have requested that they be under the new code which will have an impact on their open space fee. They are also requesting credit for the soft surface trail and playground against their open space fee. The Planning Department recommended approval of the preliminary/final plan subject to staff and review agency comments with the exception of the LVFPD impact fee and including the provision that a public easement be granted on the 1.38 acre open space including the playground and soft

surface trail, and that they continue to work to obtain an easement to connect the trail to 18 Road along the Drainage District ditch.

Eric Mende stated that he recommended an 8' side yard setback with 16' between buildings. However, after further discussion, he agrees that a 10' minimum setback between buildings will work in this situation. The other major issue was the drainage easement and setbacks have been addressed on several lots where the drainage easement may be affected. The developers have agreed to a 10' separation distance with the drainage easement where no concrete is allowed. However, he feels there should be no structures in this area. The irrigation plan is acceptable. Fencing will be installed on the north and west side. They will be required to pay a \$1,500 road impact fee per dwelling unit for a total \$79,500. Existing drainage in Cottonwoods is sufficient for Cottonwoods 3. He will either pay a recapture fee for the drainage improvements or be given a credit as the developer of the excess detention area.

Councilman Kohls noted that the bike paths cross roads in the subdivision and suggested that signage be installed on the road stating that it is a bike or pedestrian crossing. Councilman Karisny clarified that west side would be where the no-build zone would be. Eric Mende clarified that this was correct.

Mayor Adams opened the public hearing. With no comments from the audience the hearing was closed.

Councilman Karisny noted that the multi-family units will have a common landscape and be maintained through the sub-association of the home owner association. He stated that with the proximity of the dwellings there should be some restrictions on vehicles, etc.

Rich Livingston stated that the association documents clearly defines where the property owner and home owners association responsibilities lie.

Ted Ciavonne stated that there have been some changes in the lots. Setbacks have been fairly consistent. They do have to get these in the PUD Guide for the zoning ordinance. They are still considering whether it is new or old code based on changes in the School Land Dedication fee.

**" COUNCILMAN KARISNY MOVED APPROVAL OF THE COTTONWOOD 3 PRELIMINARY FINAL PLAN SUBJECT TO ALL STAFF AND REVIEW AGENCY COMMENTS. COUNCILMAN KOHLS SECONDED THE MOTION. THERE WERE 5 YES VOTES.**

**E. 05-3-04 SILVA REZONE**

**Petitioner:** Trinidad Silva  
**Location:** 306 S Maple  
**Zone:** Community Residential

A request to approve a Rezone for 306 S. Maple, from a Community Residential zone to a Downtown Commercial/Residential Design District zone in a Community Residential zoned area, and amend the Community Plan 2020 to indicate this designation.

Trinidad Silva stated that he is requesting a rezone. The transition between Community Residential and Commercial zoning is on Maple Street. Traffic along Maple Street to Reed Park and from the high school is fairly significant. There is commercial zoning in the area. The Planning Commission recommended approval.

Bennett Boeschenstein stated that this is a request for a rezone from Community Residential to Downtown Commercial. To the south and west is Commercial zoning and to the north and east is Community Residential zoning. Reed Park is to the west. A rezone has to show it is consistent with the Community Plan and conforms to the neighborhood character. There has been concern from some of the neighbors concerning the rezone. Staff and Planning Commission recommended approval of the rezoning request.

Ed Sands stated that if there is a use proposed in the future on the property that is not compatible with surrounding land uses, staff can bring the use before the Council for their approval or denial. This is a new addition to the land use code that was adopted on April 6, 2004.

Bill Tallon stated that he researched the code concerning the uses allowed in this zone and feels it provides sufficient control with the uses allowed in the zone and the requirement for a conditional use application for specific uses as well as the option to bring a proposed allowed use to the Council for their action.

Mayor Adams opened the public hearing.

Ms. Romero, 521 E. Harrison, expressed concern with not knowing what is being proposed for the property. Storage has been mentioned. She contacted real estate people concerning the effect of the commercial property in the neighborhood and it could have no impact or hurt her property value.

Bruce Emmons, 543 E. Harrison, stated that there is vacant commercial ground available and he does not feel this needs to be rezoned to commercial. There is a hollywood curb on Harrison which can provide access to this lot in addition to the

curb cut on Maple Street. This could bring in additional commercial traffic to a residential neighborhood.

Councilman Mulder asked for clarification on the zoning of surrounding property. It was noted that south of the alley is zoned Commercial. The exhibit is in error.

Dusty White, 530 E. Harrison, expressed concern with his property values. He feels it will hurt his chances. The map doesn't show the six kids that live on the block. There is a park across the street which makes more sense with surrounding residential property versus surrounding commercial property.

Dana Emmons stated that she has grown up in Fruita. There is a commercial property across the street. This is not a commercial area. It is a residential property.

Councilman Silva stated that City of Fruita does not assess taxes. The County does. He reviewed zoning of surrounding properties. He is not responsible for traffic. There is always traffic. It is a matter of economics. He could build a duplex but not sufficient return. If he fenced property there would be no problem with access from Harrison.

Councilwoman Merling stated that commercial property is an investment because the value would increase.

Councilman Karisny stated that the Council has no obligation to guarantee him the highest and best value for his land. Typically, petitioner would get feed back from neighbors and address their concerns or present a general plan for the property. Specific questions or issues that need to be addressed when a site plan is brought in for the property include: What is it going to be? What type of traffic will be generated? Will access be restricted to Maple Street and denied from Harrison? The site plan would be reviewed by staff if under 2,500 sf and would go to Council if over 2,500 sf. His recommendation would be table the requesting a zoning amendment and allow Mr. Silva to talk to his neighbors and address their concerns and questions.

Councilman Mulder stated he would like to see a preliminary site plan with the request for a rezone so neighbors and Council can know what is proposed. He feels that the Community Residential zoning is the appropriate zone with the proximity of Reed Park.

Councilman Tallon stated that the property currently has a derelict building on it. There is high demand for commercial zoning. He feels the necessary controls are in place to protect the neighborhood from undesirable uses.

Councilman Kohls concurred with Councilman Tallon that there are sufficient controls in place.

" COUNCILMAN TALLON MOVED TO APPROVE ON FIRST READING ORDINANCE 2004-23 AMENDING THE OFFICIAL ZONING MAP AND REZONING THE SILVA PROPERTY FROM COMMUNITY RESIDENTIAL TO DOWNTOWN COMMERCIAL/RESIDENTIAL DESIGN DISTRICT AND AMENDING THE COMMUNITY PLAN 2020 TO INDICATE THIS DESIGNATION AND SETTING THE PUBLIC HEARING FOR SECOND READING OF THE ORDINANCE FOR JULY 6, 2004. COUNCILMAN KOHLS SECONDED THE MOTION. THERE WERE 3 YES VOTES. COUNCILMEN KARISNY AND MULDER VOTED NO.

## **7. COUNCIL REPORTS AND ACTIONS**

### **A. 5-2-1 DRAINAGE AUTHORITY AGREEMENT**

Councilman Karisny stated he attend the 5-2-1 Drainage Authority meeting. Palisade, Grand Junction Drainage District and Fruita have signed the agreement. Mesa County and Grand Junction have not signed the agreement but should be acting on it soon.

### **B. REGIONAL TRANSPORTATION ADVISORY COMMISSION**

Councilman Karisny reported that he also attended the Regional Transportation meeting. The committee had expressed concern about the political earmarking of additional transportation funds to Glenwood Springs and Montrose. They noted that there are regional groups who work together and with CDOT to prioritize projects and they were not real happy about politicians directing funds. Rep. McGinnis responded to their letter stating that the funds that were earmarked were additional funds and did not affect allocations to other regions.

### **C. RIVERFRONT COMMISSION APPOINTMENTS**

Councilman Kohls volunteered to participate in the interviews for the Riverfront Commission appointments. He noted that he was involved with the interviews the last time they were conducted. It was the Council's consensus to have him act as the City's representative for the interviews.

### **D. MESA COUNTY ENTERPRISE ZONE COMMITTEE**

Councilman Kohls stated that he attended a meeting of the Mesa County Enterprise Zone. They are rewriting strategy and also addressing the Fruita industrial park.

**E. MAYOR ADAMS**

Mayor Adams stated that he spoke with 4<sup>th</sup> and 5<sup>th</sup> graders at school and received very nice letters back from them.

**F. TOURISM ADVISORY COUNCIL**

Councilwoman Merling stated that the City has an 800 number for tourism related calls. Clint Kinney stated that they have noticed some problems with information given out using the 800 number and they are working on that issue.

**8. CONSENT AGENDA****A. APPROVAL OF CITY COUNCIL MINUTES OF MAY 18, 2004****B. MOORELAND MINOR SUBDIVISION - 1<sup>ST</sup> REQUEST FOR EXTENSION OF 180 DAYS TO SUBMIT REVISED SKETCH PLAN****C. ORDINANCE 2004-24 1<sup>ST</sup> READING - COTTON WOODS 3 - ZONE CHANGE FROM COMMUNITY RESIDENTIAL TO PLANNED UNIT DEVELOPMENT**

" COUNCILMAN MULDER MOVED APPROVAL OF THE CONSENT AGENDA AS PRESENTED. COUNCILMAN KARISNY SECONDED THE MOTION. THERE WERE 5 YES VOTES.

**9. ADMINISTRATIVE AGENDA****A. CITY MANAGER****i) DISCUSSION AND POSSIBLE ACTION TO INCREASE PART TIME STAFF LEVELS IN PUBLIC WORKS AND FINANCE DEPARTMENTS**

Clint Kinney stated that when the 2004 budget was developed most city departments requested additional personnel to help meet the increasing work load. Due to revenue constraints, most of the requested positions were not placed in the budget. Sales tax revenues have come in higher than anticipated in the budget and staffing issues continue to be a concern. Three new temporary positions are proposed. Two positions are for personnel in public works and the 3<sup>rd</sup> position is for a temporary administrative position for answering phones and other basic duties. These positions will allow other staff to spend time on more specific skills. A budget adjustment for these positions will be presented in September

Councilman Tallon felt that the request for temporary personnel is a good way to approach it.

" **COUNCILMAN MULDER MOVED APPROVAL OF THE ADDITION OF 3 TEMPORARY POSITIONS. COUNCILMAN KOHLS SECONDED THE MOTION. THERE WERE 5 YES VOTES.**

## **B. CITY CLERK**

### **i) ANNUAL EVALUATION OF CITY MANAGER**

Margaret Steelman noted that it is time to begin the process for evaluation of the City Manager. The City Charter requires that the evaluation form used by the Council be made available to the public in order to obtain input from them on the performance of the manager. A copy of the form used last year is included in the Council packet. Notice of the availability of the forms will be published in the Fruita Times and the form will be available at the City's Clerks office and on the City's website.

" **COUNCILMAN KARISNY MOVED TO DIRECT THE CITY CLERK TO SCHEDULE THE ANNUAL EVALUATION OF THE CITY MANAGER FOR JULY 20, 2004 AND MAKE THE EVALUATION FORM AVAILABLE FOR USE BY THE PUBLIC. COUNCILMAN KOHLS SECONDED THE MOTION. THERE WERE 5 YES VOTES.**

Clint Kinney stated that public comments should be in about 2 weeks before the scheduled evaluation by the Council. This will give the Council two weeks to discuss his performance among themselves and present him with the evaluation at the July 20, 2004 meeting. Councilman Karisny asked Clint Kinney if he had any preference on how the evaluation was presented. Clint Kinney stated that short and sweet is fine.

With no further business to come before the Fruita City Council the meeting was adjourned at 9:53 p.m.

Respectfully submitted,

Margaret Steelman, City Clerk