

**FRUITA CITY COUNCIL  
AUGUST 16, 2016  
7:00 P.M.**

**1. INVOCATION AND PLEDGE OF ALLEGIANCE**

**2. CALL TO ORDER AND ROLL CALL**

**3. AGENDA - ADOPT/AMEND**

**4. PROCLAMATIONS AND PRESENTATIONS**

- A. Presentation – Grand Junction Economic Partnership (GJEP) Update from Kristi Pollard
- B. Proclamation – Proclaiming August 25, 2016 (105<sup>th</sup> Birthday of Helen Lamm) as “Helen Lamm Day” in the City of Fruita (requested by Frank Lamm, son)
- C. Recess - Birthday cake and refreshments for Helen Lamm’s 105<sup>th</sup> Birthday

**5. PUBLIC PARTICIPATION**

This section is set aside for the City Council to LISTEN to comments by the public regarding items that do not otherwise appear on this agenda. Generally, the City Council will not discuss the issue and will not take an official action under this section of the agenda. **Please limit comments to a five-minute period.**

**6. CONSENT AGENDA**

These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. A Single **Public Hearing** will be opened for all items on the Consent Agenda. These items will be approved by a single motion of the Council. The Mayor will ask if there is anyone present who has objection to such procedure as to certain items. Members of the Council may also ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section for full discussion. **Any item that is removed from the consent agenda will be placed at the end of the regular agenda.**

- A. MINUTES – A request to approve the minutes from the August 2, 2016 City Council meeting
- B. LIQUOR LICENSE RENEWAL – A request to approve the renewal of a 3.2% Beer License for City Market located at 135 S. Plum
- C. LIQUOR LICENSE MODIFICATION OF LICENSED PREMISES – A request to approve a Modification of Licensed Premises Fruita Liquor Mart located at 423 E. Highway 6 & 50 (expansion into adjacent unit)
- D. SPECIAL EVENT LIQUOR LICENSE PERMIT APPLICATION – A request to approve a Special Event Liquor License Permit for the Museum of Western Colorado to serve beer and wine at the “Feast of Skulls” reception for Dinosaur Days on Saturday, August 27, 2016 from 5:00 p.m. to 12:00 a.m.
- E. JULY 2016 FINANCIAL REPORTS – A request to approve the July 2016 Financial Reports

- F. RESOLUTION 2016-31 – A request to approve a Resolution supporting a Federal Mineral Lease District (MFLD) grant application for construction of the North Aspen alley improvements
- G. ORDINANCE 2016-13 – First Reading – An introduction of an Ordinance to Quit Claim a 20-foot wide strip of land located on the south side of property addressed as 241 S. Sycamore Street to the current property owners in exchange for a Private Utility Easement Agreement for publication of public hearing on September 20, 2016

**7. PUBLIC HEARINGS**

Public Hearings are the formal opportunity for the city council to LISTEN to the public regarding the issue at hand. For land use hearings and liquor license hearings; the Council is required to act in a quasi-judicial capacity. When acting as a quasi-judicial body, the Council is acting in much the same capacity as a judge would act in a court of law. Under these circumstances, the judicial or quasi-judicial body must limit its consideration to matters which are placed into evidence and are part of the public record. The council must base their decision on the law and evidence presented at the hearing.

- 1) **Applicant Presentation (15 minutes max)** The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.
- 2) **Staff presentation (15 minutes max)** Staff will present the comments and reports received from review agencies, and offer a recommendation.
- 3) **Public Input (limit of 5 minutes per person.** If two people in the audience are willing to cede their time to the speaker, that speaker may receive a total of 10 minutes, referred to as banking time). People speaking should step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.
- 4) **Applicant Rebuttal (limited to 5 minutes)** The Mayor will ask for the applicant's rebuttal. During this brief time, the applicant should answer the questions raised by the public.
- 5) **The hearing is then closed to public comments.**
- 6) **Questions from the Council.** After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.
- 7) **Make a motion.** A member of the City Council will make a motion on the issue.
- 8) **Discussion on the motion.** The City Council may discuss the motion.
- 9) **Vote.** The City Council will then vote on the motion.

**A. Community Development Director Dahna Raugh**

- 1) **US TRACTOR & HARVEST INC. SITE DESIGN REVIEW –** A request to approve the Site Design Review for a 31,500 square foot building for agricultural equipment sales and service including large areas of outdoor display on approximately 15 acres located at 1984 Highway 6 & 50 zoned General Commercial
- 2) **ORDINANCE 2016-10 – Second Reading –** A request to approve an Ordinance amending Section 17.41.040(X), Temporary Off-Premise Signs, of the Fruita Land Use Code

**8. ADMINISTRATIVE AGENDA**

**A. City Manager Mike Bennett**

- 1) Update and discussion on Economic Development efforts

**B. City Manager Mike Bennett and Chief of Police Judy Macy**

- 1) OHV recommendation to Council

**9. COUNCIL REPORTS AND ACTIONS**

**10. CITY MANAGER'S REPORT**

**11. ADJOURN**



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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MICHAEL BENNETT, CITY MANAGER**  
**DATE: AUGUST 16, 2016**  
**RE: UPDATE ON THE GRAND JUNCTION ECONOMIC PARTNERSHIP  
(GJEP) FROM KRISTI POLLARD**

### **BACKGROUND**

The City traditionally and currently funds GJEP as a partner agency to work with the City on economic development efforts. At the June 16, 2015 City Council meeting, City Council appointed Mayor Lori Buck to serve as a member of the GJEP Board. In April 2015, Kristi Pollard was appointed by the GJEP Board to be the new Executive Director of GJEP. Kristi will provide an update on the current efforts GJEP is working on.

***A Proclamation  
Celebrating and in Recognition of  
Helen R. Lamm***

**WHEREAS:** Helen R. Lamm was born in Pennsylvania Dutch country August 25, 1911 and was raised on a very small six-cow dairy farm with three horses, horse-drawn equipment and no running water, and;

**WHEREAS:** Helen's husband J. Herman Lamm had only a first grade education and nearly died from appendicitis as a child but later developed his own successful business of which Helen was a part, and;

**WHEREAS:** Helen's first baby was born at the same time as the start of the Great Depression. She had two more children to whom she was and is an outstanding and compassionate mother who did everything she could for them regardless of many personal sacrifices, and;

**WHEREAS:** Helen was employed by Jacob's Aircraft during the Second World War making parts for the United States Air Force fighter planes, and;

**WHEREAS:** One of Helen's most prized possessions was a micrometer - a precision measuring instrument that was vital in making the parts that kept the American fighting planes in the air, and;

**WHEREAS:** Helen has worked tirelessly throughout her life taking care of not only her husband and children, but also her mother (who lived to be 100.3 years old), sisters and her brother in their later years, as well as neighbors and friends in their times of need, and;

**WHEREAS:** Helen first became a resident of Fruita in 2013 when her son Frank removed her from a nursing home in Pennsylvania on Christmas Day and the next day flew her out west during one of the worst snowstorms in US history, and;

**WHEREAS:** Since coming to Western Colorado, Helen has found great passion and enthusiasm for fishing and target shooting, and;

**WHEREAS:** Helen has recently been recognized and honored for her sporting activities at her very advanced age by many local, national and international businesses and agencies including Fruita City Market, Colorado Parks and Wildlife, Sportsman Warehouse, Cabela's, KREX-TV News Channel 5, and Ruger Firearms.

**THEREFORE,** I, Lori Buck, Mayor of the City of Fruita, do hereby proclaim:

**AUGUST 25, 2016 AS  
"HELEN R. LAMM DAY"  
IN CELEBRATION OF HER 105<sup>TH</sup> BIRTHDAY THIS YEAR**

**IN WITNESS WHEREOF,** I have hereunto set my hand and cause to be affixed the official seal of the City of Fruita this 16<sup>th</sup> day of August, 2016.

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Lori Buck, Mayor of the City of Fruita



**FRUITA CITY COUNCIL  
REGULAR MEETING  
AUGUST 2, 2016**

**1. INVOCATION AND PLEDGE OF ALLEGIANCE**

The Invocation was given and the Pledge of Allegiance was recited.

**2. CALL TO ORDER AND ROLL CALL**

Council members present were Bruce Bonar, Dave Karisny, Kyle Harvey, Ken Kreie, Joel Kincaid and Louis Brackett. Mayor Buck called the meeting to order at 7:05 p.m.

**3. AGENDA – ADOPT/AMEND**

Mayor Buck asked if there were any corrections or additions to the agenda. There were none.

- **COUNCILOR BONAR MOVED TO APPROVE THE AGENDA AS PRESENTED. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

**4. PROCLAMATIONS AND PRESENTATIONS**

There were no Proclamations or presentations on the agenda.

**5. PUBLIC PARTICIPATION**

There were no comments from the public.

**6. CONSENT AGENDA**

- A. **MINUTES – A REQUEST TO APPROVE THE MINUTES FROM THE JULY 19, 2016 CITY COUNCIL MEETING**
- B. **LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A TAVERN LIQUOR LICENSE – MALT, VINOUS AND SPIRITUOUS FOR FATJAR CANNERY & BREWHAUS LOCATED AT 152 S. MESA**
- C. **LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF AN ART GALLERY (LIQUOR) PERMIT FOR LITHIC BOOKSTORE & GALLERY LOCATED AT 138 SW. PARK SQUARE #202**
- D. **RESOLUTION 2016-26 – A REQUEST TO APPROVE A RESOLUTION AMENDING THE 2016 BUDGET AND APPROPRIATING ADDITIONAL FUNDS FROM VARIOUS SOURCES FOR VARIOUS PURPOSES – SPECIAL EVENTS AND LAW ENFORCEMENT TRAINING**

- E. ANNUAL REVIEW OF RED FLAG POLICY (IDENTITY THEFT PREVENTION PROGRAM) ADOPTED BY RESOLUTION 2009-31**
- F. RESOLUTION 2016-29 – A REQUEST TO APPROVE A RESOLUTION ESTABLISHING REGULATIONS FOR PUBLIC USE OF ENOCH’S LAKE PROPERTY**
- G. RESOLUTION 2016-30 – A REQUEST TO APPROVE A RESOLUTION FOR THE FIRST RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT (SIA) FOR VILLAGE AT COUNTRY CREEK**

Mayor Buck opened the public hearing on the Consent Agenda. Hearing no comments from the public, she referred back to the City Council.

- **COUNCILOR KINCAID MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR BONAR SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

## **7. PUBLIC HEARINGS**

### **A. COMMUNITY DEVELOPMENT DIRECTOR DAHNA RAUGH**

#### **1) ASPEN VILLAGE ANNEXATION**

- a. PRELIMINARY PLAN – A REQUEST TO APPROVE THE PRELIMINARY PLAN FOR ASPEN VILLAGE SUBDIVISION**
- b. RESOLUTION 2016-27 – A REQUEST TO APPROVE A RESOLUTION FINDING 6.73 ACRES OF PROPERTY LOCATED AT 1062 18 ROAD ELIGIBLE FOR ANNEXATION AND INITIATING ANNEXATION PROCEDURES**

Tracy States with River City Consultants, Inc. stated that she was the representative for the applicant (McCurter Land Company, LLC) for the Aspen Village Annexation, Zoning and Preliminary Subdivision Plan. She further stated that:

- The parcel meets all of the requirements for annexation per Section 7.06.040 of the Fruita Land Use Code
- The property has been enclaved by the City for many years
- The required 30 feet of right-of-way and 14-foot multi-purpose easements have been provided on the Annexation Map. The right-of-way was dedicated in 2006 and 2007 and is documented on the Map
- The owner/developer is requesting a zoning of Community Residential (CR), which is the recommended zoning for the area and is consistent with the City’s goals and policies expressed in the Master Plan

- The proposal is for 22 single family residential lots and is compatible with surrounding development
- The subdivision provides for pedestrian interconnectivity and the trail connections will be adjusted to meet City requirements
- With some redesign, the subdivision can provide for vehicular (future) connectivity by providing a stub to Laura Avenue to the east
- The applicant will be purchasing additional water shares and the subdivision provides for pressurized irrigation and storage
- Landscaped detention is provided at the southwestern corner of the Subdivision, and an additional drainage impact fee will be collected from the developer
- All City and Review Agency comments will be resolved with the Final Plat Application
- Aspen Village Subdivision will be a covenant-controlled community. All fencing will have to be approved by the Architectural Control Committee
- The applicant will make sure that Bob Major's (804 J 6/10 Rd.) irrigation is protected and his use is not changed. They will also work with him regarding fencing adjacent to his property
- The applicant has facilitated other nice development in Fruita, such as Elmwood Heights Subdivision (located across 17 ¼ Rd. from Elmwood Cemetery) and the Kokopelli Commercial Park. Aspen Village will be very similar to Elmwood Heights as far as the style and quality of homes

Ms. States said that River City Consultants, Inc. concurs with all of staff's recommendations and feel confident that all issues will be resolved.

Community Development Director Dahna Raugh stated that this was a request for annexation with a Community Residential Zone and a subdivision for 22 single family detached lots. The property was previously approved with a development plan that had over 6 dwelling units to the acre with a townhouse type of development. Mrs. Raugh said it was her understanding that the surrounding neighborhood is much happier with the current plan.

A neighborhood meeting was held and information regarding this information was included in the Council packets.

Mrs. Raugh continued that the property meets all the requirements for annexations. Staff does request the condition that the 30 feet of right-of-way be dedicated for Pine Street and 14-foot multi-purpose easements also be provided with the annexation.

The requested Community Residential Zone meets the City's Master Plan and Mrs. Raugh said that staff was recommending approval with no conditions.

Mrs. Raugh added that some changes are needed on the Preliminary Plan so that it can meet all of the minimum criteria that must be considered for Preliminary Plans. Laura Avenue needs to connect through the side or at least provide the stubs that it can connect to in the future. Some minor improvements to Pine Street and Aspen are required: mainly removing existing curb cuts that won't be necessary.

Mrs. Raugh said that with the design as proposed, more pedestrian access points were needed to the north with wider areas. Some changes to drainage are also needed on the southeast side of the property to resolve some issues with how the lots will drain in the future.

Mrs. Raugh stated that staff has received no written public comments. At the Planning Commission meeting, there were people in attendance speaking out with concerns about the Aspen Village development.

The Planning Commission recommended the annexation with a 7 to 0 vote with the conditions recommended by staff. The Commission also recommended approval of the Community Residential Zone with a vote of 7 to 0, and recommended approval of the Preliminary Plan with a vote of 7 to 0.

This concluded Mrs. Raugh's presentation.

Mayor Buck opened the public hearing.

Carol Hughes, Canterbury Park resident in Fruita, stated that she attended the Planning Commission meeting. She said that there has been a RE/MAX sign on the property that says "commercial property," and she wondered why.

Mayor Buck said it was probably because the sign was put up before the property was annexed. It was still in the county, so the realtor could put whatever sign they wanted on it, but once the property is annexed, it must conform to the Land Use rules and regulations of the City of Fruita, which would not allow commercial on the property.

There were no further comments from the public and Mayor Buck closed the public hearing. She asked the applicant if they had any further comments, which they did not.

Mayor Buck referred to the City Council for any questions and comments they may have.

Councilor Karisny noted that in the Planning Commission meeting, there was a concern about the traffic on Pine Street, but the previously proposed land use was really going to produce a lot more traffic. He continued that he thought the concern was more generalized and wasn't specific to the Aspen Village Subdivision land use plan.

Councilor Karisny said that it is well known that Pine Street is a very highly used street and because school will be starting soon, it will be even more so.

Councilor Bonar pointed out that the Preliminary Plan approval and the Resolution finding the property eligible for annexation probably should be in reserve order on the agenda and staff agreed.

- **COUNCILOR KINCAID MOVED TO APPROVE RESOLUTION 2016-27 – A RESOLUTION FINDING 6.73 ACRES OF PROPERTY LOCATED AT 1062 18 ROAD ELIGIBLE FOR ANNEXATION AND INITIATING ANNEXATION**

**PROCEDURES. COUNCILOR BRACKETT SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

- **COUNCILOR BONAR MOVED TO APPROVE THE PRELIMINARY PLAN FOR ASPEN VILLAGE SUBDIVISION. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

**2) ADOBE VIEW NORTH ANNEXATION**

- a. **PRELIMINARY PLAN – A REQUEST TO APPROVE THE PRELIMINARY PLAN FOR ASPEN VILLAGE SUBDIVISION**
- b. **RESOLUTION 2016-27 – A REQUEST TO APPROVE A RESOLUTION FINDING 6.73 ACRES OF PROPERTY LOCATED AT 1062 18 ROAD ELIGIBLE FOR ANNEXATION AND INITIATING ANNEXATION PROCEDURES**

Mr. Steve Hale stated that he was representing Adobe View Development Company. He said the project, Adobe View North is located at 965 18 Road and that the plan was approved in 2008 but was shelved for economic reasons.

Mr. Hale said that Adobe View Development basically agrees with everything that City staff has recommended and that there were really no changes to the staff report. The project is a 34-lot single family subdivision.

Community Development Director Dahna Raugh gave staff's presentation.

Mrs. Raugh said that the project was a request for annexation, zoning and Preliminary Plan approval. She stated that the plan being presented is almost exactly what was approved eight years ago, but there has been a new Master Plan and Land Use Code, so there was a new review by staff and review agencies.

Mrs. Raugh continued that the annexation meets all the requirements of the Land Use Code with the condition that 14-foot multi-purpose easements and right-of-way be dedicated. She said the zoning is a little bit of a tricky situation; the Master Plan recommends South Fruita Residential zoning. There are two zones in the Land Use Code that are very similar: the South Fruita Residential zone and the Large Lot Residential zone. The applicant has requested the South Fruita Residential zone because that meets the Master Plan, but Mrs. Raugh said the tricky part is that half of the property is already in the City limits and is zoned Large Lot Residential, which puts two different zones on the property.

Because the two zones are so similar, staff recommending in the staff report that the property be zoned Large Lot Residential Zoning to avoid a problem, but the Grand Valley Drainage District requires a water quality control pond, which will take up some room that wasn't required eight years ago. There's been some development on the east side of Pine Street which is in conflict with

the roadway that was originally proposed, so the developer must rearrange where the roadway is, which causes some property lines to have to move around.

Mrs. Raugh said therefore, the applicant actually really does need the South Fruita Residential zone because the difference between the two zones is mainly lot sizes; Large Lot Residential requires a 10,000 square foot lot size, whereas South Fruita Residential only requires a 7,000 square foot lot size. The applicant is requesting a South Fruita Residential zone because some of the lots might need to be a little bit less than 10,000 square feet.

Mrs. Raugh continued that the Master Plan supports either Large Lot Residential or South Fruita Residential, as long as there is a density bonus provided. The applicants have purchased a Transfer of Development Right to achieve the density that the Master Plan recommends through a density bonus. Staff is in support of South Fruita Residential zoning, understanding the situation with the zone. Mrs. Raugh said either zone is fine, but staff does absolutely support the requested South Fruita Residential zone.

Mrs. Raugh said that staff received no written public comments at this time, but at the Planning Commission public meeting, there were some residents from the subdivision (also developed by the representative for Adobe View North Subdivision) to the south that didn't seem to necessarily have any problem with the new development; they seem to have problems with the developer. Mrs. Raugh said staff has nothing in writing to explain exactly what the issue is.

Mrs. Raugh said that at the Planning Commission public hearing, it was a little wacky with all the votes going in different directions. The following recommendations were made:

**Annexation:** Motion to approve with the condition that 30 feet of right-of-way be dedicated for Pine Street and a 14-foot wide multi-purpose easement be provided along Pine Street. The vote on the motion was five in favor and two abstentions. One Commissioner abstained due to technical difficulties with his computer so he was unable to sufficiently review the development, and the other Commissioner abstained because it was his first day on the Planning Commission and he did not feel knowledgeable enough to provide an opinion.

**Zoning:** Motion to approve South Fruita Residential zoning (to allow lots to be less than 10,000 square feet, but at least 7,000 square feet). The vote on the motion was three in favor, two opposed (no specific indication as to why the no votes) and two abstentions.

**Preliminary Plan:** Motion to approve with the conditions recommended by staff along with the strong recommendation that the developer provide information to the Council showing how resolving the issues will change the layout of the subdivision. The vote on the motion was three in favor, three opposed and one abstention. It appeared that the no votes were based on the belief that resolving issues would lead to a significant redesign necessitating another public hearing before the Planning Commission.

Mrs. Raugh said that staff does not believe that the project needs to go out for review again by review agencies and staff recommends that it be approved with the conditions that all the review

comments and issues identified in the staff report are adequately resolved with the Final Plat application.

Mrs. Raugh added that if staff does see that there is a big problem with a significant change enough to need more review, the project would be brought back, but staff believes that the project can be redesigned without a significant change.

Mayor Buck opened the public hearing. Hearing no comments, she closed the public hearing and brought it back to the applicant.

Mr. Hale stated that his engineers have already redesigned the entryway into the subdivision to line it up with River Rock Court and have already worked with the Drainage District for retention on all storm water so they know the size of the facility that will be necessary. Mr. Hale said that really the only change to the layout of the subdivision is moving the access off of 18 Road to line up with River Rock Court, which is different than what it was eight years ago. He added that the basic lot layouts are all the same. Three of the 34 lots will be 9,500 square feet and the other 31 lots will be over 10,000 square feet.

Mr. Don Williams, 977 Mancos Way, Fruita, said that he lives in the Adobe View South Subdivision and has met numerous times with Mr. Hale. Mr. Williams stated Adobe View South owns and controls the irrigation vault, which was designed to handle both subdivisions, however with the water supply and the way it is delivered (there is a foot of sediment in the bottom of the vault), the irrigation water supply has been low. Mr. Williams said it is not the fault of the vault; there are agricultural neighbors that have five shares of water who decide they want it all at one time and they take it.

Mr. Williams said he has some concerns about sharing the irrigation vault with the Adobe View North Subdivision. He said Adobe View South would gladly share the vault if they could have the guarantee that they would have water for their lawns when they need it. He said that Mr. Hale is aware of this and there is a possibility that Adobe View South will have to have a homeowner's vote on the irrigation vault issue and there is a possibility that they will not share the vault with Adobe View North. Mr. Williams said if this happens, Mr. Hale's engineers can redesign a holding pond for the new subdivision.

Mr. Williams continued that Adobe View South does not have any objections to the subject property being developed. He noted that the covenants should be the same for both subdivisions, although the lots are larger in Adobe View South.

Mr. Williams said he thought the Council should be aware that the situation with the irrigation vault was something that could potentially be altered in the future, too.

Mayor Buck asked for clarification that if the proposed changes do not conform with the Land Use Code, the project will go back before the Planning Commission and the City Council. Mrs. Raugh confirmed this to be correct.

- **COUNCILOR BONAR MOVED TO APPROVE RESOLUTION 2016-28 – A RESOLUTION FINDING 8.03 ACRES OF PROPERTY LOCATED AT 965 18 ROAD ELIGIBLE FOR ANNEXATION AND INITIATING ANNEXATION PROCEDURES. COUNCILOR BRACKETT SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**
  
  - **COUNCILOR BONAR MOVED TO APPROVE THE PRELIMINARY PLAN FOR ADOBE VIEW NORTH SUBDIVISION WITH THE CONDITION THAT ALL REVIEW COMMENTS AND ISSUES IDENTIFIED IN THE STAFF REPORT MUST BE ADEQUATELY RESOLVED WITH THE FINAL PLAT APPLICATION AND THE STAFF RECOMMENDATION THAT THE PROPERTY BE ZONED SOUTH FRUITA RESIDENTIAL. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**
- 3) **ORDINANCE 2016-09 – SECOND READING – A REQUEST TO APPROVE AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY REZONING APPROXIMATELY 0.65 ACRES OF PROPERTY LOCATED AT 433 AND 503 E. ASPEN AVENUE FROM COMMUNITY RESIDENTIAL TO PLANNED UNIT DEVELOPMENT (SACRED HEART CHURCH REZONE)**

Mayor Buck said that there was an accusation in an e-mail throughout the process of the Sacred Heart Church rezone that claimed that one of the City Councilors attended the church, but for the record, no Fruita City Council person attends Sacred Heart Church. She added that Councilor Harvey is included in the notification area (350 feet within the church) but has not had any contact with anybody that would make him not eligible to participate in the public hearing on Ordinance 2016-09.

Lance Stewart, representative for Sacred Heart Church, stated that he knows that the City Council has had some stressful meetings trying to figure out (as the Church has) how to best come to a consensus on how to use the church properties in a manner that will best help the neighborhood, the church and to meet the desires of the City's Master Plan. He continued that it has been a laborious process that has drug on for over eight months for one reason or another and during that period of time, the church has had several meetings which included their own community meeting, the Planning Commission meeting, the First Reading of the Ordinance and now the Second Reading of the Ordinance.

Mr. Stewart stated that for all of the previous meetings, invitations were sent and notices were published and the proponents of the project far outnumbered the opposition. He said that at the Planning Commission meeting, he did make an offer which he thought caused a little bit of confusion that the church was even willing to put on the table that any uses that were not allowed under the Community Residential zone could be considered as a Conditional Use Permit. He said this way, the Planning Commission and the City Council could review again any opportunity that came the church's way that they would hope meet with the terms of the Planned Unit Development (PUD) zone.

Mr. Stewart continued that at the City Council meeting the previous month, the application for the rezone was denied. He said that in all the years that he has been involved in development in county and city government, he has never seen a PUD zone utilized in the purpose for which staff was recommending, whether for a single, solitary exemption to an existing zone or as a way to take one or two singular properties and make them available for some other type of use than what is currently in the zone.

Mr. Stewart said he would have to agree with Councilor Bonar that it was highly unusual to use the PUD zone for that purpose. He stated that Fruita's zoning Code does not provide for what is normally considered as a Special Review Use (or a Conditional Use Permit) for uses or opportunities for a piece of property that just doesn't quite fit the zone. He suggested that this may be something that the City needs to explore in the future.

Mr. Stewart noted that as the current meeting was just getting started, he received a copy of a petition that was floated in the last couple of days and that was signed by 16 individuals from the 350-foot radius of the church site that are in opposition to the rezone request. He said he would have liked to have been able to have vetted the petition earlier, but it was his understanding that staff had only received it a day or two ago.

Mr. Stewart asked the Council for their advice and recommendations on how to take a very unique piece of property and put it to a reuse that not only benefits the neighborhood and the community at large, but also for the City's own financial resources as well.

Community Development Director Dahna Raugh gave staff's presentation. She stated that the project was discussed at the last City Council meeting and that it was a request for rezone for three separate properties: the Parish Hall, the church building and the house that sits next to it from Community Residential to Planned Unit Development (PUD).

Mrs. Raugh explained that the PUD zone is the only zone the City of Fruita has that allows exceptions to the Land Use Code in an effort to produce a better development than what would otherwise result from a strict application of some other zone. She said that based on the discussions that she has heard, it didn't sound like a straight commercial zone that allows a lot of uses would have been permitted, so staff felt that the PUD zone was the best way for the applicants to see if finding more uses for their buildings is the way to go.

Mrs. Raugh stated that as per Section 17.13 of the Land Use Code dealing specifically with rezones, the Code states that if 50% of the landowners within 250 feet of the property requested to be rezoned sign a protest and submit it to the City within 24 hours before a Council vote on a rezone, that it takes  $\frac{3}{4}$  of the entire Council, whether present or not, to pass the rezone. She noted that she received the petition with 16 signatures at 7:30 the previous evening, and that the 16 signatures constituted 50% of the landowners within 250 feet of the church, Parish Hall and the house.

Mrs. Raugh stated that staff's main concern is the issue of compatibility. The applicants did ask for a large list of land uses that made staff uncomfortable because the property is very close to single family residential houses and there's no place to provide additional parking, buffers or screening, so staff was very concerned that some of the land uses would be incompatible.

Staff is recommending a much smaller list that they think is potentially more compatible. Basically everything that is allowed in the Community Residential zone would be allowed, but also the following land uses would be permitted in the PUD zone for the church and Parish Hall:

- Medical, vision, massage, hearing and dental clinics
- Indoor recreation and entertainment (including an events center)
- General offices
- Food service, restaurant, catering

Staff does not feel that drive-through land uses should be permitted because there wasn't any place for that on the properties.

As a condition, staff is recommending that if the zone change is approved and if the buildings are torn down, that the zoning revert back to Community Residential uses.

Mrs. Raugh stated that there are approval criteria that must be considered for a rezone; the rezone should meet the goals and policies of the Master Plan and providing a wider range of land uses helps achieve that. She said again, there is the compatibility issue that is very much addressed in the Master Plan. The Master Plan also talks about preserving residential neighborhoods that are existing and any changes should take into consideration the character of the neighborhood and the Master Plan and its size is the importance of the historic residential neighborhoods in the City.

Mrs. Raugh said staff believes the rezone request meets that approval criteria.

Mrs. Raugh said there are several other approval criteria, but only one of those need to be met. The request isn't part of a comprehensive rezone, it is not part of an annexation and there wasn't an error in the zone, which only leaves the approval criteria of whether the area has changed significantly enough to justify the rezone.

Mrs. Raugh pointed out that the church was built in 1920, the Parish Hall in 1941 and the house building is even older. She said she thought it could be argued that in the past 60 or 70 years, there have been some changes, so it could be considered as meeting the Land Use Code requirements for a zone change. Mrs. Raugh said staff is recommending some very specific things with the zone change to PUD to help ensure that there are no problems in the neighborhood.

Mrs. Raugh stated that the public comments staff has received were included in the Council packets, but that Councilors Karisny and Bonar have been e-mailing her over the last few days with more e-mailed comments; eight from Councilor Bonar and seven from Councilor Karisny. She said she did not see that anyone was opposed to the zone change; they were all in favor of it.

Mrs. Raugh said that the other public comment received was the petition that she received the previous evening.

Councilor Karisny said the Council also received a letter from Kelly Wilkinson, who is one of the neighbors to the church and she was not in support of the rezone.

Councilor Bonar said that Mrs. Raugh cited the criteria as being whether there had been any change in the neighborhood. He asked when the neighborhood was zoned Community Residential and if there had been a significant change in the neighborhood since it was zoned. He said he believes the intent of that section of the Land Use Code is whether the neighborhood had changed since it was zoned that way, not whether the neighborhood changed since a building was built.

Mrs. Raugh said that the earliest Land Use Code/zoning code that she has found for the City of Fruita was from 1967. It was very simple at the time and included residential, industrial, commercial and not much more than that. Mrs. Raugh said the area was zoned residential at that time and that there have not been any significant changes in the area since then. She said the biggest change that she can think of is the building across the street that was a mortuary since the 1940s but was recently demolished and an eye doctor's office was built there.

Councilor Bonar stated that he was a party to rewriting the Land Use Code at its most recent revision, so he was pretty certain about the intent of the criteria as it was written. He suggested that there has not been a change in the neighborhood since the Community Residential was applied to the area. He said this means that the criteria doesn't apply.

Councilor Kreie asked if there was a zone change when the eye doctor building went up. Mrs. Raugh responded that the funeral home/mortuary was occupying the property and she believes it was zoned Community Residential, but the mortuary got the zone changed to Downtown Mixed Use, which was supported by the Master Plan.

Mayor Buck opened the public hearing.

Mike Yocum, 142 N. Maple stated that he lives two houses up from the church. He said he didn't hear anything about the parking being addressed. He said he has dealt with the church parking every Sunday right in front of his house and he hasn't complained. Mr. Yocum asked what the City was going to do about parking if the rezone was approved, because there is no parking as it is.

Greg Roles, 1668 M. Road, asked about the neighborhood petition that staff received the previous evening. He wanted to know how it was delivered and who accepted it at 7:30 p.m. so that it made the deadline for the 24 hour notice. Mrs. Raugh responded that the previous evening, she was at the regularly scheduled meeting of the Fruita Historic Preservation Board and a member of the neighborhood (Kelly Wilkerson) appeared at around 7:30 with the petition and gave it to her.

Mr. Roles said that at the last Council workshop session, there was a comment on the zoning change that the zoning would be unusual for Fruita, but not unprecedented. He said that the City of Fruita owns the Chamber of Commerce building and he thinks it is spot-zoned. He said this was a direct change to the zoning in the neighborhood. Mr. Roles also said that if the Chamber of Commerce moves out of that building and into a commercial zone, what is the City of Fruita going to do with that building? He said the building should be reverted back to Community Residential.

Mrs. Raugh explained that the property where the Chamber of Commerce is located is zoned Community Services and Recreational, which allows a wide variety of land use. She said basically

all publicly-owned property in the City of Fruita is zoned Community Services and Recreational. Mrs. Raugh added that there would be no need to rezone the property to anything.

Mr. Roles asked if it really should revert back to a Community Residential zoning. He said he was using the Chamber building as an example that the zoning can be changed and that it was something different when it was the Mesa County Library.

Councilor Bonar stated that as a government-owned property, the property has always been Community Services and Recreational zone and that it was not rezoned with the change of use from the Mesa County Library to the Chamber of Commerce. He continued that if the City decided to liquidate and sell that building to someone else, the Community Services and Recreational zone that applies to governmental buildings would no longer be appropriate and it would probably be rezoned Community Residential. Councilor Bonar said that to the best of his knowledge, the Chamber of Commerce has no intention of leaving and the City of Fruita has no intention of kicking them out or of selling the building. He said Mr. Roles' point was irrelevant.

Kelly Wilkinson stated that she and her husband own two properties on the 500 block of East Aspen Avenue. She said she was also asked to speak on behalf of JD and Marilyn Kirby at 525 E. Aspen and Helen Sue Whitney at 506 E. Aspen. Ms. Wilkinson said she hopes the City knows that they have enjoyed having the church as a neighbor and only wish the best for them because they've been nothing but friendly.

Ms. Wilkinson continued that after the Planning Commission meeting, several people contacted her and her neighbors to reassure them that the church would be mindful about how the property will be used. She said she was very appreciative of those sentiments; however, that wasn't in writing and was not binding.

Ms. Wilkinson said that the lateness of the petition was because the neighbors only found out about the provision for it in the Land Use Code just a few days ago.

Ms. Wilkinson stated that one of the things that staff said that really impacted her was that the PUD request has the potential to fundamentally change the character of the surrounding neighborhood. She said that she moved to downtown Fruita because of its character and she would hate to see it change.

Ms. Wilkinson said that there are seven houses on the 500 block of Aspen including the rectory, which has recently been rented out as a single family dwelling, so the neighborhood is residential with a church on it; it's not like the 400 block where there is mixed use.

Ms. Wilkinson continued that the neighbors are concerned about parking because they have had parking issues every Sunday and off and on throughout the week, although the neighbors know when that is going to happen and it has never been a problem; they have just decided that it was part of living downtown.

Ms. Wilkinson also stated that the rezoning application is forcing the church's neighbors to protest an unknown use. She said that it is also forcing the Council to approve something that they don't

even know what it is yet. She said typically with rezoning requests, it is for a specific use, but the request was for a variety of different uses that could cause a variety of different impacts on the neighborhood.

Ms. Wilkinson stated that the Council had an e-mail from her with her other points, which she brought up at the Planning Commission meeting.

Ms. Wilkinson commented that the neighbors are not wanting the church to fail in their endeavors at all, but they are wanting to relook at the application because they feel that currently the way the application is, it's is vague and overreaching, so it is hard for the neighbors to agree to something when they don't know what it is.

Gloria Chavez, 311 N. Coulson St., stated that she lives directly across from the Fruita Community Center. She said the reason she wanted to speak because she knows what it is like to have difficulties with parking because at times she can't even get to her house when the street is closed off during events. Ms. Chavez said she knows it can be an inconvenience, but she also thinks that the benefits of the Fruita Community Center are much greater than the parking issue that happens once in a while. She said the reason she moved to Fruita is because of the small town community atmosphere and because of the Sacred Heart Church. Ms. Chavez says she thinks the opportunities are there that will benefit the City and it would be a shame for the church not to be able to find buyers for the buildings. She said she also didn't want to see it fall into disrepair, but if someone had a vested interest in it, they would take good care of it. Ms. Chavez said it seems to her that no matter what business might go into the church buildings, the City Council would still have a say as to what kind of business would move in.

Richard Sander, 129 S. Maple, stated that his biggest concern is that the rental house that is one of the church's properties should be excluded completely from any Planned Unit Development (PUD) and repurposed for what it already is; a residence in the neighborhood. He asked if the PUD applied to each property separately.

Mrs. Raugh responded that the applicants have asked for all three properties to be rezoned to PUD but staff is recommending approval with a much more limited use and other conditions on all three properties. The Council does have the ability to decide if all three properties have the same PUD zone applied or singularly or separately; whichever they feel is the most appropriate.

Lou Mudd, 126 S. Maple St., stated that he was within the 250-foot radius of the church property and his biggest concern was that some of the businesses that were being suggested by staff such as restaurant, food service and catering are late-evening type businesses. He said this would greatly impact the neighborhood. Mr. Mudd asked the Council to keep this in mind.

Greg Dahl, 496 Logan Lane, stated that it has been very challenging being a member of the church and seeing everything take place because when it all came about, the church community did everything they possibly could have to try to handle the situation the best way they could. He said they talked to the community multiple times, they've held meetings at the church, they have talked to Community Development Director Dahna Raugh multiple times; they've done everything possible that was recommended to take the process to the next step. Mr. Dahl said the church has

continuously asked what they need to do and yet, they are just going around in circles and will continue to do so month after month and possibly year after year. He said it is very troubling to see.

Mr. Dahl continued that the 16 neighbors of the church seemed to be very concerned all of a sudden, but he didn't understand where these people were six or eight months ago when the church reached out to them to try to discuss the matter and resolve any issues but nobody showed up. He said that 24 hours before the Council meeting, the neighbors all of a sudden put together a petition opposing the rezone request and it was a little frustrating.

Mr. Dahl stated that even though there were 16 people saying no, the Council should take into consideration that they need to speak on behalf of the whole community, which also includes 500 families in the Sacred Heart Congregation that are residents of Fruita and are in support of the application.

Mr. Dahl also stated the church members agreed with those who spoke and said that they do not want to see Fruita change, but if some change isn't allowed, the results would be similar to what happened to White Hall (in Grand Junction), which burned down after transients were living in it. He said this is what Fruita could potentially see in the beautiful church building if someone does not find a way to resolve the issue.

Mr. Dahl said he understands that a PUD might not be the option to fit what the church needs to do, but everyone needs to pull together as a community to find something that does fit.

Mr. Dahl said he was baffled at how long the process has gone on but the matter really has gone nowhere.

Ed Miller, member of Sacred Hearth Parish, said he heard the concerns of the neighborhood but one of the problems that the church faces is that they do not have the financial resources to maintain two campuses. He pointed out that the Parish is building a new church on 17 ½ Road and this is likely going to be the first choice for where finances will be allotted.

Mr. Miller showed a couple of pictures (the Grand Junction and Palisade Depots) that he said were examples of what happens when someone does not have the resources to maintain their buildings. He said they were both very historical buildings that now have broken windows and vandalism. Mr. Miller said if this happens to the Sacred Heart Church on Aspen, he would then ask the people who are concerned about their neighborhood and property values to consider what a run-down building is going to do to the neighborhood.

Colleen Nycum, 1674 Fowler Dr., said that the Sacred Heart Church truly appreciates those on the Council that have tried to help. She said she is a huge cheerleader for Fruita and loves everything about it, but it makes her so sad that in the last eight months, she has found out that there are some people in the community and maybe even some City staff or elected officials that don't seem to truly care about what happens to the 100-year old building and want what's best for the community.

Mrs. Nycum said she said it is frustrating to think that some people would almost rather have the building razed and have something new built just so that it fits the Master Plan. She encouraged the

Council to truly think about the decision and help come up with a process that will help Fruita continue to grow and be the City that everyone wants to live in. She added that it has seemed like a dead-end road.

Whitney Rink, 1039 E. Columbine, stated that she is new to Fruita and attended the Council workshop meeting the previous week. She thanked the Council for spending a significant amount of time on the Sacred Heart rezoning matter.

Ms. Rink said that in her e-mails with City staff and the Council, she was still unclear on some things and that there seemed like there are still so many questions that staff and the public have. She said that Kelly Wilkinson had the vote of the neighbors and she would be the lady to talk to in order to get public buy-in.

Ms. Rink added that she didn't think it was worth kicking around ideas of what everyone wants to do with the church anymore, because as far as she understood it, if the Council denied the request, the applicant could not reapply for one calendar year unless there was some significant material change which includes possibly someone being under contract.

Ms. Rink proposed that Ms. Wilkinson get a group together made up of the neighbors and they could start talking to some event centers or someone with a retreat house idea or something.

Ms. Rink commented that the neighbors really should have got involved a little earlier in the process instead of coming in at the eleventh hour to put a stop to it because of a parking issue.

Mike Yocum stated that when he was at the first meeting six or seven months ago, none of the church members showed up. He continued that there are only 16 people in his neighborhood, but they should have just as much representation as 500 or 1,000. Mr. Yocum said he has been aware of the situation all along and he doesn't have a problem with the change, but he wanted to know what the plan is. He asked if the neighbors had any say on how the properties are zoned.

Mayor Buck responded that the way the application was being proposed, there were specific uses being proposed to allow in the PUD zone and that's it.

Richard Sander stated that about a year ½ ago, he called the number on the real estate sign because he was curious about the house. He said he asked someone at the church and that person said that all three properties would be sold together. Mr. Sander said he found out from City staff that the original plot is separate for the church and the house; they are not one property although they have the same mailing address. He said that the church could sell or lease the house legally right away and at least they would have that income out of that building. Mr. Sander said he was requesting again that the house be kept out of the rezoning request.

Lance Stewart, representative for the Sacred Heart Church, said that it was great that there was a lot of public participation and comments because it was about time. He continued that throughout the process, he had been thinking and honestly could not refute most of the statements that had been made. He said he couldn't specify to anyone's satisfaction what plan the church has for the properties. He then stated that the church would be willing to compromise by looking at the church

building only for the PUD rezone request and not the other two pieces of property that were previously included in the request. Mr. Stewart said that in regards to the list of land uses that the church had agreed to with staff had taken some time to work through and that he has also said that the church would also consider that those uses that are not included within the Community Residential zone could be considered as Conditional Uses that would allow for the public to review whatever plans the buyer might happen to have for the property.

Mr. Stewart thanked everyone for their time and patience.

Mayor Buck noted that the public hearing was still open and asked if anyone else wanted to speak.

Yvonne Peterson said she doesn't live across from the church, but she does own property there and pays the taxes on it. She said she wanted to address the comment about the Chamber of Commerce. She said it was originally built as a museum and was owned by the City and never was residential. Ms. Peterson said the church is such a beautiful old building and the community is trying to save it; nobody wants it ruined. She noted that she is on the Historical Preservation Board and the buildings are of interest to Fruita and they are loved. Ms. Peterson requested that whatever goes into the church properties be something that is worthwhile.

Angelina Roles, 1668 M Road, stated that she is also a parishioner at Sacred Heart and that the church members have had large contingencies at the meetings although not everyone spoke because not everyone is brave enough to stand up and speak. She asked the parishioners from Sacred Heart that were in support of the rezone application to stand up (it was noted that approximately 15 to 20 people stood). Ms. Roles said that these folks were only a part of all of them that had been at the last couple of meetings.

Ms. Roles said that she noticed the other day that there is a home on the corner that used to be a church, although it is not a great looking home. She said that if the same thing happened on Fruita's main street, it would be an eyesore. She said she thinks everyone would love to see a church move into Sacred Heart to start their congregation and run for the next 100 years like they were able to do, but the reality is that, unfortunately, this is just not the world that we live in right now.

Ms. Roles continued that the church wasn't asking for anything crazy; they didn't even know what they were asking for other than the options that staff had provided. She said the church has done everything as asked, but they do not have a buyer for the properties and a business person is not going to go in there without knowing that they will be allowed to operate their business; they simply will not buy the properties and will go somewhere else. Ms. Roles said that the only thing then that the building can become is either a home or another church, which a very small market right now. She asked for the Council to find a reason to support the rezone request from the church.

Catherine Mudd, 126 S. Maple St., stated that the Catholic community has spent years and years raising money for their new church, which will be wonderful for the 500 families. She asked the parishioners to stand up again. Mrs. Mudd said she loves how the church looks; she loves the architecture and loves having it in her neighborhood. She said that the problem that she has is that there is such a big question mark as to what it is going to be. Mrs. Mudd said it is the hardest thing for her to just let the church go "out to the winds." She said she thinks back to the Palisade

Brewery, which is right in the middle of a neighborhood and there is a lot of noise into the wee hours of the morning. She asked for clarification on whether a bar would be one of the allowed uses under the PUD zone. Mrs. Raugh confirmed that it would.

Mrs. Mudd said that her house has been standing since 1905 and she has a problem because although she is okay with change, she wants to keep the beautiful (church) building and she has to think about the next 30 years when she and her husband will be living within 250 feet of the subject properties. She said maybe it is the unknown that is the most difficult thing. She applauded the City Council for the hard work they do and acknowledged that it would be a hard decision.

Father Chrysogonus Nwele stated that he lives at 513 Aspen Street in the house next to the church. He stated that from his perspective, it seems to him that three main things have come up; the first one being the issue of community welfare. He said if anybody knows the Catholic Church, they know that their business is community welfare. Father Chrysogonus stated that selling the church is in no way intended to punish anyone or make anyone's life difficult. He said everything that the church has been doing is for the public welfare to make sure everybody can live with it.

Father Chrysogonus said that the second thing was the issue of the house beside the church, which is where he lives and has always been a residence. He said he didn't think how it is zoned is of material importance in the decision making because it will always be a residence to the best of his knowledge.

Father Chrysogonus said the other issue is one that no one can actually control; the future. He said that every living human being is afraid of the future, and if anyone had the answer about it, they are more divine than anybody that has ever lived.

Father Chrysogonus continued that the City, with all its authority, can tell the church that they don't want it sold, but this affects the community and if the church is not cleaned up, it will affect the community. He said if the church is sold, it affects the community.

Father Chrysogonus said he was trying to bring forth the idea that no matter how anyone looks at it, it will not be profitable to the City, the people or the Catholic Church if something is not decided on how to move forward. He said going back and forth will not help anybody.

Colleen Nycum stated that it seemed like all the opposition to the rezoning of the church is based on the "not in my backyard" philosophy and that she would like the Council to consider that it is more than just 16 residents that are in the near vicinity of the church; it affects the entire community. She added that it would be in everyone's best interest to find a buyer who will use the church in the best possible way.

Hearing no further comments, Mayor Buck closed the public hearing and asked the applicant if they had any rebuttal.

Mr. Stewart said he thought the Council heard everything that needed to be said.

Mayor Buck referred to the Council for their comments and questions.

Councilor Kincaid said that he read the Special Warranty Deed that was included in the Council packet and asked the church if they were familiar with what the Warranty Deed says. He read the following from the deed, which was written at 9:39 a.m. on March 4, 1966:

*THE FIRST UNITED EPISCOPAL CHURCH OF FRUITA, Grantor, in consideration of the sum of One Dollar and other valuable considerations, assigns and conveys to CHARLES A. BUSWELL, Bishop of Pueblo, Grantee, the following described real estate located in Mesa County, Colorado:*

*Lots 6 and 7 in Block 1 of the Town of Fruita, Colorado, (referred to in this instrument as the "Real Estate"), together with all of the improvements and appurtenances located thereon and all water rights used on or in connection with the Real Estate.*

*The Real Estate shall be used only for the following: (a) Construction, operation and maintenance of Churches and Church Schools; (b) Religious and/or social activities connected with or sponsored by Churches or Church Schools; (c) Construction, operation and maintenance of mortuaries, and (d) Residence purposes. If the Real Estate is used for any purpose other than as specified in this instrument, title to the Real Estate shall immediately revert to and become vested in Grantor.*

*This conveyance is made subject to the 1965 and subsequent real property taxes and liens and encumbrances recorded in Mesa County, Colorado as of the date hereof.*

Councilor Kincaid stated that there were also Minutes of a Special Meeting that recorded the same restrictions to that property. He asked what the City's responsibility was since the deed specifically stated restrictions in it.

Mrs. Raugh responded that deed restrictions and covenants are private agreements between private individuals and the City does not get involved in drafting, changing or enforcing them. She said it should not have a great effect on the Council's decision because it is not part of the approval criteria for zone changes.

Councilor Kincaid said he thought it would have an effect in his opinion because the deed says if anything changes in the use of the property, then the property immediately reverts back to the vested Grantor, which means that Sacred Heart no longer owns that property nor has a right to do anything with it.

Mr. Stewart responded that he wasn't a real estate attorney, but he could say that Councilor Kincaid's supposition does apply to the Parish Hall but it does not apply to any of the other properties that are within the rezone request. He continued that since the Sacred Heart Church has actually suggested that the zone change only be applied to the church, it would take the Parish Hall completely out of that. He also said that he was in negotiations with the Pastor of the Methodist Church, who is speaking with his board and that it is a very lengthy process to change deed restrictions. Mr. Stewart said he was aware of the deed restrictions.

Councilor Kincaid asked Mrs. Raugh if two of the properties on the location zoning map were listed as Community Mixed Use. Mrs. Raugh responded that the properties are all currently zoned Community Residential and if the map said it was Community Mixed Use, that was definitely a mistake.

Councilor Kincaid asked if the properties would still require a Conditional Use Permit to go before the Planning Commission and the City Council for any of the uses listed in staff's recommendation.

Mrs. Raugh explained that staff was recommending that all uses permitted in the Community Residential zone would be allowed except for four additional uses, which would require a Conditional Use Permit. Staff also recommended a list of additional permitted uses that wouldn't require a Conditional Use Permit and this is how staff presented the project to the Planning Commission and City Council.

Councilor Kincaid asked if any houses in the area were on a Historical Preservation list.

Mrs. Raugh said she didn't have that information right in front of her, but she would look it up on her laptop.

Councilor Kreie asked what the petition said that was delivered to staff the previous evening. Mrs. Raugh said that the petition says, "We the undersigned are signing this in protest of the Sacred Heart request for a zoning change." The petition also included the Ordinance number 2016-09 and 16 signatures.

Councilor Kreie said it sounds like some of the people in the neighborhood have some hesitation about some of the uses that staff had proposed in their recommendation. He said there had been discussions previously about more restrictive uses and one in particular, and he wondered if the applicant had some ideas about restricting the list to make it more appealing to the neighbors.

Councilor Kreie said he drove by the church that afternoon and he sees churches all over in the area, so he was guessing that future Councils may have to deal with the same situation again because churches move and go away.

Councilor Kreie asked about the zoning pursuant to the Master Plan. Mrs. Raugh responded that the Master Plan is the recommending document and the Land Use Code is the actual law that enforces the rules and policies. She said if you look solely at the future Land Use Map, you can see that for downtown Fruita, mixed use zoning is recommended south of the Civic Center building and in areas north of the building all the way to Pabor Avenue. Mrs. Raugh said you have to read it in its entirety with the rest of the words that go with the maps to understand how the Master Plan recommends the evolution of the two full blocks of downtown expanding into a much larger area and connecting to the residential areas to the north, south and west and also to the commercial areas along Highway 6 & 50.

Councilor Kreie said he wanted to point out that it was hard to compare the railroad depots to the church because a depot is a different story with its environmental and rights-of-way issues. He added that White Hall was discussed and he knows that events were held there after it wasn't a church there anymore.

Mrs. Raugh stated that all those buildings were zoned commercial.

Councilor Kreie said that the rezone request was just a really tough decision for the Council and that he is sure everyone wants to see the best for the downtown, neighbors and the church.

Councilor Brackett said that that the City Council has been addressing the question about why people live in Fruita in their goal setting sessions. He continued that when he talks to citizens of Fruita, he has told them that he would take a position of common sense for the common good, so he wanted to reiterate the Council's discussions with this quote: "The City of Fruita focuses on three strategic outcomes built upon a base of providing quality core services."

Councilor Brackett said that one of those bases is the "quality of place," and he read from the Council's Goal Statement: "The City of Fruita is a community where residents and visitors love where they live. The City strives to be a bike and pedestrian friendly community by providing a system of sidewalks, trails and bike lanes that connect our parks, schools, neighborhoods, civic facilities and commercial areas."

Councilor Brackett said he wanted to emphasize the next sentences: "We value safe neighborhoods, our geographic natural resources and landscapes, top tier education and health care and we collaborate to provide quality essential infrastructure and services. Fruita is an inclusive community of doers who enjoy active and healthy lifestyles."

Councilor Brackett said that recently he traveled to a couple of other states and he purposely observed and obtained information about what some other communities have done relative to a church building that had been sold and restored (not demolished or torn down). He said that in one city in Montana, a church had been converted (with the support of the entire community) to an art gallery and events center. He continued that many of the functions in an art gallery can occur during the day rather than in the evening.

Councilor Brackett noted that realistically, the parking for the Sacred Heart Church building is limited. He added that in his frame of mind, he wanted to ensure the "quality of place," and the church to him is a "quality of place;" it is a historic edifice and it should be accommodating the community and at the same time not deteriorate. Councilor Brackett said it would take a community effort.

Councilor Brackett continued that the use of indoor recreation or entertainment including an events center could be explored and uses such as an art gallery or a museum could be considered. He said these types of uses would add to the value of the Fruita community.

Mrs. Rough answered Councilor Kincaid's question about how many properties in the nearby area are on the City's local register of historic buildings. She said the two closest ones are the Chamber of Commerce building (the Rockaday building) and the Masser House, which is the black and white building diagonally across the street from the Sacred Heart Church.

Mrs. Rough said she also wanted to point out that public uses such as museums and galleries are permitted under the current zone of the church with a Conditional Use Permit.

Councilor Harvey said that the decision that the Council has to make has been weighing heavy on his heart and he thinks the entire Council feels that way. He said that when he ran for City Council three years ago, he was a little more skeptical about how much people care about the Fruita community, but that has changed by being on the City Council because he has heard sentiment in support of and in opposition of the rezone request. He said he thinks that everyone really cares about trying to make the best decision possible and that is why the Council listens to everyone but knows that there's going to be somebody that is unhappy and the Council's face gets attached to that.

Councilor Harvey continued that he read an re-read the Planning Commission minutes and understands the difficulty of new members (on the Planning Commission), but the one thing that stuck out to him regarding the Planning Commission's recommendation of approval is that there seemed to be at least three members of the Planning Commission that were under the impression that a Conditional Use Permit would be needed to move forward with any of the uses on the list. He said that is not the case; it was a miscommunication but it still needed to be taken into account because the recommendation from the Planning Commission might have been different.

Councilor Harvey said that because of the nature of quasi-judicial hearings and the legalities surrounding *ex parte* communication, nobody has been able to talk about the issue outside of the meetings and the Council members have had to be very delicate in the way that they've thrown out ideas or tried to proceed through the process. He said this has been a hindrance to somebody like him that feels very passionately about grass roots change and making decisions as a community. Councilor Harvey said if foresight was like hindsight, then everyone could have sat down as a community somehow. He noted that the church had done this but he never heard about it, which was strange because he is very involved in the community.

Councilor Harvey said he wondered if there was any sort of way to refine the conversation around the issue so that it is more easily applied to the decision that the Council has to make. He said he doesn't know what that looks like, and he doesn't want the church to fall apart while he is also super respectful of the people that live in the neighborhood. Councilor Harvey said he lives next to a church that was bought by people who are living there.

Councilor Harvey thanked everyone who feels so passionately about the issue on both sides and for showing up and voicing their opinion. He said he hopes people continue to do so on other things going on in the community.

Councilor Karisny concurred that there has been a ton of energy by everybody spent on the rezone request. He said it has been a long a really unique process and that there's not a lot of times where the City gets the opportunity to talk about repurposing a 100- year church.

Councilor Karisny noted that Mr. Stewart had offered a Conditional Use Permit as well as limiting the request to the church building only. He said he was acutely aware of the protest that had been filed.

Councilor Karisny said that he was the Council's representative on the Fruita Planning Commission and voted in favor of the request with the understanding that a Conditional Use Permit would be

required. He continued that the way he saw it was that in a very narrowly proposed recommendation, it provided the opportunity (but not the right) for the applicant to consider some other uses and then propose those uses through a public hearing process.

Councilor Karisny said that in that process, he voted in favor of the request because it gave the applicant a process to propose a narrow focus of land uses that would otherwise automatically be denied as they were not permitted in the Community Residential zone. He said that these narrowly focused proposed land uses would not be allowed by right, but rather by Conditional Use and it was his understanding that this would need to be proposed and described in detail and ultimately approved or denied by the City Council using the public hearing process.

Councilor Karisny stated that at the Planning Commission public hearing, there were a number of residents that live in the area that spoke out against allowing the church to have the opportunity to propose any additional land uses and expressed a number of concerns that were similar to what was in the staff report.

Councilor Karisny said he saw a process that would provide the affected residents and the public the opportunity to discuss the compatibility issues based on how the church would specifically be used by a potential buyer. He said that he envisioned the potential buyer attending such a public meeting to describe in detail what they planned to do. He added that this would give the local residents and the Council the opportunity to ask questions, reach consensus and approve or deny the land use plan under the Conditional Use Permit process.

Councilor Karisny said that since that time, he has gained a great appreciation for how the PUD process was being proposed and that he concurred with Mr. Stewart, Councilor Bonar and Mayor Buck about not ever seeing the PUD process being used the way it was as presented by staff and he wasn't sure that it was such a great idea to use it that way.

Councilor Karisny said that in the e-mails that he had received from the applicant, there is this sense that the downtown area is going to expand out into the 500 block of East Aspen, but the Master Plan doesn't reflect that, so if the applicant believes that this is going to happen, then the current process is not the way to do it.

Councilor Karisny said that what he viewed in Planning Commission was a very narrowly focused potential use in addition to all the uses that are currently allowed under a Community Residential zone. He said that he believes that unfortunately, the applicant didn't really get in front of a conversation with the neighbors and didn't really have the ability to express what exactly the church was proposing.

Councilor Karisny said that it was hard for him to approve an unknown considering there was a protest by the neighbors.

Councilor Karisny suggested that a process might be that looking at any proposed land use that is outside the Community Residential zone would be narrowly focused and arguably compatible with the existing neighborhood. The submittal would require a request for a Conditional Use Permit

showing in detail a description of the proposed land use, which would be reviewed by the City Council for approval or denial using the public hearing process.

Councilor Karisny wondered if a PUD zone overlay could be assigned following the process of an approved Conditional Use Permit request and how the neighbors would feel about doing that.

Councilor Karisny stated that out of practicality, the applicant would need to withdraw the current PUD rezone request.

Councilor Bonar said that everyone on the Council sincerely sympathizes with the dilemma that was being faced and really wishes they could find a good solution for everyone, but that they have responsibilities, too. He continued that the Master Plan does not support extending commercial to the east of where it currently ends. It envisions extending to the north, south and to the west, but not to the east, so it does not fit the Master Plan.

Councilor Bonar said that the City has a Land Use Code that allows for zoning changes and a PUD, but a PUD is a specific exception to the Land Use Code for a specific purpose or use. He said that the problem is that the rezone request does not have a specific use; it is a list of possible uses. Councilor Bonar echoed the fact that the City has never approved a speculative PUD for a list of possible uses without having the owner or the person who was putting the use into place applying for the PUD. He said this is not how the process works.

Councilor Bonar referred to the staff report which cited Section 17.13.060, Amendment to the Official Zoning Map (Rezone) of the Land Use Code (2009, as amended) states that the Official Zoning Map may be amended when the following findings are made:

Councilor Bonar said that there is a list of five findings, but it doesn't say any one of the five, it says "the following." He said that the first finding says that "The proposed amendment is compatible with surrounding land uses, pursuant to Section 17.07.080 (which defines compatibility), and is consistent with the City's goals, policies and Master Plan."

Councilor Bonar noted that the staff report says that the PUD zone as proposed is not compatible with the surrounding single-family residential neighborhood and the PUD zone as proposed is not compatible with the City's Master Plan.

Councilor Bonar said it doesn't get a lot clearer than that and that this was not the process to revise the Master Plan or the Land Use Code. He said that changing a zoning is a big deal; people buy into an area with the expectation that the development that takes place in their neighborhood is within the limits of the zoning of the neighborhood they moved into.

Councilor Bonar said to change a zoning without the support of the surrounding property owners is not okay and the City cannot deviate from the Land Use Code and the Master Plan to change the zoning without the support of the people who are most directly impacted by the change. He reiterated that it is just not okay because there is a process and a law and the Council has to follow the law.

Councilor Bonar pointed out that the Land Use Code says that if an application for rezone is denied, they cannot submit the same application for one year. He asked staff that if the church were to submit an application for a PUD and had a contingent contract on the property for a specific use, would they be allowed to do that within that year?

Mrs. Raugh responded that the Land Use Code has a requirement that an applicant can't reapply for at least one year unless new information is brought to the Planning Commission and Council that was readily available at the time of the initial request and the Council decision. She continued that it was her opinion that a buyer of the property with a specific land use is information that is different and not currently readily available, so she would say that the Land Use Code would allow the rezone to be brought back with that new information.

An unidentified audience member asked if a buyer had to be just interested in the property or would they have to be under contract.

Mrs. Raugh responded that she was not prepared to answer that question because it would be an interpretation of the Land Use Code and she couldn't comfortably toss off an answer at the top of her head and be sure that she could stand by that answer. She said this is something that should be seriously considered but she would guess that there would need to be something that makes it clear that a potential buyer really is serious and is not just someone who is trying to get in another zone change request. Mrs. Raugh added that a contract would certainly make that clear, but staff would have to figure out what the lesser of that would be to still meet the requirement of being new information.

Councilor Bonar offered that the other key point is that if the Council chooses to deviate from the Master Plan and from the Land Use Code and approve a speculative PUD in an area that the Master Plan does not support, the Council would be setting a precedent in which they could not deny the next applicant who comes to ask for a PUD to change a Community Residential zone for any use. He added that if the Council chooses to ignore the Land Use Code (the law) and allow the request to go forward, denying someone else an application would be termed an arbitrary and capricious decision, for which the City would be sued and would lose. Councilor Bonar said if the Council approves the PUD rezone request, there would be no way to deny the next property owner a PUD to have a commercial activity in a residential zone because that's the way the law works. He said for that reason, he doesn't think the Council can approve the request.

Councilor Karisny asked for confirmation that if the applicant were to withdraw their application, they would not have to wait for a year to submit another application. Mrs. Raugh responded that the Land Use Code does say that if an application is denied, the applicant can't bring it back for review within one year, so she would agree that if the application were withdrawn, technically it would not have been denied, so it could be brought back immediately.

Councilor Karisny said he did recall this occurring at a different public hearing.

Mrs. Raugh stated that the reason for the requirement of waiting for one year is so that somebody who really wants a zone change and has enough time and money can't clog up the system by applying again and again.

Councilor Kincaid asked if the list of uses permitted in the Community Residential zone with a Conditional Use Permit would travel with future buyers. Mrs. Raugh said that a Conditional Use Permit goes with the property and not the person, so if somebody buys the church building and gets a Conditional Use Permit for a museum and they want to sell it to someone else who wants to do a museum, it wouldn't have to get a Conditional Use Permit again, but the new museum would have to comply with any rules and regulations (such as hours of operation) that the Council might have assigned to the Conditional Use Permit.

Councilor Kincaid asked if a property could only have one Conditional Use Permit at a time. Mrs. Raugh said a property could have multiple Conditional Use Permits on the same property if there were multiple uses on the same property as long as the owner can meet all the minimum requirements of the Land Use Code.

Councilor Kincaid asked what the reason would be for a PUD when a Conditional Use Permit could be obtained for any of the list of 25 or 30 things that the property could be used for outside of those allowed uses in Community Residential.

Mrs. Raugh responded there are certain uses that are only allowed in certain zones with a Conditional Use Permit. There are certain types of uses that are not allowed in certain zones with or without a Conditional Use Permit. The uses that the applicant requested are those that would be allowed in a PUD zone with a Conditional Use Permit. This is the reason for the rezone request.

Councilor Kincaid asked how long it took to make the last Master Plan change. Mrs. Raugh responded that the last change to the Master Plan was the Civic Center and Memorial Park streetscape Master Plan, which took about eight months plus about a year and a half of planning discussions.

Councilor Karisny asked what the process would be for an applicant to propose an un-allowed use in a zone. Mrs. Raugh stated that the City of Fruita's land use regulations aren't very different from most of the regulations nationwide and the process that the applicants were going through was that process. She said she didn't know of any other way to do it other than the PUD zone change request because it is the only zone that has conditions placed upon it and has a narrow list of allowed uses.

Mr. Stewart said he appreciated all the questions and input from the public. He continued that he would like to give staff and the Council the flexibility and perhaps an opportunity to not only consider his particular church, but other unique structures that could fall into the same exact scenario, and maybe it was time to have that discussion in a workshop setting to figure out what could be done with either the Master Plan or the Land Use Code.

Mr. Stewart said he was hearing consensus from the Council that if the church had a bonafide purchaser with a specific use in mind, then the church could reapply for that particular use and therefore, he was requesting that the application be withdrawn.

Mrs. Raugh noted that no further action by the Council was necessary at this time.

## **8. ADMINISTRATIVE AGENDA**

There were no Administrative items on the agenda.

## **9. COUNCIL REPORTS AND ACTIONS**

### COUNCILOR BONAR

Councilor Bonar reported that the Historic Preservation Board met the previous evening and the inventory of historic structures is progressing along. The board hopes to have that inventory done by December.

Councilor Bonar noted that the Historic Preservation Board uses a GIS and Mesa County parcels to identify all the structures in the general Fruita area that were built before 1940. The board is looking at each one to evaluate them for historical value; whether it be "high," "medium" or "low." The original intent was to look at the area downtown to see if there was a need for a zoning overlay to protect historic structures from being razed to be replaced with commercial.

Councilor Kincaid asked if the overlay would be included in the Master Plan and Councilor Bonar said it would and it would also be incorporated into the Land Use Code.

Councilor Bonar also reported that the Historic Preservation Board's next project is the Fruita Historic Walking Tour brochure, of which a limited number of copies still exist. He noted that there could be factual errors within the text of the brochure because although he didn't know what they were, he was told that they are there. He also said that there appears to be a great demand for the brochures because every time they are put out, they are taken rather quickly. The Historic Preservation Board plans to prepare the background material to redo the Walking Tour, so the first task will be to identify which properties that are currently on the brochure should be retained and whether others need to be removed or added. Steve and Denise Hight will begin preparing the new text to go on the brochure and will search their archives for historical photographs to go along with the text. A new map will be drafted as to where the historical properties are and then at that point, the Board can start look at how to fund printing and distributing new Walking Tour brochures.

### COUNCILOR KARISNY

Councilor Karisny said that Public Works Director Ken Haley did a great job at the Grand Valley Regional Transportation Committee (GVRTC) meeting talking about the Kokopelli Trail connection. The GVTRC provided a letter of support for TAP and Great Outdoor Colorado (GOCO) funds for the project. Scott McInnis cautioned that in future proposals, his concern is that these funding requests might compete with road and bridge fund requests.

Councilor Karisny also mentioned that the Grand Valley Transit System is now stopping at the community food bank, which is big news.

Councilor Karisny said he enjoyed the Municipalities Dinner that was hosted by the Town of Collbran recently

COUNCILOR HARVEY

Councilor Harvey said that his other board meetings would be held in the next week and the week after, so he didn't have anything to report about those yet. He asked if the Council was allowed to speak out in the open about the Sacred Heart Church request since it had now been withdrawn. Mrs. Raugh responded that she thinks everyone is pretty certain that the Sacred Heart Church would be coming back with another request and a potential buyer. She said that some people think that *ex parte* communication starts the minute someone submits an application and that if staff and the Council talk not about that specific property and that specific request, but talk about it in more of a general way, then everybody should be fine without having to create any public meeting notice.

Councilor Harvey asked about communications with people in the community – if they ask the Council members about it now.

Mr. Bennett said he thought the Council should be fine; what they need to be careful about is talking to any members of the church or any applicant in any project that could turn quasi-judicial that comes to them and asks them how they feel about a particular use in a particular location because that is entering into *ex parte* communication.

Mayor Buck said that the applicant did reach out to have a meeting after the last Council meeting, so she was guessing that will happen again.

Councilor Kincaid asked for confirmation that because Councilor Harvey lives in the church's neighborhood, that he would have to recuse himself from participating in any decision making because he was involved in communication as a neighbor of the church.

Mr. Bennett responded that according to the City's attorney, a Council member should recuse him/herself from participation if they have any financial gain in a matter that is before the Council for consideration. He added that in all the years he had been involved in local government, he has seen people recuse themselves for more than financial gain, so it is very common and doesn't hurt anything, but it can be abused as well.

He said that if any of the Council members have had extensive conversations about something that they've been involved with, they can make those conversations known in the process so that they can become part of the record.

Councilor Harvey asked if there was any way for Council members to engage in community discussion about finding a solution or if that was off the table.

Mr. Bennett said that there could be public meetings and discussions and this has been done in various ways, but it becomes a public meeting that needs to be posted and open to the public when three or more Council members are present.

COUNCILOR KREIE

Councilor Kreie said that his other board meetings were also in the future and he, like Dave, enjoyed the Municipalities Dinner.

#### COUNCILOR BRACKETT

Councilor Brackett said he was excused from the Police Commission meeting since he was out of town and the next meeting of the Police Commission would be the following meeting. He also said the Parks and Recreation Advisory Board would be meeting on Thursday and he would have an update at the next City Council meeting.

#### MAYOR BUCK

Mayor Buck said that all of her meetings had been focused around the Outdoor Recreation (OR) trade show and Eurobike. She said that she, the City Manager and Parks and Recreation Director Ture Nycum would be leaving for the OR meeting in the morning and they had two interviews with companies set up. She said that the Eurobike piece was progressing as well.

#### **10. CITY MANAGER'S REPORT**

City Manager Mike Bennett said that it had been a big week for staff for submitting grants. The GOCO grant was a \$2 million request for the Kokopelli Trail and was submitted to meet the deadline. Staff also submitted a CDOT TAP grant request for \$1.2 as a backup to the DOLA grant. Mr. Bennett said that the Joint Budget Committee for the state released the funds for the April Energy and Mineral Impact Grant cycle. Award letters should be sent out soon and Mr. Bennett said staff should be hearing very soon on the first grant.

Mr. Bennett said that at the next workshop session, he would like to have a general discussion regarding when to use Conditional Use Permits and Planned Unit Developments and some other zoning issues that staff has recently run into. Another workshop agenda item will be regarding the requirement of the City Charter being reviewed every six years because it is time to begin that process again.

Councilor Harvey asked Mr. Bennett to send him the Kokopelli Trail connection grant information so that he could report to the Riverfront Commission.

#### **11. ADJOURN**

With no further business before the Council, the meeting was adjourned at 9:32 p.m.

Respectfully submitted,

Debra Woods  
Deputy City Clerk  
City of Fruita



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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: DEBRA WOODS, DEPUTY CITY CLERK**  
**DATE: AUGUST 16, 2016**  
**RE: LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A 3.2 PERCENT BEER RETAIL LICENSE (OFF PREMISES) FOR CITY MARKET LOCATED AT 135 S PLUM**

### **BACKGROUND**

The 3.2% Percent Beer Retail License (Off Premises) for The City Market Store located at 135 S Plum is up for renewal. Their current license expires on **September 21, 2016**. The Police Department report indicates that there have not been any violations or incidents reported to them in the last year and there is nothing unusual or of concern that would hinder renewal of the license. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The City Clerk's office has no current TIPS certificate on file; however employees are trained through City Market.

City Market reports on their renewal form that several other City Market/King Soopers locations had violations in the past for sales to a minor, but none of these locations are in Fruita.

The following information is provided as background on the liquor license renewal process:

Pursuant to State Statutes, the local licensing authority (City Council) may cause a hearing on the application for renewal to be held. No renewal hearing shall be held until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review.

This item is placed on the agenda for the Council to determine if there is any cause for a hearing to be held on the renewal of the liquor license. If there is no cause for a hearing, the City Council should approve the renewal of the existing license. If there is cause for a hearing, the City Council should set a date to hold a quasi-judicial hearing to determine if there are sufficient grounds for suspension or revocation of the liquor license. The City Council may also temporarily suspend any license, without notice, pending any prosecution, investigation or public hearing. No such suspension shall be for a period of more than 15 days.

### **FISCAL IMPACT**

None

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

### **OPTIONS AVAILABLE TO THE COUNCIL**

- 1) Renew the 3.2 Percent Beer Retail License (Off Premises) for City Market located at 135 S Plum
- 2) Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

### **RECOMMENDATION**

It is the recommendation of staff that the Council move to:

**RENEW THE 3.2 PERCENT BEER RETAIL LICENSE (OFF PREMISES) FOR THE CITY MARKET LOCATED AT 135 S PLUM**

**RETAIL LIQUOR OR 3.2 BEER  
 LICENSE RENEWAL APPLICATION**

CITY MARKET #13  
 PO BOX 305103  
 NASHVILLE TN 37230-5103

Fees Due	
Renewal Fee	\$96.25
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

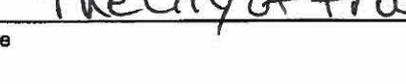
Licensee Name <b>DILLON COMPANIES INC</b>		DBA <b>CITY MARKET #13</b>		
Liquor License # <b>01107790129</b>	License Type <b>3.2% Beer Off Premises (city)</b>	Sales Tax License # <b>01107790129</b>	Expiration Date <b>09/21/2016</b>	Due Date <b>08/07/2016</b>
Operating Manager <b>DONALD J. WYNKOOP</b>	Date of Birth <b>7/13/1951</b>	Home Address <b>953 EAST PABOR, FRUITA, CO 81521</b>		
Manager Phone Number <b>970-858-3322</b>		Email Address <b>BUSINESS.LICENSE@KROGER.COM</b>		
Street Address <b>135 S PLUM FRUITA CO 81521-2524</b>				Phone Number <b>9708589506</b>
Mailing Address <b>PO BOX 305103 NASHVILLE TN 37230-5103</b>				

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease \_\_\_\_\_
- Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO

**AFFIRMATION & CONSENT**  
 I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <b>CHRISTINE S. WHEATLEY</b>	Title <b>VICE PRESIDENT &amp; SECRETARY</b>
Signature 	Date <b>7/26/16</b>

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**  
 The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority For <b>The City of Fruita</b>	Date
Signature 	Title <b>LORI BUCK, MAYOR</b>
Attest	

Attachment to DR8400 King Soopers or City Market 3.2% beer license renewal

Question 4

Several King Soopers/City Market store licenses were suspended in separate, isolated incidents for a short period when a clerk sold beer to a minor, after which precautions were taken so that it would not occur again.

STORE #	VIOLATION DATE	RESOLUTION DATE	VIOLATION
KS 88	2/24/2014	4/18/2014	SALE TO MINOR
KS 28	2/28/2014	8/20/2014	SALE TO MINOR
KS 24	3/20/2014	5/21/2014	SALE TO MINOR
CM 08	5/15/2014	6/26/2014	SALE TO MINOR
CM 41	5/21/2014	6/26/2014	SALE TO MINOR
CM 22	7/12/2014	8/4/2014	SALE TO MINOR
KS 24	9/27/2014	5/20/2015	SALE TO MINOR
KS 14	12/16/2014	02/29/15	SALE TO MINOR
KS 122	1/10/2015	2/24/2015	SALE TO MINOR
KS 33	2/13/2015	4/15/2015	SALE TO MINOR
KS 61	2/13/2015	4/15/2015	SALE TO MINOR
KS 136	5/8/2015	7/2/2015	SALE TO MINOR
CM 14	7/26/2015	9/1/2015	SALE TO MINOR
KS 99	10/22/2015	11/2/2015	SALE TO MINOR

Attachment to DR 8400 for King Soopers or City Market 3.2% beer license renewal

Question 5.

Dillon Companies, Inc. a Kansas Corporation, also holds 3.2% beer licenses for the following stores located in Colorado:

King Soopers, City Market, Mini Mart, Inc. & Loaf 'N Jug

**CITY OF FRUITA**

<b>TO:</b>	<b>FRUITA POLICE DEPARTMENT</b>
<b>FROM:</b>	<b>DEBRA WOODS, DEPUTY CITY CLERK</b>
<b>DATE:</b>	<b>JULY 28, 2016</b>
<b>RE:</b>	<b>3.2 % BEER LICENSE RENEWAL</b>

**License Information**

<b>Licensee:</b>	City Market
<b>Location:</b>	135 S Plum
<b>Type of License:</b>	3.2 Percent Beer Retail License (Off Premises)
<b>Expiration Date of Current License:</b>	September 21, 2016
<b>City Council Hearing Date:</b>	August 16, 2016
<b>DUE DATE FOR POLICE REPORT:</b>	August 12, 2016

**Tips certificates on File**

<b>Employee:</b>	<b>Expiration Date:</b>
(none)	

**Report of Fruita Police Department**

A)	Have there been any reported violation(s) of the Liquor or Beer Code in the last year?	Yes	<input checked="" type="radio"/> No
B)	Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment's control of alcoholic beverages and their patrons?	Yes	<input checked="" type="radio"/> No
C)	Are there other concerns that need to be brought to the attention of the City Council?	Yes	<input checked="" type="radio"/> No

**Please attach documentation to support the above noted violation(s), incidents or comments.**

Signed Paula Rajewich Date 8-2-16



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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: DEBRA WOODS, DEPUTY CITY CLERK**  
**DATE: AUGUST 16, 2016**  
**RE: BEST BOYS, LLC DBA FRUITA LIQUOR MART - A REQUEST FOR APPROVAL OF A MODIFICATION OF PREMISES FOR A RETAIL LIQUOR STORE LICENSE LOCATED AT 423 HIGHWAY 6 & 50**

### **BACKGROUND**

Fruita Liquor Mart located at 423 Highway 6 & 50 has requested a Modification of Premises on their liquor license. The applicant is requesting approval of an expansion of their existing leased units to include a contiguous (currently vacant) unit. The unit adjacent to that unit is currently licensed with a Retail Warehouse Storage Permit by Fruita Liquor Mart.

Pursuant to Colorado Liquor Rules Regulation 47-410,

No alcohol beverages shall be stored or kept in or upon any premises that is not duly licensed, however, the state licensing authority may issue a warehouse storage permit, to retail licensees licensed pursuant to article 47 of title 12, C.R.S. for the storage only of permitted alcohol beverages in one but not more than three (3) locations, other than the licensed premises. The application for such permit shall specify the address of the proposed storage location and shall include documentation that the licensee is in possession of said premises by way of ownership, lease, or other arrangement.

The applicant has executed an Amendment to Lease with the building owner so that the liquor store will encompass all premises known as 423, 425, 427, 429 (added to lease) and 431 E. Highway 6 & 50. The Warehouse Storage Permit at 431 E. Highway 6 & 50 will no longer be necessary as units 423 through 431 (all contiguous) will provide adequate room for storage.

A drive-up window is illustrated on the floor plan diagram submitted by the applicant. This will require the applicant to apply for a Conditional Use Permit. Additionally, the merging of the units will necessitate the removal of walls, which will require a building permit. The applicant is aware that the approval of the modification of licensed premises for alcohol does not include approval or guarantee of approval of these additional permits.

The diagrams are attached hereto.

## **FISCAL IMPACT**

None.

## **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

## **OPTIONS AVAILABLE TO THE COUNCIL**

- Approve the Modification of Premises
- Approve the Modification of Premises with conditions
- Deny the Modification of Premises

## **RECOMMENDATION**

It is the recommendation of staff that the Council move to:

**APPROVE THE MODIFICATION OF PREMISES FOR FRUITA LIQUOR MART TO ENCOMPASS ALL PREMISES KNOWN AS 423, 425, 427, 429 (ADDED TO LEASE) AND 431 E. HIGHWAY 6 & 50 (NO LONGER UNDER A WAREHOUSE STORAGE PERMIT) INCLUDING THE ADDITION OF A DRIVE-UP WINDOW THAT IS SUBJECT TO SEPARATE APPROVAL OF A CONDITIONAL USE PERMIT**

## PERMIT APPLICATION AND REPORT OF CHANGES

**CURRENT LICENSE NUMBER** 4279539 0000  
**ALL ANSWERS MUST BE PRINTED IN BLACK INK OR TYPEWRITTEN**  
**LOCAL LICENSE FEE \$** 0  
**APPLICANT SHOULD OBTAIN A COLORADO LIQUOR & BEER CODE BOOK TO ORDER CALL (303) 370-2165**

1. Applicant is a		PRESENT LICENSE NUMBER
<input type="checkbox"/> Corporation ..... <input type="checkbox"/> Individual <input type="checkbox"/> Partnership ..... <input checked="" type="checkbox"/> Limited Liability Company		
2. Name of Licensee	3. Trade Name	
<u>BEST BOYS, LLC</u>	<u>dba FRUITA LIQUOR MART</u>	
4. Location Address		
<u>423 E. HWY 6 &amp; 50</u>		
City	County	ZIP
<u>FRUITA</u>	<u>NEVA</u>	<u>81521</u>

**SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.**

Section A – Manager reg/change	Section C
• License Account No. _____  1983-750 (999) <input type="checkbox"/> Manager's Registration (Hotel & Restr.)..\$75.00  2012-750 (999) <input type="checkbox"/> Manager's Registration (Tavern).....\$75.00 <input type="checkbox"/> Change of Manager (Other Licenses) NO FEE	2210-100 (999) <input type="checkbox"/> Retail Warehouse Storage Permit (ea) \$100.00  2200-100 (999) <input type="checkbox"/> Wholesale Branch House Permit (ea).... 100.00  2260-100 (999) <input type="checkbox"/> Change Corp. or Trade Name Permit (ea) .50.00  2230-100 (999) <input type="checkbox"/> Change Location Permit (ea)..... 150.00  2280-100 (999) <input checked="" type="checkbox"/> Change, Alter or Modify Premises \$150.00 x <u>1</u> Total Fee <u>150.00</u>
Section B – Duplicate License	
• Liquor License No. _____  2270-100 (999) <input type="checkbox"/> Duplicate License .....\$50.00	2220-100 (999) <input type="checkbox"/> Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____  1988-100 (999) <input type="checkbox"/> Addition of Related Facility to Resort Complex \$75.00 x _____ Total Fee _____

**DO NOT WRITE IN THIS SPACE – FOR DEPARTMENT OF REVENUE USE ONLY**

DATE LICENSE ISSUED	LICENSE ACCOUNT NUMBER	PERIOD
-750 (999)	-100 (999)	The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.
		<b>TOTAL AMOUNT DUE \$</b> _____ <b>.00</b>

CHANGE OF MANAGER

**8. Change of Manager or to Register the Manager of a Tavern or a Hotel and Restaurant liquor license.**

(a) Change of Manager (attach Individual History DR 8404-I H/R and Tavern only)

Former manager's name \_\_\_\_\_

New manager's name \_\_\_\_\_

(b) Date of Employment \_\_\_\_\_

Has manager ever managed a liquor licensed establishment?..... Yes  No

Does manager have a financial interest in any other liquor licensed establishment?..... Yes  No

If yes, give name and location of establishment \_\_\_\_\_



MODIFY PREMISES OR ADDITION OF OPTIONAL PREMISES OR RELATED FACILITY

**9. Modification of Premises, Addition of an Optional Premises, or Addition of Related Facility**

NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities.

(a) Describe change proposed EXPANSION OF CURRENT LICENSED PREMISES TO INCLUDE CONTIGUOUS UNIT AND WAREHOUSE STORAGE UNIT (NO LONGER NEEDED). SEE LEASE AND DIAGRAM ENCLOSED.

(b) If the modification is temporary, when will the proposed change: NOT TEMPORARY

Start \_\_\_\_\_ (mo/day/year) End \_\_\_\_\_ (mo/day/year)

NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00

(c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?

(If yes, explain in detail and describe any exemptions that apply) ..... Yes  No

(d) Is the proposed change in compliance with local building and zoning laws?..... Yes  No

(e) If this modification is for an additional Hotel and Restaurant Optional Premises or Resort Complex Related Facility, has the local authority authorized by resolution or ordinance the issuance of optional premises?

..... N/A ..... Yes  No

(f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises.

(g) Attach any existing lease that is revised due to the modification.

**OATH OF APPLICANT**

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

Signature <u>Cam Vast</u>	Title <u>Managing Member/Sole owner</u>	Date <u>08/01/16</u>
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**REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY / COUNTY)**

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 12, Articles 46 and 47, C.R.S., as amended. **THEREFORE, THIS APPLICATION IS APPROVED.**

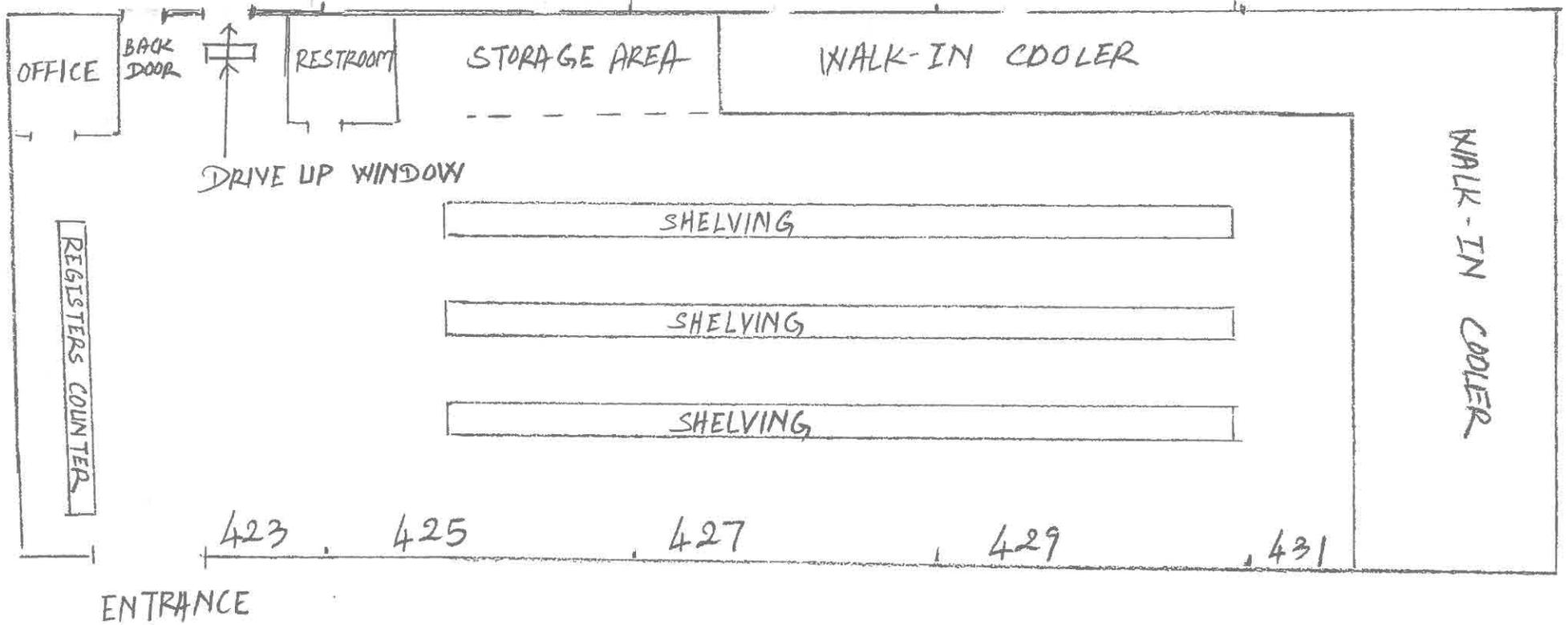
Local Licensing Authority (City or County) <u>The City of Fruita</u>	Date filed with Local Authority <u>8/1/16</u>
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Signature	Title <u>LORI BUCK MAYOR</u>	Date
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**REPORT OF STATE LICENSING AUTHORITY**

The foregoing has been examined and complies with the filing requirements of Title 12, Article 47, C.R.S., as amended.

Signature	Title	Date
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FRUITA LIQUOR MART



\* 423 E. Highway 6 & 50 is only unit that gets mail - USE AS MAILING ADDRESS.

429 E. Highway 6 & 50 has been added to Lease

431 E. Highway 6 & 50 has been under Warehouse Storage Permit. (No longer needed)

AMENDMENT TO LEASE

*Existing:* Reference is hereby made to that certain Standard Industrial Commercial Multi-Tenant Lease – Modified Net dated March 1, 2010 (the "Lease") between Town & Country Partners, LLC, doing business as Town & Country Center ("Lessor"), and Best Boys, LLC, a Colorado limited liability company ("Lessee"), for the Premises commonly known as 423, 425, 427 & 431 East Highway 6 & 50, located in the City of Fruita, County of Mesa, State of Colorado, with a zip code of 81521. The Lease is hereby amended as follows:

1. The existing Lease commenced on November 15, 2011 and is for a Term of five years. Pursuant to this Amendment of Lease, the Term of the Lease shall continue for an additional 10 years through November 15, 2026.

*New:* 2. Commencing on November 15, 2016, the Premises shall consist of that certain portion of the Building commonly known by the street address of 423, 425, 427, 429 and 431 East Highway 6 & 50, located in the City of Fruita, County of Mesa, State of Colorado, with a zip code of 81521.

3. The Base Rent during the continuation of the Term of the Lease shall be \$5,000 per month, payable on the 1<sup>st</sup> day of each month. The Base Rent shall increase as follows:

November 15, 2017: \$5,200

November 15, 2018: \$5,408

November 15, 2019: \$5,624

November 15, 2020: \$5,849

November 15, 2021: \$6,083

November 15, 2022: \$6,326

November 15, 2023: \$6,579

November 15, 2024: \$6,842

November 15, 2025: \$7,116

4. Lessor agrees to abate the Base Rent for the following four months: November 2018, November 2020, November 2022 and November 2024. Lessee shall not owe the Base Rent for these four months during the continuation of the Lease so long as the Lessee has paid all the Base Rent previously due and the Lessee is not otherwise in default under the Lease.

5. Lessor agrees to issue a check to Lessee in the amount of \$600.00 on or before January 6, 2017.

6. Lessor agrees to consent in advance to Lessee's assignment of the Lease to an entity solely owned by Lam Vat, sole owner and manager of Lessee, and/or Lam Vat's brother, Alex Kompheak Vat, and/or their spouses.

7. Lessor agrees to have the roof of the Building inspected and repaired or replaced by a professional roofing company prior to November 15, 2016. Lessee agrees that it shall be responsible for maintaining



insurance to cover losses from any future roof leaks. Lessor agrees to replace damaged ceiling tiles in the event of a future roof leak.

8. Lessor agrees that Lessee may install a drive-through at its sole expense in the back alley of the Premises, subject to Lessor's written approval of the plans for such installation, which approval shall not be unreasonably withheld.

9. As a result of Lessee's increasing its rental space in the Building, Lessee intends, at Lessee's sole expense, to perform certain remodeling to such space, including removing walls that separate Units 4 and 5 from the rest of the store space, remodeling or relocating the restrooms, altering the storage area in Unit 5, changing the flooring by removing carpet and installing tile, removing the ceiling tiles, updating the store sign, replacing the front door with a wider, automatic sliding door, and generally improving the "look" of the store. Such remodeling shall be subject to Lessor's written approval of the plans, which approval shall not be unreasonably withheld. Upon receiving such approval, Lessee shall be relieved of its obligation to restore the Premises to pre-remodel status at the end of the Term of the Lease, so long as Lessee leaves the remodeled Premises clean and in good order.

10. If Lessee uses its own dumpster separate from all other tenants at the Building, Lessor agrees to remove from the common area service charges assessed to Lessee the cost associated with the dumpster used by all other tenants in the Building.

11. Except as otherwise defined in this Amendment to Lease, all defined terms used herein shall have the same meanings assigned to them in the Lease.

12. Except as expressly modified by this Amendment to Lease, all of the terms and conditions of the Lease shall remain unchanged and in full force and effect.

LESSOR:

TOWN & COUNTRY PARTNERS, LLC

dba TOWN & COUNTRY CENTER

By: 

Julie A. Gilbert

President of Bois du Nord, Ltd.

Managing Member

LESSEE:

BEST BOYS, LLC

By: 

Lam Vat

Managing Member/Sole Member-Owner



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## **AGENDA ITEM COVER SHEET**

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**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: DEBRA WOODS, DEPUTY CITY CLERK**  
**DATE AUGUST 16, 2016**  
**RE: A REQUEST TO APPROVE A SPECIAL EVENT LIQUOR PERMIT TO THE MUSEUM OF WESTERN COLORADO TO SERVE BEER AND WINE AT THE "FEAST OF SKULLS" RECEPTION FOR DINOSAUR DAYS ON SATURDAY, AUGUST 27, 2016 FROM 5:00 PM TO 12:00 AM**

### **BACKGROUND**

The Museum of Western Colorado has filed an application for a special events permit to serve beer and wine during the Dinosaur Days Reception ("Feast of Skulls") on Saturday, August 27, 2016. They are requesting that the license hours go from 5:00 p.m. to 12:00 a.m. on Sunday, August 28, 2016.

The applicant is required to uphold the standards and requirements placed on them by the City. The City of Fruita requires that the applicant submit a narrative addressing specific issues related to the special events permit. A copy of the application, narrative, and the Fruita Police Department's comments regarding the application are attached. The diagram of the licensed premises submitted with the application controls the area in which alcohol may be sold or consumed and should be strictly adhered to.

### **FISCAL IMPACT**

None

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

None

### **OPTIONS AVAILABLE TO THE COUNCIL**

1. Approve the special events permit for the Reception of Dinosaur Days.
2. Deny the Special Events Permit.

### **RECOMMENDATION**

It is the recommendation of staff that the Council by motion:

**APPROVE THE SPECIAL EVENTS APPLICATION SUBMITTED BY THE**

**MUSEUM OF WESTERN COLORADO FOR "FEAST OF SKULLS" AT DINOSAUR JOURNEY AT 550 JURASSIC COURT ON SATURDAY, AUGUST 27, 2016 FROM 5:00 PM TO 12:00 AM ON SUNDAY, AUGUST 28, 2016 SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. PERSON(S) SERVING ALCOHOL MUST BE OVER 21 YEARS OF AGE AND TIPS (OR THE EQUIVALENT THEREOF) TRAINED.**
- 2. IDENTIFICATION WILL BE CHECKED BY PERSON(S) OVER THE AGE OF 21 AND WRISTBANDS WILL BE GIVEN TO PATRONS OVER THE AGE OF 21.**
- 3. NO ALCOHOL WILL BE ALLOWED OUTSIDE THE RED AREA SHOWN IN THE DIAGRAM. NO ALCOHOL WILL BE ALLOWED IN THE RESTROOMS.**
- 4. ALL EXITS AND ENTRANCES SHALL BE MONITORED BY PERSON(S) OVER THE AGE OF 21 TO PREVENT ALCOHOL FROM LEAVING/ENTERING THE LICENSED PREMISES.**

# APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

**IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT AND ONE OF THE FOLLOWING (See back for details.)**

- |                                    |  |  |
|------------------------------------|--|--|
| <input type="checkbox"/> SOCIAL    | <input type="checkbox"/> ATHLETIC                              | <input type="checkbox"/> PHILANTHROPIC INSTITUTION           |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER    | <input type="checkbox"/> POLITICAL CANDIDATE                 |
| <input type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION                 |  |

<b>LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:</b>	<b>DO NOT WRITE IN THIS SPACE</b>
2110 <input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY	<b>LIQUOR PERMIT NUMBER</b>
2170 <input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY	

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE <b>Museums of Western Colorado</b>	State Sales Tax Number (Required) <b>04-18330</b>
--	--

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP) <b>P.O. Box 20000 Grand Junction, CO 81502</b>	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP) <b>Dinosaur Journey 550 Jurrassic Court Fruita, CO 81521</b>
--	--

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES /SECY OF ORG or POLITICAL CANDIDATE <b>Peter Booth, Executive Director</b>	<b>11031963</b>	<b>1161 White Ave. grand Junction, CO 8150</b>	<b>(503) 551-6117</b>
5. EVENT MANAGER <b>Dana Krydick</b>	<b>04041968</b>	<b>1126 Ouray Ave. Grand Junction, CO 8150</b>	<b>(724) 610-0687</b>
6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES HOW MANY DAYS? _____		7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____	

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED?  Yes  No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Date	Date	Date	Date
Hours From .m.	Hours From .m.	Hours From .m.	Hours From .m.	Hours From .m.
08272016 5:00 p To 12:00 a				

**OATH OF APPLICANT**

*I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.*

SIGNATURE 	TITLE <b>Marketing and Promotions Manager</b>	DATE <b>07142016</b>
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**REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)**

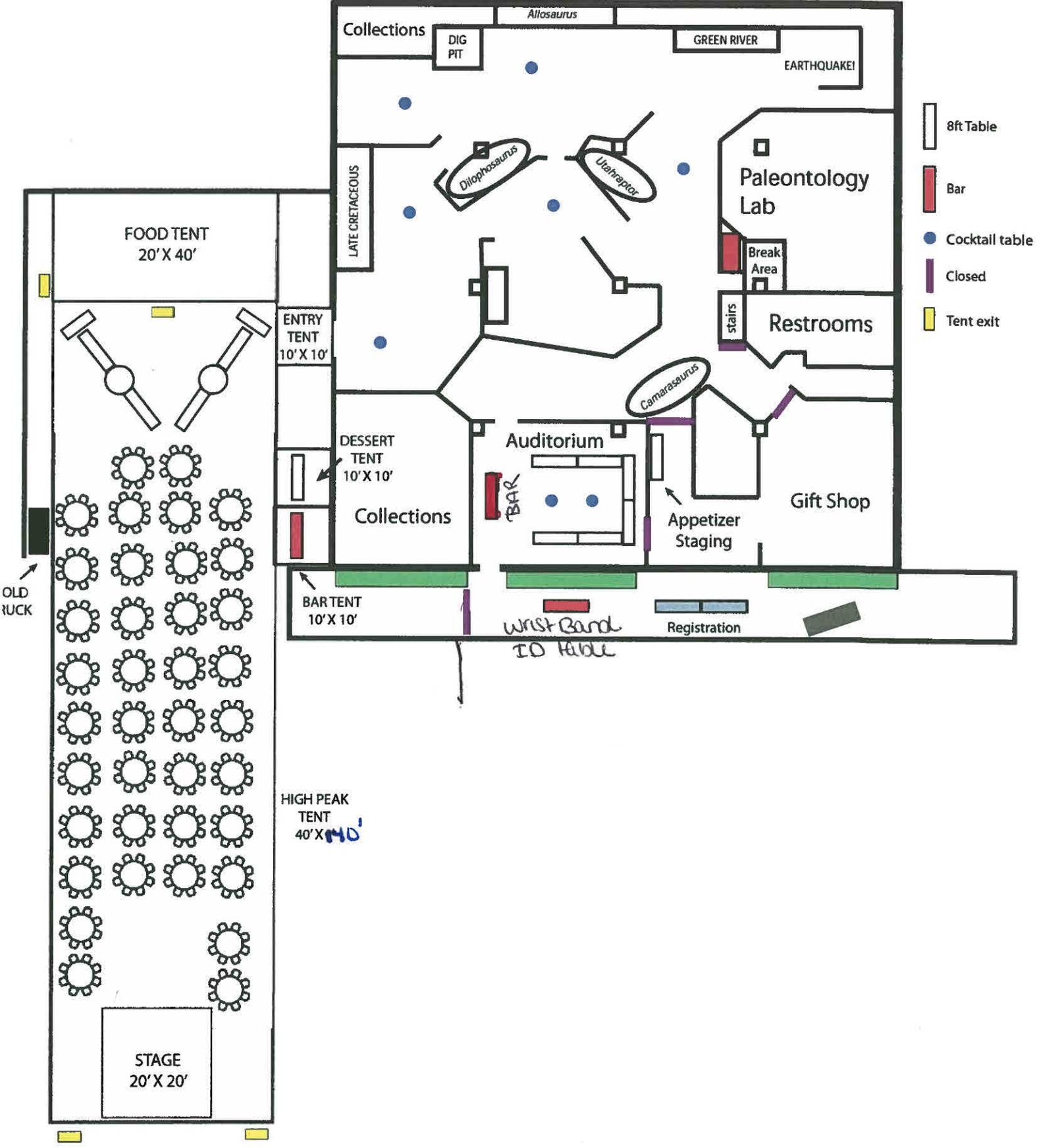
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

**THEREFORE, THIS APPLICATION IS APPROVED.**

LOCAL LICENSING AUTHORITY (CITY OR COUNTY) <b>The City of Fruita</b>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK <b>(970) 858-3663</b>
SIGNATURE 	TITLE <b>LORI BUCK, MAYOR</b>	DATE

**DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY**

LIABILITY INFORMATION			
License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$



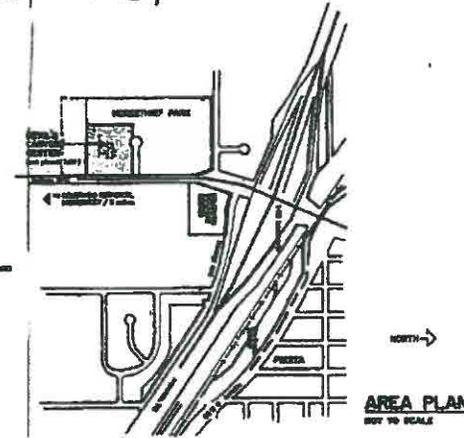
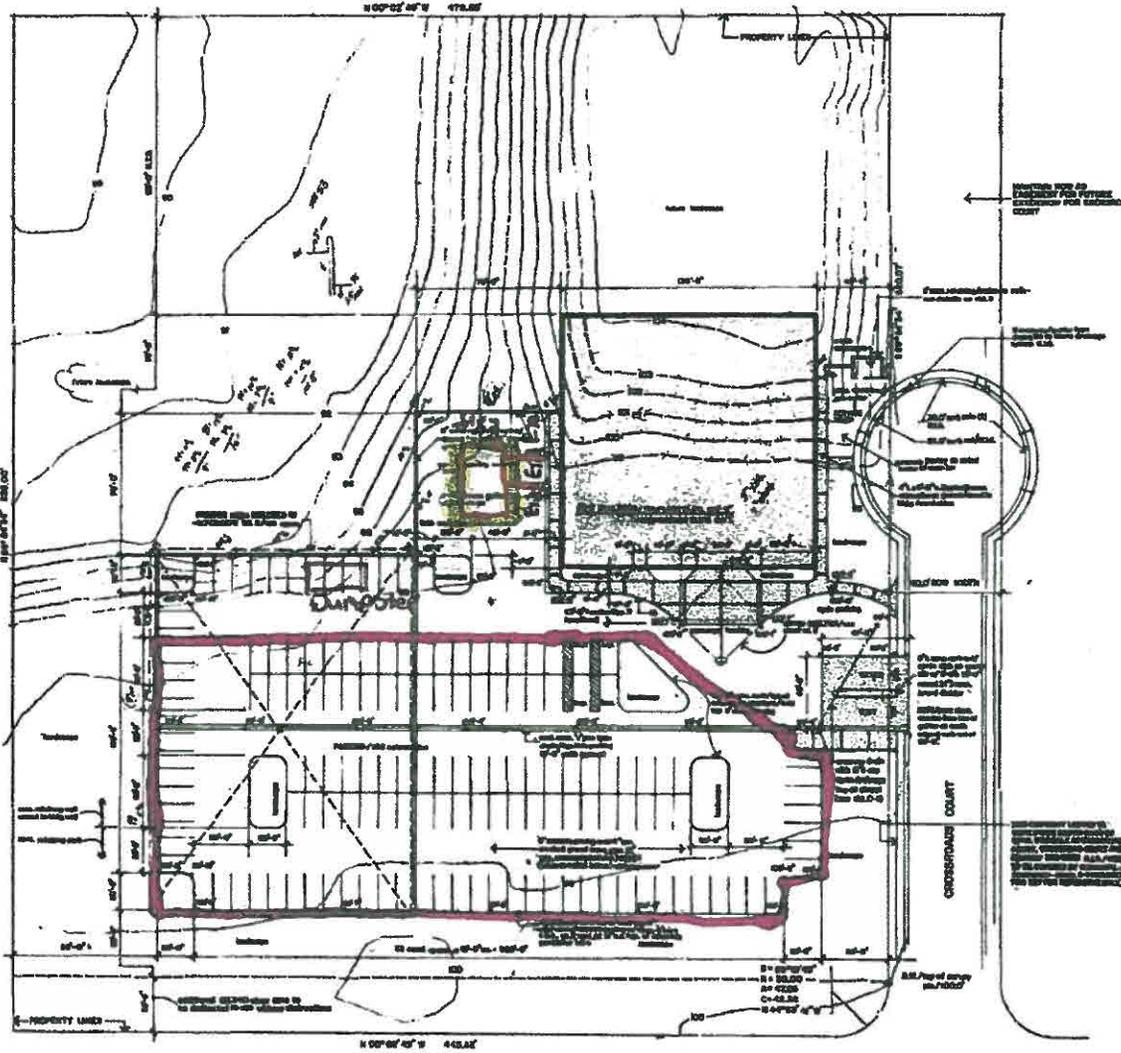
HIGH PEAK TENT  
40' X 40'

wrist Band ID table

# Parking Plan

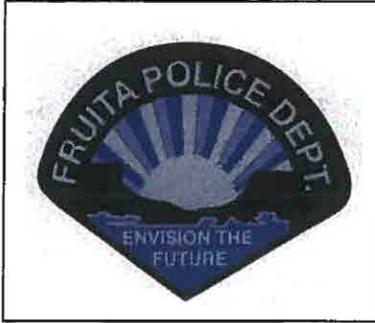
Event Tent (4,500 sq. ft) (4,8 ft. exts)  
 Rope to Restrict Alcohol Movement

Site Map #2



SCHEDULE OF DRAWINGS		
DRAWING NO.	DRAWING TITLE	CONTENT
<b>ARCHITECTURAL</b>		
A-1	SITE PLAN	Site plan showing building, parking, and site details
A-2	EXTERIOR ELEVATIONS	Exterior elevations of building
A-3	FLOOR PLANS	Floor plans for building
A-4	SECTIONAL ELEVATIONS	Sectional elevations of building
A-5	MECHANICAL PLAN	Mechanical plan for building
A-6	ELECTRICAL PLAN	Electrical plan for building
A-7	PLUMBING PLAN	Plumbing plan for building
A-8	MECHANICAL DETAILS	Mechanical details for building
A-9	ELECTRICAL DETAILS	Electrical details for building
A-10	PLUMBING DETAILS	Plumbing details for building
<b>STRUCTURAL</b>		
S-1	FOUNDATION PLAN	Foundation plan for building
S-2	ROOF PLAN	Roof plan for building
S-3	STRUCTURAL DETAILS	Structural details for building
S-4	MECHANICAL DETAILS	Mechanical details for building
S-5	ELECTRICAL DETAILS	Electrical details for building
<b>METHEANICAL</b>		
M-1	MECHANICAL PLAN	Mechanical plan for building
M-2	MECHANICAL DETAILS	Mechanical details for building
M-3	MECHANICAL DETAILS	Mechanical details for building
M-4	MECHANICAL DETAILS	Mechanical details for building
<b>ELECTRICAL</b>		
E-1	ELECTRICAL PLAN	Electrical plan for building
E-2	ELECTRICAL DETAILS	Electrical details for building
E-3	ELECTRICAL DETAILS	Electrical details for building
E-4	ELECTRICAL DETAILS	Electrical details for building
<b>CIVIL / SITE ACCESS</b>		
C-1	MECHANICAL PLAN	Mechanical plan for building

DEVIL'S CANYON CENTER  
 CITY OF DENVER / PERMITS  
 17 ROAD / COLORADO HIGHWAY 340  
 1" = 30'-0"



## **Memo**

**To:** Deb Woods  
**From:** Chief Macy  
**Date:** 07/29/16  
**Re:** Feast of Skulls – Special Event/Liquor application

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I've reviewed the application for the Feast of Skulls event. I requested and received additional information regarding liquor control (contained in the attached Event Summary) from the Event Manager. I have no concerns with the issuance of the license requested.

If you have any questions, let me know.

JHM/4101

### **Event Summary**

The Museums of Western Colorado will hold its annual gala, Feast of Skulls on Saturday, August 27th from 5:00 pm to 10:30 pm at Dinosaur Journey. Invited guests will enjoy appetizers amongst the exhibits. At 7:00 pm, guests will be invited to the south side of Dinosaur Journey where an outdoor tent will be placed and a buffet dinner will be provided by Family Health West's Flavors Grille. The evening will conclude with a concert by Vintage Voltage a local classic rock band.

### **Liquor Control**

Guests will be ID'd and wrist banded as they enter the event. We will provide each guest with two beverage tokens and we will offer a cash bar for wine and beer. There will be two active bars throughout the event and we are hiring 4 tips certified bartenders. The event officially ends at 10:30 when the band is done playing but a few people may linger and socialize until 11:00 pm. Staff will be on site until 12:00am to clean up and close. We will stop serving alcohol at 10:30pm.

### **Recycling Plan**

Recycle bins will be placed next to trash cans and marked as such.

## **Event Summary**

The Museums of Western Colorado will hold its annual gala, Feast of Skulls on Saturday, August 27th from 5:00 pm to 10:30 pm at Dinosaur Journey. Invited guests will enjoy appetizers amongst the exhibits. At 7:00 pm, guests will be invited to the south side of Dinosaur Journey where an outdoor tent will be placed and a buffet dinner will be provided by Family Health West's Flavors Grille. The evening will conclude with a concert by Vintage Voltage a local classic rock band.

### **Liquor Control**

Guests will be ID'd and wrist banded as they enter the event.

### **Recycling Plan**

Recycle bins will be placed next to trashcans and marked as such.



**Alpine Bank**

presents

# FEAST OF SKULLS



August 27 ♦ 5:00-10:30 pm



Dinner Buffet

Classic Rock



\$100 per person ♦ \$175 per couple ♦ \$700 per table for 8

Tickets are available at: [www.museumofwesternco.org](http://www.museumofwesternco.org) ♦ 970.242.0971, ext. 212



## DINOSAUR JOURNEY MUSEUM

550 Jurassic Ct., Fruita



## AGENDA ITEM COVER SHEET

**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MARGARET SELL, FINANCE DIRECTOR**  
**DATE: AUGUST 16, 2016**  
**RE: JULY 2016 FINANCIAL REPORTS**

### **BACKGROUND**

Attached are copies of the July 2016 Financial Reports for the City of Fruita.

**Sales and Use Tax Revenues.** The following chart shows the percentage change in the most recent months collections of sales and use tax revenue compared to the same month last year, and the year to date collections compared to the same time frame for the prior year. City sales and use tax revenues are up year to date from the prior year by \$118,054.39. This is offset by a year to date **decrease of \$24,115** in County sales tax revenue for a net increase of \$93,938.89 in sales and use tax revenues from the prior year.

However, while City sales tax revenues are up 1.9% from last year, they are falling short of budgeted revenues which included a 4% increase and County sales tax revenues (down 2.5%) are falling short of the budgeted 3% increase. With the better than budgeted revenues from use taxes on motor vehicles and building materials we are tracking closely to the total budgeted sales and use tax revenues.

<b>Sales and Use Tax Revenues</b>			
<b>Type</b>	<b>Month</b>	<b>% change Month</b>	<b>% change Y-T-D</b>
City	Jun-16	1.11%	1.92%
County	Jun-16	0.30%	<b>-2.51%</b>
Use tax on Motor Vehicles	Jul-16	2.52%	11.59%
Use tax on Building Materials	Jul-16	46.80%	136.75%

**Franchise Fees – July 2016.** Revenues from franchise fees for gas, electricity and cable television services are down 7% from the prior year and we are projecting a shortfall of approximately \$28,000 from budgeted amounts.

**Community Center Fund – July 2016.** The combination of city sales and use tax revenues for the month reflect a 16% increase from 2015 revenues and are up 11% for the year. Sales and use tax revenues in the Community Center Fund are also tracking 11% over budgeted amounts which were projected to remain flat.

**Marketing and Promotion Fund – July 2016.** Lodging tax revenues are down 0.48% for the month and up 0.25% year to date. The 2016 budgeted amount reflects a decrease of 4.9% from 2015 so we are tracking ahead of budget.

**General Fund Revenues – July 2016.** The General Fund Revenue report is a detailed budget to actual revenue report. Revenues are right on track at 61% of the budgeted amount for the year (7/12 = 58%).

**Revenue vs Expense by Account Type – July 2016.** This report presents summary information on revenues and expenses and budget comparisons for all funds. The report includes revenues and expenses by category or type of revenue/expense and also by department. The following is a summary of the report by fund showing actual revenues and expenses as a percentage of budget.

Revenues and Expenses as Percentage of Budget - July 2016		
	Revenues as a % Budget	Expenses as a % of Budget
General Fund	61%	52%
Conservation Trust Fund	65%	26%
Marketing	57%	59%
Community Center	64%	56%
Capital Projects	48%	63%
Debt Service	50%	47%
Irrigation Water	63%	61%
Sewer	57%	59%
Trash	51%	42%
Fleet Maintenance Fund	100%	58%
Total	59%	55%

**FISCAL IMPACT**

None.

**APPLICABILITY TO CITY GOALS AND OBJECTIVES**

These reports provide financial information to the Council to monitor the City's financial position and may be used as a tool to hold staff accountable for accomplishing goals and objectives set forth in the Budget.



City of Fruita  
325 E. Aspen,  
Fruita, CO 81521  
(970) 858-3663  
[www.fruita.org](http://www.fruita.org)

**OPTIONS AVAILABLE TO THE COUNCIL**

Approval of Financial Reports

Approval of Financial Reports with clarification on specific items

**RECOMMENDATION**

It is the recommendation of Fruita City staff that the City Council, by motion:

**ACCEPT THE JULY 2016 FINANCIAL REPORTS AS PRESENTED.**

**GENERAL FUND 2% CITY SALES TAX REVENUES -AUGUST 8, 2016**

	2010	2011	2012	2013	2014	2015	2016	\$ Variance	% Variance
Jan	98,322.29	89,314.15	101,419.74	110,204.24	107,894.03	108,459.92	102,654.47	-5,805.45	-5.35%
Feb	84,525.46	95,295.86	110,489.69	96,957.80	117,630.56	107,188.89	109,027.57	1,838.68	1.72%
Mar	100,841.31	99,780.60	107,316.93	116,327.45	151,397.66	122,437.25	122,491.87	54.62	0.04%
Apr	102,872.82	120,678.35	142,421.79	131,340.78	130,473.13	119,605.83	130,968.87	11,363.04	9.50%
May	110,519.20	110,761.47	96,366.93	139,145.24	146,354.29	141,096.11	146,283.09	5,186.98	3.68%
Jun	113,710.31	121,036.54	153,521.01	134,614.06	145,170.75	142,137.11	143,707.98	1,570.87	1.11%
Jul	106,381.35	111,666.79	117,642.13	119,997.86	128,914.77	129,557.37			
Aug	106,951.08	108,226.15	117,891.22	132,205.95	139,363.95	116,732.34			
Sep	109,072.31	127,962.44	136,662.04	119,797.21	137,994.97	141,331.25			
Oct	100,306.58	105,477.56	118,473.48	131,267.83	123,354.93	116,359.62			
Nov	92,589.67	102,290.50	89,760.11	118,140.73	116,620.45	107,336.71			
Dec	108,661.53	110,977.83	111,679.39	123,646.37	123,855.91	111,500.58			
<b>TOTAL</b>	<b>1,234,753.91</b>	<b>1,303,468.24</b>	<b>1,403,644.46</b>	<b>1,473,645.52</b>	<b>1,569,025.40</b>	<b>1,463,742.98</b>	<b>755,133.85</b>	<b>14,208.74</b>	<b>1.92%</b>
<b>%</b>	<b>3.14%</b>	<b>5.57%</b>	<b>7.69%</b>	<b>4.99%</b>	<b>6.47%</b>	<b>-6.71%</b>			

2016 Budget= \$1,525,000, 4% increase from 2015 Actual Revenues

740,925.11 755,133.85 14,208.74 1.92%

**COUNTY SALES TAX REVENUES- AUGUST 9, 2016**

	2010	2011	2012	2013	2014	2015		\$ Variance	% Variance
Jan	113,058.19	120,360.46	139,025.37	134,836.51	130,571.18	143,816.00	143,233.57	-582.43	-0.40%
Feb	118,275.57	128,907.44	141,496.92	132,354.45	136,453.63	139,681.16	140,142.92	461.76	0.33%
Mar	139,649.23	147,913.58	160,249.88	152,973.96	156,998.09	166,560.39	155,984.45	-10,575.94	-6.35%
Apr	133,088.63	143,042.21	160,533.08	151,855.18	154,276.05	159,563.89	159,418.10	-145.79	-0.09%
May	147,139.03	153,133.55	154,553.36	160,201.04	162,075.43	176,074.56	162,276.46	-13,798.10	-7.84%
Jun	119,282.18	162,878.08	161,305.05	163,671.23	165,562.44	176,818.44	177,343.44	525.00	0.30%
Jul	143,771.76	152,964.04	147,950.00	155,143.98	166,412.21	168,785.26			
Aug	151,631.97	166,457.23	162,644.66	160,891.70	167,517.03	169,601.48			
Sep	148,068.43	155,015.91	151,264.37	158,830.58	169,036.62	175,746.65			
Oct	145,127.53	134,741.13	147,651.90	156,348.63	156,686.58	151,764.08			
Nov	144,375.13	153,895.13	141,634.37	149,817.01	153,873.00	166,473.69			
Dec	170,647.84	181,793.63	173,798.76	177,187.35	194,349.22	184,665.83			
<b>TOTAL</b>	<b>1,674,115.49</b>	<b>1,801,102.39</b>	<b>1,842,107.72</b>	<b>1,854,111.62</b>	<b>1,913,811.48</b>	<b>1,979,551.43</b>	<b>938,398.94</b>	<b>-24,115.50</b>	<b>-2.51%</b>
<b>%</b>	<b>-4.18%</b>	<b>7.59%</b>	<b>2.28%</b>	<b>0.65%</b>	<b>3.22%</b>	<b>3.44%</b>			

2016 Budget=\$2,040,000, 3% increase from 2015 actual revenue

962,514.44 938,398.94 (24,115.50) -2.51%

Use Tax on Vehicles - 2% General Fund

	2009	2010	2011	2012	2013	2014	2015	2016	Variance	% Change
JAN	20,721.07	21,010.53	28,474.28	30,152.69	27,942.83	56,070.39	34,956.67	28,122.91	-6,833.76	-19.55%
FEB	22,901.63	23,512.06	32,236.80	25,415.92	38,537.86	36,000.06	50,225.73	36,471.71	-13,754.02	-27.38%
MAR	34,251.57	31,711.06	33,956.87	36,496.12	43,071.73	38,156.08	26,009.96	40,528.67	14,518.71	55.82%
APR	32,178.98	25,064.54	24,077.10	40,616.59	36,939.81	52,092.34	32,776.89	47,068.73	14,291.84	43.60%
MAY	28,991.09	27,124.89	41,212.91	45,918.39	41,984.05	42,159.85	42,823.62	43,755.86	932.24	2.18%
JUN	31,756.88	26,232.32	38,459.02	41,628.76	44,597.09	42,893.54	41,419.11	63,513.86	22,094.75	53.34%
JUL	27,302.19	31,988.69	39,392.08	40,487.84	38,899.29	46,697.95	52,885.65	54,218.60	1,332.95	2.52%
AUG	26,662.40	32,405.36	39,759.24	47,323.03	48,828.89	52,311.48	64,714.85			
SEP	31,920.89	39,773.57	35,811.70	30,358.71	45,580.49	37,084.71	58,410.57			
OCT	27,699.09	25,993.80	30,785.97	47,064.75	43,843.87	60,005.46	53,854.48			
NOV	17,431.56	26,057.48	28,049.93	25,419.72	41,660.04	29,508.89	46,492.91			
DEC	25,156.62	22,964.99	37,661.47	37,047.69	50,357.95	50,261.97	48,616.81			
YTD	326,973.97	333,839.29	409,877.37	447,930.21	502,243.90	543,242.72	553,187.25	313,680.34	32,582.71	11.59%
%	-41.02%	2.10%	22.78%	9.28%	12.13%	8.16%	1.83%			
							281,097.63	313,680.34	32,582.71	11.59%

2016 Budget = \$520,000 - 5.4% decrease from 2015 actual revenues

Use Tax on Building Materials - 2% General Fund

	2009	2010	2011	2012	2013	2014	2015	2016	Variance	% Change
JAN	3,558.19	18,147.60	5,439.12	26,313.85	20,923.45	13,167.04	14,735.14	3,256.46	-11,478.68	-77.90%
FEB	4,047.25	8,504.62	16,282.90	16,100.01	14,788.93	11,632.38	2,458.97	14,608.11	12,149.14	494.07%
MAR	6,919.27	6,162.62	30,509.68	25,506.73	10,552.31	7,307.73	8,211.61	14,726.17	6,514.56	79.33%
APR	8,919.35	35,306.94	9,839.22	14,732.71	26,597.25	14,357.92	7,344.73	34,284.04	26,939.31	366.78%
MAY	9,562.65	16,486.49	7,073.59	12,539.25	13,725.38	12,874.85	3,720.34	29,705.49	25,985.15	698.46%
JUN	13,956.59	11,810.90	3,208.84	21,515.83	11,902.04	13,891.13	6,139.39	12,846.67	6,707.28	109.25%
JUL	17,372.54	16,884.69	7,956.54	18,255.65	15,093.09	24,526.19	9,501.34	13,947.52	4,446.18	46.80%
AUG	25,575.83	9,649.66	7,344.90	16,064.36	27,974.64	12,311.44	7,115.25			
SEP	11,542.90	4,380.71	13,268.39	24,727.66	13,947.63	21,844.73	7,596.69			
OCT	14,667.33	11,302.35	17,526.21	17,943.01	23,497.04	9,547.81	8,877.79			
NOV	6,436.47	14,520.62	8,709.93	5,819.74	10,256.27	9,042.11	9,442.56			
DEC	11,833.53	3,754.79	2,630.75	14,482.99	4,810.32	13,018.26	19,628.19			
YTD	134,391.90	156,911.99	129,790.07	214,001.79	194,068.35	163,521.59	104,772.00	123,374.46	71,262.94	136.75%
%	-53.64%	16.76%	-17.28%	64.88%	-9.31%	-15.74%	-35.93%			
							52,111.52	123,374.46	71,262.94	136.75%

2016 Budget - \$75,000 - 28% reduction from 2015 actual revenues

**2016 COMMUNITY CENTER FUND TAX REVENUES**  
**1% Sales and Use Tax Revenues - August 12, 2016**

	2009 Total	2010 Total	2011 Total	2012 Total	2013 Total	2014 Total	2015 Total	City Sales Tax	Use Tax on Motor Vehicles	Use Tax on Building Materials	2016 Total	\$ Change	% Chg
Jan	56,593.55	68,740.22	61,514.93	78,943.15	79,535.26	88,565.74	79,075.86	51,327.24	14,061.46	1,628.23	67,016.93	-12,058.93	-15.25%
Feb	58,002.09	58,148.39	71,825.86	76,002.81	75,142.30	82,631.50	79,936.78	54,513.78	18,235.85	7,304.05	80,053.68	116.90	0.15%
Mar	67,748.11	69,072.06	81,884.01	84,659.89	84,975.73	98,430.74	78,329.40	61,245.94	20,264.33	7,363.09	88,873.36	10,543.96	13.46%
Apr	75,033.32	81,620.90	77,165.81	98,885.55	97,438.92	98,461.69	79,863.73	65,484.43	23,534.36	17,142.02	106,160.81	26,297.08	32.93%
May	73,839.15	77,162.18	79,523.99	77,412.30	97,427.34	100,694.49	93,820.03	73,141.55	21,877.93	14,852.75	109,872.23	16,052.20	17.11%
Jun	73,538.22	75,828.93	81,352.21	108,332.79	95,556.60	100,977.70	94,847.80	71,853.99	31,756.93	6,423.34	110,034.26	15,186.46	16.01%
Jul	67,544.66	77,627.37	79,507.70	88,192.80	86,995.11	100,069.45	95,972.19		27,109.30	6,973.76	34,083.06		
Aug	74,268.70	74,500.07	77,665.14	90,639.31	104,504.75	101,993.43	94,281.22				0.00		
Sep	80,243.54	76,613.29	87,316.31	95,874.21	89,662.68	98,462.20	103,669.26				0.00		
Oct	68,996.64	68,780.04	76,894.86	91,740.61	99,304.36	96,454.10	89,545.94				0.00		
Nov	53,157.55	66,475.61	69,525.19	60,499.78	85,028.51	77,585.72	81,636.09				0.00		
Dec	70,957.51	67,542.34	75,635.02	81,605.04	89,407.32	93,568.08	89,872.79				0.00		
<b>TOTAL</b>	<b>819,923.04</b>	<b>862,111.40</b>	<b>919,811.03</b>	<b>1,032,788.24</b>	<b>1,084,978.88</b>	<b>1,137,894.84</b>	<b>1,060,851.09</b>	<b>377,566.93</b>	<b>156,840.16</b>	<b>61,687.24</b>	<b>596,094.33</b>	<b>56,137.67</b>	<b>11.10%</b>
% +/-		5%	6.69%	12.28%	5.05%	4.88%	-6.77%						
2016 Budget								762,500.00	260,000.00	37,500.00	1,060,000.00		
% of Budget								49.52%	60.32%	164.50%	56.24%		

505,873.60

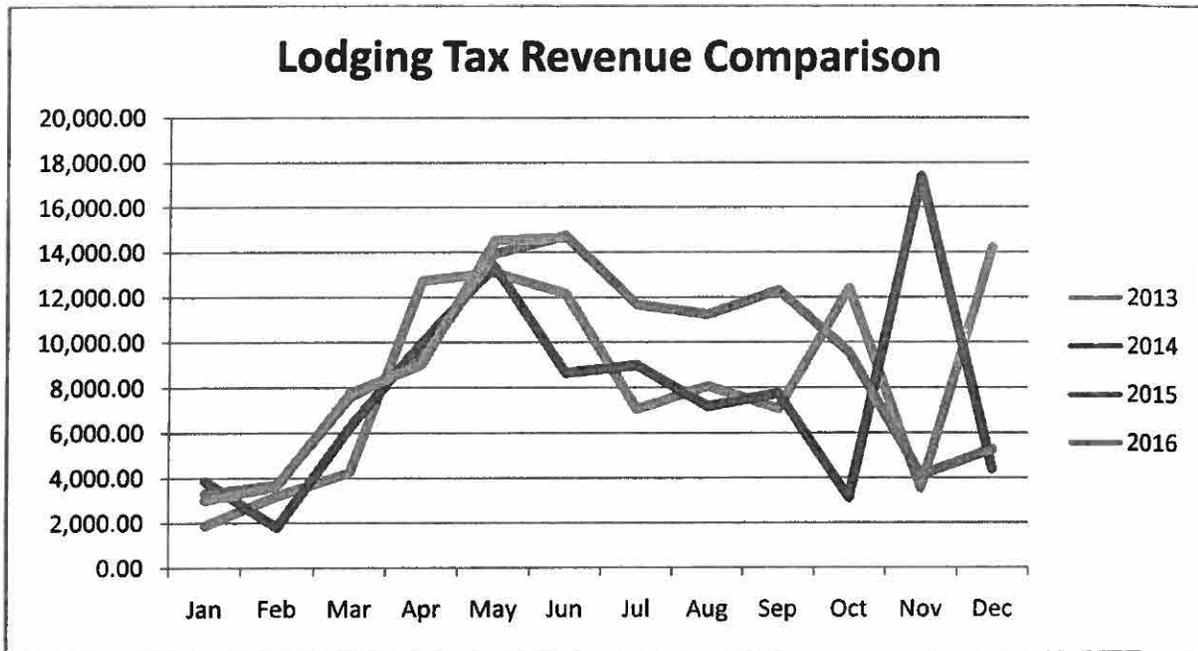
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56137.67 11.10%

**MARKETING AND PROMOTION FUND**  
**3% Lodging Tax Revenues - August 10, 2016**

	2011	2012	2013	2014	2015	2016	Difference	%
Jan	3,338.63	2,076.12	1,865.42	3,835.87	3,295.72	3,009.89	-285.83	-8.67%
Feb	3,706.38	5,076.82	3,188.23	1,782.08	3,688.48	3,649.96	-38.52	-1.04%
Mar	5,794.48	7,102.70	4,233.87	6,250.18	7,582.11	7,755.49	173.38	2.29%
Apr	8,841.90	8,604.24	12,736.42	9,984.25	9,261.50	9,030.79	-230.71	-2.49%
May	11,733.32	11,886.54	13,101.84	13,393.62	13,948.38	14,533.96	585.58	4.20%
Jun	11,893.86	12,811.34	12,179.20	8,646.09	14,742.08	14,671.78	-70.30	-0.48%
Jul	9,621.68	10,697.76	7,045.91	8,991.16	11,676.25			
Aug	10,462.73	11,478.01	8,063.40	7,171.28	11,237.25			
Sep	10,956.22	11,061.65	7,074.25	7,753.38	12,311.19			
Oct	8,141.23	8,189.25	12,413.50	3,106.86	9,543.11			
Nov	5,119.32	2,957.31	3,536.66	17,384.48	4,118.50			
Dec	3,902.25	5,164.09	14,224.16	4,401.91	5,290.61			
<b>TOTAL</b>	<b>93,512.00</b>	<b>97,105.83</b>	<b>99,662.86</b>	<b>92,701.16</b>	<b>106,695.18</b>	<b>52,651.87</b>	<b>133.60</b>	<b>0.25%</b>
	-5.58%	3.84%	2.63%	-6.99%	15.10%			
					52,518.27	52,651.87	133.60	0.25%

2016 Budget - \$101,500 - 4.87% decrease from 2015 actual revenues



# General Ledger

## General Fund Revenues

User: msteelman  
 Printed: 08/10/16 13:43:13  
 Period 07 - 07  
 Fiscal Year 2016

Account Number	Description	Current Month	End Bal	Budget	% Received
110-000-00-3110	Property Tax	\$ (245,689.49)	\$ (1,032,957.46)	\$ (1,097,500.00)	94.12%
110-000-00-3120	Specific Ownership Tax	\$ (11,414.27)	\$ (78,750.18)	\$ (142,600.00)	55.22%
110-000-00-3130	County Sales Tax	\$ (159,418.10)	\$ (1,101,682.64)	\$ (2,040,000.00)	54.00%
110-000-00-3131	City Sales Tax	\$ (146,283.09)	\$ (830,263.16)	\$ (1,525,000.00)	54.44%
110-000-00-3132	Use Tax on Vehicles	\$ (63,513.86)	\$ (308,078.55)	\$ (520,000.00)	59.25%
110-000-00-3133	Use Tax on Building Materials	\$ (13,947.52)	\$ (123,374.46)	\$ (75,000.00)	164.50%
110-000-00-3142	Cigarette Tax	\$ (834.45)	\$ (5,818.04)	\$ (11,000.00)	52.89%
110-000-00-3182	Franchise Fees	\$ (20,004.50)	\$ (198,683.17)	\$ (405,000.00)	49.06%
110-000-00-3190	Penalties and Interest	\$ (96.53)	\$ (172.90)	\$ (3,000.00)	5.76%
	Taxes	\$ (661,201.81)	\$ (3,679,780.56)	\$ (5,819,100.00)	63.24%
110-000-00-3210	Business Licenses	\$ (312.50)	\$ (8,150.00)	\$ (18,500.00)	44.05%
110-000-00-3211	Liquor Licenses	\$ (400.00)	\$ (7,650.00)	\$ (8,500.00)	90.00%
110-000-00-3220	Street Excavation Permits	\$ (30.00)	\$ (570.00)	\$ (1,500.00)	38.00%
110-000-00-3221	Other Permits	\$ (270.00)	\$ (1,675.00)	\$ (1,500.00)	111.67%
	Licenses and permits	\$ (1,012.50)	\$ (18,045.00)	\$ (30,000.00)	60.15%
110-000-00-3330	Severance & Mineral Leasing Ta	\$ -	\$ -	\$ (150,000.00)	0.00%
110-000-00-3342	Energy Impact Grant	\$ -	\$ -	\$ (11,250.00)	0.00%
110-000-00-3351	Add. Motor Vehicle Reg Fees	\$ (1,750.50)	\$ (11,002.50)	\$ (19,000.00)	57.91%
110-000-00-3352	State Highway Users Tax	\$ (32,468.89)	\$ (216,170.38)	\$ (372,000.00)	58.11%
110-000-00-3353	App. Motor Vehicle Reg Fees	\$ (2,375.00)	\$ (15,895.00)	\$ (27,500.00)	57.80%
110-000-00-3370	Tree Grants	\$ -	\$ (400.00)	\$ -	0.00%
110-000-00-3371	Mesa County Grants	\$ -	\$ (619.00)	\$ (600.00)	103.17%
110-000-00-3373	Local Agency Police Grants	\$ -	\$ (12,837.40)	\$ (12,825.00)	100.10%
110-000-00-3375	AGNC Grant	\$ -	\$ -	\$ (5,000.00)	0.00%
110-000-00-3380	Mesa County Road & Bridge Tax	\$ (5,258.56)	\$ (22,103.55)	\$ (24,000.00)	92.10%
	Intergovernmental revenue	\$ (41,852.95)	\$ (279,027.83)	\$ (622,175.00)	44.85%
110-000-00-3413	Planning Fees	\$ (1,401.00)	\$ (21,582.25)	\$ (13,000.00)	166.02%
110-000-00-3421	Vehicle Inspection Fees	\$ (230.00)	\$ (894.00)	\$ (1,100.00)	81.27%
110-000-00-3455	Impound Fees	\$ -	\$ -	\$ (100.00)	0.00%
110-000-00-3470	Recreation Registration Fees	\$ (5,034.00)	\$ (49,179.70)	\$ (77,000.00)	63.87%
110-000-00-3472	Special Event Appl & Booth Fee	\$ (80.00)	\$ (5,237.50)	\$ (5,500.00)	95.23%
110-000-00-3473	Retail Sales	\$ (100.09)	\$ (8,675.73)	\$ (9,000.00)	96.40%
110-000-00-3475	Internet sales	\$ -	\$ (856.74)	\$ (1,000.00)	85.67%
110-000-00-3477	Park Rentals	\$ (520.00)	\$ (13,727.50)	\$ (11,000.00)	124.80%
110-000-00-3478	Shipping and Handling Charges	\$ -	\$ -	\$ (50.00)	0.00%
110-000-00-3479	Scholarship Program	\$ (203.00)	\$ (11,762.00)	\$ (13,100.00)	89.79%
110-000-00-3480	Manpower and other charges	\$ (200.00)	\$ (6,950.21)	\$ (7,775.00)	89.39%
110-000-00-3483	Penalties	\$ (1,618.01)	\$ (12,836.41)	\$ (19,000.00)	67.56%

Account Number	Description	Current Month	End Bal	Budget	% Received
	Charges for services	\$ (9,386.10)	\$ (131,702.04)	\$ (157,625.00)	83.55%
110-000-00-3510	City and County Court	\$ (1,600.47)	\$ (14,373.97)	\$ (26,000.00)	55.28%
110-000-00-3511	Penalty Assessments	\$ (725.00)	\$ (6,750.00)	\$ (14,500.00)	46.55%
110-000-00-3512	Restitution to City	\$ -	\$ (50.69)	\$ -	0.00%
110-000-00-3513	Misdemeanor Fee	\$ (120.00)	\$ (1,615.00)	\$ (1,500.00)	107.67%
	Fines and forfeitures	\$ (2,445.47)	\$ (22,789.66)	\$ (42,000.00)	54.26%
110-000-00-3610	Interest on deposits	\$ (2,690.80)	\$ (16,416.16)	\$ (8,000.00)	205.20%
110-000-00-3611	Interest on assessments	\$ -	\$ -	\$ -	0.00%
110-000-00-3613	Gain (Loss) on investments	\$ -	\$ (26.46)	\$ -	0.00%
	Interest	\$ (2,690.80)	\$ (16,442.62)	\$ (8,000.00)	205.53%
110-000-00-3640	Senior Center Donations	\$ (89.00)	\$ (542.98)	\$ -	0.00%
110-000-00-3641	Miscellaneous Donations	\$ -	\$ (1,000.00)	\$ (1,000.00)	100.00%
110-000-00-3642	Recreation Donations	\$ -	\$ (4,622.50)	\$ (4,600.00)	100.49%
110-000-00-3645	Special Event Donations	\$ -	\$ (19,000.00)	\$ (19,000.00)	100.00%
	Donations	\$ (89.00)	\$ (25,165.48)	\$ (24,600.00)	102.30%
110-000-00-3680	Miscellaneous	\$ (187.75)	\$ (1,989.49)	\$ (3,000.00)	66.32%
110-000-00-3681	Cash Over (Short)	\$ -	\$ 29.39	\$ -	0.00%
110-000-00-3682	Refunds	\$ -	\$ (161.97)	\$ -	0.00%
	Miscellaneous	\$ (187.75)	\$ (2,122.07)	\$ (3,000.00)	70.74%
110-000-00-3911	Transfer from Sewer Fund	\$ -	\$ (80,000.00)	\$ (160,000.00)	50.00%
110-000-00-3912	Transfer from Trash Fund	\$ -	\$ (25,500.00)	\$ (51,000.00)	50.00%
110-000-00-3915	Transfer from Irrigation Fund	\$ -	\$ (5,000.00)	\$ (10,000.00)	50.00%
110-000-00-3917	Transfer from Retirement Fund	\$ -	\$ -	\$ (60,000.00)	0.00%
	Transfers from other funds	\$ -	\$ (110,500.00)	\$ (281,000.00)	39.32%
110-000-00-3950	Sale of Equipment	\$ -	\$ (180.00)	\$ -	0.00%
110-000-00-3960	Insurance payments	\$ -	\$ (3,110.22)	\$ (2,675.00)	116.27%
	Other financing sources	\$ -	\$ (3,290.22)	\$ (2,675.00)	123.00%
110-000-00-3624	Rail Car Rentals	\$ -	\$ -	\$ -	0.00%
110-000-00-3625	Rent on Lands and Water	\$ (1,749.01)	\$ (16,793.07)	\$ (29,000.00)	57.91%
110-000-00-3626	Facility Rentals	\$ 40.00	\$ (1,125.00)	\$ (1,800.00)	62.50%
	Rents	\$ (1,709.01)	\$ (17,918.07)	\$ (30,800.00)	58.18%
Revenue Total		\$ (720,575.39)	\$ (4,306,783.55)	\$ (7,020,975.00)	-61.00%

# General Ledger

## Actual vs Budget Report



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 Period 07 - 07  
 Fiscal Year 2016

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
<b>110</b>	<b>General Fund</b>					
000						
R01	Taxes	-661,201.81	-3,679,780.56	-5,819,100.00	-2,139,319.44	63.24
R02	Licenses and permits	-1,012.50	-18,045.00	-30,000.00	-11,955.00	60.15
R03	Intergovernmental revenue	-41,852.95	-279,027.83	-622,175.00	-343,147.17	44.85
R04	Charges for services	-9,386.10	-131,702.04	-157,625.00	-25,922.96	83.55
R05	Fines and forfeitures	-2,445.47	-22,789.66	-42,000.00	-19,210.34	54.26
R06	Interest	-2,690.80	-16,442.62	-8,000.00	8,442.62	205.53
R07	Donations	-89.00	-25,165.48	-24,600.00	565.48	102.30
R08	Miscellaneous	-187.75	-2,122.07	-3,000.00	-877.93	70.74
R09	Transfers from other funds	0.00	-110,500.00	-281,000.00	-170,500.00	39.32
R10	Other financing sources	0.00	-3,290.22	-2,675.00	615.22	123.00
R12	Rents	-1,709.01	-17,918.07	-30,800.00	-12,881.93	58.18
000		-720,575.39	-4,306,783.55	-7,020,975.00	-2,714,191.45	61.34
410	<i>General Government Department</i>					
E01	Personnel services, salaries	13,945.31	103,363.52	186,725.00	83,361.48	55.36
E02	Personnel services, benefits	3,212.55	26,633.52	43,600.00	16,966.48	61.09
E03	Purchased professional service	4,393.66	32,094.68	63,450.00	31,355.32	50.58
E04	Purchased property services	294.96	2,190.77	6,600.00	4,409.23	33.19
E05	Other purchased services	516.72	4,217.44	8,475.00	4,257.56	49.76
E06	Supplies	706.29	8,997.22	13,850.00	4,852.78	64.96
E07	Capital	0.00	2,220.00	2,225.00	5.00	99.78
E08	Special projects	4,310.43	35,239.74	45,700.00	10,460.26	77.11
410	<i>General Government Department</i>	27,379.92	214,956.89	370,625.00	155,668.11	58.00
415	<i>Administration Department</i>					
E01	Personnel services, salaries	21,477.50	163,687.96	285,600.00	121,912.04	57.31
E02	Personnel services, benefits	6,997.55	57,393.00	92,100.00	34,707.00	62.32
E03	Purchased professional service	2,763.33	54,517.96	80,675.00	26,157.04	67.58
E04	Purchased property services	5,340.00	58,423.77	90,000.00	31,576.23	64.92
E05	Other purchased services	573.85	11,956.82	30,750.00	18,793.18	38.88
E06	Supplies	3,909.32	30,954.12	54,875.00	23,920.88	56.41

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
E07	Capital	0.00	8,346.15	29,700.00	21,353.85	28.10
E08	Special projects	0.00	0.00	15,000.00	15,000.00	0.00
415	<i>Administration Department</i>	<i>41,061.55</i>	<i>385,279.78</i>	<i>678,700.00</i>	<i>293,420.22</i>	<i>56.77</i>
418	<i>Engineering Department</i>					
E01	Personnel services, salaries	14,380.80	109,356.03	188,875.00	79,518.97	57.90
E02	Personnel services, benefits	5,936.45	49,135.37	76,175.00	27,039.63	64.50
E03	Purchased professional service	44.64	1,717.46	24,000.00	22,282.54	7.16
E04	Purchased property services	0.00	6,418.98	6,725.00	306.02	95.45
E05	Other purchased services	119.06	669.38	3,250.00	2,580.62	20.60
E06	Supplies	77.12	862.93	8,400.00	7,537.07	10.27
E07	Capital	0.00	6,788.19	7,000.00	211.81	96.97
418	<i>Engineering Department</i>	<i>20,558.07</i>	<i>174,948.34</i>	<i>314,425.00</i>	<i>139,476.66</i>	<i>55.64</i>
419	<i>Community Development Dpmt</i>					
E01	Personnel services, salaries	12,376.25	93,399.20	161,375.00	67,975.80	57.88
E02	Personnel services, benefits	5,943.76	47,685.06	75,750.00	28,064.94	62.95
E03	Purchased professional service	445.09	557.38	2,850.00	2,292.62	19.56
E04	Purchased property services	0.00	4,379.10	4,725.00	345.90	92.68
E05	Other purchased services	610.57	2,608.93	8,300.00	5,691.07	31.43
E06	Supplies	368.88	2,465.27	8,275.00	5,809.73	29.79
E08	Special projects	0.00	0.00	10,000.00	10,000.00	0.00
419	<i>Community Development Dpmt</i>	<i>19,744.55</i>	<i>151,094.94</i>	<i>271,275.00</i>	<i>120,180.06</i>	<i>55.70</i>
421	<i>Police Department</i>					
E01	Personnel services, salaries	90,967.16	693,473.86	1,238,825.00	545,351.14	55.98
E02	Personnel services, benefits	36,611.76	322,185.10	494,125.00	171,939.90	65.20
E03	Purchased professional service	2,041.05	17,745.77	26,625.00	8,879.23	66.65
E04	Purchased property services	1,268.09	72,370.92	85,725.00	13,354.08	84.42
E05	Other purchased services	22,740.27	167,363.74	303,525.00	136,161.26	55.14
E06	Supplies	660.07	18,643.16	72,400.00	53,756.84	25.75
E07	Capital	20,000.00	26,375.00	79,875.00	53,500.00	33.02
421	<i>Police Department</i>	<i>174,288.40</i>	<i>1,318,157.55</i>	<i>2,301,100.00</i>	<i>982,942.45</i>	<i>57.28</i>
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	44,456.48	288,094.50	449,000.00	160,905.50	64.16
E02	Personnel services, benefits	15,160.08	134,378.40	185,900.00	51,521.60	72.29
E03	Purchased professional service	445.09	1,840.09	59,200.00	57,359.91	3.11
E04	Purchased property services	50,226.98	228,063.62	365,700.00	137,636.38	62.36
E05	Other purchased services	203.79	1,232.30	3,150.00	1,917.70	39.12
E06	Supplies	21,513.10	162,340.16	366,400.00	204,059.84	44.31
E07	Capital	0.00	193,231.83	497,025.00	303,793.17	38.88
431	<i>Public Works Department</i>	<i>132,005.52</i>	<i>1,009,180.90</i>	<i>1,926,375.00</i>	<i>917,194.10</i>	<i>52.39</i>

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
451	<i>Parks and Recreation Dept</i>					
E01	Personnel services, salaries	49,094.15	296,639.65	513,425.00	216,785.35	57.78
E02	Personnel services, benefits	11,587.02	113,565.07	178,000.00	64,434.93	63.80
E03	Purchased professional service	838.54	23,420.71	28,325.00	4,904.29	82.69
E04	Purchased property services	5,982.10	63,212.78	87,575.00	24,362.22	72.18
E05	Other purchased services	299.97	5,255.37	16,950.00	11,694.63	31.01
E06	Supplies	9,552.01	97,032.28	147,825.00	50,792.72	65.64
E07	Capital	0.00	23,908.73	25,900.00	1,991.27	92.31
E08	Special projects	1,889.88	20,732.75	43,100.00	22,367.25	48.10
451	<i>Parks and Recreation Dept</i>	<i>79,243.67</i>	<i>643,767.34</i>	<i>1,041,100.00</i>	<i>397,332.66</i>	<i>61.84</i>
490	<i>Non-Departmental Expenses</i>					
E02	Personnel services, benefits	113.10	9,911.52	22,200.00	12,288.48	44.65
E03	Purchased professional service	4,977.64	27,756.01	35,400.00	7,643.99	78.41
E04	Purchased property services	609.11	17,723.94	22,000.00	4,276.06	80.56
E05	Other purchased services	0.00	133,372.11	164,000.00	30,627.89	81.32
E08	Special projects	0.00	21,994.50	42,000.00	20,005.50	52.37
E11	Contingency	0.00	0.00	165,000.00	165,000.00	0.00
E12	Transfers to other funds	12,509.89	169,178.53	860,800.00	691,621.47	19.65
490	<i>Non-Departmental Expenses</i>	<i>18,209.74</i>	<i>379,936.61</i>	<i>1,311,400.00</i>	<i>931,463.39</i>	<i>28.97</i>
<b>Revenue Total</b>		<b>-720,575.39</b>	<b>-4,306,783.55</b>	<b>-7,020,975.00</b>	<b>-2,714,191.45</b>	<b>-0.61</b>
<b>Expense Total</b>		<b>512,491.42</b>	<b>4,277,322.35</b>	<b>8,215,000.00</b>	<b>3,937,677.65</b>	<b>0.52</b>
<b>110</b>	<b>General Fund</b>	<b>-208,083.97</b>	<b>-29,461.20</b>	<b>1,194,025.00</b>	<b>1,223,486.20</b>	<b>-2.47</b>

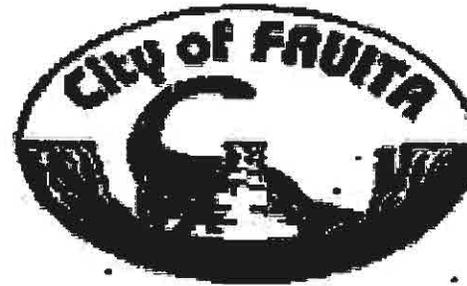
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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>121</b>	<b>Conservation Trust Fund</b>					
000						
R03	Intergovernmental revenue	0.00	-77,876.51	-120,000.00	-42,123.49	64.90
000		0.00	-77,876.51	-120,000.00	-42,123.49	64.90
880	<i>Purchase of Dev Rights</i>					
E08	Special projects	0.00	0.00	26,000.00	26,000.00	0.00
E12	Transfers to other funds	0.00	53,966.46	184,100.00	130,133.54	29.31
880	<i>Purchase of Dev Rights</i>	0.00	53,966.46	210,100.00	156,133.54	25.69
<b>Revenue Total</b>		<b>0.00</b>	<b>-77,876.51</b>	<b>-120,000.00</b>	<b>-42,123.49</b>	<b>-0.65</b>
<b>Expense Total</b>		<b>0.00</b>	<b>53,966.46</b>	<b>210,100.00</b>	<b>156,133.54</b>	<b>0.26</b>
<b>121</b>	<b>Conservation Trust Fund</b>	<b>0.00</b>	<b>-23,910.05</b>	<b>90,100.00</b>	<b>114,010.05</b>	<b>-26.54</b>

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
125	<b>Marketing and Promotion Fund</b>					
000						
R01	Taxes	-14,671.78	-57,942.48	-101,500.00	-43,557.52	57.09
R04	Charges for services	0.00	-20.00	0.00	20.00	0.00
000		-14,671.78	-57,962.48	-101,500.00	-43,537.52	57.11
465	<i>Marketing Operations</i>					
E01	Personnel services, salaries	1,008.40	7,462.16	14,000.00	6,537.84	53.30
E02	Personnel services, benefits	341.41	2,686.11	4,600.00	1,913.89	58.39
E04	Purchased property services	13.20	85.99	300.00	214.01	28.66
E05	Other purchased services	2,187.67	30,635.14	62,225.00	31,589.86	49.23
E06	Supplies	0.00	795.00	3,500.00	2,705.00	22.71
E08	Special projects	3,000.00	21,500.00	22,500.00	1,000.00	95.56
465	<i>Marketing Operations</i>	6,550.68	63,164.40	107,125.00	43,960.60	58.96
	<b>Revenue Total</b>	<b>-14,671.78</b>	<b>-57,962.48</b>	<b>-101,500.00</b>	<b>-43,537.52</b>	<b>-0.57</b>
	<b>Expense Total</b>	<b>6,550.68</b>	<b>63,164.40</b>	<b>107,125.00</b>	<b>43,960.60</b>	<b>0.59</b>
125	<b>Marketing and Promotion Fund</b>	<b>-8,121.10</b>	<b>5,201.92</b>	<b>5,625.00</b>	<b>423.08</b>	<b>92.48</b>

# General Ledger

## Actual vs Budget Report



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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
127	<b>Community Center Fund</b>					
000						
R01	Taxes	-111,872.24	-630,858.09	-1,060,000.00	-429,141.91	59.51
R03	Intergovernmental revenue	0.00	-2,000.00	-2,000.00	0.00	100.00
R04	Charges for services	-99,787.02	-693,791.31	-1,029,500.00	-335,708.69	67.39
R06	Interest	-6.18	-36.35	0.00	36.35	0.00
R07	Donations	-75.00	-525.00	-500.00	25.00	105.00
R08	Miscellaneous	-68.55	-1,089.87	0.00	1,089.87	0.00
R09	Transfers from other funds	0.00	-47,500.00	-95,000.00	-47,500.00	50.00
R10	Other financing sources	0.00	-24,839.36	-24,800.00	39.36	100.16
R12	Rents	-1,355.00	-30,775.00	-38,000.00	-7,225.00	80.99
000		<b>-213,163.99</b>	<b>-1,431,414.98</b>	<b>-2,249,800.00</b>	<b>-818,385.02</b>	<b>63.62</b>
451	<i>Parks and Recreation Dept</i>					
E01	Personnel services, salaries	85,665.35	531,326.82	879,525.00	348,198.18	60.41
E02	Personnel services, benefits	14,451.84	123,382.94	182,200.00	58,817.06	67.72
E03	Purchased professional service	3,832.27	24,562.81	41,650.00	17,087.19	58.97
E04	Purchased property services	6,657.24	54,500.28	97,475.00	42,974.72	55.91
E05	Other purchased services	2,682.63	22,594.27	40,050.00	17,455.73	56.42
E06	Supplies	26,658.85	178,511.25	313,425.00	134,913.75	56.96
E07	Capital	13,625.14	55,798.19	91,600.00	35,801.81	60.92
E12	Transfers to other funds	0.00	352,675.00	738,200.00	385,525.00	47.77
451	<i>Parks and Recreation Dept</i>	<b>153,573.32</b>	<b>1,343,351.56</b>	<b>2,384,125.00</b>	<b>1,040,773.44</b>	<b>56.35</b>
	<b>Revenue Total</b>	<b>-213,163.99</b>	<b>-1,431,414.98</b>	<b>-2,249,800.00</b>	<b>-818,385.02</b>	<b>-0.64</b>
	<b>Expense Total</b>	<b>153,573.32</b>	<b>1,343,351.56</b>	<b>2,384,125.00</b>	<b>1,040,773.44</b>	<b>0.56</b>
127	<b>Community Center Fund</b>	<b>-59,590.67</b>	<b>-88,063.42</b>	<b>134,325.00</b>	<b>222,388.42</b>	<b>-65.56</b>

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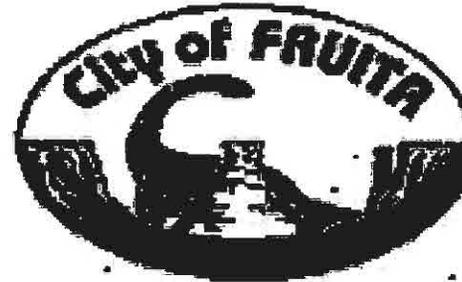
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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>130</b>	<b>Capital Projects Fund</b>					
000						
R03	Intergovernmental revenue	0.00	-90,000.00	0.00	90,000.00	0.00
R05	Fines and forfeitures	0.00	0.00	0.00	0.00	0.00
R06	Interest	-531.74	-3,219.10	0.00	3,219.10	0.00
000		-531.74	-93,219.10	0.00	93,219.10	0.00
700	<i>Contingency</i>					
E11	Contingency	0.00	0.00	92,500.00	92,500.00	0.00
R09	Transfers from other funds	0.00	0.00	-92,500.00	-92,500.00	0.00
700	<i>Contingency</i>	0.00	0.00	0.00	0.00	0.00
708	<i>Downtown Improvements</i>					
E03	Purchased professional service	0.00	0.00	50,000.00	50,000.00	0.00
E07	Capital	9,828.00	9,828.00	20,000.00	10,172.00	49.14
R03	Intergovernmental revenue	0.00	0.00	-25,000.00	-25,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-45,000.00	-45,000.00	0.00
708	<i>Downtown Improvements</i>	9,828.00	9,828.00	0.00	-9,828.00	0.00
733	<i>Sidewalk Replacement</i>					
E07	Capital	100.00	27,367.98	40,000.00	12,632.02	68.42
R05	Fines and forfeitures	-482.40	-5,237.06	0.00	5,237.06	0.00
R09	Transfers from other funds	0.00	-22,249.32	-40,000.00	-17,750.68	55.62
733	<i>Sidewalk Replacement</i>	-382.40	-118.40	0.00	118.40	0.00
735	<i>Overlays</i>					
E07	Capital	371.50	371.50	398,750.00	398,378.50	0.09
R03	Intergovernmental revenue	0.00	0.00	-100,000.00	-100,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-298,750.00	-298,750.00	0.00
735	<i>Overlays</i>	371.50	371.50	0.00	-371.50	0.00
742	<i>Hwy 340 and I-70 Improvements</i>					
E03	Purchased professional service	1,320.00	4,645.00	38,300.00	33,655.00	12.13
E07	Capital	0.00	0.00	30,000.00	30,000.00	0.00
R03	Intergovernmental revenue	0.00	0.00	-20,000.00	-20,000.00	0.00

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
R09 742	Transfers from other funds <i>Hwy 340 and I-70 Improvements</i>	0.00 1,320.00	0.00 4,645.00	-48,300.00 0.00	-48,300.00 -4,645.00	0.00 0.00
745	<i>J.2 Road Improvements</i>					
E07	Capital	12,975.35	259,116.03	310,450.00	51,333.97	83.46
R03	Intergovernmental revenue	-12,951.32	-50,942.17	-102,300.00	-51,357.83	49.80
R11	Development impact fees	0.00	-208,149.83	-208,150.00	-0.17	100.00
745	<i>J.2 Road Improvements</i>	24.03	24.03	0.00	-24.03	0.00
781	<i>Shop Improvements</i>					
E07	Capital	782.63	214,657.17	224,450.00	9,792.83	95.64
R03	Intergovernmental revenue	-111,024.12	-115,000.01	-115,000.00	0.01	100.00
R09	Transfers from other funds	-12,509.89	-99,429.21	-109,450.00	-10,020.79	90.84
781	<i>Shop Improvements</i>	-122,751.38	227.95	0.00	-227.95	0.00
790	<i>Kokopelli Trail</i>					
E03	Purchased professional service	19,361.97	46,805.20	233,600.00	186,794.80	20.04
R03	Intergovernmental revenue	0.00	0.00	-160,000.00	-160,000.00	0.00
R09	Transfers from other funds	0.00	-27,443.23	-73,600.00	-46,156.77	37.29
790	<i>Kokopelli Trail</i>	19,361.97	19,361.97	0.00	-19,361.97	0.00
791	<i>Lower Little Salt Wash Trail</i>					
E07	Capital	263,876.25	1,126,757.61	1,260,000.00	133,242.39	89.43
R03	Intergovernmental revenue	0.00	-584,140.00	-849,500.00	-265,360.00	68.76
R09	Transfers from other funds	0.00	0.00	-220,500.00	-220,500.00	0.00
791	<i>Lower Little Salt Wash Trail</i>	263,876.25	542,617.61	190,000.00	-352,617.61	285.59
794	<i>Little Salt Wash Park</i>					
E07	Capital	1,500.00	11,214.48	11,250.00	35.52	99.68
R09	Transfers from other funds	0.00	-9,714.48	-11,250.00	-1,535.52	86.35
794	<i>Little Salt Wash Park</i>	1,500.00	1,500.00	0.00	-1,500.00	0.00
798	<i>Community Recreation Center</i>					
E07	Capital	10,000.00	15,000.00	42,850.00	27,850.00	35.01
R09	Transfers from other funds	0.00	-5,000.00	-42,850.00	-37,850.00	11.67
798	<i>Community Recreation Center</i>	10,000.00	10,000.00	0.00	-10,000.00	0.00
802	<i>Veterans Memorial Park</i>					
E07	Capital	0.00	17,983.67	20,000.00	2,016.33	89.92
R09	Transfers from other funds	0.00	-16,808.75	-20,000.00	-3,191.25	84.04
802	<i>Veterans Memorial Park</i>	0.00	1,174.92	0.00	-1,174.92	0.00
803	<i>General Park Improvements</i>					
E07	Capital	0.00	8,225.00	8,500.00	275.00	96.76

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
R07	Donations	0.00	-8,500.00	-8,500.00	0.00	100.00
803	General Park Improvements	0.00	-275.00	0.00	275.00	0.00
<b>Revenue Total</b>		<b>-137,499.47</b>	<b>-1,245,833.16</b>	<b>-2,590,650.00</b>	<b>-1,344,816.84</b>	<b>-0.48</b>
<b>Expense Total</b>		<b>320,115.70</b>	<b>1,741,971.64</b>	<b>2,780,650.00</b>	<b>1,038,678.36</b>	<b>0.63</b>
<b>130</b>	<b>Capital Projects Fund</b>	<b>182,616.23</b>	<b>496,138.48</b>	<b>190,000.00</b>	<b>-306,138.48</b>	<b>261.13</b>

General Ledger  
Actual vs Budget Report



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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>140</b>	<b>Debt Service Fund</b>					
000						
R03	Intergovernmental revenue	0.00	-124,233.27	-248,450.00	-124,216.73	50.00
R06	Interest	-246.80	-6,276.38	-4,350.00	1,926.38	144.28
R09	Transfers from other funds	0.00	-347,675.00	-695,350.00	-347,675.00	50.00
000		-246.80	-478,184.65	-948,150.00	-469,965.35	50.43
470	<i>Debt Service</i>					
E09	Debt service principal	0.00	0.00	60,000.00	60,000.00	0.00
E10	Debt interest & bond issuance	0.00	444,318.75	888,150.00	443,831.25	50.03
470	<i>Debt Service</i>	0.00	444,318.75	948,150.00	503,831.25	46.86
<b>Revenue Total</b>		<b>-246.80</b>	<b>-478,184.65</b>	<b>-948,150.00</b>	<b>-469,965.35</b>	<b>-0.50</b>
<b>Expense Total</b>		<b>0.00</b>	<b>444,318.75</b>	<b>948,150.00</b>	<b>503,831.25</b>	<b>0.47</b>
<b>140</b>	<b>Debt Service Fund</b>	<b>-246.80</b>	<b>-33,865.90</b>	<b>0.00</b>	<b>33,865.90</b>	<b>0.00</b>

# General Ledger Actual vs Budget Report



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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>211</b>	<b>Irrigation Water Fund</b>					
000						
R04	Charges for services	-137.46	-65,636.49	-103,525.00	-37,888.51	63.40
000		-137.46	-65,636.49	-103,525.00	-37,888.51	63.40
<b>431</b>	<b>Public Works Department</b>					
E01	Personnel services, salaries	7,699.85	30,231.35	48,800.00	18,568.65	61.95
E02	Personnel services, benefits	3,180.02	12,183.93	20,125.00	7,941.07	60.54
E04	Purchased property services	0.00	1,500.00	1,500.00	0.00	100.00
E05	Other purchased services	553.47	1,492.78	8,200.00	6,707.22	18.20
E06	Supplies	304.57	12,342.61	14,900.00	2,557.39	82.84
E12	Transfers to other funds	0.00	5,000.00	10,000.00	5,000.00	50.00
431	Public Works Department	11,737.91	62,750.67	103,525.00	40,774.33	60.61
<b>Revenue Total</b>		<b>-137.46</b>	<b>-65,636.49</b>	<b>-103,525.00</b>	<b>-37,888.51</b>	<b>-0.63</b>
<b>Expense Total</b>		<b>11,737.91</b>	<b>62,750.67</b>	<b>103,525.00</b>	<b>40,774.33</b>	<b>0.61</b>
<b>211</b>	<b>Irrigation Water Fund</b>	<b>11,600.45</b>	<b>-2,885.82</b>	<b>0.00</b>	<b>2,885.82</b>	<b>0.00</b>

General Ledger  
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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>212</b>	<b>Sewer Fund</b>					
000						
R04	Charges for services	-43,221.96	-1,728,043.79	-3,038,000.00	-1,309,956.21	56.88
R06	Interest	-1,615.62	-9,704.89	-4,300.00	5,404.89	225.70
R08	Miscellaneous	0.00	0.00	-100.00	-100.00	0.00
000		<b>-44,837.58</b>	<b>-1,737,748.68</b>	<b>-3,042,400.00</b>	<b>-1,304,651.32</b>	<b>57.12</b>
433	<i>Sewer</i>					
E01	Personnel services, salaries	26,854.79	232,363.94	481,475.00	249,111.06	48.26
E02	Personnel services, benefits	11,733.45	109,223.91	193,325.00	84,101.09	56.50
E03	Purchased professional service	1,738.17	41,749.22	64,000.00	22,250.78	65.23
E04	Purchased property services	711.75	74,530.30	81,250.00	6,719.70	91.73
E05	Other purchased services	1,106.05	66,088.49	120,450.00	54,361.51	54.87
E06	Supplies	23,135.30	140,424.08	365,325.00	224,900.92	38.44
E07	Capital	0.00	0.00	412,150.00	412,150.00	0.00
E08	Special projects	0.00	0.00	30,000.00	30,000.00	0.00
E09	Debt service principal	315,000.00	630,000.00	630,000.00	0.00	100.00
E10	Debt interest & bond issuance	281,421.85	562,843.70	562,850.00	6.30	100.00
E12	Transfers to other funds	0.00	80,000.00	169,450.00	89,450.00	47.21
433	<i>Sewer</i>	<b>661,701.36</b>	<b>1,937,223.64</b>	<b>3,110,275.00</b>	<b>1,173,051.36</b>	<b>62.28</b>
603	<i>Sewer Line Upgrades</i>					
E07	Capital	0.00	58,288.54	262,250.00	203,961.46	22.23
603	<i>Sewer Line Upgrades</i>	<b>0.00</b>	<b>58,288.54</b>	<b>262,250.00</b>	<b>203,961.46</b>	<b>22.23</b>
607	<i>Section 2</i>					
E04	Purchased property services	0.00	0.00	28,000.00	28,000.00	0.00
607	<i>Section 2</i>	<b>0.00</b>	<b>0.00</b>	<b>28,000.00</b>	<b>28,000.00</b>	<b>0.00</b>
<b>Revenue Total</b>		<b>-44,837.58</b>	<b>-1,737,748.68</b>	<b>-3,042,400.00</b>	<b>-1,304,651.32</b>	<b>-0.57</b>
<b>Expense Total</b>		<b>661,701.36</b>	<b>1,995,512.18</b>	<b>3,400,525.00</b>	<b>1,405,012.82</b>	<b>0.59</b>
<b>212</b>	<b>Sewer Fund</b>	<b>616,863.78</b>	<b>257,763.50</b>	<b>358,125.00</b>	<b>100,361.50</b>	<b>71.98</b>

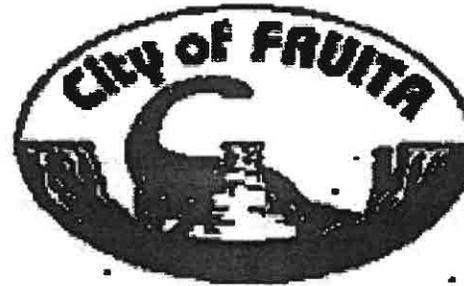
General Ledger  
Actual vs Budget Report



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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>215</b>	<b>Trash Fund</b>					
000						
R04	Charges for services	-1,044.84	-341,844.41	-671,000.00	-329,155.59	50.95
000		-1,044.84	-341,844.41	-671,000.00	-329,155.59	50.95
432	<i>Sanitation Department</i>					
E05	Other purchased services	51,977.27	258,427.82	620,000.00	361,572.18	41.68
E12	Transfers to other funds	0.00	25,500.00	51,000.00	25,500.00	50.00
432	<i>Sanitation Department</i>	51,977.27	283,927.82	671,000.00	387,072.18	42.31
<b>Revenue Total</b>		<b>-1,044.84</b>	<b>-341,844.41</b>	<b>-671,000.00</b>	<b>-329,155.59</b>	<b>-0.51</b>
<b>Expense Total</b>		<b>51,977.27</b>	<b>283,927.82</b>	<b>671,000.00</b>	<b>387,072.18</b>	<b>0.42</b>
215	<b>Trash Fund</b>	<b>50,932.43</b>	<b>-57,916.59</b>	<b>0.00</b>	<b>57,916.59</b>	<b>0.00</b>

General Ledger  
Actual vs Budget Report



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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>220</b>	<b>Fleet Maintenance Fund</b>					
000						
R04	Charges for services	0.00	-290,375.00	-290,375.00	0.00	100.00
R10	Other financing sources	-794.33	-794.33	0.00	794.33	0.00
000		-794.33	-291,169.33	-290,375.00	794.33	100.27
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	7,442.93	80,247.78	125,475.00	45,227.22	63.96
E02	Personnel services, benefits	2,067.39	27,436.38	43,900.00	16,463.62	62.50
E03	Purchased professional service	0.00	336.51	1,700.00	1,363.49	19.79
E04	Purchased property services	1,773.81	12,368.89	21,000.00	8,631.11	58.90
E06	Supplies	9,205.70	48,581.09	98,300.00	49,718.91	49.42
431	<i>Public Works Department</i>	20,489.83	168,970.65	290,375.00	121,404.35	58.19
<b>Revenue Total</b>		<b>-794.33</b>	<b>-291,169.33</b>	<b>-290,375.00</b>	<b>794.33</b>	<b>-1.00</b>
<b>Expense Total</b>		<b>20,489.83</b>	<b>168,970.65</b>	<b>290,375.00</b>	<b>121,404.35</b>	<b>0.58</b>
<b>220</b>	<b>Fleet Maintenance Fund</b>	<b>19,695.50</b>	<b>-122,198.68</b>	<b>0.00</b>	<b>122,198.68</b>	<b>0.00</b>

General Ledger  
Actual vs Budget Report



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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
	<i>Revenue Total</i>	-1,132,971.64	-10,034,454.24	-17,138,375.00	-7,103,920.76	-0.59
	<i>Expense Total</i>	1,738,637.49	10,435,256.48	19,110,575.00	8,675,318.52	0.55



**FRUITA**  
COLORADO

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## **AGENDA ITEM COVER SHEET**

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: SAM ATKINS, CITY ENGINEER**

**DATE: AUGUST 16, 2016**

**RE: RESOLUTION 2016-31 - SUPPORTING A GRANT APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT FOR CONSTRUCTION OF ALLEY IMPROVEMENTS BETWEEN MULBERRY STREET AND PEACH STREET NORTH OF ASPEN AVENUE**

### **BACKGROUND**

The City of Fruita has prioritized the completion of drainage and paving improvements to the North Aspen Avenue alley from Mulberry Street to Peach Street. Historically, this alley has had drainage issues being that it is a relatively flat, gravel alley. Many of the businesses located along the south side of the alley have finished floor elevations that are not significantly higher (if at all) than the alley surface itself. Additionally the drainage facilities at Mulberry Street north of Aspen Avenue has been shown to be insufficient under significant storm events. The City plans to capture some of the runoff headed to Aspen Avenue and redirect it to the Pabor Avenue storm drain that has more capacity.

City staff is currently designing these improvements. In addition to a storm drain, the alley will be paved to direct the drainage away from the buildings. Making these improvements will clean up the alley, improve the drainage, and reduce the maintenance costs of periodically regrading the gravel surface.

Staff is seeking approval from Council to submit a grant application to the Mesa County Federal Mineral Lease District ("the FML District") for funding the project. The FML District was established on June 20, 2011 by the Mesa County Board of County Commissioners through Resolution MCM 2011-050. The FML District is an independent public body politic and corporate formed pursuant to the Colorado Federal Mineral Lease District Act, C.R.S., § 30-20-1301 et seq, (2011) and as amended by Colorado SB 12-31.

The FML District Board proposed to distribute, on an annual basis, all of the funding that the FML District receives from DOLA to areas within the district's service area that are socially and economically impacted by the development, processing or energy conversion of fuels and minerals leased under the Federal "Mineral Lands Leasing Act" of February 25, 1920, as amended, and all applicable state laws.

The FML District is authorized by statute to distribute funds and provide services to communities impacted by the development of natural resources on federal lands within Mesa

County.

**FISCAL IMPACT**

Applying for a FML District grant for the North Aspen Avenue alley project does not increase the City's planned allocations for the project.

**APPLICABILITY TO CITY GOALS AND OBJECTIVES**

This project meets a wide variety of goals established and has been specifically prioritized by the City Staff.

**OPTIONS AVAILABLE TO COUNCIL**

The City Council is required to take formal action as a requirement of the grant application. The City Council has the following options:

1. **APPROVE RESOLUTION 2016-31 – SUPPORTING A FML GRANT APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT FOR CONSTRUCTION OF THE NORTH ASPEN ALLEY IMPROVEMENTS**
  
2. **DENY RESOLUTION 2016-31 - SUPPORTING A FML GRANT APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT FOR CONSTRUCTION OF THE NORTH ASPEN ALLEY IMPROVEMENTS**

**RECOMMENDATION**

It is the recommendation of staff that Council:

**APPROVE RESOLUTION 2016-31 – SUPPORTING A FML GRANT APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT FOR CONSTRUCTION OF THE NORTH ASPEN ALLEY IMPROVEMENTS**

## **RESOLUTION 2016-31**

### **A RESOLUTION TO SUPPORT AN APPLICATION TO THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT REQUESTING GRANT FUNDS FOR THE NORTH ASPEN ALLEY IMPROVEMENTS**

**WHEREAS**, the City of Fruita is a political subdivision of the State of Colorado, and therefore an eligible applicant for a grant awarded by the Mesa County Federal Mineral Lease District, and

**WHEREAS**, the City of Fruita has prioritized completion of paving and drainage improvements to the alley north of Aspen Avenue between Mulberry Street and Peach Street which meets a variety of the City's goals for the community; and

**WHEREAS**, the City of Fruita intends to submit a Traditional Grant application to the Mesa County Federal Mineral Lease District requesting an amount, when combined with matching funds, is sufficient to cover the costs of constructing the alley improvements for drainage and paving in accordance with the City Council's goals; and

**WHEREAS**, the Fruita City Council fully supports the completion of the project if a grant were to be awarded by the Mesa County Federal Mineral Lease District.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, THAT THE CITY COUNCIL HEREBY STRONGLY ENDORSES THIS GRANT APPLICATION AND FURTHER RESOLVES THAT:**

1. The recitals above are hereby incorporated as findings by the Fruita City Council.
2. The Fruita city Council strongly supports the grant application submitted by the City of Fruita.
3. If a grant is awarded, the Fruita City Council strongly supports the completion of the project.
4. The City Council of the City of Fruita authorizes the expenditure of funds necessary to meet the terms and obligations of any grant awarded pursuant to a grant agreement with the Mesa county Federal Mineral Lease District.
5. The project site is within public right-of-way owned by the City of Fruita and will be owned by the City of Fruita for the next 25 years.
6. If a grant is awarded, the Fruita City Council hereby authorizes the City Manager to sign a grant agreement with the Mesa County Federal Mineral Lease District.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL  
THIS 16<sup>th</sup> DAY OF AUGUST, 2016.**

CITY OF FRUITA, COLORADO

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Lori Buck, Mayor

ATTEST:

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Margaret Sell, City Clerk



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<b>AGENDA ITEM COVER SHEET</b>
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**TO:** Fruita City Council and Mayor

**FROM:** Community Development Department

**DATE:** August 16, 2016

**RE:** Ordinance 2016 - 13, 1<sup>st</sup> Reading, An Ordinance of the Fruita City Council to Quit Claim a 20-Foot Wide Strip of Land Located on the South Side of Property Addressed as 241 S. Sycamore Street to the Current Property Owners in Exchange for a Private Utility Easement Agreement

**BACKGROUND**

In 1996, a 20-foot wide strip of land on the south side of the property located at 241 S. Sycamore Street was given to the city of Fruita to accommodate a private sewer line. This area for the private sewer line should have been created as a private easement, not as a separate piece of land to be owned by the city. The property at 241 S. Sycamore Street is for sale and the potential buyers are concerned about the fact that 20 feet of the back yard actually belongs to the city and they would like the sewer line to be accommodated in an easement instead.

Staff is in full support of this request. The city has no *public* use for this land which is the rear 20 feet of someone's back yard, but there needs to be an easement to accommodate the *private* sewer line that runs through this area. It is a private sewer line because it serves only one house. The sewer line in the street that all houses in the area are connected to is a public sewer line.

Attached is a quit claim deed for the city to quit claim the 20-foot wide strip of land back to the current owners of 241 S. Sycamore Street and an easement agreement between the current owners and the property to the west which uses the sewer line that is in the 20-foot strip.

## **FISCAL IMPACT**

There should be no fiscal impact to the city to resolve this issue as proposed.

## **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

Staff believes that this change to land ownership on this lot best reflects protection of the general public health, safety and welfare which is the overarching goal of the city.

## **OPTIONS AVAILABLE TO COUNCIL**

1. Approval of Ordinance 2016 -13, 1<sup>st</sup> Reading, Ordinance 2016 - 13, 1<sup>st</sup> Reading, An Ordinance of the Fruita City Council to Quit Claim a 20-Foot Wide Strip of Land Located on the South Side of Property Addressed as 241 S. Sycamore Street to the Current Property Owners in Exchange for a Private Utility Easement Agreement
2. Denial of the proposed Ordinance.

## **RECOMMENDATION**

Staff recommends that the City Council move to publish a synopsis of Ordinance 2016-13, An Ordinance of the Fruita City Council to Quit Claim a 20-Foot Wide Strip of Land Located on the South Side of Property Addressed as 241 S. Sycamore Street to the Current Property Owners in Exchange for a Private Utility Easement Agreement for the City Council public hearing on September 20, 2016.

**Ordinance 2016 - 13**

**AN ORDINANCE OF THE FRUITA CITY COUNCIL QUIT CLAIMING A 20-FOOT WIDE STRIP OF LAND LOCATED ON THE SOUTH SIDE OF PROPERTY ADDRESSED AS 241 S. SYCAMORE STREET TO THE CURRENT PROPERTY OWNERS IN EXCHANGE FOR A PRIVATE UTILITY EASEMENT AGREEMENT**

**WHEREAS**, a 20-foot wide strip of land was quit claimed to the city of Fruita in 1996 to accommodate a private sewer line, and

**WHEREAS**, this should have been accomplished through a private easement agreement because there was/is no intended public use of the 20-foot strip of land, and

**WHEREAS**, the current property owners would like to exchange the quit claimed land for a private easement agreement to accommodate the sewer line, and

**WHEREAS**, the location of the 20-foot wide strip of land is shown and described on attached Exhibit A, and

**WHEREAS**, a quit claim deed to give the 20-foot wide strip of land back to the current property owner is attached as Exhibit B, and

**WHEREAS**, the easement agreement signed by the current property owners is attached as Exhibit C.

**NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:**

The 20-foot wide strip of land shown and described on attached Exhibit A is to be quit claimed to the current owners of property addressed as 241 S. Sycamore Street in exchange for an easement agreement to accommodate a private sewer line.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS  
20<sup>th</sup> DAY OF SEPTEMBER 2016.**

ATTEST:

City of Fruita

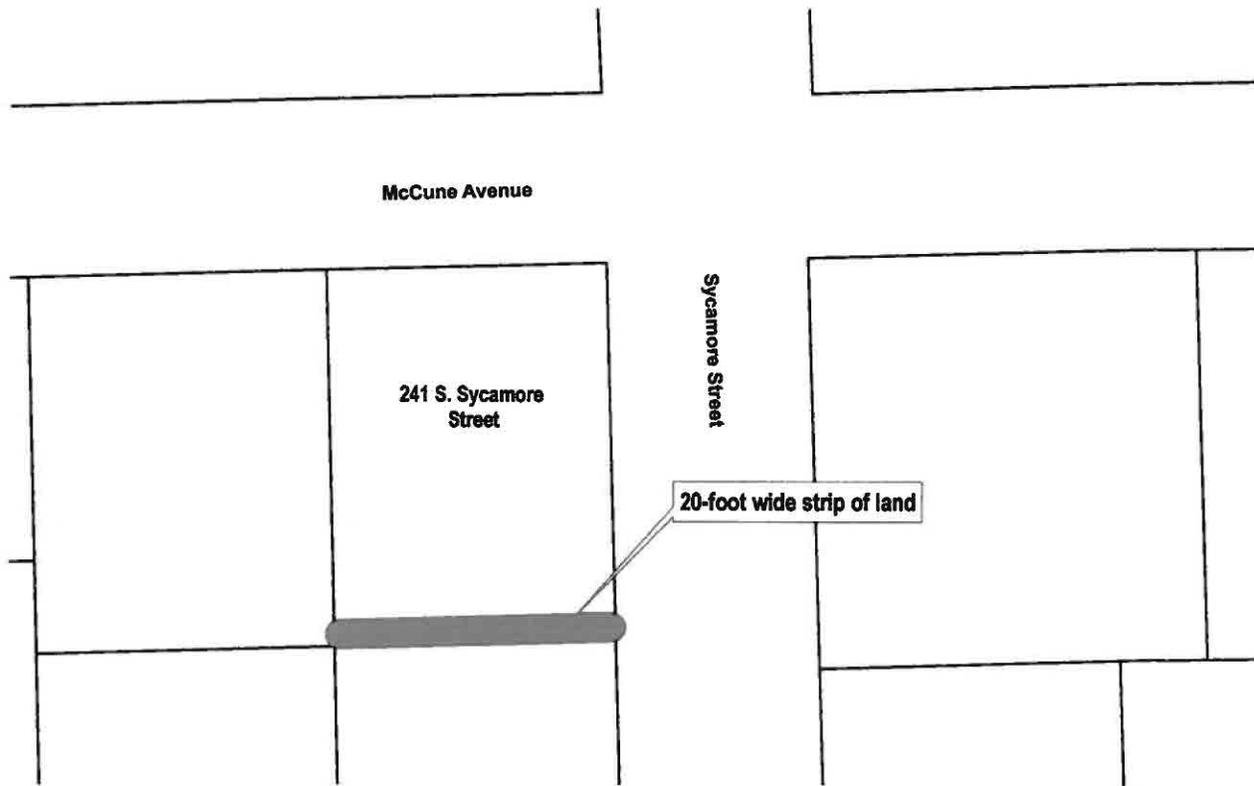
\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Lori Buck, Mayor

**EXHIBIT A**  
(Ordinance 2016-13)

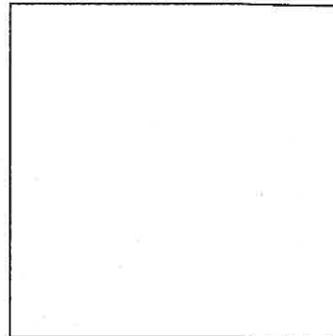
Legal Description:

The south 20 feet of the north half of Lots 14, 15, and 16 in Block 3 of the Cleveland Addition to the Town of Fruita



**QUITCLAIM DEED**

**THIS DEED**, dated this 28th day of July, 2016,  
between the **Town of Fruita**  
of the County of **Mesa** and State of **Colorado**, grantor(s), and  
**Thomas V. Johnson and Joan E. Johnson**, grantee(s)



whose legal address is 241 S. Sycamore Street, Fruita, CO 81521 of the County of Mesa and State of CO, grantee(s):

**WITNESS**, that the grantor(s), for and in consideration of the sum of Ten dollars and no/100 (\$10.00), the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM, unto the grantee(s), his heirs and assigns forever, AS JOINT TENANTS, all the right, title, interest, claim and demand which the grantor(s) has in and to the real property, together with improvements, if any, situate, lying and being in the County of Mesa and State of Colorado, described as follows:

**The South 20 feet of the North half of Lots 14, 15 and 16 in  
Block 3 of CLEVELAND ADDITION TO THE TOWN OF FRUITA as  
described in Deed recorded July 26, 1996 at Reception No. 1765570  
to the Town of Fruita**

also known by street and number as: **241 S. Sycamore Street, Fruita, CO 81521**

**TO HAVE AND TO HOLD** the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, all the estate, right, title, interest and claim whatsoever of the grantor(s), either in law or equity, to the only proper use, benefit and behoof of the grantee(s), his heirs and assigns forever.

The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**IN WITNESS WHEREOF**, the grantor(s) has executed this deed on the date set forth above.

**Town of Fruita**

By: \_\_\_\_\_

STATE OF COLORADO

}

COUNTY OF \_\_\_\_\_

} ss.

}

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_ as \_\_\_\_\_

of the Town of Fruita

My Commission expires:

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

EXHIBIT C  
Ordinance 2016-13

**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is made and entered into Aug 9, 16, 2016, by and between Thomas V. Johnson and Joan E. Johnson (collectively "Johnson") and Linda P. Monger ("Monger") (collectively the "parties").

RECITALS

A. Johnson owns the real property described in the attached Exhibit A (the "Johnson Property") which includes an area (the "Easement Area") over which a sewer line runs. The legal description of the Easement Area is attached as Exhibit B.

B. Monger is the owner of the property (the "Monger Property") described in the attached Exhibit C.

C. Monger desires to obtain an easement from Johnson and Johnson is willing to enter into this Easement Agreement defining the parties' rights, interests and obligations relating to the Easement Area.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Easement Grant. Johnson grants, conveys and confirms to Monger, her successors and assigns, a non-exclusive easement and right-of-way appurtenant to the Monger Property, over and across the Easement Area that is described in Exhibit B, for a non-exclusive easement and right-of-way for the construction, installation, operation, maintenance and repair of an underground sewer line, including the right to enter upon the Easement Area to inspect, maintain and repair such line.

2. Owner's Rights to Easement Area. Monger shall have a right and easement of enjoyment in and to the Easement Area which shall run with the Monger Property and shall be appurtenant to and shall pass with the title to the Monger Property, subject to the provisions of this agreement. Except as specifically provided herein, Johnson shall retain all rights pertaining to and enjoyment of the Easement Area.

3. No Right to Partition. Monger shall have no right to partition Monger's interest in the Easement.

4. Liability. Monger shall use the easement in a safe manner. Monger agrees, for herself and her successors and assigns as owner of the Monger Property, that she shall indemnify and

hold Johnson, their successors as owners of the Johnson Property and assigns, harmless from any and all claims, damages, causes of action or liability for damage to person or property, resulting from or incurred in connection with the use by the indemnifying party, its guests, invitees, licensees or permittees, of the Easement Area and the easement herein granted, including attorneys' fees incurred in defending such claims. As a condition to the continued use of the Easement granted herein, Monger agrees to prevent any liens from attaching to Johnson's Property. Monger also agrees for herself and her successors to maintain property and liability insurance covering risks ordinarily associated with use of the easement on the Easement Area and provide proof thereof upon request by the owner of the Johnson Property.

5. General Terms.

A. Should any of the parties breach any of its obligations hereunder, and should such breach continue for a period of ten (10) days after its receipt of written notice, the other party shall be entitled to cure such breach in addition to all remedies at law or in equity, provided that no notice is required should the breach create an emergency or prevent the use of the Easement Area. All expenses incurred by any non-defaulting party to cure the defaulting party's uncured breach pursuant to the preceding notice shall be reimbursed by the defaulting party within ten (10) days after receipt of written evidence confirming the payment of such expenses. Any sums remaining unpaid after that ten (10) day period shall bear interest at the rate of Wall Street Prime. In the event of litigation by reason of this agreement, the prevailing party in such litigation shall be entitled to recover reasonable attorneys' fees in addition to all other reasonable expenses incurred by such litigation. In addition to other remedies available at law, the parties shall also have the remedy of specific performance.

B. This agreement may be amended, terminated or rescinded only with the written approval of the parties.

C. This agreement shall not create an association, partnership, joint venture or a principal and agency relationship between the parties or their tenants, assignees or successors in interest.

D. No waiver of any provision hereof shall be deemed to imply or constitute a further waiver thereof or any other provision set forth herein.

E. Should any provision hereof be declared invalid by a legislative, administrative or judicial body of competent jurisdiction, the other provisions hereof shall remain in full force and effect and shall be unaffected by the same.

F. This agreement shall be binding and inure to the benefit of the successors and assigns of the parties.

Thomas V. Johnson  
Thomas V. Johnson

Joan E. Johnson  
Joan E. Johnson

Linda P. Monger  
Linda P. Monger

STATE OF COLORADO )  
  )  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me on 8/9/2016, 2016, by Thomas V. Johnson and Joan E. Johnson.

Diane Hagen

DIANE HAGEN Notary Public  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID #20024024054  
My Commission Expires July 29, 2018

STATE OF COLORADO )  
  )  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me on 8/9/2016, 2016, by Linda P. Monger.

Diane Hagen  
Notary Public

DIANE HAGEN  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID #20024024054  
My Commission Expires July 29, 2018

EXHIBIT A  
*Easement Agreement*

The East 15 feet of the North half of Lot 14 and the North half of Lots 15 and 16 in Block 3 of Cleveland Addition to the Town of Fruita;  
Together with the West 10 feet of South Sycamore Street adjacent on the East as vacated by Ordinance No. 367, recorded September 19, 1977 at Reception No. 1142131;

Mesa County, Colorado

also known by street and number as: 241 South Sycamore Street, Fruita, Colorado 81521  
Mesa County Assessor's parcel number: 2697-174-03-021.

**EXHIBIT B**  
*Easement Agreement*

The South 20 feet of the North half of Lots 14, 15 and 16 as described in Deed recorded July 26, 1996 at Reception No. 1765570 to the Town of Fruita.

Mesa County, Colorado

EXHIBIT C  
*Easement Agreement*

The North half of Lots 11, 12 and 13 and the West 10 feet of the North half of Lot 14 in Block 3 of the Cleveland Addition to the Town of Fruita;

Mesa County, Colorado

also known as street and number: 842 McCune Avenue, Fruita, Colorado 81521  
Mesa County Assessor's parcel number: 2697-174-03-022



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<b>AGENDA ITEM COVER SHEET</b>
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**TO:** Fruita City Council and Mayor

**FROM:** Community Development Department

**DATE:** August 16, 2016

**RE:** US Tractor & Harvest Inc. (Application #2016-19)

**BACKGROUND**

This is a request for approval of a Site Design Review land development application for US Tractor & Harvest Inc., an agricultural sales and service business to be located on approximately 15 acres of land located at 1984 Highway 6 & 50. Site Design Review applications typically are reviewed and approved by staff, but if Adjustments to the design standards of Chapter 11 of the Land Use Code are requested, the development is required to be reviewed and approved by the City Council after a recommendation from the Planning Commission.

An Adjustment is defined as an exception to the design standards of Chapter 11 of the Land Use Code. Adjustments can be approved if the Council finds that the applicant's proposed alternative design meets the intent of the regulations which are to be adjusted.

The Adjustments requested include the following:

- primary finished exterior material is metal
- several areas of blank building walls
- no pedestrian/bicycle accommodations between the highway and the building
- placement of the building more than 40 feet from the highway without a civic amenity

The Chapter 11 design standards acknowledge that there are characteristics of development other than site, placement and use of structures that impact economic stability and the morale of the community. The purpose of the design standards is to promote high quality site design and architecture that preserves and enhances Fruita's character and increases economic sustainability. The design standards are intended to help create a sense of identity that differentiates Fruita from other communities. The greater visual appeal afforded with these design standards conveys a sense of

permanence and community pride. Because not every development opportunity can be predicted or accommodated in even the best written codes, flexibility in the form of Adjustments are authorized by the Code if the project meets the broad goals of the Community Plan, but not necessarily specific requirements of Chapter 11.

Staff believes that the Land Use Code supports Adjustments to the location of the proposed building and the lack of civic amenity and pedestrian/bicycle connections to Highway 6 & 50. The applicants propose to set the building back more than 200 feet from the property line along Highway 6 & 50 without a pedestrian walkway and civic amenity. It appears that the main use of the property between the building and the highway will be display areas for agricultural equipment. A landscaping strip wider than the minimum required width along the highway will be provided along with a bicycle parking area near the building. Because there is no public sidewalk or bicycle infrastructure along the highway and no discernable pedestrian or bicycle activity in this area, coupled with the fact that the agricultural equipment on display provides some visual interest to those passing by, staff believes that the intent of these regulations have been met, for the most part, with the design as proposed. If additional visually interesting yet low growing landscaping is provided along the highway, the intent of these regulations appears to be met.

Other than windows and stone veneer on the front, the proposed building will have a metal exterior finish with some large blank wall areas. Although visually appealing building materials and architectural detailing isn't as important in areas with little or no pedestrian/bicycle activity and fast moving motorized traffic as it would be closer to the center of the city where there is more bicycle/pedestrian traffic and slower moving vehicles, the building should still provide materials and detailing to meet the intent of the Code to provide a human scale, visual interest, and promote high quality development.

Recent commercial development closer to the center of the city has been prohibited from constructing buildings with metal as a primary finished exterior material. The commercial buildings nearest to this proposed development are the mini self-storage units at Fruita Storage, constructed in 2002, which have a metal exterior. There are other plain metal buildings in the city farther west constructed prior to 2002 and this type of development is what caused Fruita to set development standards that require something other than metal as a primary finished material. When the nearby Cowboy Church (formerly Twin Crossings furniture store) was approved for development in 2004, stucco and other detailing was required to be provided on the front part of the building to further these same development goals.

In keeping with the intent of the Code and what has been required of others, staff believes the Code would support metal exterior finish if it encompasses less than 50% of the building walls. The metal must be a non-reflective. The metal roof is permitted by Code but also must be non-reflective metal. With additional detailing and/or additional landscaping around the building, a building with less than 50% metal as a finished material could be considered in compliance with the intent of the Code. A supplemental

project narrative submitted by the applicants in response to these concerns indicates that the applicants are in favor of additional landscaping instead of building details. Other than the request for Adjustments, there are no major concerns with the proposed development and no review agency expressed a significant concern regarding the proposed development.

This Site Design Review land development application meets or can meet all approval criteria and standards that must be considered with the condition that all issues identified in the Staff Report and all review comments are adequately resolved before a Planning Clearance is issued for a building permit.

At the August 9, 2016, Planning Commission public hearing, the Commission voted 5-1 in favor of recommending approval of the proposed Site Design Review application with the conditions recommended by staff and "Planning Commission comments". Commissioner Schaefer voted no because he believes the Code requirements are "cookie cutter" standards which shouldn't require large buildings to have a stucco exterior and the Code should be amended (instead of Adjustments granted).

Although staff received no written comments regarding this application, several nearby property owners attended the Planning Commission public hearing and voiced concerns about too much traffic on the highway, lights, noise, and irrigation.

A traffic impact study for this development has been completed as required by Colorado Department of Transportation (CDOT) and is under review. The traffic impact study does not appear to identify the need to make improvements to the highway at this time. A lighting plan provided by the applicants shows that new proposed outdoor lighting meets the minimum requirements of the Code and there will be no light trespass onto adjacent properties. Although the proposed development will be noisier than the existing residential use of the property, this is an area along a busy highway and is zoned for commercial development. Additional noise is to be expected but noise levels are not permitted to be excessive and create an unnecessary nuisance to adjacent properties. Staff and the applicants are aware of existing irrigation lines through the subject property serving other property in the area and the irrigation supply will be accommodated with the proposed development as required by the city's regulations.

## **FISCAL IMPACT**

Commercial development typically has a positive fiscal impact. Requiring certain design standards to be met promotes high quality development to preserve and enhance Fruita's character and increase economic sustainability. Additionally, impact fees for traffic and drainage will be required to help off-set impacts of this development.

## **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

This Site Design Review land development application meets or can meet all approval criteria and standards of Fruita's Land Use Code with the recommended conditions of approval. The Land Use Code (along with other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implement the city's goals and policies as outlined in the city's Master Plan including the Fruita Community Plan.

## **OPTIONS AVAILABLE TO COUNCIL**

1. Deny the proposed Site Design Review.
2. Approve the proposed Site Design Review with or without conditions.

## **RECOMMENDATION**

Staff recommends that the City Council move to approve the US Tractor & Harvest Inc. Site Design Review application with the condition that all review comments and issues identified in the Staff Report must be adequately resolved before a Planning Clearance for a building permit is issued.

**Fruita Planning Commission**

**Tuesday, August 9, 2016**

**A. CALL TO ORDER**

Chair Doug Van Etten called the meeting to order at 7:00 pm. Members in attendance were: Janet Brazfield, Doug Van Etten, Keith Schaefer, Dave Karisny, and Heidi Jo Elder. Richard Hocter was excused absent.

There were about 35 people from the public in attendance.

**B. PLEDGE OF ALLEGIANCE**

Doug Van Etten led the Pledge of Allegiance.

**C. AMENDMENTS TO THE AGENDA**

None.

**D. APPROVAL OF THE AGENDA**

Keith Schaefer- I move to approve the agenda

Dave Karisny- I second.

Doug Van Etten- We have a motion and a second for approval of the agenda as written.

6 yes votes; motion passes

**E. WITHDRAWN ITEMS**

None.

**F. CONTINUED ITEMS**

Doug Van Etten read the application as follows and put on the record that this application is continued tentatively until September 13, 2016 Planning Commission meeting

Application #:	2016 -22
Project Name:	Chapter 7, Zoning, Uses and General Requirements
Application:	Land Use Code Amendment
Representative:	Dahna Raugh, City of Fruita
Request:	This is a request to amend Chapter 7 of the Fruita Land Use Code.

**G. CONSENT ITEMS**

Doug Van Etten read the following items on the Consent Agenda as follows:

Application #: 2016-18  
 Applicant: Brian Young  
 Application Name: Orchard House  
 Application Type: Conditional Use Permit  
 Location: 164 N. Orchard Avenue  
 Zone: Community Residential  
 Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Application #: 2016-23  
 Application Name: Sign Code Amendment  
 Application Type: Land Use Code Amendment  
 Applicant: City of Fruita  
 Description: A request to amend Chapter 41 of the Fruita Land Use Code regarding Signs

**APPROVAL OF MINUTES**

July 12, 2016 Planning Commission meeting

Janet Brazfield- I move that we approve the consent agenda as presented.

Mel Mulder-Second.

6 yes votes; motion passes.

**H. HEARING ITEMS**

Doug Van Etten read the application as follows:

Application #: 2016-19  
 Application Name: US Tractor  
 Application Type: Site Design Review  
 Applicant: Nick Nipple  
 Location: 1984 Highway 6 & 50  
 Zone: General Commercial

**Description:** This is a request for approval of a Site Design Review application for retail sales and service of agricultural equipment along with a request for Adjustments of the Design Standards of Chapter 11 of the Fruita Land Use Code.

Scott Van Horn (representative for US Tractor) - Scott handed out information packets with pictures to the Planning Commissioners. We are a John Deere dealer and we currently have 5 locations in Colorado and we would like to have a location in Fruita. The pictures that are in the packet are of our building in Montrose which we are proposing to build here; it will be exactly the same.

Dahna Raugh- This is a request for a Site Design Review and typically Staff reviews and approves these types of applications. But this one is required to come to the Planning Commission for recommendation to City Council for a final decision because they have asked for adjustments. The adjustments are specific to the Design Standards contained in chapter 11 of the Land Use Code. No other section of the Land Use Code, just chapter 11. Chapter 11 of the Land Use Code has more requirements than simply placement and height of the building, it goes into more detail like how do pedestrians come onto the site, how do cars come onto the site, landscaping information, the architecture on the outside of the building and how it effects the public areas. With this particular application Staff was good with all of it, with one exception. In the packets that you were given for this meeting you will see the building elevations. Chapter 11 of the Land Use Code requires, basically, the finished material on the outside of the building be just about anything but metal. It can be all kinds of things but specifically says metal cannot be used as the primary finished building material. The roof is fine as metal as long as it is not reflective. But the walls are required to be something other than all metal. Metal can be used as an accent material. You can see in the building elevations, it is pretty much an all metal building. The only parts that aren't metal are the windows and the stone along the front of the building. There are some other exceptions that they have requested that Staff absolutely supports. The first, our Code tries to bring the building close to the street as much as possible to give the street a little more visual interest. It also requires that when the building is pushed back from the street that there be a lot more pedestrian amenities. In this case it is a large tractor sales and repair shop. The building is pulled way off the street (Highway 6 & 50). There are no pedestrian accommodations. It didn't seem appropriate to have big sidewalks connecting the building to a high speed traffic highway. They did provide the required amount of landscaping between the building and the street. Again, Staff is in full support of those exceptions. But looking at the building architecture and the fairly plain walls and mostly all metal building, nearby is Fruita Storage which is, I think all metal, and people keep pointing that out to me and yes it does not look very good which is why we have design standards. In 2002, the building that is currently being used as the Cowboy Church and was previously the Twin Crossings furniture store, proposed an all metal building. And back in 2002 the city made them put stucco and other decorative things on the front so that it looked a little bit better than an all metal building. Certainly these things are much more important the closer you get to the city. True Value Hardware Store was required to do something other than an all metal building. Peterbuilt is another example of a building that is more than all metal. The further out to the edges of the city you get the less important it is but it is still

important. So looking at what the city has required of others, Staff believes that the Land Use Code would support metal as a primary finished material but not for the majority of the building. So what Staff is recommending is approval of the project as submitted as long as all the issues identified in the Staff Report and all the review comments are adequately resolved, and I believe the only point that the city Staff and the applicant can't come to agree on is the exterior of the building, the metal. So that is the major question for the Planning Commission, should the adjustments be permitted to allow the building to be constructed as proposed or should no adjustments or some lesser form of adjustments be approved. If all review comments and issues identified in the Staff Report are adequately resolved before a building permit is issued, Staff believes that all of the requirements of the Land Use Code and other City requirements have been met or can be met. We have received no public comments on this application at this time.

Dave Karisny mentioned that the Staff Report says that at least 50% of the building material not be metal. And Dahna said a little less than half can still be metal.

Heidi Jo Elder- Can it be anything other than metal?

Dahna Raugh- It highlights building materials in the Land Use Code, so yes almost anything other than metal.

Doug Van Etten- Does it have to be all sides of the building?

Dahna said the architecture wrap around all sides of the building to respect all property owners around it and not just the part facing the traveling public. Certainly it becomes more important in some areas than others when there is a lot of traffic around the building.

Mel Mulder mentioned there is a duplex in the city that is all metal and wondered why they could have all metal and this building cannot. Dahna said that the design standards of Chapter 11 apply to the Downtown Mixed-Use, General Commercial, and Community Mixed-Use zones.

Keith Schaefer wondered where the city Staff was in the negotiations with the applicants and if the city was going to deny it in its entirety.

Dahna said that is the reason the city Staff is presenting this project to the Planning Commission, is for a recommendation to City Council on whether to grant the applicants the exception for the finished building material.

Keith wanted to know if there had been any compromise between the applicant and the city.

Dahna said that everything in the Planning Commissioners packets show where the city and the applicant are with their discussion on this issue and where the compromise is. City Staff believes that the Land Use Code and the rules and regulations would support almost half the building being metal but not the entire building. Dahna also mentioned that in the applicants' supplemental project narrative, it highlights some additional landscaping or other additions that could try to accommodate the city's concerns. But know where has the Staff and the applicant come to an agreement on the amount of metal finished surfaced material on the building. That is the main issue in front of the Planning Commission tonight.

Janet Brazfield highlighted some of the buildings around town that had to address this certain requirement (building material). She could understand how the back end of the building could be metal just in case of future expansion or something like that but said that if the city is going to make others does it based on the cities rules and regulations then that should apply to all others. The reason the city has a Land Use Code is for reasons like this.

#### PUBLIC COMMENTS:

Bud Naven 1954 Highway 6 & 50- Was wondering about the traffic concerns this project may produce. How will the City be approaching this concern.

Dahna and the City Staff have been working in conjunction with the Colorado Department of Transportation (CDOT) with traffic on Highway 6 & 50. Highway 6 & 50 is controlled by the Colorado Department of Transportation and not the City of Fruita. The applicants have done a traffic study but Staff is unaware that the traffic study warrants any improvements along Highway 6 & 50.

Bill Saltou 1994 ½ Highway 6 & 50- Emphasized how bad the traffic issue is along Highway 6 & 50 near 20 Road. Wanted to know if the City of Fruita is going to widen the road and put in a traffic light at 20 Road intersections? Bill also had some concerns about the lighting and noise that this new business will create. Does not want to have lights shining into his house and does not want them making noise at all hours of the day.

Dahna mentioned again that the Highway (Highway 6 & 50) is maintained by CDOT. And mentioned again that the traffic study that was submitted shows no upgrades to the road or intersection at 20 Road. Said that there will be more commercial development along 6 & 50 before major improvements will be needed/done. Dahna said that Staff would address the lighting plan and if the light trespasses onto other properties, if it does, this issue will be addressed.

Richard Valdez 1994 Highway 6 & 50- Is concerned with the traffic, noise and lighting this new business will produce.

Joanna Foss 1976 Highway 6 & 50- Very concerned with the traffic that will be generated with this new business. She wanted the applicants to be aware that they have an irrigation line running through the subject property. She does not want that to be messed with and doesn't not want them to build on top of it.

PLANNING COMMISSION COMMENTS:

Dave Karisny made it clear as to why the Planning Commission is hearing this item tonight and highlighted the process of this project. The Planning Commission will make a recommendation to City Council for a final decision based on what is being addressed at this meeting regarding the exceptions requested by the applicant. Dave agrees that Highway 6 & 50 is a busy road and there will be improvements in the future (Highway 6 & 50 control plan can be viewed at CDOT online or in the Planning office).

Dave also talked/highlighted items that have been submitted by the applicants and what the site plan looks like. Dave understands this type of business and understands that there are certain people that will come to this business. Dave told about other buildings that had to comply with the city's rules and regulations and agrees that this business should do at least 3 sides less than 50% metal.

Heidi Jo Elder asked to the applicants if they could do other types of building materials like wood or rock or brick or stucco.

Scott Van Horn said that is not cost effective to do the whole building in any of those building materials, mentioned that some of the buildings near the subject property were ugly and that their new building would look much better.

Heidi suggested that the show room area be stucco and the shop portion be left metal due to the use of the shop and maybe future expansion.

Scott Van Horn is open to that suggestion.

Doug Van Etten- I think the point about having a Code so that there are standards, the newer code is in place to create a higher standard. I think that to tell us that Fruita has ugly buildings so now we don't mind coming in here and being an ugly building, doesn't sound like a real nice way to ask for a welcome to the community. Fruita would love to have the business but Fruita has also established a new/higher set of standards. The only

way to deal with this project is the same way we dealt with other projects otherwise, why have a code with standards.

Doug highlighted points made in the applicants Supplemental Narrative. Doug also agrees with the Planning Director's decision on 50% or a little less than 50% of the building be something other than metal.

Mel Mulder knows that the traffic on Highway 6 & 50 and 20 Road is very bad but also emphasized that the highway is owned/maintained/controlled by CDOT. Mel understands the reason the Planning Commission is meeting is due to the exceptions that are being asked for by the applicant. However, other issues do matter. Mel agrees that the city code should be applied to this project.

Janet Brazfield agrees with her fellow Planning Commissioners.

Keith Schaefer believes that middle ground should be negotiated and that asking the applicant to have different siding than proposed due to the size of the building should have some exceptions.

Janet Brazfield- I would recommend approval of US Tractor Site Design Review with adjustments with the condition that all review comments and planning comment issues identified are adequately resolved before a planning clearance for a building permit is issued.

Mel Mulder- Second.

Dave Karisny- Is there any direction on what the sides of the building would look like?

Janet Brazfield- I'm going with Staff's recommendation and Planning commission comments.

5 Yes Votes; 1 No Vote; Motion passes.

Keith Schaefer voted no because he disagrees with a cookie cutter type of standard. He thinks this building is way too big to have to stucco the entire thing. Keith Schaefer is recommending a code change for this issue.



**Community Development Department  
Staff Report  
August 4, 2016**

**Application #:** 2016-19  
**Project Name:** U.S. Tractor & Harvest, Inc.  
**Application:** Site Design Review  
**Property Owner:** U.S. Tractor LLC  
**Representative:** Nick Nipple  
**Location:** 1984 Highway 6 & 50  
**Zone:** General Commercial  
**Request:** This is a request for approval of Site Design Review for a 31,500 square foot building for agricultural equipment sales and service including large areas of outdoor display on a 15+ acre site zoned General Commercial.

**Project Description:**

The subject property contains approximately 15 acres and is located at 1984 Highway 6 & 50. There currently is a house and various accessory buildings on the property which will be removed with the proposed development. The property has been zoned General Commercial (GC) for many years but the property has been used for residential and agricultural purposes. The Independent Ranchmans Ditch borders the north property line. Access is from Highway 6 & 50 and is set up to be a shared access in the future with the adjacent property to the west.

The applicants have submitted a Site Design Review land development application for an agricultural parts and equipment sales facility including outdoor sales and display. The proposal includes a 31,500 square foot building along with large display areas with gravel surfacing for agricultural equipment. Repair of agricultural equipment also appears to be an intended use of the property. The proposed building appears to be approximately 35 feet tall with mainly a metal exterior finish material.

This application was received on June 6, 2016, but was incomplete. The project was made complete on July 20<sup>th</sup>. Although staff typically reviews and approves Site Design Review applications, Adjustments have been requested for this proposed development to allow a building set far back from the public roadway with no pedestrian accommodations and a building that has primarily a metal

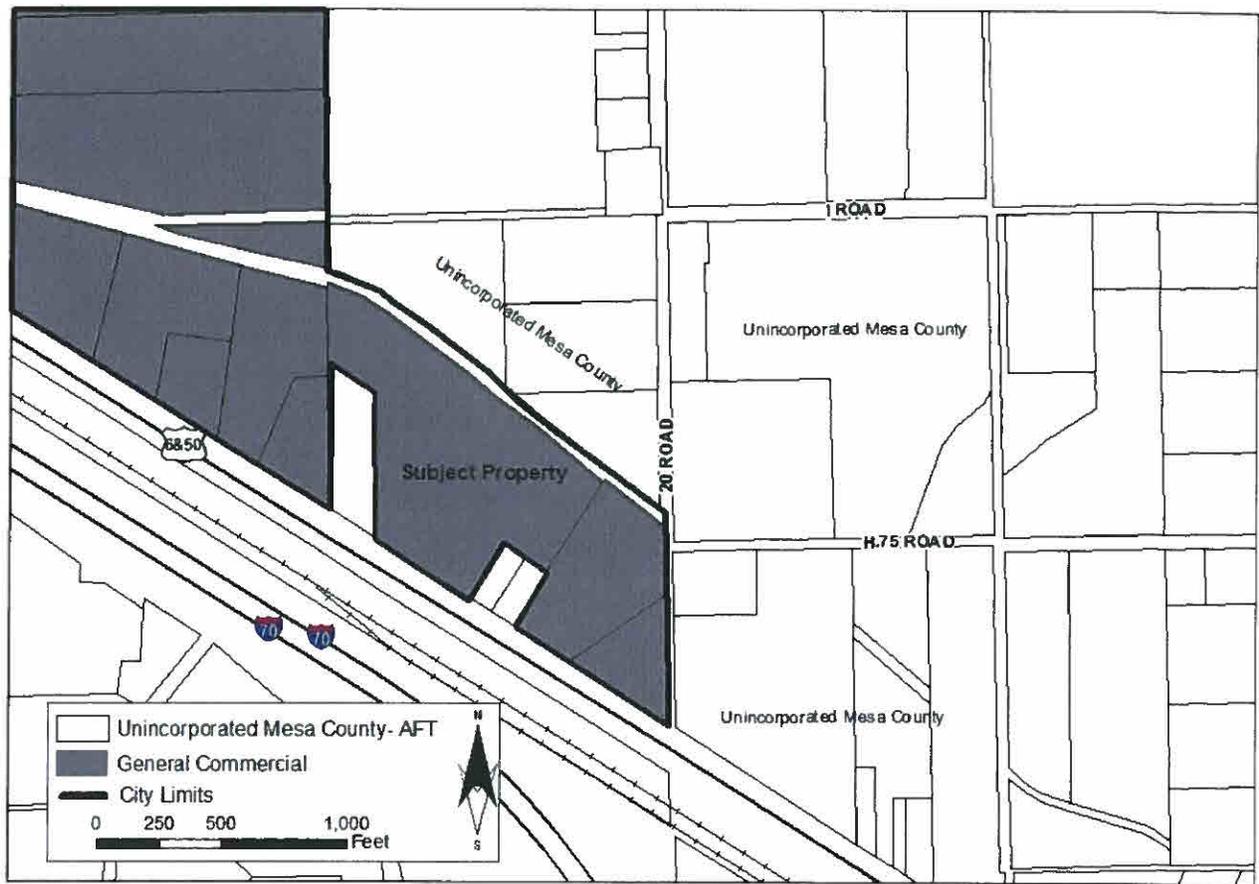
exterior finish with minimal architectural detailing. An Adjustment is an exception to the design standards of Chapter 11 of the Land Use Code and is required to be approved by the City Council through the public hearing process which includes a recommendation from the Planning Commission.

Staff understands that the property/business owners are interested in moving this development forward as fast as possible. Staff has explained to the applicants that the review is somewhat incomplete and although the Adjustment issues can be brought to the August Planning Commission meeting and a City Council meeting a week later, there may be other issues that could come up as the review process is completed. At this time, staff does not see any additional Adjustments that may be necessary or other major concerns based on the design currently proposed.

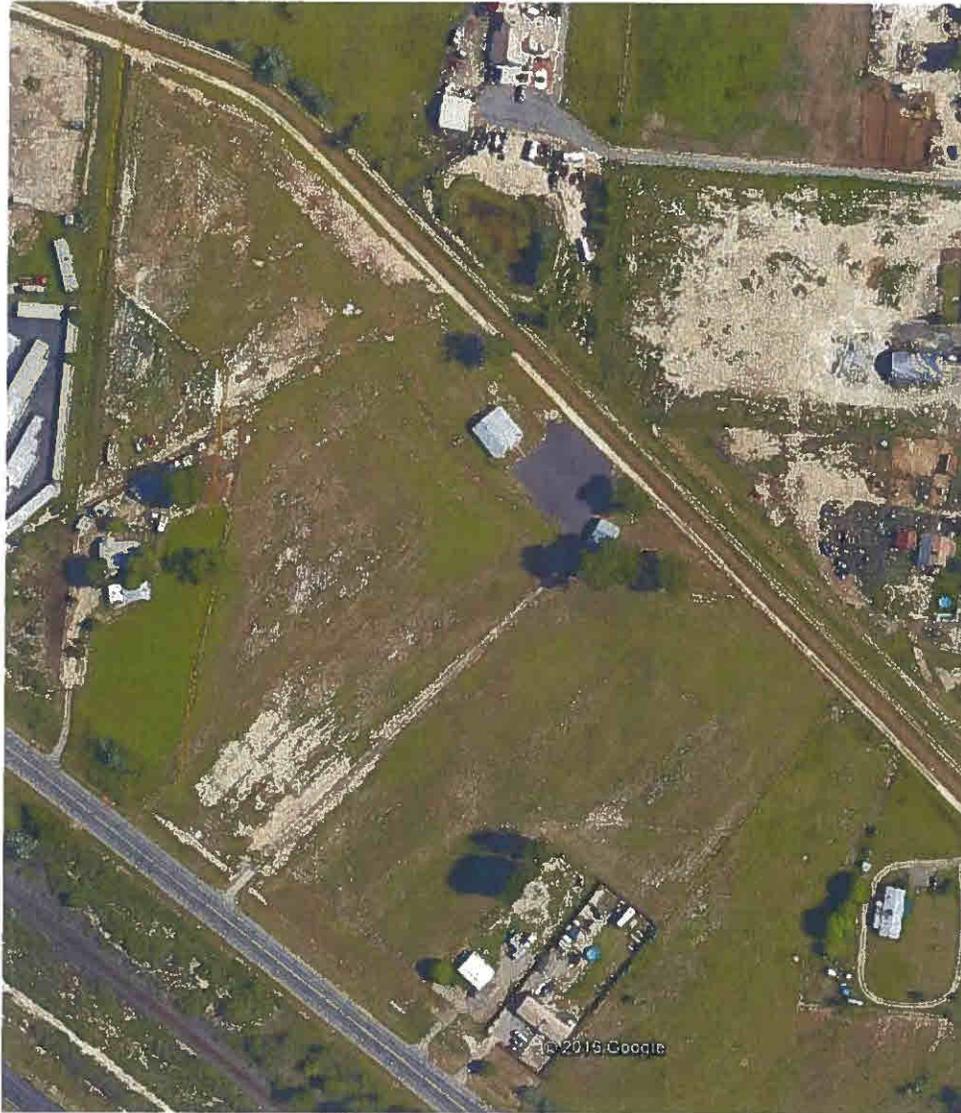
### **Surrounding Land Uses and Zoning:**

Surrounding land uses are a mix of commercial, residential, and limited agriculture. Smaller lots in the area include two residential lots at the south east corner of the site and a small agricultural lot at the southwest corner. There are commercial uses to the west, with residential and agricultural uses to the east and north on the other side of the Independent Ranchmans Ditch. Highway 6 & 50, the railroad tracks and I-70 border the property to the south. The map below identifies the various zones in this area and the properties that are not currently within the city limits.

# LOCATION AND ZONING MAP



## AERIAL PHOTOGRAPH



### **Review of Applicable Land Use Code Requirements:**

#### **SITE DESIGN REVIEW**

The subject property is zoned General Commercial (GC) which is intended to accommodate commercial development in appropriate areas with appropriate access, landscaping, frontage improvements, setbacks, screening and multimodal access and connectivity as per Section 17.07.010.J of the Land Use

Code. Table 17.07.070.F identifies the proposed land use, retail and wholesale sales of agricultural equipment, including repair and outside storage and display, as a permitted land use in the zone.

The proposed development meets the dimensional standards of Chapter 7 regarding building setbacks and height, lot size and lot coverage. The following is a review of the supplemental zoning standards of Chapter 7 and other sections of the Code applicable to this development.

No fencing is proposed other than 6-foot tall chainlink fencing around the on-site wastewater treatment system (leach field and septic tank) on the east side of the property. The fence complies with the requirements of the Code.

At least 10% of a development is required to be landscaped with at least half of the landscaping on the front half of the site. Although the property is approximately 15 acres in size, not all of the property is intended to be developed for agricultural equipment sales and service. Section 17.07.070.I of the Code allows significant amounts of outdoor storage and display areas to not be included in the 10% calculation. The applicants have provided landscaping to meet the 10% requirement for more than 5 acres of developed land. Staff believes that the Land Use Code supports this amount of landscaping for this development, considering the large product display areas. Most of the landscaping is in the front half of the property.

Outdoor storage, HVAC equipment and other service functions are required to be incorporated into the overall design of the building and landscaping plans. Views of these areas are required to be screened from visibility from abutting public rights of way and residential land uses. The HVAC is intended to be roof mounted on a front gable, and it appears that it clearly will be visible from Highway 6 & 50. Staff understands that the applicants will provide screening for the HVAC. The dumpster is located to the side of the building behind a wall so it should not be visible from the public roadway or adjacent property which meets the intent of the Code.

As per Section 17.07.070.P of the Code, all repair, painting, bodywork, and similar activities including storage of refuse and vehicle parts must take place in an enclosed structure.

New outdoor lighting will be provided and appears to meet or can meet the minimum requirements of the Code. Lights will be provided around the building and parking area and at the entrance to the property near the highway. Most of the display areas to the east, west and south will not be lighted and there is only a slight amount of light trespass onto adjacent properties according to the lighting levels site plan submitted. The overall lumen count per acre does not exceed the standards for commercial development in areas near residential development (LD2 standard as per Section 17.07.070.R). Lights on poles cannot exceed 35 feet in height and lights mounted to a building cannot exceed 20 feet in height.

According to the information submitted, irrigation of the landscape areas is intended to be by irrigation water available from a headgate on the property. No irrigation plan was submitted, but all landscaped areas are required to be irrigated, including landscape islands in the parking area. The existing large trees on site most likely will not survive without a steady water supply. Although not necessarily required to be preserved, Fruita appreciates attempts to preserve large trees along with new development. Review comments from the City Engineer identify some concerns with the irrigation system that must be resolved.

Section 17.07.080 requires that a proposed development be compatible with adjacent properties, considering both existing and potential land uses on adjacent properties. For all land uses, "compatibility" is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved, and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between a proposed use and existing uses in the vicinity to ensure compatibility.

The agricultural equipment sales and service business should not create significant compatibility concerns in this area. The activities proposed adjacent to the abutting residential and agricultural properties are mainly display of agricultural equipment. All property in this area between the canal and the highway is intended for mainly commercial development as per the city's Master Plan. The proposed use is compatible with the emerging development pattern of the area which is highway oriented commercial land uses.

Chapter 11 of the Land Use Code identifies additional design standards that must be met for commercial development. These design standards acknowledge that there are other characteristics of development other than site, placement and use of structures that impact economic stability and the morale of the community. The purpose of the design standards is to promote high quality site design and architecture that preserves and enhances Fruita's character and increases economic sustainability. The design standards are intended to help create a sense of identity that differentiates Fruita from other communities. The greater visual appeal afforded with these design standards conveys a sense of permanence and community pride. Because not every development opportunity can be predicted or accommodated in even the best written codes, flexibility in the form of Adjustments are authorized if the project meets the broad goals of the Community Plan, but not necessarily specific requirement of Chapter 11. Adjustments are required to be reviewed and approved by the City Council through the public hearing process.

The subject property is subject to Level 2 design standards of Section 17.11.040 and the following identifies where Adjustments are necessary for the development as proposed.

The Code requires buildings to be as close to the street as possible, the primary entrance to the building to be oriented towards the street and be connected to the public right-of-way with a concrete sidewalk. The farther the primary entrance is from the public right-of-way, the wider the sidewalk connection is required to be. Developments with the primary entrance more than 40 feet from the public right-of-way are required to provide a pedestrian plaza, courtyard or other civic amenity between the building and the street. When parking areas are placed between the building and the public street, a 15-foot wide landscape area is required to screen the parking area from the public road. Some of the purposes of these requirements are to help facilitate and encourage pedestrian and bicycle transportation, and avoid large building setbacks that isolate people in a vast environment scaled to fast moving motorized traffic.

The applicants propose to set the building back more than 200 feet from the property line along Highway 6 & 50 with a parking area between the highway and the building. The applicants request Adjustments to allow this development without the pedestrian walkway and civic amenity. It appears that the main use of the property between the building and the highway will be display areas for agricultural equipment. A landscaping strip wider than the minimum required width along the highway will be provided along with a bicycle parking area. Because there is no public sidewalk or bicycle infrastructure along the highway and no discernable pedestrian or bicycle activity in this area, coupled with the fact that the agricultural equipment on display provides some visual interest to those passing by, staff believes that the intent of these regulations have been met, for the most part, with the design as proposed. If additional visually interesting yet low growing landscaping is provided along the highway, the intent of these regulations appears to be met.

Section 17.11.040 of the Code requires that the primary finished building material not be metal and requires that buildings provide human scale with windows, awnings, and other methods to avoid large expanses of blank walls. Rooflines for large buildings should be stepped, windows should be transparent where possible, and weather protection provided at the building's primary entrance(s).

Other than windows and stone veneer on the front, the proposed building will have a metal exterior finish with some large blank wall areas. The applicants have requested Adjustments to allow a primarily metal finished exterior material along with some blank walls. Although visually appealing building materials and architectural detailing isn't as important in areas with little or no pedestrian/bicycle activity and fast moving motorized traffic as it would be closer to the center of the city, the building should still provide materials and detailing to meet the intent of the Code to provide a human scale, visual interest, and promote high quality development.

Recent commercial development closer to the center of the city has been prohibited from constructing buildings with metal as a primary finished exterior material. The commercial buildings nearest to this proposed development are the mini self-storage units at Fruita Storage, constructed in 2002, which have a metal exterior. There are other plain metal buildings in the city farther west constructed prior to 2002 and this type of development is what caused Fruita to set development standards that require something other than metal as a primary finished material. When the nearby Cowboy Church (formerly Twin Crossings furniture store) was approved for development in 2004, stucco and other detailing was required to be provided on the front part of the building to improve the appearance.

In keeping with the intent of the Code and what has been required of others, staff believes the Code would support metal exterior finish if it encompasses less than 50% of the building walls. The metal must be a non-reflective. The metal roof is permitted by Code but also must be non-reflective metal. With additional detailing and/or additional landscaping around the building, a building with less than 50% metal as a finished material can be considered in compliance with the intent of the Code. A supplemental project narrative submitted by the applicants in response to these concerns indicates that the applicants are in favor of additional landscaping instead of building details.

Although no specific color scheme has been provided, the supplemental project narrative indicates that the building will be "earth tone/neutral colors". The Code suggests warm earth tone colors, but doesn't prohibit or require specific colors.

Chapter 39, Parking Standards, requires one car parking space per 1,000 square feet for low volume bulk retail sales. Industrial services such as service of agricultural or heavy equipment also are required to provide one space per 1,000 square feet of area. With a 31,500 square foot building, at least 31 spaces should be provided. Staff believes that this is an adequate amount of parking for the proposed use and the storage and display areas should not be included in this calculation. All dimensional standards have been met (length, width, driving aisle) but only 28 spaces have been provided. The site plan submitted indicates an area for bicycle parking as required.

Section 17.39.070.G requires parking lots with more than 20 spaces to be landscaped with trees and requires landscape islands to break up the parking area into rows of not more than 12 contiguous (side-by-side) parking spaces. The landscape islands (no less than 6-feet by 4-feet) are intended to help create and support a tree canopy over the parking areas. A couple of landscape islands will be necessary to meet the minimum requirements of the Code.

A traffic study has been completed recently (August 1, 2016) and is being reviewed by staff and the Colorado Department of Transportation (CDOT). Changes to Highway 6 & 50 may be required by CDOT to avoid traffic safety and

other concerns but any required changes to the highway are not expected to significantly alter the design of the site. As required by the US 6 Access Control Plan adopted by both the city of Fruita and CDOT, easements for future access are provided along the north and west property lines, and the access to Highway 6 is set up to be shared with property to the west in the future. The 60-foot wide easement on the north needs to shift to the south to not encroach on the maintenance road for the Independent Ranchmans Ditch.

Review comments from the City Engineer have some questions regarding on-site traffic circulation that must be resolved.

Regarding provision of utilities, Grand Valley Power, Xcel Energy, and Ute Water have no significant concerns. The Lower Valley Fire Protection District review comments identify issues with fire hydrants that must be resolved.

Public sewer service is not available to the site and an onsite wastewater treatment systems (OWTS) will be used. No comments from the Mesa County Health Department (MCHD) have been received, but the OWTS must be approved by the MCHD before construction begins.

Stormwater drainage will be directed to the south side of the property to a stormwater detention pond with water quality treatment provided. Additional information is required to determine if stormwater management requirements have been met according to comments from the City Engineer. New rules applicable to the Grand Valley require a stormwater management plan to be submitted to the 5-2-1 Drainage Authority for review along with a permit application prior to Planning Clearance approval. Grand Valley Drainage District review comments indicate no concerns with the proposed development.

With the exception of CDOT, staff does not expect to receive any additional review comments.

Impact Fees applicable to this development include a Transportation Impact Fee and a Drainage Impact Fee. These fees are still being calculated.

Signs are reviewed and approved under a separate permit. One freestanding sign is permitted for this property and the sign can be up to 35 feet tall and no larger than 200 square feet in area. Signs attached to the building are permitted to be 1 ½ square feet per linear foot of building wall.

### **Review Comments:**

All review comments received by August 4, 2016, are included with this Staff Report. All review comments must be adequately resolved before a Planning Clearance for a Building Permit is issued.

**Public Comments:**

No written public comments have been received regarding this application.

**Staff Recommendation:**

Because the development meets or can meet the intent of all city regulations and polices, staff recommends approval of the US Tractor Site Design Review with Adjustments land development application with the condition that all review comments and issues identified in the Staff Report be adequately resolved before a Planning Clearance for a Building Permit is issued.



# LAND DEVELOPMENT APPLICATION

Project Name: U.S. Tractor & Harvest, Inc.  
 Project Location: 1984 Hwy 6850, Truett, CO 81528  
 Current Zoning District: Commercial Requested Zone: \_\_\_\_\_  
 Tax Parcel Number(s): 2697-71-00-081 Number of Acres: 15.675  
 Project Type: Retail farm equipment sales

Property Owner: U.S. Tractor LLC Developer: U.S. Tractor LLC  
 Property Owner: \_\_\_\_\_ Contact: Fred Nipple  
 Address: 701 West Ave Address: 701 West Ave  
 City/State/Zip: Alamosa, CO 81101 City/State/Zip: Alamosa, CO 81101  
 Phone: 7195894962 Fax: 7195895614 Phone: 7195894962 Fax: 7195895614  
 E-mail: fred@ustractor.com E-mail: fred@ustractor.com

Please designate a representative as the coordinator for this application. The representative should attend all conferences/hearings, will receive all correspondence, and communicate all information to the property owners.

Owner Rep: Nick Nipple Engineer: Mark Austin  
 Contact: \_\_\_\_\_ Contact: Austin Civil Group  
 Address: 876 Jaymore Road Court Address: 127 N 7th St, Suite 200, Grand Junction  
 City/State/Zip: Grand Junction, CO 91506 City/State/Zip: Grand Junction, CO 81501  
 Phone: 970-589-1058 Fax: 970-589-5614 Phone: 970-242-7540 Fax: 970-255-1212  
 E-mail: nick@ustractor.com E-mail: mark@austincivilgroup.com

This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.  
 The above information is correct and accurate to the best of my knowledge.

U.S. Tractor LLC Name of Legal Owner  
 \_\_\_\_\_ Signature \_\_\_\_\_ Date 31 May 2016  
 \_\_\_\_\_ Name of Legal Owner Signature \_\_\_\_\_ Date \_\_\_\_\_  
 \_\_\_\_\_ Name of Legal Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

STATE OF COLORADO )  
 Alamosa ) ss.  
 COUNTY OF ~~MONTEZUMA~~ )

The foregoing instrument was acknowledged before me this 11th day of May, 2016

My Commission expires: 10/20/2016

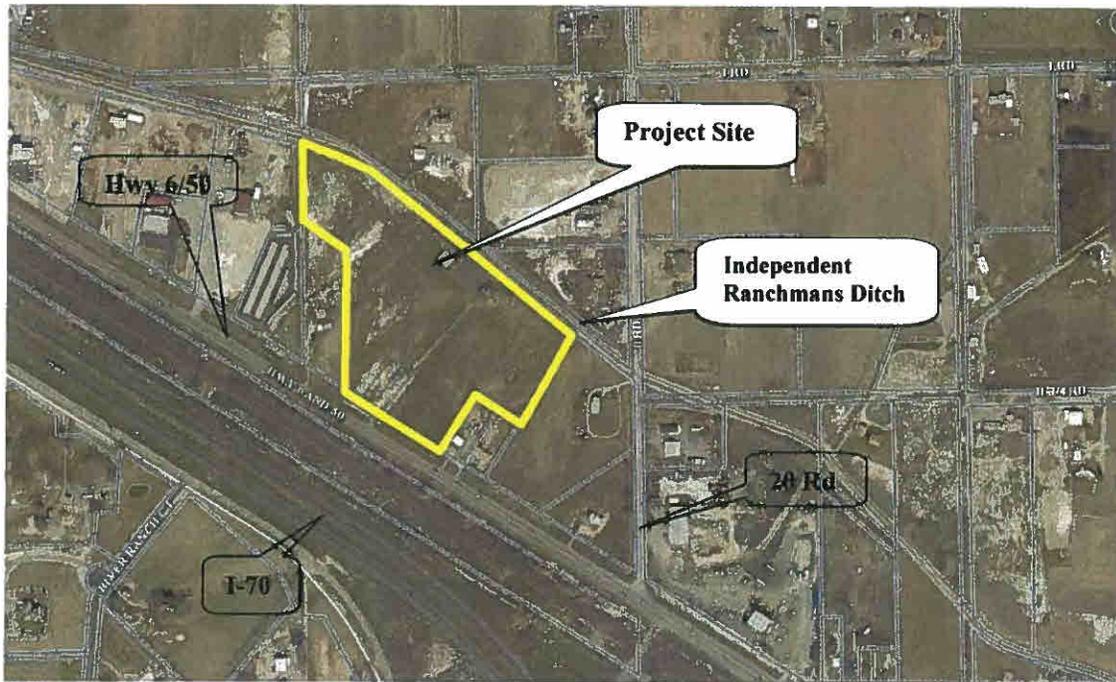
Donna R. McCarroll  
 Notary Public  
 DONNA R. MCCARROLL  
 NOTARY PUBLIC  
 STATE OF COLORADO  
 NOTARY ID 19924013441  
 MY COMMISSION EXPIRES OCTOBER 20, 2016

# Project Narrative for US Tractor 1984 Highway 6/50 Site Plan Review

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## **Purpose/ Description:**

The purpose of this application is to obtain approval from the City of Fruita for a Site Plan application for US Tractor, which is proposed to be located at 1984 Highway 6/50 (Tax# 2697271-00-081). The property is located approximately ¼ miles west of the intersection of 20 Road and Highway 6/50, as depicted by the aerial photograph below:



**Site Location Map**

The project site, approximately 15-acres in size, is zoned General Commercial and is currently vacant land owned by US Tractor LLC. The property is proposed to be developed into an agriculture tractor sales facility and will include outdoor sales of agriculture equipment.

The new building will be approximately 31,000 square feet in size and provides parking for 28 vehicles.

Development will occur on approximately 13-acres of the site and the northwest corner of the property will be left undeveloped.

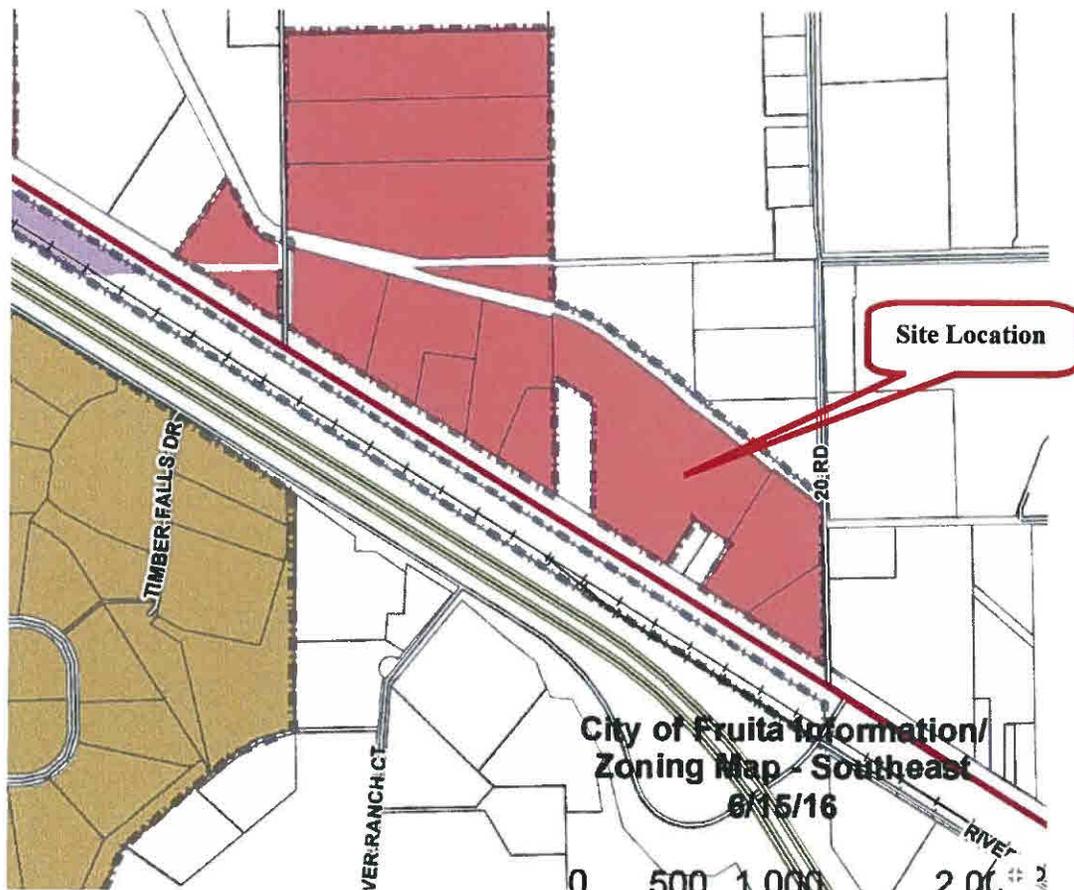
## **Zoning and Overlay Districts:**

The subject property is zoned General Commercial and the surrounding land uses include the following:

# Project Narrative for US Tractor 1984 Highway 6/50 Site Plan Review

DIRECTION	ZONING	CURRENT LAND USE
North	AFT - County	Large Lot Residential
South	Public ROW	Highway / RR ROW
East	General Commercial	Residential / Agriculture
West	General Commercial / AFT	Residential / Commercial Storage

Listed below is a copy of the City of Fruita zoning map.



**Current City of Fruita Zoning**

The site is required to comply with the Chapter 11, Level II Design standards. Listed below is a summary of the criteria and a description of the standard are met:

# Project Narrative for US Tractor 1984 Highway 6/50 Site Plan Review

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## **Site Design Standards (17.11.040-B)**

1. Building Entrance oriented to Public Street and public with 6-ft wide sidewalks to connect to buildings entry locations. If more than 20-ft, want 10-ft wide walk with 3ft planter's strips on each side on each side. If main entry is more than 20-ft from street right-of-way, a minimum 15-ft wide landscape screen shall be provided along street frontages.

*Response: The applicant is requesting a variance from this criteria as there are no public sidewalks near this site and customers to the tractor sales facility generally do not walk to the site.*

2. When a primary building is located more than 20-ft from the street right-of-way, or when a parking area or drive isle is located between the building entrance and public street right-of-way, a 15-ft landscape screen shall be provided.

*Response: The project provides 25-ft of landscape area along Highway 6/50 and another 10-ft along the south end of the parking lot.*

3. Buildings shall meet transparency and weather protections standards

*Response: Building elevations have been provided depicting window transparency along Highway 6/50.*

## **Access**

Access for the project will be from Highway 6/50. The access will be located near the western property frontage to allow for a future shared access with the adjacent parcel to the west.

The applicant has submitted a CDOT access permit and the process is currently under review with CDOT.

The project provides for a 60-ft shared ingress/egress easement along the north boundary and a 30-ft shared access easement along the western boundary.

## **Parking**

The building is approximately 31,500 square feet in size and provides 32-parking spaces, for a ratio of 1 space per 1,125 square feet. All parking spaces are 9-ft wide, 18.5-ft long and have a minimum of 25-ft isles.

## **Utilities**

All utilities required to service the property are located on or near the proposed development.

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# Project Narrative for US Tractor 1984 Highway 6/50 Site Plan Review

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*Water* – Ute Water provides water utilities to this site. The project will extend a 12-inch water main located west of the site, in the Highway 6/50 right-of-way, to the project.

A 1-inch domestic water meter services will be needed for the building and a 6-inch fire sprinkler line will be extended to the facility.

An above-ground double check valve will be provided at the edge of the property for the fire water line extension and fire hydrants located on the site

*Sanitary* – The site is not located near City of Fruita sanitary sewer. The project will install an individual sanitary sewer disposal system, including a 2,000-gallon septic tank and associated leach field. A 1,000-gallon sand/oil separator will be provided to collect floor drains in the shop area. The system has been designed by a professional engineer.

*Gas and Electrical* – Existing underground gas and electrical lines currently run along the north side of Highway 6/50.

*Irrigation Plan* – The applicant is requesting the City of Fruita allow approval of the Site Plan contingent upon providing an irrigational plan. The primary reason for this is the actual irrigation system design will be provided as part of the site Landscape Contractor's requirements.

## **Stormwater Drainage**

The project will be providing a stormwater detention pond with water quality treatment in accordance with the Mesa County Stormwater Management Manual (SWWM) requirements. An extended detention basin facility will be provided to address water quality treatment. Stormwater collected from the detention pond will discharge into an existing 24-inch culvert under Highway 6/50 near the southeast corner of the site.

## SUPPLEMENTAL NARRATIVE

### **Metal Building (Section 17.11.040) -**

**Normal accepted building for our industry/customer base**

**Pleasing appearance with earth tone/neutral colors**

**The front of the building is rock, plate glass, and has a John Deere 8'x8' logo (The rock wraps around the building to the sides)**

**Distance from East edge of town is over 2.1 miles**

**Majority of all surrounding buildings are primarily metal surfaces (1882 Hwy 6 & 50, 1966 Hwy 6 & 50, and 1956 Hwy 6 & 50)**

**Cost effective for U.S. Tractor—any other building material is just not feasible for this type of business because of the size and complexity of our customer's product**

**Our business is a specialty business and only specific customers are interested in coming in—we are not engaged with the general population**

**This property will not be subdivided into smaller tracts at any point, so there are no future plans to allow any small businesses to come in or any other development other than our business on this lot**

**This type building fits the needs of our clientele and is consistent with the community**

### **Over 800 square feet with no design change-**

**Back of building needs to remain open for future expansion**

**We would agree to landscape along the canal road once it's developed**

**The equipment that we sell may be displayed on the West side of the building which would be in front of the open space on the main portion of the building (I believe this portion is not over 800 square feet anyway)**

### **Setback distance from Hwy 6 & 50 (Section 17.11.040 )-**

**Space is needed for equipment display area**

**Displays are eye catching and appealing and need to be closest to the road for visibility**

**There are no sidewalks with pedestrian traffic, so there is no need for a pedestrian plaza or walkways. Hwy 6 & 50 is 55 MPH in front of the property so there would be no pedestrian walkway traffic**

**HVAC Units-**

**We will provide some sort of screening for the HVAC rooftop units**

**Dumpster Location (Section 17.07.070.P) -**

**This was shown on the blueprints, and is enclosed**

**Parking Spaces (Section 17.39.070.G )-**

**We will add landscape islands as required to offset the parking spaces**

**Bicycle rack was added to the plans**

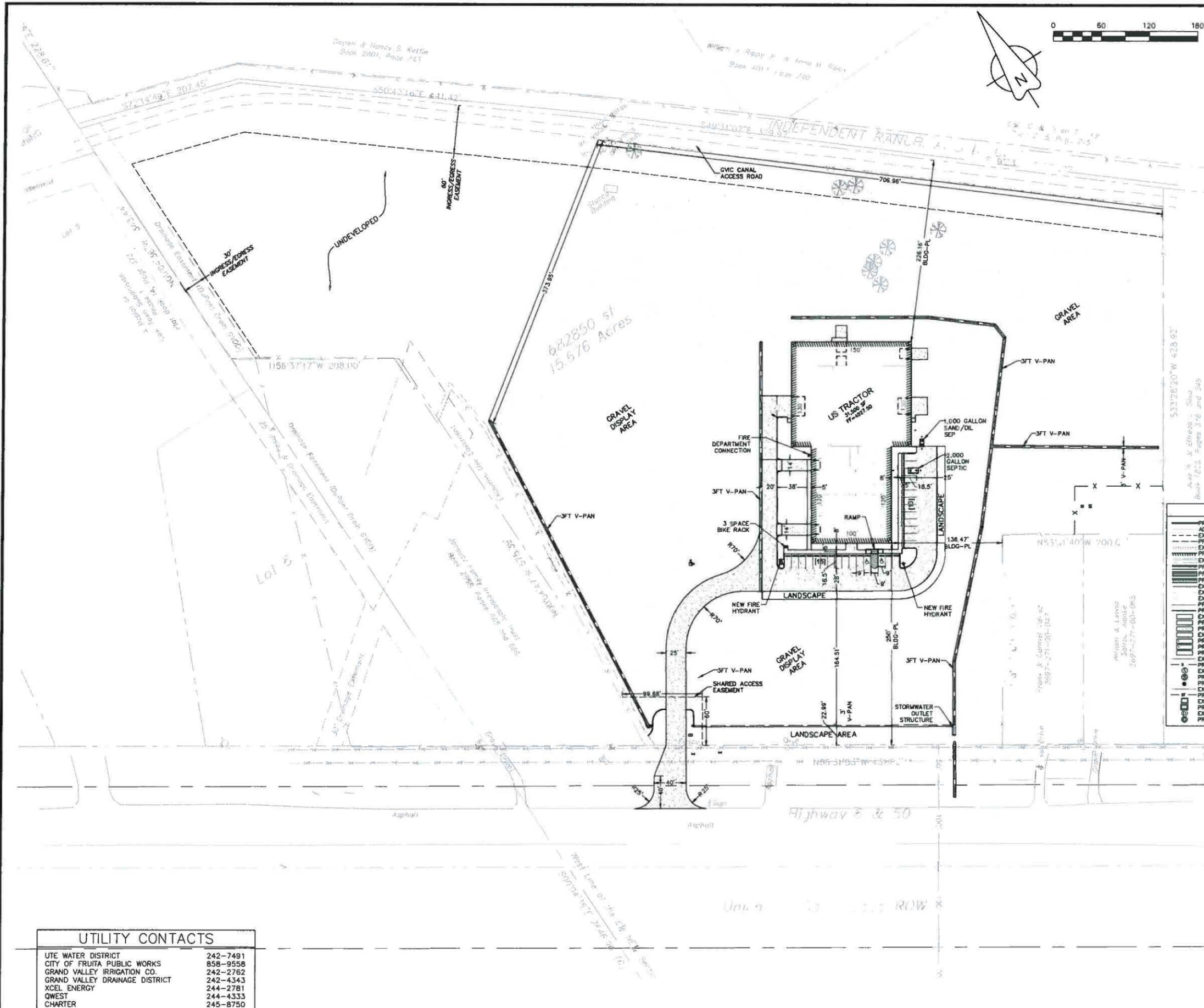
**Additional Info-**

**We will have the address for this property clearly marked with 8" numbers near the entrance**

**The John Deere monument sign is 35' tall and would sit just east of the main entrance**

**We may add more landscape to compensate for the "over 800 square foot" areas, and to help offset the "all metal building" issue**

**We may add a farming themed mural to an open area to help offset areas of blank space**



- GENERAL NOTES:
1. ALL PARKING SPACES ARE 9-FT WIDE X 18.5-FT LONG UNLESS OTHERWISE NOTED.
  2. ALL SIDEWALKS ARE 5' WIDE UNLESS OTHERWISE NOTED.
  3. OBTAIN WORK IN RIGHT OF WAY PERMITS FROM THE STATE OF COLORADO (CDOT) BEFORE DOING ANY WORK ALONG HWY 6 & 50.

LAND USE SUMMARY		
USE	SQUARE FT	PERCENT
BUILDINGS	31,500	4.6%
LANDSCAPE	21,191	3.1%
ASPHALT/PKG/CONC	427,705	62.3%
UNDEVELOPED	206,454	30.0%
<b>TOTAL</b>	<b>682,850</b>	<b>100%</b>

PARKING SUMMARY	
31,500 SF Low Volume Retail @ 1 Space/1,000sf =	32
Total Parking Required =	32 Spaces
Total Parking Provided On Site =	28 Spaces

**LEGEND**

—	PROPERTY LINE	—	PROPOSED INLINE DRAIN
- - -	ADJACENT PROPERTY LINE	—	EXISTING 8" WATER MAIN
- - -	EXISTING EASEMENT	—	PROPOSED 2" DOMESTIC SERVICE
- - -	PROPOSED EASEMENT	—	PROPOSED 4" FIRE LINE
▒	EXISTING BUILDING	—	EXISTING FIRE HYDRANT
▒	PROPOSED BUILDING	—	EXISTING WATER METER
▒	EXISTING CURB/GUTTER	—	PROPOSED FIRE HYDRANT
▒	PROPOSED CURB/GUTTER	—	EXISTING WATER METER
▒	PROPOSED SPILL CURB/GUTTER	—	PROPOSED WATER METER
▒	PROPOSED TRANSITION CURB/GUTTER	—	PROPOSED METER/BACKFLOW VALVE
▒	EXISTING RETAINING WALL	—	PROPOSED IRRIGATION MANHOLE
▒	EXISTING 1-FT CONTOUR	—	PROPOSED FENCE
▒	EXISTING 3-FT CONTOUR	—	PROPOSED TRAFFIC FLOW
▒	PROPOSED 1-FT CONTOUR	—	EXISTING FENCE
▒	PROPOSED 3-FT CONTOUR	—	PROPOSED GRADE BREAK
▒	EXISTING ASPHALT	—	ROOF DRAIN (RD)
▒	PROPOSED ASPHALT	—	STREET LIGHT POLE
▒	PROPOSED HEAVY DUTY ASPHALT	—	FIRE DEPARTMENT CONNECTION
▒	EXISTING CONCRETE	—	PARKING LOT LIGHT
▒	PROPOSED CONCRETE	—	PROPOSED BUILDING LIGHT
▒	PROPOSED HEAVY DUTY CONCRETE	—	POWER POLE
▒	PROPOSED DRAVEL	—	FLOWLINE
▒	EXISTING SANITARY SEWER	—	EDGE OF PAVEMENT
▒	PROPOSED SANITARY SEWER	—	TOP OF CONCRETE
▒	EXISTING SANITARY SEWER MANHOLE	—	TOP OF WALL
▒	PROPOSED SANITARY SEWER MANHOLE	—	BOW BOTTOM OF WALL
▒	PROPOSED SANITARY SEWER CLEANOUT	—	TOP BACK OF WALK
▒	EXISTING STORM SEWER	—	TOP OF CURB
▒	PROPOSED STORM SEWER	—	BACK OF CURB
▒	EXISTING STORM SEWER INLET	—	LANDSCAPE AREA
▒	PROPOSED STORM SEWER INLET	—	UTILITY PEDESTALS
▒	EXISTING STORM SEWER MANHOLE	—	
▒	PROPOSED STORM SEWER MANHOLE	—	

**UTILITY CONTACTS**

UTE WATER DISTRICT	242-7491
CITY OF FRUITA PUBLIC WORKS	858-9558
GRAND VALLEY IRRIGATION CO.	242-2762
GRAND VALLEY DRAINAGE DISTRICT	242-4343
XCEL ENERGY	244-2781
QWEST	244-4333
CHARTER	245-8750

CITY OF FRUITA ENGINEERING  
 APPROVED FOR CONSTRUCTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

ACCEPTED AS CONSTRUCTED

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

JOB NUMBER: 1269.0001  
 DATE: 06-10-2016  
 SCALE: 1"=60'  
 SHEET NO: C-4

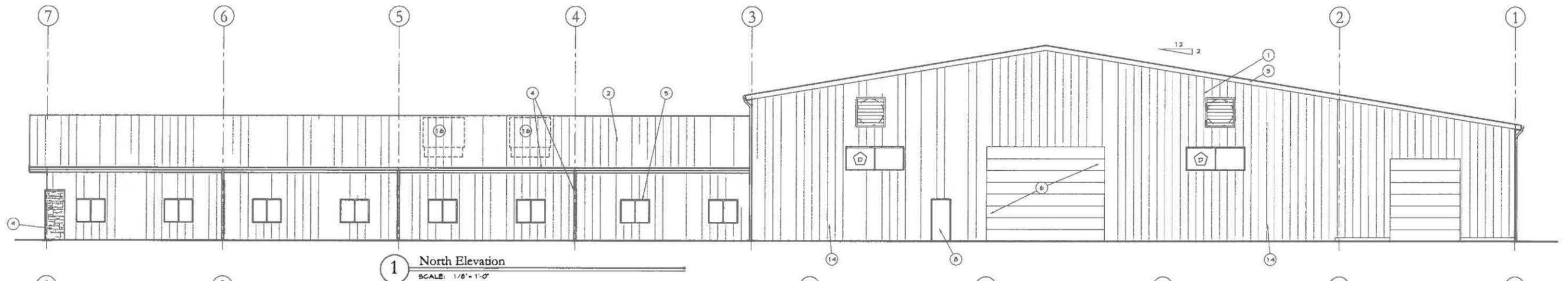
Know what's below. Call before you dig.

SCALE VERIFICATION  
 BAR IS ONE INCH ON ORIGINAL DRAWING  
 IF NOT ONE INCH ON THIS SHEET  
 ADJUST SCALES ACCORDINGLY

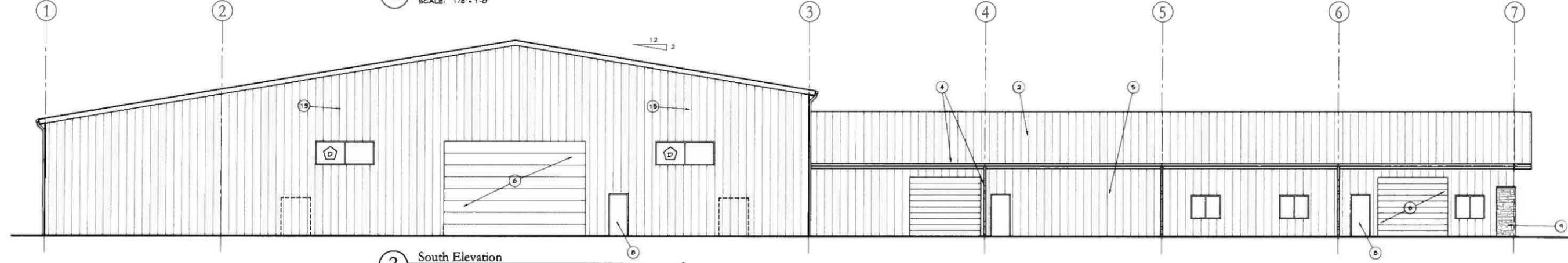
NO.	DATE	REVISIONS DESCRIPTION

**A C G**  
**AUSTIN CIVIL GROUP, INC.**  
 Land Planning • Civil Engineering • Development Services  
 122 North 7th Street, Suite 300 • Grand Junction, Colorado 81501  
 (970) 242-1540

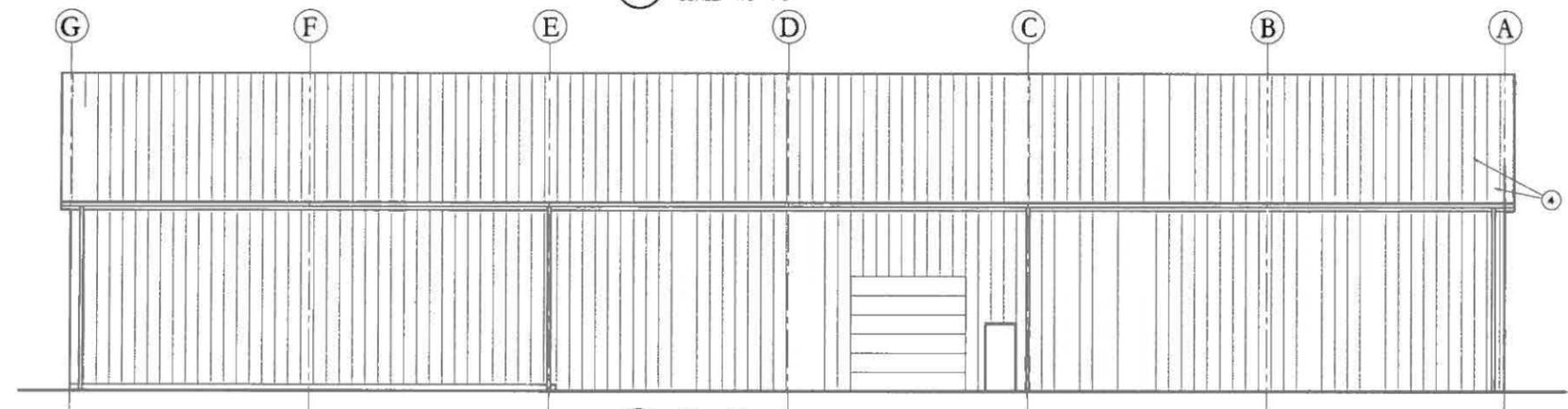
**US TRACTOR FACILITY**  
**SITE PLAN**  
**1984 HIGHWAY 6 & 50**  
 prepared for  
**US Tractor, LLC**



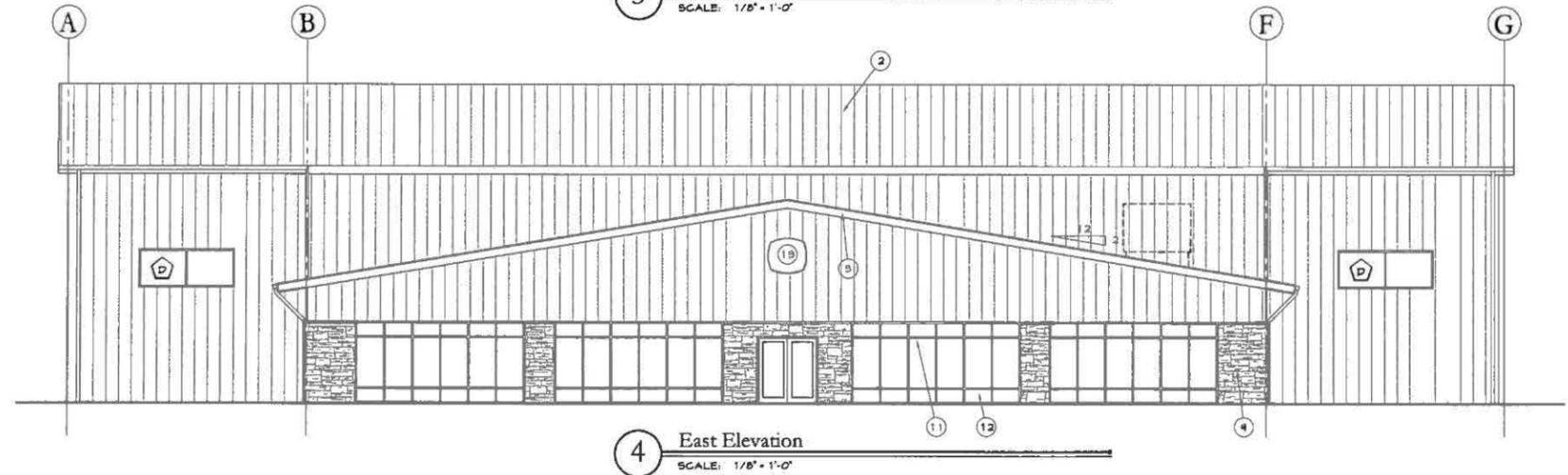
1 North Elevation  
SCALE: 1/8" = 1'-0"



2 South Elevation  
SCALE: 1/8" = 1'-0"



3 West Elevation  
SCALE: 1/8" = 1'-0"



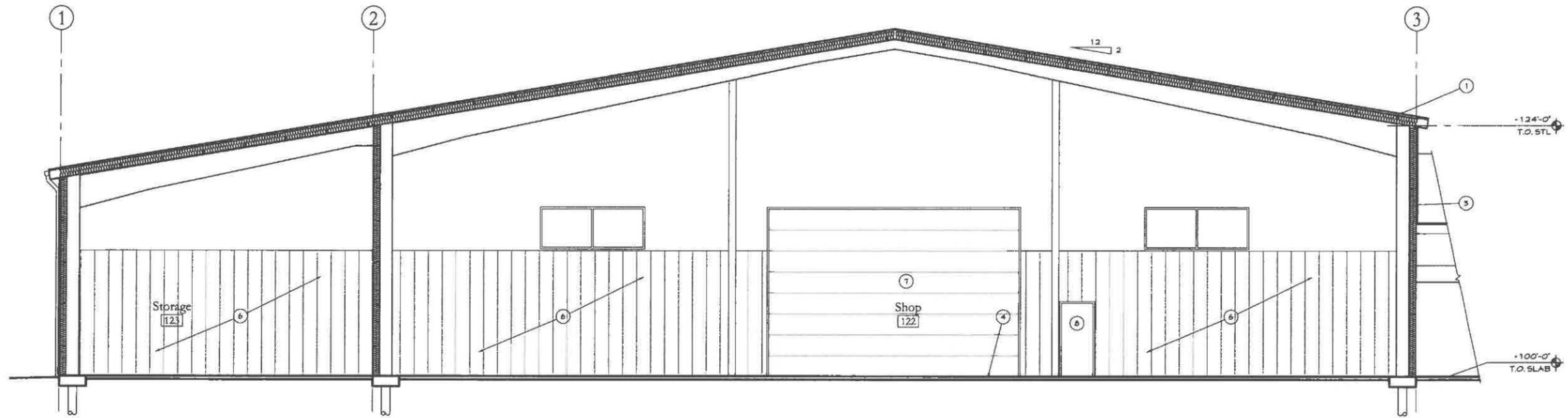
4 East Elevation  
SCALE: 1/8" = 1'-0"

Elevation Keynotes	
1	METAL WALL PANEL.
2	METAL ROOF PANEL.
3	METAL FASCIA.
4	SEAMLESS METAL GUTTER & DOWN SPOUT.
5	THERMALLY BROKEN ALUMINUM FRAME METAL WINDOWS. ALL WINDOWS FIXED.
6	INSULATED OVERHEAD DOOR.
7	INSULATED COILING DOOR.
8	INSULATED METAL DOOR.
9	MANUFACTURED STONE VENEER. CULTURED STONE OR ELDORADO STONE WITH REAL 3" THICK STONE SILLS AND WATERABLES.
10	-
11	THERMALLY BROKEN STOREFRONT WINDOW.
12	INSULATED LOWER PANEL IN STOREFRONT ASSEMBLY.
13	SIGNAGE BY OWNER.
14	EVAPORATIVE COOLING UNIT ON STAND.
15	EXHAUST VENT.
16	ROOF TOP MECHANICAL.

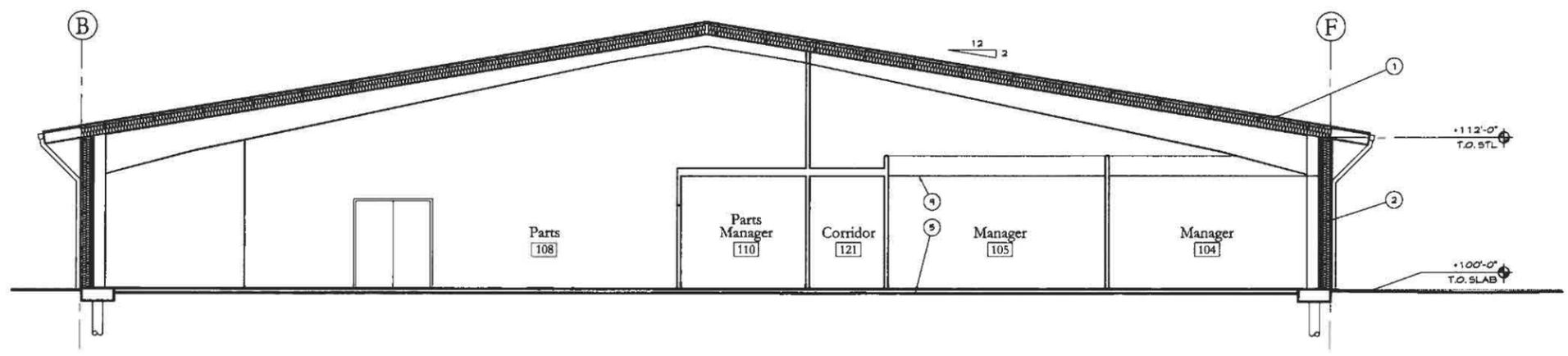
**MOTLEY ARCHITECTURE & DESIGN**  
915 S. 10th St.  
Montrose, CO 81401  
p: (970) 249-1980  
f: (970) 797-6811  
motleyarc.com

STAMP

US Tractor	
Grand Junction, Colorado	
PROJECT NO:	1511
PHASE:	DD
ISSUE & DATE:	A-12/17/15
DRAWN BY:	MAD
CHECKED BY:	Phil
<b>Building Elevations</b>	
SHEET NAME	
<b>A3.1</b>	
SHEET NUMBER	



1 Building Section  
SCALE: 3/16" = 1'-0"



2 Building Section  
SCALE: 3/16" = 1'-0"

Building Section Keynotes	
1	TYPICAL ROOF - METAL ROOF PANEL 0/12 THERMAL BLOCKING 0/ 10" PURLINS 0/ INSULATION BANDING. INSULATE WITH 18" BATTS FOR R-VALUE OF 49.
2	TYPICAL WALL 1 - METAL PANEL 0/8" GIRTS 0/ 3" STEEL STUDS. INSULATE WITH BATTS FOR R-VALUE OF 26.
3	TYPICAL WALL 2 - METAL PANEL 0/ 8" GIRTS WITH R-21 BATT INSULATION.
4	5" REINFORCED CONCRETE SLAB PER STRUCTURAL.
5	4" REINFORCED CONCRETE SLAB PER STRUCTURAL.
6	LINER PANEL TO 12' A.F.F.
7	INSULATED OVERHEAD DOOR.
8	INSULATED METAL DOOR.
9	ACOUSTICAL CEILING TILE AT 9'-0" A.F.F.

**MOTLEY ARCHITECTURE & DESIGN**  
915 S. 10th St.  
Montrose, CO 81401  
p: (970) 249-1980  
f: (970) 797-6811  
motleyarc.com

**US Tractor**  
Grand Junction, Colorado

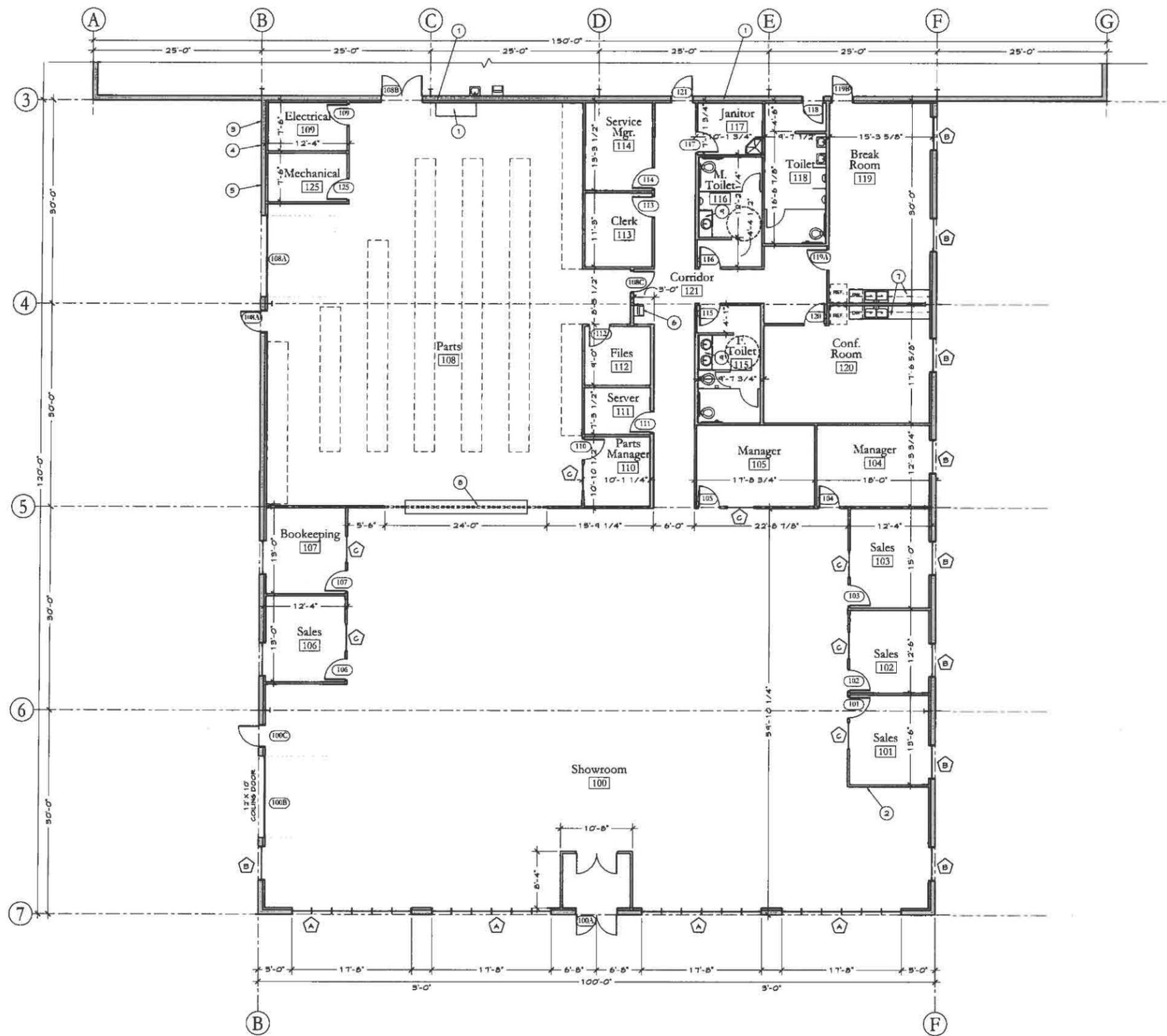
PROJECT NO:	1511
PHASE:	DD
ISSUE & DATE:	A-12/17/15
DRAWN BY:	MAD
CHECKED BY:	Phil

**Building Sections**

SHEET NAME

**A4.1**  
SHEET NUMBER

STAMP



1 Floor Plan - Showroom/Offices  
 SCALE: 1/8" = 1'-0"  
 NORTH

**Floor Plan Keynotes**

- 1 1-HOUR WALL BETWEEN SHOP AND SHOWROOM AREA.
- 2 COFFEE SERVICE AREA.
- 3 ELECTRICAL SERVICE ENTRANCE AND METER LOCATION.
- 4 TELEPHONE SERVICE.
- 5 WATER SERVICE ENTRANCE AND FIRE SUPPRESSION RISER LOCATION.
- 6 DRINKING FOUNTAIN.
- 7 P. LAM COUNTER WITH MELAMINE FACED BASE CABINETS, 30" H. MELAMINE FACED UPPER CABINETS WITH (3) ADJUSTABLE SHELVES IN EACH BOX. PROVIDE ABOVE COUNTER MICROWAVE SHELF.
- 8 14'-0" W. X 2'-0" D. SITE BUILT SERVICE COUNTER WITH POINT OF SALE DISPLAY AREA ON FRONT.
- 9 P. LAM COUNTER, PROVIDE BRACES TO SUPPORT THE COUNTER.
- 10 12" HIGH LINER PANEL AROUND ENTIRE PERIMETER OF THE ROOM.
- 11 SLOPED CONCRETE FLOOR.
- 12 PROVIDE 6" CONCRETE CURBS AT BASE OF WALL.
- 13 WALL MOUNTED EVAPORATIVE COOLER ABOVE.
- 14 PLAM COUNTER.
- 15 HAND WASH SINK.
- 16 COMPRESSOR LOCATION, EQUIPMENT BY OWNER.
- 17 HOTSY PRESSURE WASHER LOCATION.
- 18 -
- 19 PRE-WIRE FOR HIGH VOLUME, LOW SPEED FAN.
- 20 EXPANDABLE END-WALL.
- 21 CONCRETE PAD FOR EVAP. COOLER STAND. COORDINATE WITH MECHANICAL SPECS.

**General Notes**

1. SEE STRUCTURAL DRAWINGS & SHOP DRAWINGS FOR BASE PLATE & METAL BUILDING DETAILS.
2. ALL DIMENSIONS ARE TO FACE OF CONCRETE/STUD/MASONRY UNLESS NOTED OTHERWISE.
3. TYPICAL DOOR OFFSET AT PARTITION WALL.

5. VERIFY LOCATION OF SMOKE DETECTORS, EXIT LIGHTS, AND EMERGENCY LIGHTS WITH ARCHITECT PRIOR TO INSTALLATION.
6. CENTER CEILING GRIDS IN AREAS UNLESS NOTED OTHERWISE.
7. PROVIDE FLOOR DRAINS IN TOILET ROOMS.

**MOTLEY ARCHITECTURE & DESIGN**  
 915 S. 10th St.  
 Montrose, CO 81401  
 p: (970) 249-1980  
 f: (970) 797-6811

STAMP

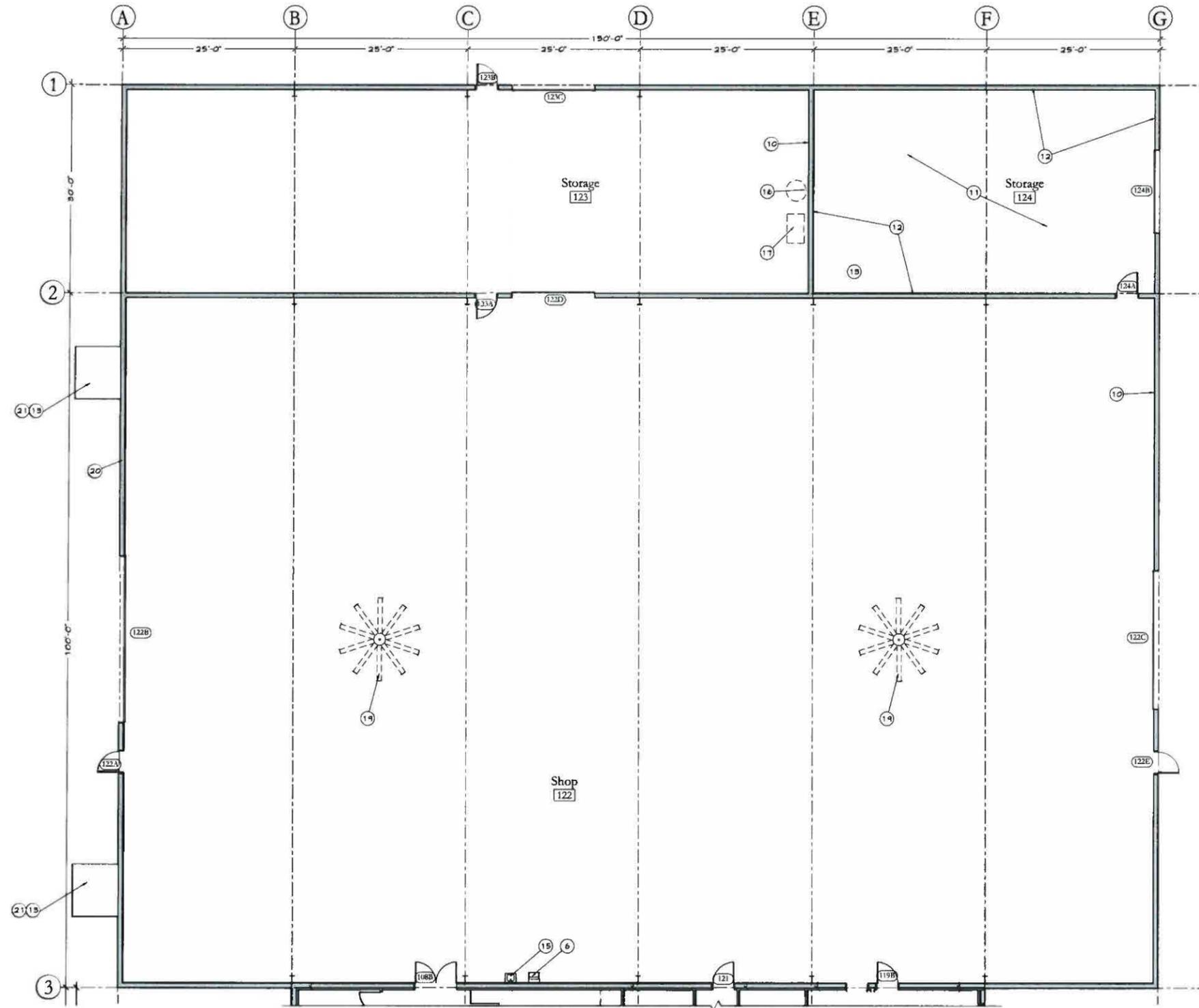
**US Tractor - GJ**  
 Grand Junction, Colorado

Contacts: Contractor

PROJECT NO: 1511  
 PHASE: DD  
 ISSUE & DATE: A-12/17/15  
 DRAWN BY: MAD  
 CHECKED BY: Phil

**Floor Plan Showroom/Offices**  
 SHEET NAME

**A2.1**  
 SHEET NUMBER



1 Floor Plan - Shop  
 SCALE 1/8" = 1'-0"  
 NORTH

**Floor Plan Keynotes**

- 1 1-HOUR WALL BETWEEN SHOP AND SHOWROOM AREA.
- 2 COFFEE SERVICE AREA.
- 3 ELECTRICAL SERVICE ENTRANCE AND METER LOCATION.
- 4 TELEPHONE SERVICE.
- 5 WATER SERVICE ENTRANCE AND FIRE SUPPRESSION RISER LOCATION.
- 6 DRINKING FOUNTAIN.
- 7 P. LAM COUNTER WITH MELAMINE FACED BASE CABINETS, 30" H. MELAMINE FACED UPPER CABINETS WITH (3) ADJUSTABLE SHELVES IN EACH BOX. PROVIDE ABOVE COUNTER MICROWAVE SHELF.
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- 9 P. LAM COUNTER, PROVIDE BRACES TO SUPPORT THE COUNTER.
- 10 12' HIGH LINER PANEL AROUND ENTIRE PERIMETER OF THE ROOM.
- 11 SLOPED CONCRETE FLOOR.
- 12 PROVIDE 6" CONCRETE CURB AT BASE OF WALL.
- 13 WALL MOUNTED EVAPORATIVE COOLER ABOVE PLAM COUNTER.
- 14 PLAM COUNTER.
- 15 HAND WASH SINK.
- 16 COMPRESSOR LOCATION, EQUIPMENT BY OWNER.
- 17 HOTSY PRESSURE WASHER LOCATION.
- 18 -
- 19 PRE-WIRE FOR HIGH VOLUME, LOW SPEED FAN.
- 20 EXPANDABLE END-MALL.
- 21 CONCRETE PAD FOR EVAP. COOLER STAND. COORDINATE WITH MECHANICAL SPECS.

**MOTLEY ARCHITECTURE & DESIGN**  
 915 S. 10th St.  
 Montrose, CO 81401  
 p: (970) 249-1980  
 f: (970) 797-6811

STAMP

US Tractor - GJ

Grand Junction, Colorado

Contacts: Contractor

**General Notes**

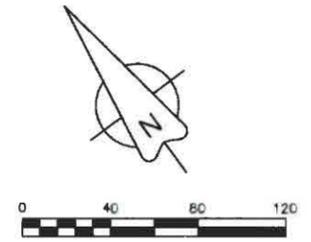
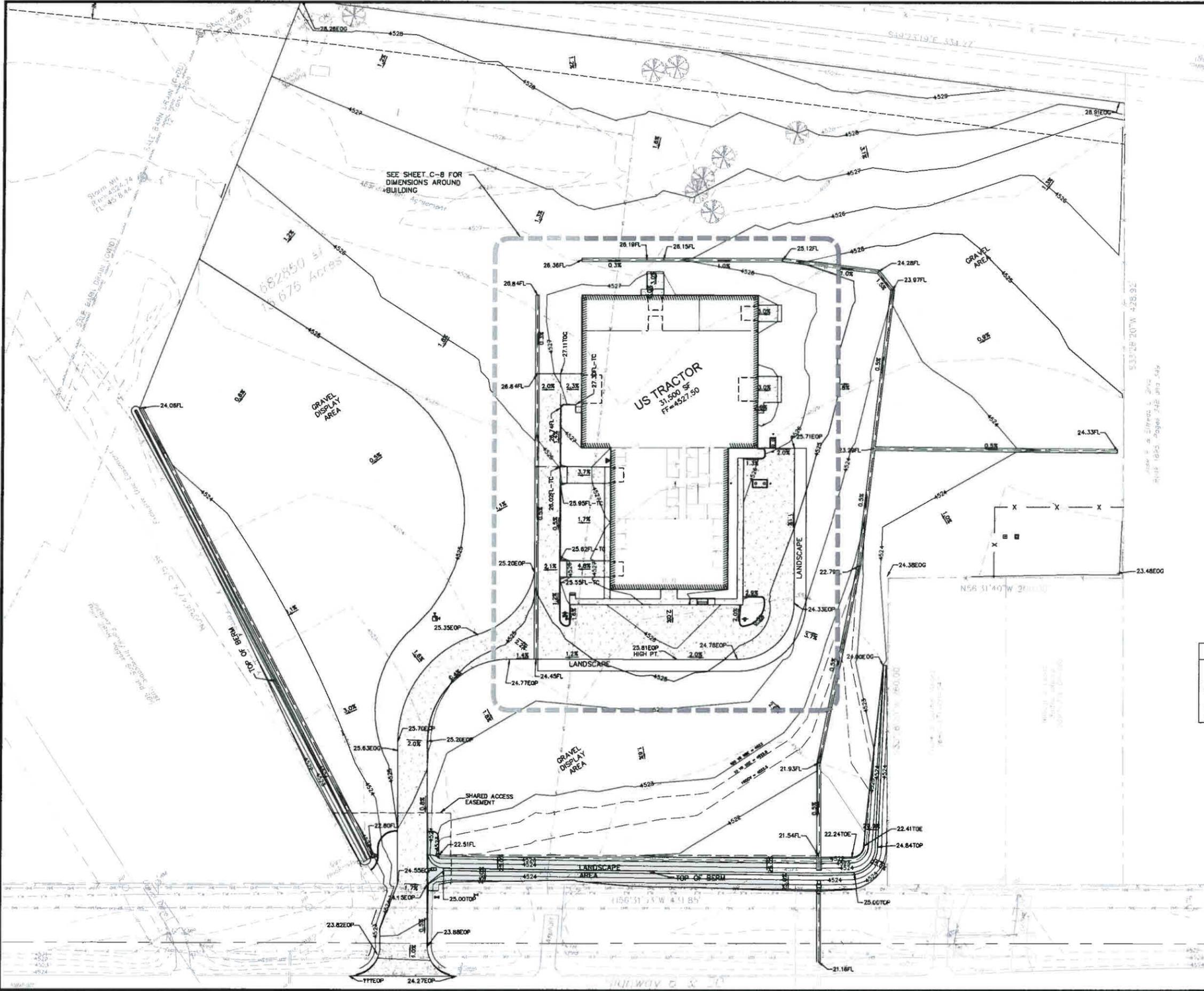
1. SEE STRUCTURAL DRAWINGS & SHOP DRAWINGS FOR BASE PLATE & METAL BUILDING DETAILS.
2. ALL DIMENSIONS ARE TO FACE OF CONCRETE/STUD/MASONRY UNLESS NOTED OTHERWISE.
3. TYPICAL DOOR OFFSET AT PARTITION WALL.
4. VERIFY LOCATION OF SMOKE DETECTORS, EXIT LIGHTS, AND EMERGENCY LIGHTS WITH ARCHITECT PRIOR TO INSTALLATION.
5. CENTER CEILING GRIDS IN AREAS UNLESS NOTED OTHERWISE.
6. PROVIDE FLOOR DRAINS IN TOILET ROOMS.

PROJECT NO: 1511  
 PHASE: DD  
 ISSUE & DATE: A-12/17/15  
 DRAWN BY: MAD  
 CHECKED BY: Phil

Floor Plan Shop

SHEET NAME

A2.2  
 SHEET NUMBER



UTILITY CONTACTS	
UTE WATER DISTRICT	242-7491
CITY OF FRUITA PUBLIC WORKS	858-9558
GRAND VALLEY IRRIGATION CO.	242-2762
GRAND VALLEY DRAINAGE DISTRICT	242-4343
XCEL ENERGY	244-2781
QWEST	244-4333
CHARTER	245-8750

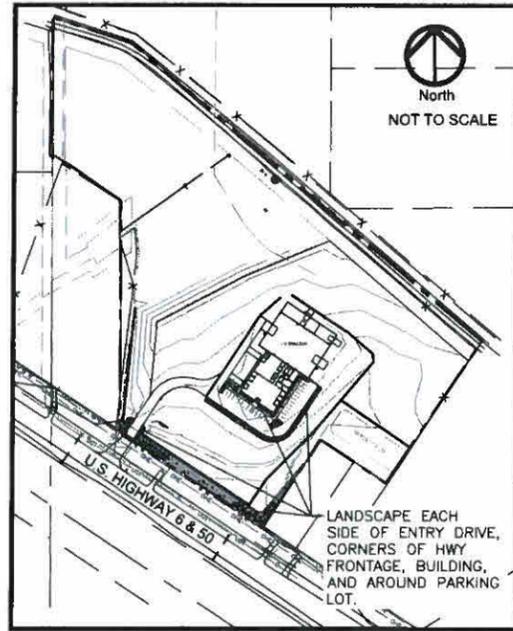


CITY OF FRUITA ENGINEERING	
APPROVED FOR CONSTRUCTION	
BY: _____	DATE: _____
ACCEPTED AS CONSTRUCTED	
BY: _____	DATE: _____

		Keep marks below. Call before you dig.
SCALE VERIFICATION DRAWN AT ONE INCH ON ORIGINAL DRAWING IF NOT AT THIS SCALE, ADJUST SCALES ACCORDINGLY		REVISIONS NO. DATE DESCRIPTION
<b>A · C · G</b> <b>AUSTIN CIVIL GROUP, INC.</b> Land Planning • Civil Engineering • Development Services 128 North 7th Street, Suite 300 • Grand Junction, Colorado • 81501 970.242.7540		
<b>US TRACTOR FACILITY</b> <b>OVERALL GRADING PLAN</b> <b>1984 HIGHWAY 6 &amp; 50</b>		prepared for <b>US Tractor, LLC</b>
DRAWN BY: Jms CHECKED BY: Jms DATE: 1269.0001	DATE: 06-10-2016	APPROVED BY: MRA
SCALE: 1" = 40'		SHEET # C-10

All details, construction, inspections, and testing shall conform to the City of Fruita Design Standards and Construction Specifications.

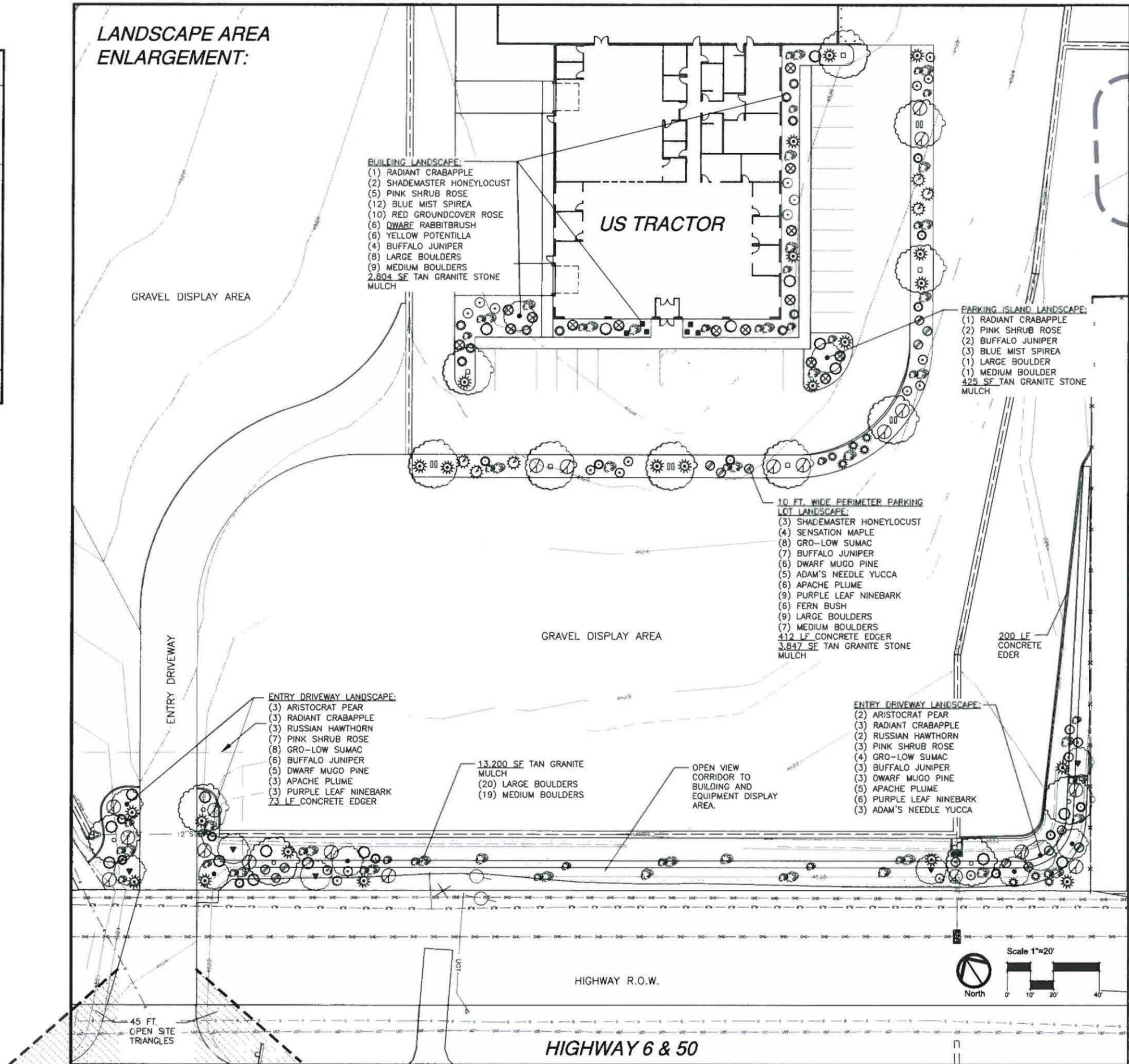
**OVERALL SITE:**



**LANDSCAPE NOTES:**

1. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR PROVIDING AN IRRIGATION DESIGN AND SUBMIT FOR REVIEW AND APPROVAL PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL INSTALL A NEW AUTOMATIC PRESSURIZED UNDERGROUND IRRIGATION SYSTEM FOR THE NEW LANDSCAPE AND USING DITCH WATER WITH PUMP AND AUTOMATIC CONTROLLER. TREES AND SHRUBS REQUIRE BUBBLER IRRIGATION. COORDINATE LOCATION OF PUMP WITH OWNER. IN ADDITION, THE LANDSCAPE CONTRACTOR SHALL PROVIDE A 1-YEAR WARRANTY ON THE IRRIGATION SYSTEM AND A 1-YEAR MAINTENANCE AGREEMENT.
2. WHEN INSTALLING PLANT MATERIAL, PLANT MIX SHALL BE COMPRISED OF 1 PART SOIL CONDITIONER (DECOMPOSED BARK MULCH OR "BACK-TO-EARTH" ACIDIFIER PRODUCT) TO 2 PARTS TOPSOIL. OVER EXCAVATE THE PLANTING HOLES TWO TIMES THE DIAMETER OF THE ROOTBALL. FILL WITH PLANT MIX. ROOTING HORMONE SUCH AS INDOL-3-BUTYRIC ACID SHALL BE USED FOR ALL TREES & SHRUBS.
3. PLANT MATERIAL WAS CHOSEN FOR ITS SPECIFIC VARIETY, HEIGHT, AND COLOR. ANY PLANT MATERIAL SUBSTITUTIONS MUST BE APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO CONSTRUCTION.
4. ALL LANDSCAPE SHRUB BEDS SHALL BE INSTALLED WITH WEED BARRIER FABRIC AND TOPDRESSED WITH A MINIMUM OF THREE INCHES OF SPECIFIED MULCH.
5. LOCATE AND MARK LOCATIONS OF ALL UTILITIES PRIOR TO INSTALLING PLANT MATERIAL. DO NOT PLANT ANY TREES OR SHRUBS DIRECTLY OVER BURIED UTILITY LINES, OR ANY TREES UNDER OVERHEAD UTILITY LINES.
6. SHRUB BEDS SHALL HAVE "DEWITT PRO 5" WEED BARRIER FABRIC OR APPROVED EQUAL INSTALLED UNDER MULCH UNLESS NOTED OTHERWISE - OVERLAP SEAMS MIN. 4" AND ATTACH FABRIC IN PLACE WITH 8" LONG STAPLES AT MAX. 4' O.C.
7. WHEN PLANTING TREES OR SHRUBS: THOROUGHLY SOAK PLANTING HOLE WHILE BACKFILLING. PRUNE DEAD OR DAMAGED BRANCHES IMMEDIATELY AFTER PLANTING. FERTILIZE WITH AGRIFORM 21 GRAM PLANT TABLETS, 20-10-5. 6 TABLETS PER TREE, AND 3 PER SHRUB.
8. ALL PLANT MATERIAL SHALL CONFORM TO THE AMERICAN STANDARDS FOR NURSERY STOCK, CURRENT EDITION. PLANTING SHALL BE DONE IN CONFORMANCE WITH THE ASSOCIATED LANDSCAPE CONTRACTORS OF COLORADO (A.L.C.C.) SPECIFICATIONS. THE CONTRACTOR SHALL GUARANTEE THE IRRIGATION SYSTEM AND ALL PLANT MATERIAL FOR A PERIOD OF ONE YEAR FROM FINAL ACCEPTANCE. ANY DEAD OR DYING PLANT SHALL BE REPLACED. THE CONTRACTOR SHALL WINTERIZE IRRIGATION SYSTEM IN FALL AND PROVIDE SPRING START-UP AND ANY OTHER MAINTENANCE REQUIRED FOR THE LANDSCAPE AND IRRIGATION DURING THE ONE-YEAR WARRANTY & MAINTENANCE PERIOD.
9. IMPORT AMENDED TOPSOIL WHERE NEEDED IN LANDSCAPE BEDS. 6" MINIMUM FOR ALL PROPOSED SHRUB BED AREAS, AND 8" MINIMUM FOR ALL PARKING LOT ISLANDS, TYPICAL.

**LANDSCAPE AREA ENLARGEMENT:**



REVISIONS	BY

Julee Welverton,  
Landscape Architect

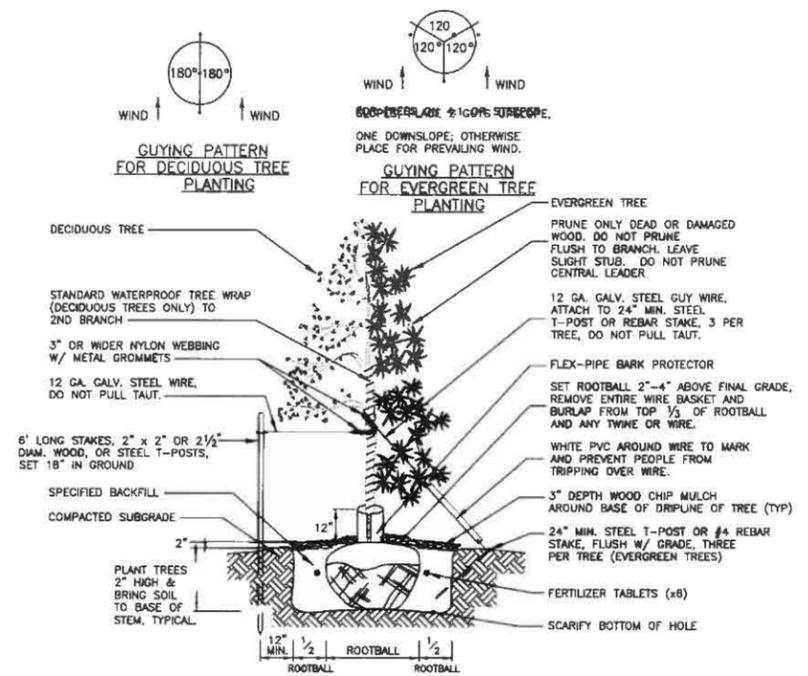
jwelverton@montrose.net  
 61945 Nighthawk Road  
 Montrose, CO 81403  
 phone: 970.249.9392  
 cell: 970.417.1719  
 www.juleewelverton.com

**John Deere Equipment Sales  
Landscape Plan  
Fruita, Colorado**

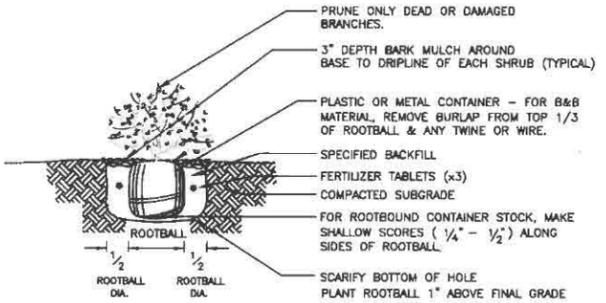
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06-20-16

SHEET TITLE  
LANDSCAPE PLAN

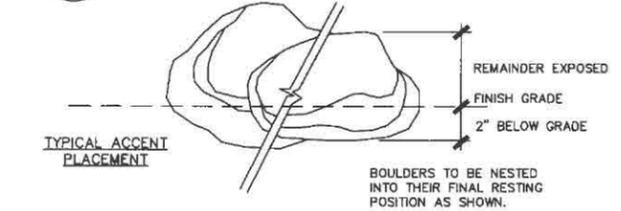
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L-1



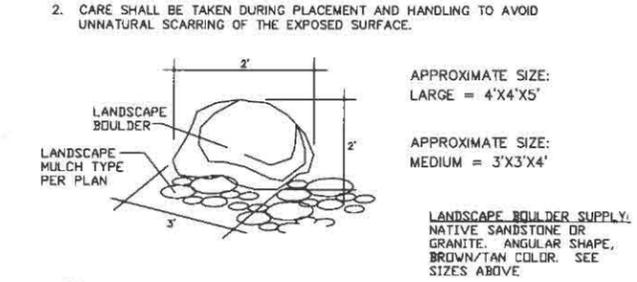
**A** TREE PLANTING SECTION  
L-2 NOT TO SCALE



**B** SHRUB PLANTING SECTION  
L-2 NOT TO SCALE



**C** LANDSCAPE BOULDERS  
L-2 NOT TO SCALE



**C** LANDSCAPE BOULDERS  
L-2 NOT TO SCALE

**LANDSCAPE LEGEND:**

NOTE: IF THERE ARE ANY QUANTITY DISCREPANCIES, THE ACTUAL NUMBER OF PLANT SYMBOLS SHOWN ON THE PLANTING PLANS TAKES PRECEDENCE.

SYM.	ABBR.	QUANTITY:	BOTANICAL NAME:	COMMON NAME:	WATER USE	MATURE WIDTH	PLANTING SIZE	NOTES
ACE	ACE	4 TOTAL	ACER NEGUNDO 'SENSATION'	SENSATION MAPLE	MEDIUM	25'-35'	2" CALIPER	B&B
CRA	CRA	5 TOTAL	CRATAEGUS AMGIBUA	RUSSIAN HAWTHORN	LOW	15'-18'	2" CALIPER	B&B
GLE	GLE	5 TOTAL	GLEDITSIA 'SHADEMASTER'	SHADEMASTER HONEYLOCUST	LOW	30'-40'	2" CALIPER	B&B
MAL	MAL	8 TOTAL	MALUS 'RADIANT'	RADIANT CRABAPPLE	LOW	20'-25'	2" CALIPER	B&B
PYR	PYR	5 TOTAL	PYRUS CALLERYANA 'ARISTOCRAT'	ARISTOCRAT PEAR	MEDIUM	25'-35'	2" CALIPER	B&B
EXST	EXSTG	EXISTING TO REMAIN & TO BE PROTECTED	EXISTING TREES	EXISTING TREES	LOW	EXISTING	VARIES	EXISTING

SYM.	ABBR.	QUANTITY:	BOTANICAL NAME:	COMMON NAME:	WATER USE	MATURE SIZE	PLANTING SIZE	NOTES
CAR	CAR	15 TOTAL	CARYOPTERIS 'DARK KNIGHT'	BLUE MIST SPIREA	LOW	4' T X 4' W	5 GALLON	BLUE FLOWERS
CHA	CHA	6 TOTAL	CHAMAEBATIARIA MILLEFOLIUM	FERNBUSH	VERY LOW	5' T X 5' W	5 GALLON	WHITE FLOWERS
CHR	CHR	6 TOTAL	CHRYSOTHAMNUS NANA 'NANA'	DWARF RABBITBRUSH	VERY LOW	2' T X 2' W	5 GALLON	YELLOW FLOWERS
FAL	FAL	14 TOTAL	FALLUGIA PARADOXA	APACHE PLUME	VERY LOW	4' T X 4' W	5 GALLON	WHITE FLOWERS
JUN	JUN	22 TOTAL	JUNIPERUS 'BUFFALO'	BUFFALO JUNIPER	LOW	2' T X 6' W	5 GALLON	GREEN EVERGREEN
PHY	PHY	18 TOTAL	PHYSOCARPUS 'DIABLO'	PURPLELEAF NINEBARK	LOW	4' T X 4' W	5 GALLON	PURPLE FOLIAGE
PIN	PIN	14 TOTAL	PINUS MUGO 'MUÇO'	DWARF MUGO PINE	VERY LOW	4' T X 4' W	5 GALLON	GREEN EVERGREEN
POT	POT	6 TOTAL	POTENTILLA 'JACKMANNI'	YELLOW POTENTILLA	LOW	3' T X 3' W	5 GALLON	YELLOW FLOWERS
RMR	RMR	10 TOTAL	ROSA 'MEIDILAND RED'	RED GROUNDCOVER ROSE	LOW	2' T X 4' W	3 GALLON	RED FLOWERS
RTB	RTB	17 TOTAL	ROSA 'THERESA BUGNET'	PINK SHRUB ROSE	LOW	4' T X 4' W	3 GALLON	PINK FLOWERS
RHU	RHU	20 TOTAL	RHUS AROMATIC 'GRO-LOW'	GRO-LOW SUMAC	LOW	3' T X 6' W	5 GALLON	ORANGE FALL COLOR
YUC	YUC	8 TOTAL	YUCCA FILAMENTOSA	ADAM'S NEEDLE YUCCA	VERY LOW	3' T X 3' W	5 GALLON	SPIKE FOLIAGE

SYM.	DESCRIPTION:	QUANTITY:	REMARKS:
	3/4" TAN GRANITE STONE MULCH	20,276 SF	PLACE MULCH 3" DEEP OVER LANDSCAPE FABRIC THROUGHOUT SHRUB BEDS.
	6"X12" CONCRETE EDGER	985 LF	POUR IN PLACE CONCRETE EDGER 6" WIDE X 12" DEEP, WITH #4 REBAR CENTERED
	LANDSCAPE BOULDER	38 LARGE 36 MEDIUM	BURY 2" INTO GRADE TO LOOK INTEGRAL IN THE LANDSCAPE. SEE THE DETAIL THIS SHEET

REVISIONS	BY

Julee Wolverton,  
Landscape Architect

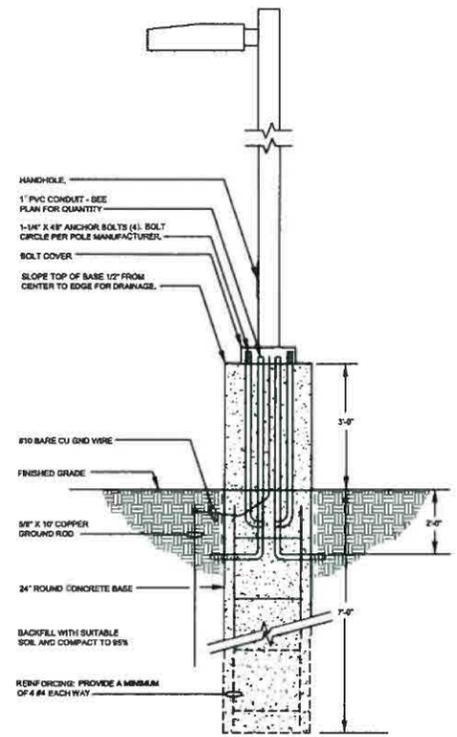
wolverton@montrose.net  
61945 Nighthawk Road  
Montrose, CO 81403  
phone: 970.249.9392  
cell: 970.417.1779  
www.juleewolverton.com

John Deere Equipment Sales  
Landscape Plan  
Fruita, Colorado

DATE  
06-20-16

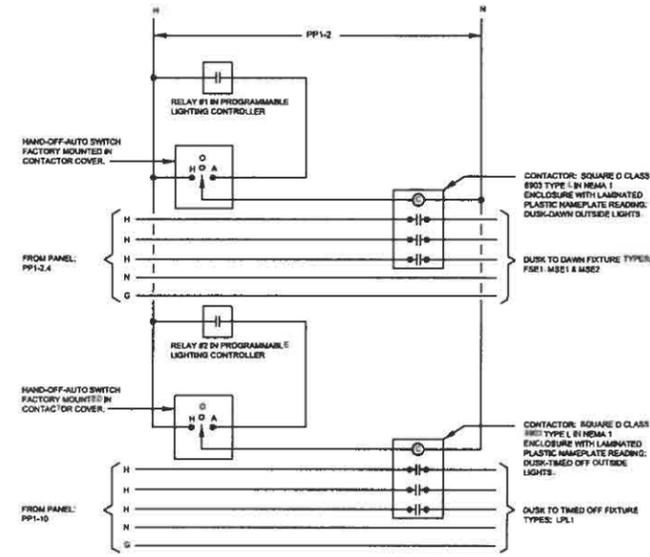
SHEET TITLE  
LANDSCAPE  
LEGEND, NOTES,  
& DETAILS

SHEET No.  
L-2



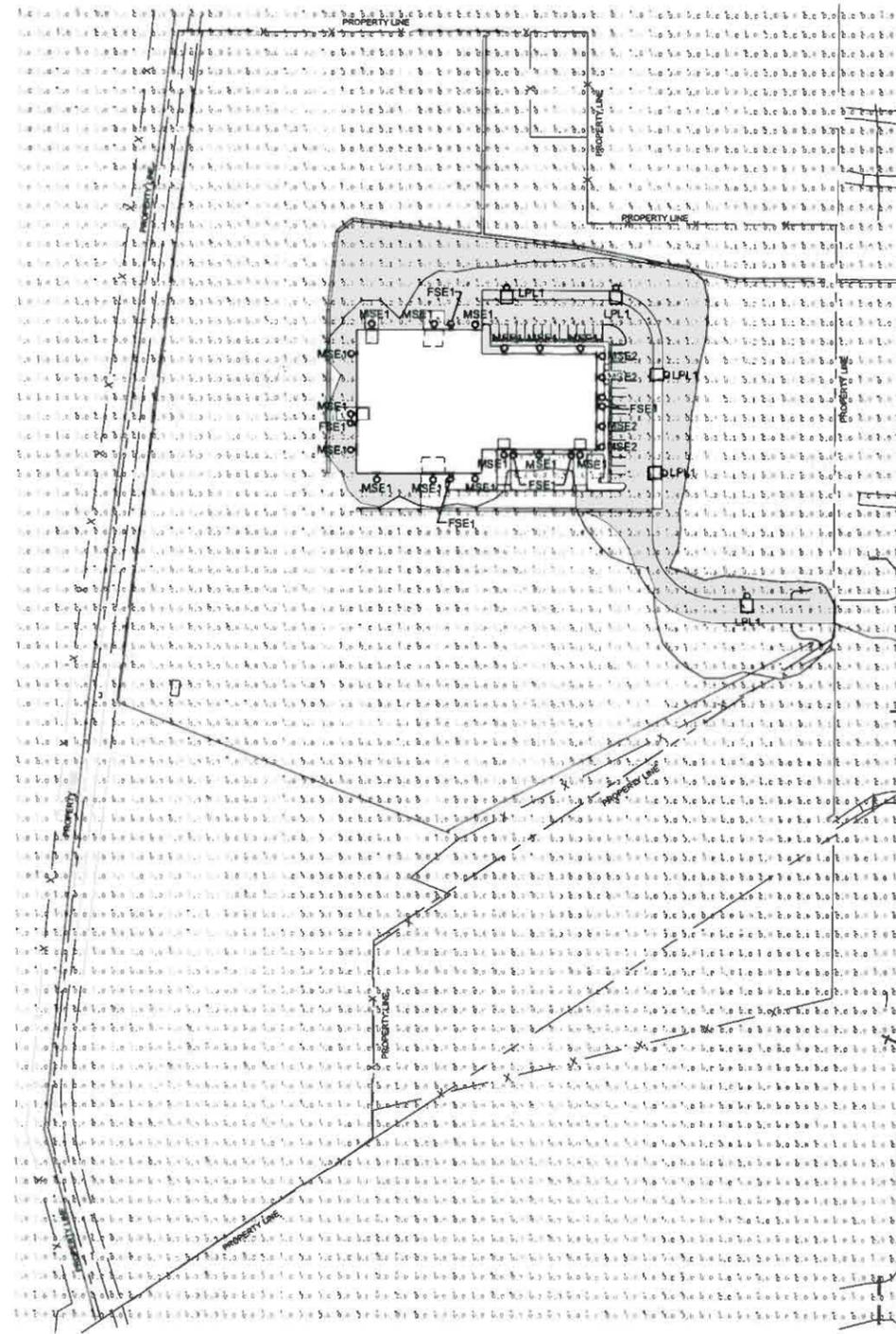
**LIGHT POLE BASE FIXTURE TYPE "LPL1"**

NO SCALE



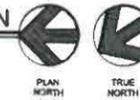
**EXTERIOR LIGHTING CONTROL**

NO SCALE



**LIGHTING LEVELS - SITE PLAN**

SCALE: 1" = 10'-0"



**CITY OF FRUITA ILLUMINANCE STANDARDS**  
 CHAPTER 17 PARAGRAPH 17.07.010.02.D OF THE CITY OF FRUITA LAND USE CODE LIMITS THE LUMEN OUTPUT OF ALL OUTDOOR LIGHTS IN AN LDI DISTRICT TO NO MORE THAN 200,000 LUMENS PER ACRE.  
 THE LUMEN OUTPUT OF ALL OUTDOOR LIGHTS IS 488,850 LUMENS PER ACRE.  
 488,850 / 15.8 = 31,200 LUMENS PER ACRE

SITE LIGHTING FIXTURE SCHEDULE				
LIGHTING FIXTURE DESCRIPTION	MANUFACTURER, LITHONIA CATALOG # 1ST HALF: WST 323 CATALOG # 2ND HALF: 2781	LAMP	BALLAST / DRIVER	ADDITIONAL FIXTURE DESCRIPTION
FSE1 FLUORESCENT SECURITY MOUNTING: WALL SURFACE WIDTH / PROJECTION: 5.125" FIXTURE HEIGHT: 7.25" FIXTURE LENGTH: 18.25" APERTURE: RECTANGULAR	MANUFACTURER: LITHONIA CATALOG # 1ST HALF: WST 323 CATALOG # 2ND HALF: 2781 HOUSING: JOHN DEERE GREEN CAST ALUMINUM ELECTRICAL RATING: 88 WATTS 120 VOLTS DIFFUSER: TEMPERED GLASS REFLECTOR: SPECULAR CLEAR ALZAK ENVIRONMENT: -20F TO 120 DEG F & WET AIMING: CUT-OFF	MANUFACTURER: G.E. QUANTITY: 2 INITIAL LUMENS PER LAMP: 2400 COLOR RENDERING INDEX: >=82 COLOR TEMPERATURE: 3500 DEGREES K RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 32 ENVELOPE SHAPE: TRIPLE BAY LAMP TYPE: FLUORESCENT	MANUFACTURER: SELECTED BY FIXTURE MANUFACTURER QUANTITY: 1 BALLAST FACTOR: >=95 POWER FACTOR: >=90 HARMONICS: <=20% TYPE: HIGH FREQUENCY ELECTRONIC STARTING, PROGRAM ENVIRONMENT: -20F TO 120 DEG F & WET BATTERY BACK-UP: BATTERY NOT REQUIRED	FSE1: FLUORESCENT SECURITY FIXTURE PROVIDE THE SPECIFIED FIXTURE OR AN EQUIVALENT FIXTURE BY MEGRAW-EDISON OR HUBBELL OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE WRITTEN APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A MEDIUM DISTRIBUTION.
FSE1EM FLUORESCENT SECURITY MOUNTING: WALL SURFACE WIDTH / PROJECTION: 5.125" FIXTURE HEIGHT: 7.25" FIXTURE LENGTH: 18.25" APERTURE: RECTANGULAR	MANUFACTURER: LITHONIA CATALOG # 1ST HALF: WST 323 CATALOG # 2ND HALF: 2781 HOUSING: JOHN DEERE GREEN CAST ALUMINUM ELECTRICAL RATING: 88 WATTS 120 VOLTS DIFFUSER: TEMPERED GLASS REFLECTOR: SPECULAR CLEAR ALZAK ENVIRONMENT: -20F TO 120 DEG F & WET AIMING: CUT-OFF	MANUFACTURER: G.E. QUANTITY: 2 INITIAL LUMENS PER LAMP: 2400 COLOR RENDERING INDEX: >=82 COLOR TEMPERATURE: 3500 DEGREES K RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 32 ENVELOPE SHAPE: TRIPLE BAY LAMP TYPE: FLUORESCENT	MANUFACTURER: SELECTED BY FIXTURE MANUFACTURER QUANTITY: 1 BALLAST FACTOR: >=95 POWER FACTOR: >=90 HARMONICS: <=20% TYPE: HIGH FREQUENCY ELECTRONIC STARTING, PROGRAM ENVIRONMENT: -20F TO 120 DEG F & WET BATTERY BACK-UP: BATTERY NOT REQUIRED	FSE1EM: FLUORESCENT SECURITY FIXTURE PROVIDE THE SPECIFIED FIXTURE OR AN EQUIVALENT FIXTURE BY MEGRAW-EDISON OR HUBBELL OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE WRITTEN APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A MEDIUM DISTRIBUTION.
LPL1 L. E. D. PARKING LOT MOUNTING: POLE WIDTH / PROJECTION: 25" FIXTURE HEIGHT: 4.125" FIXTURE LENGTH: 25" APERTURE: RECTANGULAR	MANUFACTURER: AEM CATALOG # 1ST HALF: 15A ALT3 P TO 18 CATALOG # 2ND HALF: 0L 4X 20 DB FOL HOUSING: DARK BRONZE PAINTED ALUMINUM ELECTRICAL RATING: 416 WATTS 208 VOLTS DIFFUSER: CLEAR GLASS REFLECTOR: HYDROFORMED ENVIRONMENT: -20F TO 120 DEG F & WET AIMING: CUT-OFF	MANUFACTURER: SELECTED BY FIXTURE MANUFACTURER QUANTITY: 1 INITIAL LUMENS PER LAMP: 35847 COLOR RENDERING INDEX: >=90 COLOR TEMPERATURE: 4200 DEGREES K RATED LIFE: >=40,000 HOURS NOMINAL WATTS: 416 ENVELOPE SHAPE: 120 L.E.D. ARRAY LAMP TYPE: L. E. D.	MANUFACTURER: SELECTED BY FIXTURE MANUFACTURER QUANTITY: 1 BALLAST FACTOR: >=1.00 POWER FACTOR: >=90 HARMONICS: <=20% TYPE: OUTDOOR WEATHERPROOF STARTING, PROGRAM ENVIRONMENT: -20F TO 120 DEG F & WET BATTERY BACK-UP: BATTERY NOT REQUIRED	LPL1: L. E. D. PARKING LOT FIXTURE. THIS FIXTURE IS TO HAVE A 30 FOOT STRAIGHT SQUARE PAINTED STEEL POLE. PROVIDE THE SPECIFIED FIXTURE OR AN EQUIVALENT FIXTURE BY ANTIQUE ST LIGHT OR AAL OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE WRITTEN APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A TYPE III CUT-OFF DISTRIBUTION.
MSE1 METAL HALIDE SECURITY MOUNTING: WALL SURFACE WIDTH / PROJECTION: 5.125" FIXTURE HEIGHT: 7.25" FIXTURE LENGTH: 18.25" APERTURE: RECTANGULAR	MANUFACTURER: LITHONIA CATALOG # 1ST HALF: WST 175 CATALOG # 2ND HALF: 81 W1 HOUSING: JOHN DEERE GREEN CAST ALUMINUM ELECTRICAL RATING: 175 WATTS 208 VOLTS DIFFUSER: TEMPERED GLASS REFLECTOR: HYDROFORMED ENVIRONMENT: -20F TO 120 DEG F & WET AIMING: CUT-OFF	MANUFACTURER: G.E. QUANTITY: 1 INITIAL LUMENS PER LAMP: 16000 COLOR RENDERING INDEX: >=80 COLOR TEMPERATURE: 4000 DEGREES K RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 175 ENVELOPE SHAPE: "A" LAMP TYPE: METAL HALIDE	MANUFACTURER: SELECTED BY FIXTURE MANUFACTURER QUANTITY: 1 BALLAST FACTOR: >=90 POWER FACTOR: >=90 HARMONICS: <=20% TYPE: CORE & COIL STARTING, PULSE ENVIRONMENT: -20F TO 120 DEG F & WET BATTERY BACK-UP: BATTERY NOT REQUIRED	MSE1: METAL HALIDE SECURITY FIXTURE. PROVIDE THE SPECIFIED FIXTURE OR AN EQUIVALENT FIXTURE BY MEGRAW-EDISON OR HUBBELL OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE WRITTEN APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A WIDE THROW DISTRIBUTION.
MSE2 METAL HALIDE SECURITY MOUNTING: WALL SURFACE WIDTH / PROJECTION: 5.125" FIXTURE HEIGHT: 7.25" FIXTURE LENGTH: 18.25" APERTURE: RECTANGULAR	MANUFACTURER: LITHONIA CATALOG # 1ST HALF: WST 100 CATALOG # 2ND HALF: 81 W1 HOUSING: JOHN DEERE GREEN CAST ALUMINUM ELECTRICAL RATING: 125 WATTS 208 VOLTS DIFFUSER: TEMPERED GLASS REFLECTOR: HYDROFORMED ENVIRONMENT: -20F TO 120 DEG F & WET AIMING: CUT-OFF	MANUFACTURER: G.E. QUANTITY: 1 INITIAL LUMENS PER LAMP: 8500 COLOR RENDERING INDEX: >=80 COLOR TEMPERATURE: 4000 DEGREES K RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 100 ENVELOPE SHAPE: "A" LAMP TYPE: METAL HALIDE	MANUFACTURER: SELECTED BY FIXTURE MANUFACTURER QUANTITY: 1 BALLAST FACTOR: >=90 POWER FACTOR: >=90 HARMONICS: <=20% TYPE: CORE & COIL STARTING, PULSE ENVIRONMENT: -20F TO 120 DEG F & WET BATTERY BACK-UP: BATTERY NOT REQUIRED	MSE2: METAL HALIDE SECURITY FIXTURE. PROVIDE THE SPECIFIED FIXTURE OR AN EQUIVALENT FIXTURE BY MEGRAW-EDISON OR HUBBELL OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE WRITTEN APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A WIDE THROW DISTRIBUTION.

GENERAL NOTES:  
 1. PROVIDE SPECIFIED FIXTURES. EQUIVALENT FIXTURES BY A LISTED ALTERNATE MANUFACTURER OR SUBMIT FIXTURE CUTS FOR APPROVAL 5 DAYS PRIOR TO THE BID DATE.  
 2. IF THE FIXTURE CATALOG NUMBER CONFLICTS WITH THE FIXTURE DESCRIPTION, THE FIXTURE DESCRIPTION TAKE'S PRECEDENCE.  
 3. THE FIXTURE MANUFACTURER SHALL SUPPLY LAMPS AND ALL MOUNTING ACCESSORIES NECESSARY FOR THE INSTALLATION OF HIS FIXTURES.  
 4. THE COLOR TEMPERATURE OF ALL LAMPS SHALL BE THE SAME. CALL DISCREPANCIES IN THE SCHEDULE TO THE ENGINEER'S ATTENTION PRIOR TO RELEASING FIXTURES FOR MANUFACTURE.  
 5. THE COLOR OF ALL EXTERIOR LIGHTING FIXTURE HOUSINGS BE THE SAME. CALL DISCREPANCIES IN THE SCHEDULE TO THE ENGINEER'S ATTENTION PRIOR TO RELEASING FIXTURES FOR MANUFACTURE.

**GVS**  
 GRAND VALLEY ENGINEERING SOLUTIONS  
 ELECTRICAL CONSULTING ENGINEERS  
 1801 ORANGE HARBOR COURT  
 GRAND JUNCTION, CO 81505  
 (970) 256-0263 FAX: (970) 245-8319

STAMP

**US Tractor Facility**  
 1984 Highway 6 & 51  
 Fruita, Colorado

Contacts:  
 Contractor

PROJECT NO: 15049/1511  
 PHASE: DD  
 ISSUED DATE: 07/19/16  
 DRAWN BY: KLT  
 CHECKED BY: WLM

**LIGHTING LEVELS SITE PLAN**  
 SHEET NAME:

**ES1.1**  
 SHEET NUMBER

**CITY OF FRUITA**  
**CITY ENGINEER & PUBLIC WORKS REVIEW SHEET**

PROJECT: US Tractor & Harvest

Petitioner: US Tractor LLC, Fred Nipple  
Engineer, ACG-Mark Austin

Reviewer: Sam Atkins

Date: July 7, 2016

REVIEW TYPE:    \_\_\_ Minor Subdivision           \_\_\_ Major Subdivision  
(Check One)    \_\_\_ Lot Line Adjustment           \_\_\_ Final Plat  
                  \_\_\_ X Site Design Review           \_\_\_ Conditional Use Permit  
                  \_\_\_ Other:

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**REVIEW COMMENTS**

1. **General:** This application is for a new site plan for a 31,000 sf tractor sales facility.
2. **Civil Drawing Set:** See markups on pdf set for additional comments not specifically called out below.
3. **Demolition Plan (C-3):** Are existing fences remaining?
  - a. Are existing fences remaining?
  - b. Existing asphalt apron for driveway should be removed.
4. **Site Plan (C-4):**
  - a. Do you intend to stripe the 40-ft wide access off the highway. It is unclear how the lanes are intended for that area and how it transitions to the 25-ft wide section.
  - b. It is my understanding that the latest version of the 2010 ADA Standards for Accessible Design which should govern as of March 15, 2012, that detectable warning surfaces are no longer required on private sites and are only required on curb ramps in the public right-of-way and on transit platform edges. Therefore privately operated facilities are now exempt from needing to implement these surfaces, which could create hazards for individuals with impaired vision.
  - c. How will the site function with regard to equipment delivery and equipment movement within the site? In other words, when tractors are delivered to the site, where will the path of travel be on the site? Will they have to negotiate the radiuses in the parking area or will they leave the paved area out into the gravel area? And if they leave the paved area, where will that occur?
  - d. Is service/repair going to be occurring in the shop? If so, how many trips are anticipated and will the tractors stay on the paved surface or drive on the gravel area?
  - e. The proposed shared access easement at the highway should extend far enough to the north such that the property to the west could have a t-connection for a driveway without creating an issue with blocking the driveway and holding up traffic onto the highway.
  - e. Show the roof drain (downspout) locations.
  - f. Applicant shall verify with GVIC that there is no encroachment on their right of way. The 60-ft easement may have to shift to the south to accommodate this.

# CITY OF FRUITA

## CITY ENGINEER & PUBLIC WORKS REVIEW SHEET

g. The documents for easements (Easement Deed and Exhibits A, B) should be provided.

**5. Utilities (C-5):**

- a. The plumbing plan shows a sand/oil separator inside the building whereas the Civil drawings show one on the outside of the building.
- b. The plumbing plans show the sewer exiting the south end of the building whereas the Civil drawings show it exiting the east side of building.
- c. Will the septic tank be traffic rated? The HBET OWTS design indicates no vehicular traffic shall be within 10-ft of the septic tank.
- d. Project narrative makes reference to a 1" water service. Plans show 1.5" service.
- e. There is no irrigation plan or indication of irrigation on the site. The Project Narrative suggests that an irrigation plan will be prepared as part of the Landscape Contractor's requirements. I would offer the following:

There needs to be proof that the irrigation shares are available, owned, and sufficient to water the areas that will require irrigation water. An irrigation design (Letter) showing that information will suffice. This letter should identify the location of the source of water (headgate # and location on canal relative to the site). There needs to be enough planning up front to identify location and size of sleeves such that irrigation water can be delivered to each irrigated location without having to cut into the new pavement.

FYI: A Plant Investment Fee will not be required as part of the Building Permit process since there is a ISDS.

**6. Outlet Structure Details (C-7)**

- a. Please add a chart that indicated the elevation and storage volume for what is required and what is being proposed for the Water Quality Capture, 10-year, and 100-year events.

**7. Overall Grading Plan (C-10):**

- a. There are several places where you have a sheet flow condition with a slope of near 0.5%. I don't see an issue with it as long as the owner is aware that those areas will be more prone to standing water in the future.

**8. Transportation:** The applicant has not completed a Traffic Study at this time which would indicate the generated trips for the proposed site. Therefore the Transportation Impact Fee (TIF) will be calculated based on the increased amount of traffic based on building area. The applicant can calculate that himself in the responses to comments or request that calculation be prepared by the City.

**9. Landscape/Irrigation (L-1):**

- a. I don't see anything related to an irrigation plan or where the irrigation water will be delivered to the landscaped areas.

**10. Stormwater Management Plan (L-1):**

- a. The stormwater management plan will need to be submitted to the 5-2-1 Drainage Authority for review along with a permit application and associated fees prior to approval for construction. In addition, as required by the MS4 permit, a preconstruction meeting with the City and the 5-2-1

**CITY OF FRUITA  
CITY ENGINEER & PUBLIC WORKS REVIEW SHEET**

Inspector will be required prior to construction.

**RECOMMENDATION:**

The Engineering and Public Works Departments recommend approval of the expansion upon the satisfactory resolution of the items cited above.



COMMUNITY DEVELOPMENT DEPARTMENT  
**REVIEW SHEET**

**DATE:** July 15, 2016

**TO: REVIEW AGENCIES**

Application #:	2016-19
Application Name:	US Tractor
Application Type:	Site Design Review
Applicant:	Nick Nipple
Location:	1984 Highway 6 & 50
Zone:	General Commercial

**DESCRIPTION:** The proposed development of a US Tractor Supply business at 1984 Highway 6 & 50 in Fruita, CO.

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The attached plan has been submitted to your office for review and comment. To ensure any concerns you have are taken into consideration please comment by **August 5, 2016.**

**RETURN TO THE CITY OF FRUITA COMMUNITY  
DEVELOPMENT**

Or e-mail to [hhemphill@fruita.org](mailto:hhemphill@fruita.org)

GVP Comments for 2016-19 US Tractor FRUITA  
7/18/16

1. The project is in the Grand Valley Power (GVP) service area. Please add Grand Valley Power 970-242-0040 to Utility Contacts in ACG plans. On Sheet C-3 of ACG plans, please change note to, **Remove and dispose of elect. primary lines, by Grand Valley Power.**
2. Single-phase power is available for this project, along Hwy.

A line conversion to three-phase is in design under GVP Job # 16/9012MG.

3. Need GVP electric layout on FINAL Utility Composite Plan (ACG Plans C-5). Showing the location of transformer vault underground line (number of conduits, type, size, depth & length) and any other needed equipment.
4. Application for service was made and a cost estimate was prepared under GVP Job #16/9012MG.
5. Any relocation of existing overhead power lines, poles, guy/anchors, underground lines, transformers or any other Grand Valley Power equipment is at the developer's expense.

**LOWER VALLEY FIRE PROTECTION DISTRICT**  
**168 N. Mesa**  
**Fruita, CO. 81521**  
**Phone: (970) 858-3133 Fax: (970) 858-7189**

July 27, 2016

City of Fruita  
Community Development Department  
325 East Aspen  
Fruita, CO 81521

Application #: 2016-19  
Application Name: US Tractor  
Application Type: Site Design Review  
Applicant: Nick Nipple  
Location: 1984 Highway 6 & 50  
Zone: General Commercial

Review Comments are for Site Plan and Utility Composite sheets only:

1. Install a fire hydrant off of the new 12 inch water main on the west side of the driveway access at the intersection with Highway 6 & 50.
2. Relocate hydrant number one (1) to the west side of the access drive. At least 75 feet from the building and not more than 150 feet from the FDC. Protect the hydrant with guard posts.
- 3 Hydrant number two (2) may be deleted.
- 4 Fire hydrant pumper connections shall be equipped with a five inch non threaded sexless connection and metal cap (commonly referred to as Storz). The two and one half inch butts shall be furnished with National Standard Threads.
5. A fire flow of 1500 gpm measured at 20 psi residual is required.

Richard Pippenger  
Fire Marshal

**From:** [Tim Ryan](#)  
**To:** [Henry Hemphill](#)  
**Subject:** RE: For your review please- US Tractor  
**Date:** Monday, July 18, 2016 7:46:27 AM

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GVDD has no issues with this proposal.

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**From:** Henry Hemphill [mailto:[hhemphill@fruita.org](mailto:hhemphill@fruita.org)]  
**Sent:** Friday, July 15, 2016 2:36 PM  
**To:** (nanci@sandslawoffice.com); (prupp@gvp.org); arthur.valdez@charter.com;  
daniel.roussin@state.co.us; ed@sandslawoffice.com; gvic@sprynet.com; jdaugherty@utewater.org;  
Mark Barslund (markb@gjcity.org); Mary Sparks (marysp@gjcity.org); scott.hendricks@xcelenergy.com;  
Scott Godfrey; Tim Ryan  
**Cc:** Dahna Raugh  
**Subject:** For your review please- US Tractor

For your Review:

<http://www.fruita.org/cd/page/2016-19-us-tractor>

Henry Hemphill | Planning Tech. | City of Fruita, CO | (970) 858-0786 |  
[hhemphill@fruita.org](mailto:hhemphill@fruita.org)

**From:** [Hendricks, Scott](#)  
**To:** [Henry Hemphill](#)  
**Subject:** RE: For your review please- US Tractor  
**Date:** Monday, July 18, 2016 7:41:23 AM

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2016-19 US Tractor

Henry,

No Objections

Completion of this City/County review approval process does not constitute an application with Xcel Energy for utility installation. Applicant will need to contact Xcel Energy's Builder's Call Line/Engineering Department to request a formal design for the project. A full set of plans, contractor, and legal owner information is required prior to starting any part of the construction. Failure to provide required information prior to construction start will result in delays providing utility services to your project. Acceptable meter and/or equipment locations will be determined by Xcel Energy as a part of the design process. Additional easements may be required depending on final utility design and layout. Engineering and Construction lead times will vary depending on workloads and material availability. Relocation and/or removal of existing facilities will be made at the applicant's expense and are also subject to lead times referred to above. All Current and future Xcel Energy facilities' must be granted easement

Thanks, Scott H.

### ***Scott Hendricks***

Xcel Energy | Responsible By Nature  
Planner / Design Department  
2538 Blichman Avenue, Grand Junction, CO 81505  
P: 970.244.2727 F: 970.244.2606  
E: [scott.hendricks@xcelenergy.com](mailto:scott.hendricks@xcelenergy.com)

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**From:** Henry Hemphill [<mailto:hhemphill@fruita.org>]  
**Sent:** Friday, July 15, 2016 2:36 PM  
**To:** ([nanci@sandslawoffice.com](mailto:nanci@sandslawoffice.com)); ([prupp@gvp.org](mailto:prupp@gvp.org)); [arthur.valdez@charter.com](mailto:arthur.valdez@charter.com); [daniel.roussin@state.co.us](mailto:daniel.roussin@state.co.us); [ed@sandslawoffice.com](mailto:ed@sandslawoffice.com); [gvic@sprynet.com](mailto:gvic@sprynet.com); [jdaugherty@utewater.org](mailto:jdaugherty@utewater.org); Mark Barslund ([markb@gjcity.org](mailto:markb@gjcity.org)); Mary Sparks ([marysp@gjcity.org](mailto:marysp@gjcity.org)); Hendricks, Scott; [segodfrey.survey@gvdd.org](mailto:segodfrey.survey@gvdd.org); Tim Ryan  
**Cc:** Dahna Raugh  
**Subject:** For your review please- US Tractor

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**XCEL ENERGY SECURITY NOTICE:** This email originated from an external sender. Exercise caution before clicking on any links or attachments and consider whether you know the sender. For more information please visit the Phishing page on XpressNET.

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For your Review:

<http://www.fruita.org/cd/page/2016-19-us-tractor>

Henry Hemphill | Planning Tech. | City of Fruita, CO | (970) 858-0786 |  
[hhemphill@fruita.org](mailto:hhemphill@fruita.org)

# U.S. Tractor & Harvest, INC.

## *City of Fruita Presentation Packet*



Photo of our Montrose Location (Also Proposed Fruita Design)

# U.S. Tractor & Harvest, INC.

**U.S. Tractor & Harvest, Inc.** has been in business since 1979. We started doing business in Alamosa, and have grown to 5 locations since then. (Alamosa, Monte Vista, Montrose, Grand Junction, and Craig)

Our trade area of responsibility covers the Western half of Colorado, Northern New Mexico, Eastern Utah, and Southern Wyoming.

We employ nearly 100 full time employees throughout our organization, and have numerous part time/Summer employees at each location as well. We are active in recruiting new talent through the use of John Deere Ag Tech Schools, and try to hire locally whenever possible.

The equipment we sell ranges from Lawn and Grounds Care Products to the full line of John Deere Ag equipment, and Commercial Work-Site Products. We offer service and parts for everything we sell, as well as many competitive brands.

We take pride in our business, and strive to provide high quality products and services at affordable prices. We are excited to become part of the Fruita Community.

## **AS A NEW BUSINESS IN YOUR COMMUNITY, WE WILL ADD:**

- Sales Tax Revenue
- Property Tax
- Employ Members of your Community
- Support local 4-H Groups and FFA Chapters
- Sponsor Community Events
- Boost Local Economy
- Provide High Quality Service to Local Farmers and Consumers

1984 Hwy. 6 & 50 • Fruita, Colorado

Mesa County GIS Viewer

emap.mesacounty.us

2015 Countywide

Measure/Draw

Select a Draw Tool:

- Line
- Polygon
- Circle
- Rectangle
- Freehand
- Eraser
- Lasso
- Circle

Enable Measurement?

Unit of Measure: Miles

Press CTRL to enable snapping.

Measurement Results

Segment: 0

Length: 2.128 miles

Clear All Close

hide

Base Layers

Click to start drawing

JOHN DEERE

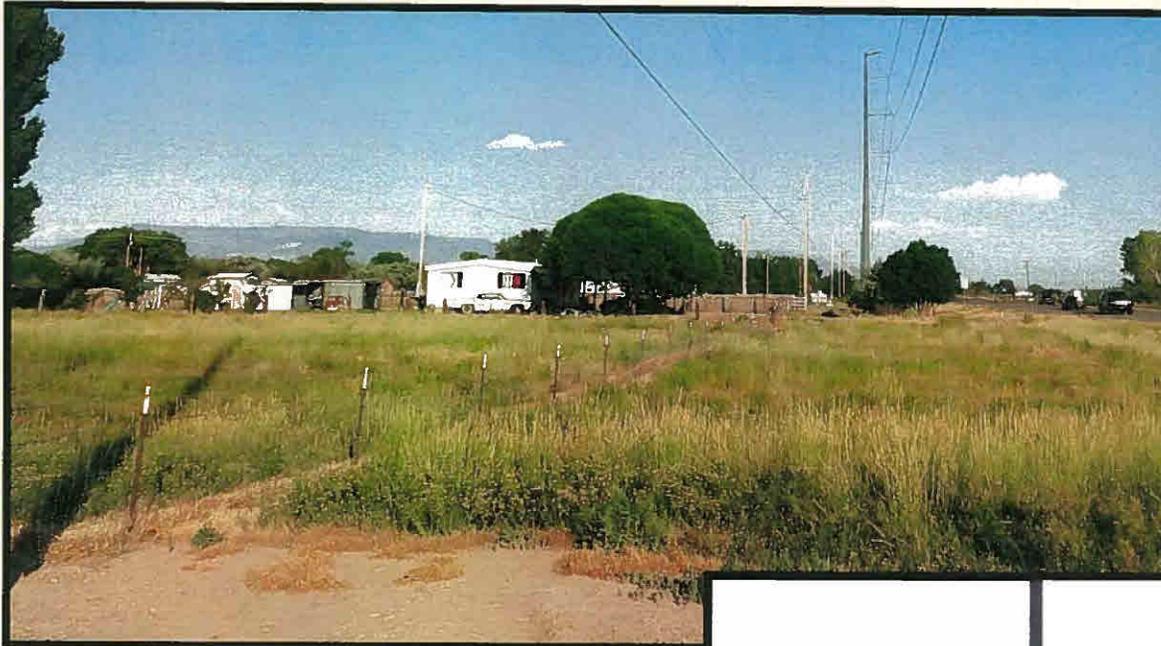
0.4km

0.3mi

11:40 AM 7/25/2016



Aerial View of our Montrose Location



East View

West View

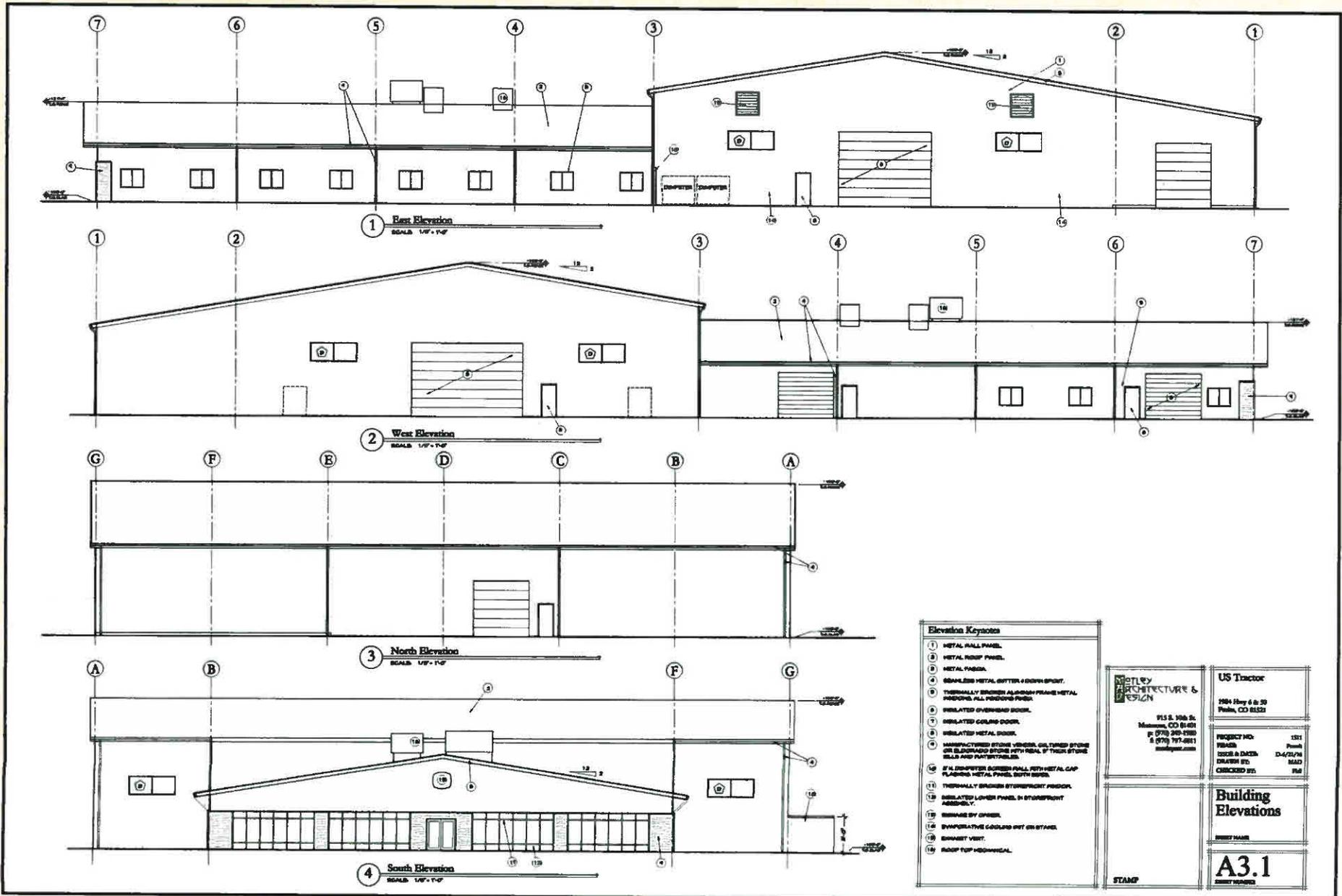


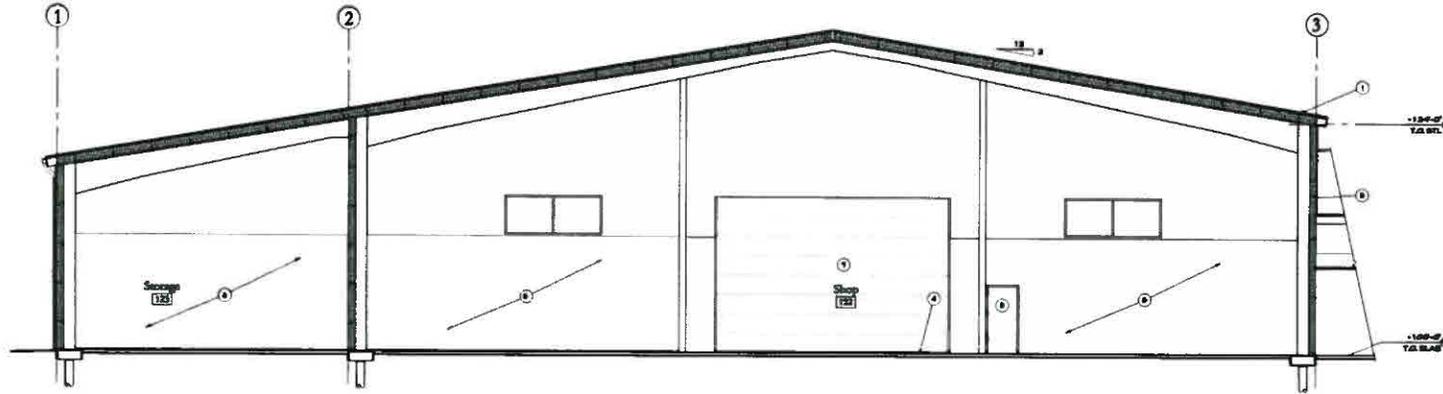


View of Montrose Building from 320 ft. away -  
Fruita will have similar view from Hwy. 6 & 50.

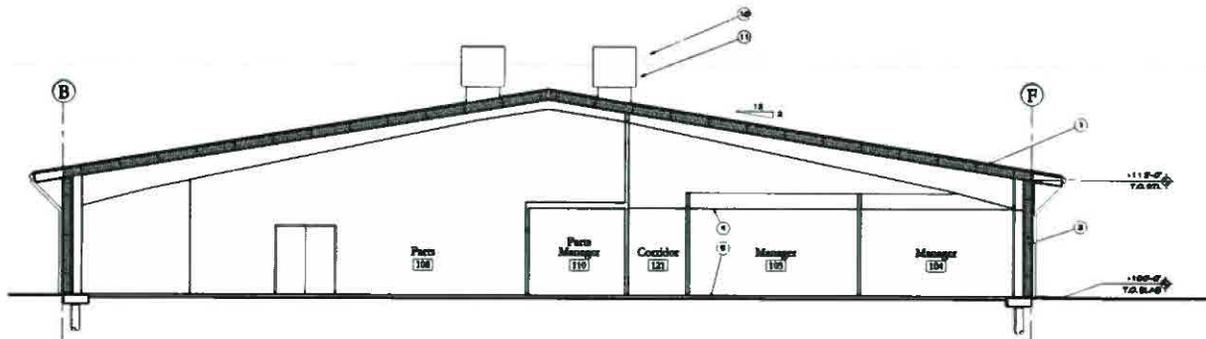
Proposed Building Site







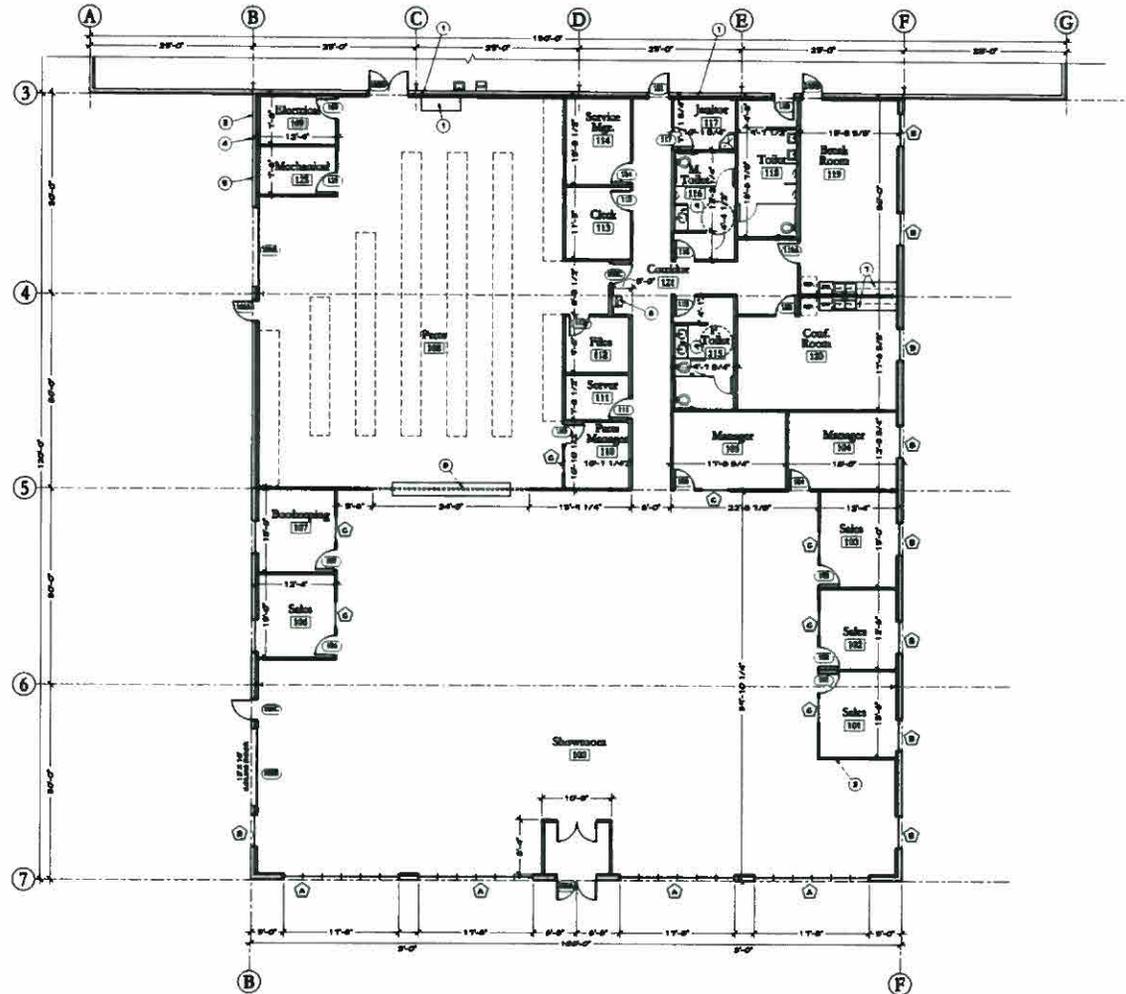
1 Building Section  
SCALE: 3/16" = 1'-0"



2 Building Section  
SCALE: 3/16" = 1'-0"

Building Section Keynotes	
1	TYPICAL ROOF - METAL ROOF PANEL OF 2' SPACING TO BE MADE UP OF 1/2" PURLIN, OF INSULATION BRANDED, INSULATE WITH 1" OF BATTYS FOR 6'-0" VALUE OF R.
2	TYPICAL WALL - METAL PANEL OF 2' SPACING TO BE MADE UP OF 1/2" PURLIN, OF INSULATION BRANDED, INSULATE WITH 1" OF BATTYS FOR 6'-0" VALUE OF R.
3	TYPICAL WALL - METAL PANEL OF 2' SPACING TO BE MADE UP OF 1/2" PURLIN, OF INSULATION BRANDED, INSULATE WITH 1" OF BATTYS FOR 6'-0" VALUE OF R.
4	IF REINFORCED CONCRETE SLAB PER STRUCTURAL.
5	IF REINFORCED CONCRETE SLAB PER STRUCTURAL.
6	LAMER PANEL TO 1" AFF.
7	INSULATED OVERHEAD DOOR.
8	INSULATED METAL DOOR.
9	ADDITIONAL GROUND TILE AT 4'-0" AFF.

<b>METLEY ARCHITECTURE &amp; DESIGN</b> 915 S. 100 St. Moenawa, CO 81652 P: (970) 369-1889 F: (970) 797-8811 metley.com	<b>US Tractor</b> 1584 Hwy 6 & 30 Fruita, CO 81521
	PROJECT NO: 1211 PERM: P0000 DATE & DATE: 1-4/21/18 DRAWN BY: MMD CHECKED BY: PFA
<b>Building Sections</b>	
SHEET NO:	
<b>A4.1</b>	
SHEET NAME:	
STAMP	



1 Floor Plan - Showroom/Offices  
SCALE: 1/8" = 1'-0"

- ### Floor Plan Keynotes
- 1 1" HIGH WALL BETWEEN SHOP AND SHOWROOM AREA.
  - 2 COFFER SERVICE AREA.
  - 3 ELECTRICAL SERVICE ENTRANCE AND METER LOCATION.
  - 4 TELEPHONE SERVICE.
  - 5 WATER SERVICE ENTRANCE AND FIRE SUPPRESSION RISER LOCATION.
  - 6 SPRINKLER POINTING.
  - 7 P-LAM CENTER WITH HELIXES PAISED BASE CABINETS, BUT HELIXES PAISED UPON CABINETS WITH (2) ADJUSTABLE SHELVES IN EACH SIDE PROVIDE ABOVE CENTER HELIXES SHELF.
  - 8 1-4" DIA. X 8'-0" H. SITS ONLY SERVICE CENTER WITH FRONT OF SALES DISPLAY AREA ON FRONT.
  - 9 P-LAM CENTER, PROVIDE BRACES TO SUPPORT THE CENTER.
  - 10 1" THIN LAMIN PANEL, AROUND ENTIRE PERIMETER OF THE ROOM.
  - 11 SLOPED CONCRETE FLOOR.
  - 12 PROVIDE 4" CONCRETE CURB AT BASE OF WALL.
  - 13 WALL MOUNTED EVAPORATIVE COOLER ABOVE.
  - 14 PLAN CENTER.
  - 15 RAMP PANEL SIDE.
  - 16 COMPRESSOR LOCATION EQUIPMENT BY OWNER.
  - 17 HOT/WY PRESSURE PANELS LOCATION.
  - 18 PRE-WIRE FOR HIGH VOLUME LOW SPEED FAN DISPENSABLE BID-FALL.
  - 19 CONCRETE FLOOR FOR BUMP COOLER OFFEND CONCRETE WITH REINFORCING STEELS.

**STILES ARCHITECTURE & DESIGN**  
913 S. 10th St.  
Mankato, MN 56001  
P (978) 240-2500  
F (978) 797-6811

STAMP

US Tractor - GJ  
Curt J. Anderson, Columbia

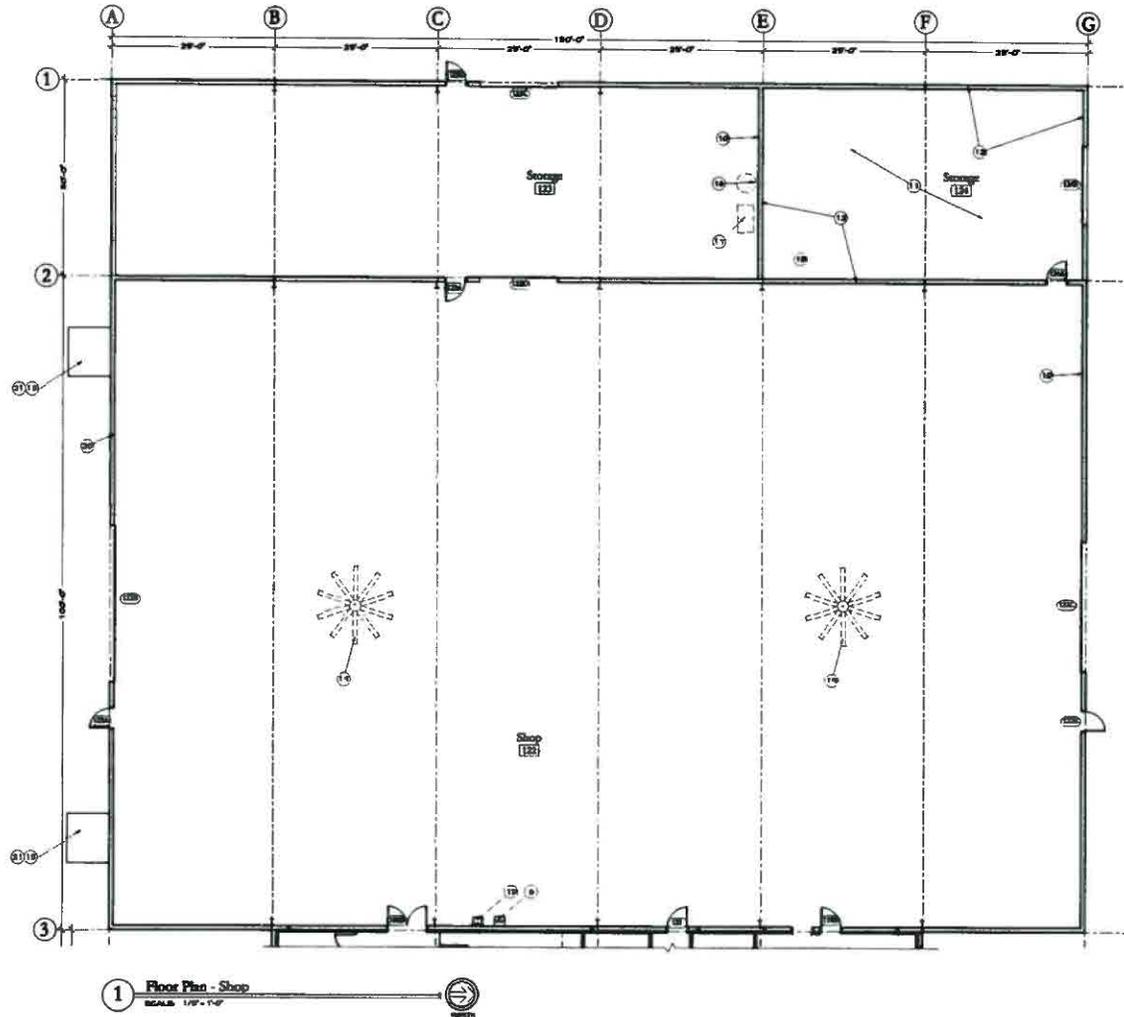
Contractor

- ### General Notes
1. SEE STRUCTURAL DRAWINGS & SHOP DRAWINGS FOR BASE PLATE & METAL BUILDING DETAILS.
  2. ALL DIMENSIONS ARE TO FACE OF CONCRETE UNLESS OTHERWISE NOTED OTHERWISE.
  3. TYPICAL DOOR OFFSET AT PARTITION WALL.
- 
4. VERIFY LOCATION OF EXISTING OBSTRUCTIONS, BUT LIGHTS AND DIMENSIONED LIGHTS WITH ARCHITECT PRIOR TO INSTALLATION.
  5. CENTER CEILING GRIDS IN AREAS UNLESS NOTED OTHERWISE.
  6. PROVIDE FLOOR DRAINS IN TOILET ROOMS.

PROJECT NO: 1211  
PHASE: 020  
REVISION DATE: A-12/17/18  
DRAWN BY: MJD  
CHECKED BY: TJA

**Floor Plan Showroom/Offices**  
DATE: 12/17/18

**A2.1**  
SHEET NUMBER



- Floor Plan Keynotes**
- 1 1-HIGH PALL BETWEEN SHOP AND BREAKROOM AREA.
  - 2 COPPER SERVICE AREA.
  - 3 ELECTRICAL SERVICE ENTRANCE AND METER LOCATION.
  - 4 TELEPHONE SERVICE.
  - 5 WATER SERVICE ENTRANCE AND FIRE SUPPRESSED RISER LOCATION.
  - 6 DRAINING POINTS.
  - 7 2 LAM. COUNTER WITH HELIXING FACED BASE CABINETS WITH HELIXING FACED UPPER CABINETS WITH ADJUSTABLE SHELVES IN EACH BAY PROVIDE ABOVE COUNTER HEIGHTS AS SHOWN.
  - 8 14'-0\"/>

**MOTLEY ARCHITECTURE & DESIGN**  
 915 S. 28th St.  
 Moorhead, CO 81402  
 P: (970) 286-7389  
 F: (970) 774-8211

STAMP

US Tractor - GJ

Grand Junction, Colorado

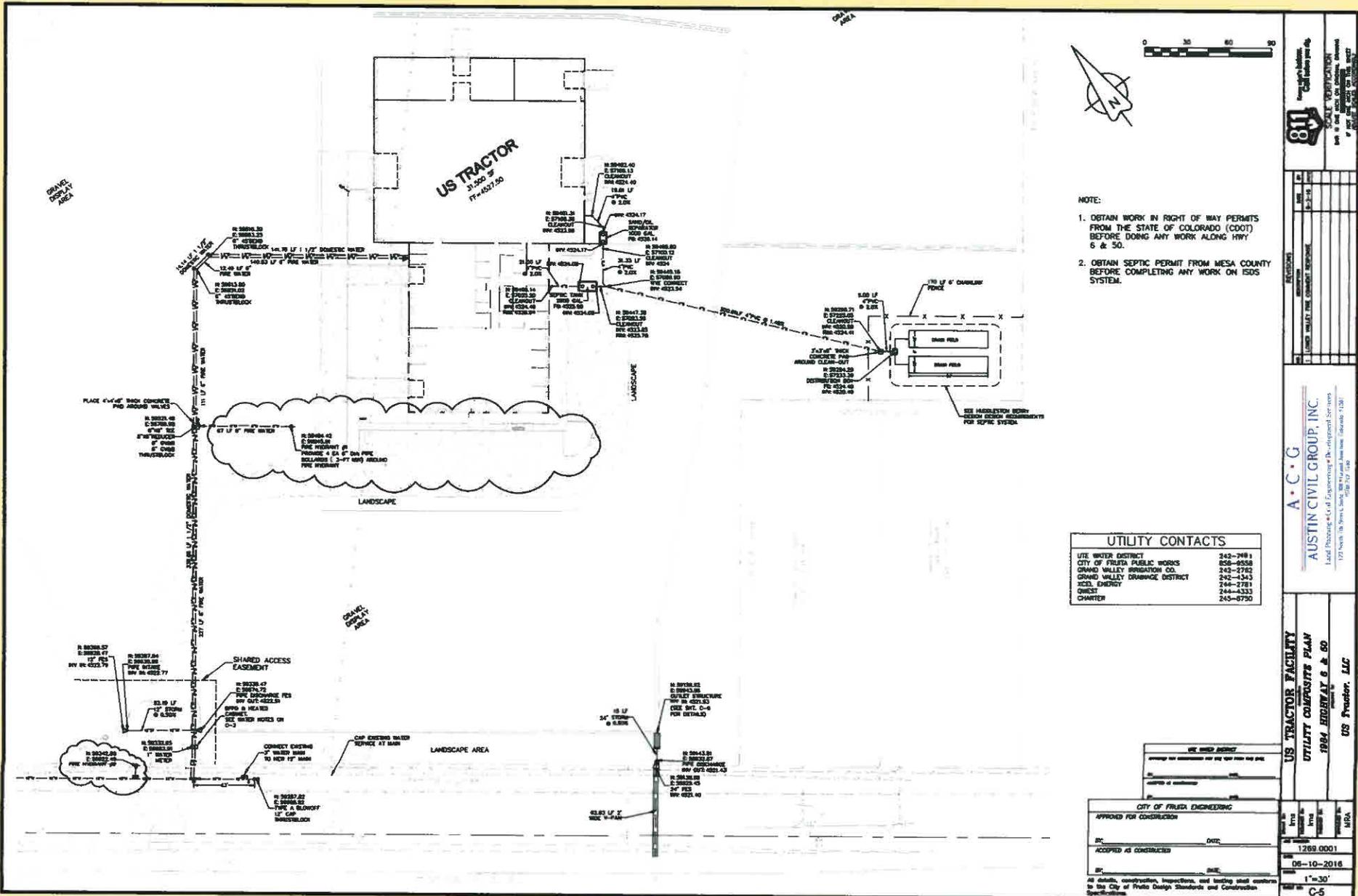
- General Notes**
1. SEE STRUCTURAL DRAWINGS & SHOP DRAWINGS FOR BASE PLATE & METAL BRACING DETAILS.
  2. ALL DIMENSIONS ARE TO FACE OF CONCRETE UNLESS OTHERWISE NOTED OTHERWISE.
  3. TYPICAL DOOR OFFSET AT PARTITION WALL.
- 
4. VERIFY LOCATION OF SHADE DETECTOR, EXIT LIGHTS, AND EMERGENCY LIGHTS WITH ARCHITECT PRIOR TO INSTALLATION.
  5. CENTER CEILING GRIDS IN AREAS UNLESS NOTED OTHERWISE.
  6. PROVIDE FLOOR DRAIN IN TOILET ROOMS.

PROJECT NO: 151  
 DRAWN & DATE: 4-21/77 JS  
 CHECKED BY: MAF  
 PLS

Floor Plan Shop

DATE: \_\_\_\_\_

**A2.2**



- NOTE:
1. OBTAIN WORK IN RIGHT OF WAY PERMITS FROM THE STATE OF COLORADO (CDOT) BEFORE DOING ANY WORK ALONG HWY 6 & 50.
  2. OBTAIN SEPTIC PERMIT FROM MESA COUNTY BEFORE COMPLETING ANY WORK ON ISDS SYSTEM.

UTILITY CONTACTS	
UTE WATER DISTRICT	242-7981
CITY OF FRUITA PUBLIC WORKS	858-8858
GRAND VALLEY IRRIGATION CO.	242-2782
GRAND VALLEY DRAINAGE DISTRICT	242-4343
XCCL ENERGY	244-2781
QWEST	244-4333
CHARTER	245-8750

CITY OF FRUITA ENGINEERING	
APPROVED FOR CONSTRUCTION	
BY: _____	DATE: _____
ACCEPTED AS CONSTRUCTED	
PROJECT NO:	1269.0001
DATE:	05-10-2016
SCALE:	1"=30'
DATE:	C-5

**811** Call before you dig  
SCALE VERIFICATION  
See a call card on every excavation  
If not on call, call 811 for more information

DATE	TIME	BY

**A·C·G**  
AUSTIN CIVIL GROUP, INC.  
Land Planning & Engineering (An independent 501(c)(3) Non-Profit)  
127 North 10 Street, Suite 200 • Fruita, Colorado 81501  
(970) 872-1300

**US TRACTOR FACILITY**  
**UTILITY COMPOSITE PLAN**  
**1994 HIGHWAY 6 & 50**  
US Tractor, LLC

In Summary, we feel that we would be an asset to your Community. We would anticipate a large growth in our business by moving from the current location in Grand Junction on Interstate Avenue to the proposed location in Fruita. The new location is more centrally located to better serve our customers. We have a large customer base in Fruita and the surrounding areas, and this location would certainly be more convenient for them and much easier to access. This location also allows for more displays and landscaping, making it more visually appealing to everyone passing by.

The proposed building is the same exact design as our store in Montrose. We have had many positive comments on the appearance and design of it, and feel it would be a great fit for this location as well. All of our locations share the same architectural design, and fit the standard expected from our Ag customers and John Deere.

We are very involved in the Communities that we serve, and look forward to a mutually beneficial relationship with the City of Fruita and surrounding Communities.

Sincerely,

*Scott Van Horn*

Owner  
(719) 589-4962 • [scott@ustractor.com](mailto:scott@ustractor.com)

*Fred Nipple*

Owner  
[fred@ustractor.com](mailto:fred@ustractor.com)



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<b>AGENDA ITEM COVER SHEET</b>
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**TO: Fruita City Council and Mayor**

**FROM: Community Development Department**

**DATE: August 16, 2016**

**RE: Ordinance 2016 - 10, Second Reading - An Ordinance of the Fruita City Council Amending Section 17.41.040.X, Temporary Off-Premise Signs, of the Fruita Land Use Code (Application #2015-12)**

**BACKGROUND**

On June 7, 2016, the City Council adopted amendments to the city's sign regulations. One of the main issues was allowing temporary off-premise signs in the public right-of-way in front of businesses.

The language adopted for this amendment specifically states:

Temporary, Off-Premise. In lieu of on-premise temporary signs, one temporary off-premise portable freestanding sign is permitted in the public right -of-way directly abutting the subject property per each businesses or institutional use as long as the signs meet the following requirements:

The rules permit two temporary on-premise signs and this language requires that if a temporary off-premise sign is used, NO temporary on-premise signs are permitted. Staff believes that the Council intended the changes to allow one temporary off-premise sign in lieu of ONE temporary on-premise sign.

To correct this potential error, the language should be amended to read:

In lieu of ONE on-premise temporary signs, one temporary off-premise portable freestanding sign is permitted in the public right -of-way directly abutting the subject property per each businesses or institutional use as long as the signs meet the following requirements:

The attached ordinance reflects this correction.

At the August 9, 2016, Planning Commission public hearing, the Commission recommended approval of this amendment through their consent agenda. No public comments have been received regarding this amendment.

### **FISCAL IMPACT**

Providing this clarification for signs is expected to have an overall positive fiscal impact on the city in the long term.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

One of the current City Council's goals is a commitment to review the Land Use Code to help ensure that the regulations reflect the best promotion of the public health, safety, and welfare and improve the fiscal sustainability of the community. The proposed amendment to the Sign Code is intended to help support local businesses while ensuring the best promotion of public health, safety and welfare.

### **OPTIONS AVAILABLE TO COUNCIL**

1. Approval of Ordinance 2016-10, Second Reading, An Ordinance Of the Fruita City Council Amending Section 17.41.040.X, Temporary Off-Premise Signs, of the Fruita Land Use Code with or without changes
2. Denial of the proposed Ordinance
3. Continue the Ordinance to a later date

### **RECOMMENDATION**

Staff recommends that the City Council move to approve Ordinance 2016-10, Second Reading, An Ordinance of the Fruita City Council Amending Section 17.41.040.X, Temporary Off-Premise Signs, of the Fruita Land Use Code

**ORDINANCE 2016-10**

**AN ORDINANCE OF THE FRUITA CITY COUNCIL AMENDING SECTION 17.41.040.X,  
TEMPORARY OFF-PREMISE SIGNS, OF THE FRUITA LAND USE CODE  
(Application #2015-12)**

**WHEREAS**, the Fruita City Council adopted amendments to the regulations for signs contained in Chapter 41 of the Fruita Land Use Code on June 7, 2016, and

**WHEREAS**, there is a need to clarify the Council's intent with respect to temporary off-premise signs, and

**WHEREAS**, the Fruita Planning Commission held a public hearing on August 9, 2016, regarding this issue and recommended approval of the proposed amendment, and

**WHEREAS**, a public hearing was held before the Fruita City Council on July 19, 2016, and August 16, 2016, regarding the proposed amendment to the sign regulations.

**NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:**

(Additions are shown in *italics* and deletions in ~~striketrough~~)

**Section 17.41.040.X is amended as follows:**

- X. Temporary, Off-Premise. In lieu of *one* on-premise temporary signs, one temporary off-premise portable freestanding sign is permitted in the public right-of-way directly abutting the subject property per each businesses or institutional use as long as the signs meet the following requirements:
1. The sign can be located only on the public right-of-way directly in front of the subject property.
  2. The sign height shall not exceed four (4) feet as measured from the ground;
  3. The sign size shall not exceed six (6) square feet;
  4. The sign cannot be placed on public art including pedestals, benches, seating walls, trash cans, landscaping (other than grass or gravel ground cover), utility structures, and similar items;
  5. Signs affixed to a fence or other structure, or are within the area used as part of a permitted sidewalk restaurant (as per Chapter 12.14 of the Municipal Code) are considered on-premise signs;
  6. The sign shall be brought indoors at the end of each business day;
  7. The sign shall not obstruct the clear sight for traffic at intersections and driveways;
  8. No sign shall be placed in a traffic lane for vehicles, including bicycle lanes;

9. No sign shall be placed in a public parking space including bicycle parking spaces;
10. A sign placed on public sidewalks must leave five (5) feet of minimum width clear for traffic circulation and if the sidewalk is less than five (5) feet in width, a sign cannot be placed on the sidewalk.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS  
16<sup>th</sup> DAY OF AUGUST, 2016.**

City of Fruita

ATTEST:

\_\_\_\_\_  
Lori Buck, Mayor

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



**Community Development Department  
Staff Report  
August 4, 2016**

**Application #:** 2016 - 23  
**Project Name:** Chapter 39, Sign Code Amendment  
**Application:** Land Use Code Amendment  
**Representative:** Dahna Raugh, City of Fruita  
**Request:** This is a request to amend Section 17.41.040.X regarding off-premise temporary signs.

**Project Description:**

On June 7, 2016, the City Council approved changes to the Fruita Sign Code. Section 17.41.040.X, regarding off-premise temporary signs, was amended to read as follows:

- X. Temporary, Off-Premise. In lieu of on-premise temporary signs, one temporary off-premise portable freestanding sign is permitted in the public right-of-way directly abutting the subject property per each businesses or institutional use as long as the signs meet the following requirements:

It appears that there is an error in this paragraph. The language as written and adopted (above) allows one temporary off-premise signs to be used in place of ALL on-premise temporary signs. Based on the discussion at the last few Council meetings during which this issue was discussed, it appears that the Council intended to allow one off-premise temporary sign in lieu of ONE on-premise temporary sign (not ALL temporary on-premise signs).

The proposed amendment to this section as presented to the Planning Commission at the December 8, 2015, public meeting was to allow two off-premise signs in place of on-premise temporary signs. At this meeting, the Planning Commission recommended approval of the language as presented. Through continuing discussions with the City Council and the business community, the Council determined that two signs per business could create a problem with too many signs off-premise signs. The language as adopted may mistakenly allow fewer temporary signs than intended.

Errors in language are many times identified as a scrivener error and can be changed without going through the entire public hearing process. Because the city discussed this issue of temporary off-premise signs in great detail with the public, including many different iterations of the language, staff believes that it is

appropriate in this circumstance to send the error correction back through the public hearing process to avoid any questions as to the Council's intent.

**Review of Land Use Code Requirements:**

**Section 17.13.070.B of the Land Use Code states that amendments to the Land Use Code may be made upon a finding that the amendment is consistent with the City's goals, policies and Master Plan.**

One of the current City Council's goals is a commitment to review the Land Use Code to help ensure that the regulations reflect the best promotion of the public health, safety, and welfare. The proposed amendment clarifies the intent of the Council to allow temporary off-premise signs while still protecting the public health and safety and welfare is consistent with this goal and consistent with the goals and policies of the Master Plan.

It appears that this criterion has been met.

**Review Comments:**

No review comments have been received regarding this proposed Land Use Code amendment.

**Public Comments:**

At this time, no written public comments have been received regarding this proposed Land Use Code amendment.

**Staff Recommendation:**

Staff recommends approval of the proposed Land Use Code amendment to the regulations regarding signs contained in Section 17.41.040.X of the Fruita Land Use Code.

**Fruita Planning Commission: August 9, 2016**

**Fruita City Council: August 16, 2016**

WHAT IT SHOULD SAY:

[Additions are shown in *italics*, deletions are shown in ~~strikeout~~.]

Section 17.41.040

- X. Temporary, Off-Premise. In lieu of *one* on-premise temporary signs, one temporary off-premise portable freestanding sign is permitted in the public right-of-way directly abutting the subject property per each businesses or institutional use as long as the signs meet the following requirements:



**FRUITA**  
COLORADO

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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MICHAEL BENNETT, CITY MANAGER**  
**DATE: AUGUST 16, 2016**  
**RE: UPDATE AND DISCUSSION ON ECONOMIC DEVELOPMENT EFFORTS**

### **BACKGROUND**

The City has taken a very aggressive and proactive approach to recruiting new businesses to positively influence *Quality of Place, Economic Health and Lifestyle* of the community. The City Manager would like to update City Council on recent efforts related to marketing materials, attending trade shows, working with prospects and other efforts that are influencing the City's goals.

### **FISCAL IMPACT**

Provides and update and discussion regarding already budgeted funds for economic development related activities.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

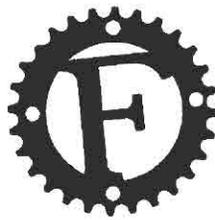
This item will provide an update on recent and ongoing efforts that directly relate to the focus areas of *Quality of Place, Economic Health and Lifestyle*.

### **OPTIONS AVAILABLE TO COUNCIL**

This is an update and discussion.

### **RECOMMENDATION**

This is an update and discussion.



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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MICHAEL BENNETT, CITY MANAGER**  
**DATE: AUGUST 16, 2016**  
**RE: OFF-HIGHWAY VEHICLES ON CITY ROADS**

### **BACKGROUND**

Ron Pollard, President of Funshares in Grand Junction requested that City Council consider allowing OHVs on City roads in 2015 and decided to table to other higher priorities, staff concerns regarding safety and pending state legislation. Mr. Pollard again requested in February, 2016 that Council reconsider and the City Council decided to do so after the April election. Mr. Pollard presented to City Council at the May 17, 2016 Council meeting. At this meeting City Council requested staff add the topic on the May 24, 2016, Council Workshop. During the workshop, City Council requested that staff include in the summer issue of the City Link newsletter to residents the question:

“City Council would like to know if Fruita residents would like the City Council to consider allowing Off-Highway Vehicles (OHVs) on City roads. Please let us know your thoughts by emailing [OHV@fruita.org](mailto:OHV@fruita.org) and at a minimum include (1) name, (2) home address and (3) yes or no. please email your responses by July 21, 2016. Thanks!”

While this type of survey was not ideal for getting a statistically valid response, of the 66 respondents who identified their names and addresses as Fruita residents, 45 indicated Yes and 21 indicated No. These results were presented to City Council at the July 26 Council Workshop. During this presentation and discussion, staff indicated a number of reasons staff would not recommend that Council pursue this further. Council requested that staff make a formal presentation at the August 16 Council meeting to provide and update and recommendation. Police Chief Judy Macy has prepared the attached report and recommendation that will be presented at the meeting.

### **FISCAL IMPACT**

With the recommendation to not pursue allowing OHV's on City roads, there is no fiscal impact.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

Deciding not to pursue allowing OHVs on City roads will allow staff to continue to prioritize limited resources and efforts on those things that have a direct impact on *Quality of Place*, *Economic Health* and *Lifestyle*.

### **OPTIONS AVAILABLE TO COUNCIL**

1. Take the report as an update.
2. Make a motion to not pursue allowing OHVs on City Roads.
3. Make a motion to direct staff to pursue allowing OHVs on City Roads.

### **RECOMMENDATION**

To make a motion that staff not pursue allowing OHVs on City roads.

## OHV'S ON CITY STREETS Staff & City Council Considerations

This report outlines, in brief, the time line and discussions regarding the request by Mr. Ron Pollard, Funshares President, 2583 Hwy. 6&50, Grand Junction, for City Council to consider allowing OHV's on city streets.

In **October 2014**, Ron Pollard spoke to City Council regarding efforts to legalize the operation of OHV's on Mesa County roads and his desire to have Fruita City Council consider the same.

In **January 2015**, OHV's were discussed at the City Council Workshop. Some Council members were supportive of the idea, the potential economic benefits and the ability to ride around town and to the OHV trails. Some Council members were unsure. City staff had concerns with public safety, population density within the city, potential costs associated with permitting, and the lack of DMV consequences with violations. The topic was tabled for two reasons; the relatively low priority of the initiative; the outcome of proposed State legislation regarding OHV's.

In **February 2016**, Ron Pollard again approached City Council on the idea of allowing OHVs and ATVs on city streets in Fruita. Mr. Pollard pointed out that Mesa County and Delta have since allowed ATV's on their streets. Mr. Pollard requested City Council discuss the topic at a workshop session to see what might be accomplished.

In **February 2016**, OHV's were discussed at the City Council Workshop. The same concerns were identified by staff and Council members remained somewhat divided. Council decided to table the topic until after the upcoming April election and new council members were seated.

In **May 2016**, Ron Pollard again approached City Council about allowing OHV's on city streets. Mr. Pollard showed a PowerPoint presentation noting "fun" places, primarily on public lands, where people could ride OHV's. Regarding safety, Mr. Pollard said accidents are 99% the fault of the driver and 1% the fault of the OHV. Mr. Pollard said he believed OHV's would be good for the Fruita economy. Commissioner Justman was present and said Mesa County hasn't experienced any problems.

In **May 2016**, OHV's were discussed at the City Council workshop. Council members discussed the benefits: ease of access to trails from the north side of the city, the ability to use your OHV occasionally without having to trailer it long distances and potential tourism. Council members also discussed safety issues, citing statistics from several federal agencies and non-profit research institutes indicating OHV's should not be allowed on roadways. Staff discussed the difficulty and potential costs associated with a permit or licensing process, public safety concerns, and the fact that OHV's could not travel on Hwy. 340, from the south side of the city to the north side. It was decided to solicit input from citizens via the City Link.

In the **July 2016** City Link, Fruita residents were asked if they would like City Council to consider allowing OHV's on city roads, and to respond via email by July 21, 2016.

During the **July 2016** City Council workshop, citizen feedback was reviewed. Those who identified themselves as Fruita residents and provided an address, the results were 45 yes and 21 no. Council members requested a report from staff outlining the pros, cons and a recommendation on allowing OHVs on city streets.

#### **POLICE DEPARTMENT RECOMMENDATION**

The most important consideration is public safety. Fruita is a growing city with an excellent reputation. The city limits are relatively small, encompassing 7.99 square miles. Within the city limits are 5 public schools, three business corridors/areas (downtown, the "Southside" and Hwy. 6&50) and a population of 13,500. Two state Highways (340 & 6/50) intersect the city where OHV's are prohibited, although state law does allow OHVs to cross these roadways if a municipality allows OHVs on the roadway.

Manufacturers of OHVs caution drivers that the vehicles are not designed to be driven on paved roadways. The U.S. Consumer Product Safety Commission warns against riding OHVs on paved roads. The basic design of OHVs (low pressure tires, high center of gravity) contributes to the propensity to flip or roll. In addition, OHVs are not required to have standard safety equipment found in cars, for ex: seat belts, air bags, signals, etc.

Attached are two studies on OHVs and public roadways. Also included is a table from a sampling of states, listing OHV fatalities on public roads, in states allowing OHVs on roadways in some capacity.

Allowing OHVs to be driven inside city limits, alongside vehicles, is not a decision made in the interests of public safety.

There were discussions on requiring fees, registration and possibly some form of inspection program. While this could be done, administering the program would require additional personnel, an (estimated) ½ time position, IT support, OHV expertise, and a system of documentation. Presently, the police department is not in a position to provide this sort of program administration.

As Mr. Pollard pointed out, most OHV accidents are the fault of the driver. There are concerns with unlicensed, revoked, and inexperienced drivers. There are unanswered questions as to the legal or Department of Motor Vehicle (DMV) ramifications on a person's license for violations while operating an OHV. By definition an OHV is not a 'vehicle', a required element for most moving DMV violations.

In November 2014, Mesa County adopted an ordinance allowing OHVs on designated county roads not part of the state highway system, with limited restrictions. To date, there have been no accidents or problems on paved roads. Nationwide, there is a trend of smaller counties and municipalities doing the same. Moab has allowed OHV's on city streets successfully and as a result, is an ATV destination spot.

In summary, allowing OHVs on city streets in Fruita doesn't support City Council goals; Quality of Place, Economic Health, and Lifestyle. The places where people actually ride OHVs are not within the 7.99 square miles of the city; they are outside the city limits. Getting to those locations would be difficult due to the intersecting state highways. It seems the primary reason for allowing OHVs within the city is an alternative mode of transportation, and this would not add to the *quality of place* enjoyed by residents.

Economic Health is a consideration. Would OHVs on our city streets bring more visitors or create business opportunities? Presently, there are no OHV dealerships in Fruita and the economic impact of the ordinance passed by Mesa County in 2014 is unknown. Its likely visitors have and will continue coming to Fruita to ride OHV's on the surrounding public lands. Most, if not all, will have to trailer the OHV to actually get to Fruita. Once in Fruita, even if allowed inside city limits, riders could not travel on Hwy. 340 to access public lands south into Mesa County, nor could they use Hwy. 340 to cross from the south side to the north side of Fruita. In order to access public lands north of Fruita, riders would have to do so without traveling on Hwy. 6&50.

Does the lifestyle of Fruita improve with OHVs on our streets? Quality of life issues, such as noise, exhaust, and parking, could be compromised. We have many events and festivals in Fruita and our downtown and surrounding neighborhoods are condensed. During these events, there is a great deal of pedestrian and bike traffic with limited parking. OHVs navigating the streets during these times could be problematic.

Families per se, do not generally ride as a group on paved roads. However, it is likely unlicensed drivers will use OHVs as an alternate mode of transportation. And, while outdoor recreation certainly adds to the lifestyle of Fruita and OHV riding is part of that lifestyle, requiring a person to ride where it's safe doesn't discourage the fun of OHVs – it encourages and promotes the safe use of OHVs.

**ATV FATALITIES ON PUBLIC ROADS (not all states included)**

<b>State</b>	<b>3 yr. deaths/1M Population</b>	<b>2012-2014</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>
W. Virginia	33.4	62	14	21	27
Montana	13.8	14	7	5	2
Alaska	13.6	10	4	5	1
Idaho	12.4	20	8	5	7
Arkansas	9.7	31	6	11	14
N. Dakota	9.7	7	1	3	3
Vermont	9.6	6	1	4	1
Kentucky	9.1	40	15	10	15
S. Dakota	8.3	7	2	1	4
Mississippi	7.4	22	11	4	7
Missouri	7.3	44	16	20	8
New Mexico	6.2	13	6	5	2
Wyoming	5.1	3	1	1	1
Minnesota	3.5	19	4	7	8
Utah	3.4	10	4	3	3
Arizona	2.9	19	7	6	6
Colorado	0.6	3	1	2	0
Massachusetts	0.1	1	1	0	0
Delaware	0.0	0	0	0	0

Source: [Governing www.governing.com/templates/gov\\_print\\_article?id==382682981](http://www.governing.com/templates/gov_print_article?id==382682981), June 2016

Author Mike Macaig calculations of NHTSA Fatality Analysis Reporting System data, Census population estimates.

# ATVs on Roadways: A Safety Crisis

Rachel Weintraub | Legislative Director and Senior Counsel

Michael Best | Policy Advocate

March 2014



The Consumer Federation of America is an association of nearly 300 nonprofit consumer groups that was established in 1968 to advance the consumer interest through research, advocacy and education.

For more than a decade, CFA has taken a lead on ATV safety, addressing issues such as the safety of three-wheel ATVs, death and injury rates of children riding adult sized ATVs, voluntary safety standards, and drafting model state legislation that, among other things, would ban ATVs from public roads.

**Acknowledgments:** CFA would like to thank Stephen Oesch for his invaluable assistance in developing this report. CFA would also like to thank Michelle Styczynski for her assistance.

## Executive Summary

In spite of warnings from manufacturers, federal agencies, and consumer and safety advocates that all terrain vehicles (ATVs) are unsafe on roadways, for several years an increasing number of states have passed laws allowing ATVs on public roads. The majority of ATV deaths take place on these roads and action is needed to reverse this dangerous trend.

An ATV is an "off-road, motorized vehicle having three or four low-pressure tires, a straddle seat for the operator, and handlebars for steering control."<sup>1</sup> Even though the definition of ATVs specifically includes that they are designed for off-road use and the warnings from manufacturers, the trade association, and labels required by federal law indicate that ATVs should never be operated on roads, many riders do not follow these instructions.

Unfortunately, this dangerous riding practice is increasingly being encouraged by the 35 states (69 percent of jurisdictions) that allow ATVs to be legally operated on public roads. Consumers are told by manufacturers, the federal government, consumer and public health and safety advocates, and the ATV trade association that riding ATVs on roads is dangerous, but the majority of states are sending a very different, contradictory and dangerous message by legalizing ATV use on roads.

- **A Majority of States Allow ATVs on Roads:** 35 states, or 69 percent of states, either allow ATVs on certain roads, roads as authorized by the entity having jurisdiction over the road system, limited stretches of roads, or roads if certain requirements are met, or on the shoulder of roads.
- **Ten Year Trend Toward Allowing ATVs on Roads:** Since 2004, 22 states, or 63 percent, of those states that allow ATVs on roads, have enacted laws increasing legal ATV access to roads in some way. Four states passed such laws in 2013 alone.
- **Vast Majority of States Delegate ATV Access Issues to Local Jurisdictions:** 31 of the 35 states, or 89 percent of those states that allow ATVs on paved roads, delegate some or all of the decisions about ATV access to local jurisdictions with authority over those roads.

These conflicting messages are leading to consumer confusion about what constitutes safe riding practices—and it is very unsafe to ride ATVs on roads. The fatality statistics on roads are alarming:

- **Consumer Product Safety Commission Data: 65 percent of ATV Deaths Occur on Roads:** Data from the Consumer Product Safety Commission (CPSC) from 2007 (the most recent complete data), as analyzed by the Insurance Institute for Highway Safety (IIHS),<sup>2</sup> 492 of 758 deaths where location was listed (93 percent of deaths)—or 65 percent of ATV rider deaths — occurred on roads. The CPSC's data also indicates that between 1998 and 2007, there was a greater increase in on-road than off-road deaths.
- **Fatality Analysis Reporting System Data: 74 percent of ATV Deaths on Public Roads are on Paved Roads:** Of the fatal crashes taking place on public roadways (as opposed to a shoulder or median for instance) from 2007 to 2011, the surface was paved in 74 percent of instances according to a recent analysis of Fatality Analysis Reporting System (FARS) data by IIHS.

1. Consumer Product Safety Commission 2011 Annual Report of ATV-Related Deaths and Injuries. <http://www.cpsc.gov/en/Media/Documents/Research-Statistics/Injury-Statistics/Sports/ATV/2011-Annual-ATV-Report/>

2. The Insurance Institute for Highway Safety is an independent non-profit scientific and educational organization dedicated to reducing the losses from crashes on the nation's roads. <http://www.iihs.org/iihs/about-us>

- **FARS Data: 19 Percent Decline in Fatalities on Public Roads from 2008 to 2011—May be Due to Recession:** The December 2013 IIHS report posits that, like with the overall reduction in motor vehicle fatalities since 2007, this reduction may have roots in the plummeting sales of vehicles from 2007 to 2012. In 2007, 752,000 ATVs were sold compared to 289,000 in 2012.

CFA's report calls for immediate action at the municipal, county, state, and federal level to prohibit ATVs on roadways.

- **State Laws:** States should pass laws prohibiting ATV use on all roadways. State laws should not permit local jurisdictions to have authority to pass laws about ATV access.
- **Municipal and County Ordinances:** Where state laws allow local jurisdictions to make decisions regarding ATV access to public roads, those jurisdictions should not expand the permissible range of ATVs on roads.
- **National Highway Traffic Safety Administration:** ATVs are not under NHTSA's jurisdiction; however, since states are increasingly passing laws permitting on-road use and ATV deaths are occurring primarily on roads, NHTSA should take concrete steps to address ATV safety including: sharing data with the CPSC; and expanding its current grant programs that fund enforcement efforts to ATVs.
- **The Consumer Product Safety Commission:** As the agency responsible for ATV safety, the CPSC should be a strong voice in opposing the operation of ATVs on roads and in educating consumers about the dangers of on-road ATV use. Additionally, the CPSC could improve ATV death data by including ATV death data on private versus public roads.
- **The ATV Industry:** All segments of the ATV industry need to prioritize opposition to laws and ordinances allowing ATVs on roads.
- **All ATV Stakeholders:** All those interested in and working on ATV safety need to work together to prioritize opposition to efforts to expand ATV operation on roads.

## History of ATV Safety in the United States

Consumer and public health advocates have a long history of advocating for regulatory changes to make ATVs safer to use.

**Imminently Dangerous Consumer Products:** In 1987, in the midst of a spike in ATV-related injuries and deaths (as well as a rulemaking that the CPSC ultimately abandoned), the CPSC asked a federal court to declare ATVs to be "imminently dangerous consumer products."<sup>3</sup> The lawsuit was settled on the day it was filed by a consent decree which did end the manufacture of the dangerous three-wheel ATV, but did not include important elements such as the requirement that manufacturers offer financial incentives to encourage owners of three-wheel ATVs to return them to dealers. This guaranteed that the dangerous "three-wheelers" would remain in use nationwide.

**ATV Action Plans:** When the consent decree expired in 1998, the CPSC and the major manufacturers entered into voluntary, company-specific agreements, known generally as ATV Action Plans. These agreements recommended that children under sixteen not ride adult-size ATVs, required warning labels, described information that had to be included in owner's manuals and reiterated that the industry would make formal training available to purchasers of new ATVs.<sup>4</sup> Unfortunately, and not as a surprise to consumer advocates who objected to the action plans, these plans proved inadequate to curb the rising rates of death and injuries to children from ATV incidents. Unlike the consent decrees before them, these action plans were not enforceable by the Commission: the companies could pull out at any time provided they gave the Commission 60 days notice.

**CFA and Natural Trails and Waters Coalition Petition to Consumer Product Safety Commission:** In 2002, Consumer Federation of America, the Natural Trails and Waters Coalition, and other groups<sup>5</sup> filed a petition with the CPSC, urging the agency to ban the sale of adult-size ATVs for use by children. After holding ATV hearings across the country, CPSC rejected the petition but initiated a rulemaking on ATVs that has still not been finalized.

**SVIA/ANSI Standard:** In 1990, the Specialty Vehicle Institute of America (SVIA), the trade association for ATV manufacturers, published the first voluntary standard for ATVs, Four Wheel All-Terrain Vehicles - Equipment, Configuration, and Performance Requirements, ANSI/SVIA 1-1990. Many of the provisions of the voluntary standard included provisions that were in the consent decree and the subsequent ATV Action Plans. The voluntary standard was revised and published in 2001 and again in 2007 (ANSI/SVIA 1-2007 American National Standard for Four Wheel All-Terrain Vehicles). The 2007 revision, like previous versions of the standard includes provisions on design, configuration, and performance aspects of ATVs. The 2007 version also includes provisions not previously included such as: definition and requirements for Type II (tandem) ATVs; requirements for labels, owner's manuals, hang tags, and a compliance certification for all ATVs; and definitions and requirements for new categories of Type I (single-rider) ATVs (category "Y-10" and category "T"). The category Y-10 ATV is a youth model intended for use by children age 10 and older. The category "T" ATV is a transitional ATV intended for recreational use by an operator age 14 or older under adult supervision or by an operator age 16

3. *United States of America v. U.S. v. Polaris Industries, L.P.* 1987 WL 33507, 1 (D.D.C., 1987).

4. U.S. Consumer Product Safety Commission, All-Terrain Vehicles: Commission Resolution, Federal Register 63 (236), December 9, 1998, page 67861.

5. The groups that filed the petition include: Consumer Federation of America (CFA), the American Academy of Pediatrics (AAP), the American College of Emergency Physicians (ACEP), Bluewater Network, the Center for Injury Research and Policy (CIIRP) at Columbus Children's Hospital, Columbus, Ohio, the Danny Foundation for Crib & Child Product Safety, Kids In Danger, National Association of Orthopaedic Nurses, and U.S. PIRG.

and older.<sup>6</sup> The standard was again revised in 2010. CFA has objected to provisions in the SVIA/ANSI standard for failure to address safety concerns, especially the youth and transitional ATV models. The maximum speeds selected for these ATVs are not based on scientific or medical evidence of what speed a child of a certain age could safely reach. The CPSC has been involved in this voluntary standard process.

Efforts to ban adult-size ATVs for children have been unsuccessful as have efforts to require ATVs to be more stable. The ANSI/SVIA standard moved backwards for safety by creating a new "youth model" ATV for 14- to 16-year-olds that is capable of traveling at speeds up to 38 miles per hour.

**Consumer Product Safety Improvement Act:** In 2008, the Consumer Product Safety Improvement Act (CPSIA) became law. The CPSIA contained a section addressing ATVs that included making the previously voluntary SVIA/ANSI standard mandatory. The SVIA standard includes provisions about warning labels, instructional manuals, and also includes a requirement for warning labels cautioning riders to keep ATVs off of public roads. The CPSIA also banned the importation or distribution in commerce of three-wheel ATVs until a three-wheel safety standard is promulgated.<sup>7</sup> The CPSIA called for the rulemaking on ATVs, which began in 2005, to be finalized.

On August 12, 2011, Congress passed H.R. 2715 which amended the CPSIA and which again directed the CPSC to complete the ATV rulemaking by August 12, 2012. The rule has not yet been completed.

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6. Consumer Product Safety Commission, Voluntary Standards, March 18 2011. <http://www.cpsc.gov/en/Regulations-Laws-Standards/Voluntary-Standards/Topics/All-Terrain-Vehicles/>

7. PUBLIC LAW 110-314—AUG. 14, 2008. Sec. 232. <http://www.cpsc.gov/PageFiles/129663/cpsia.pdf>

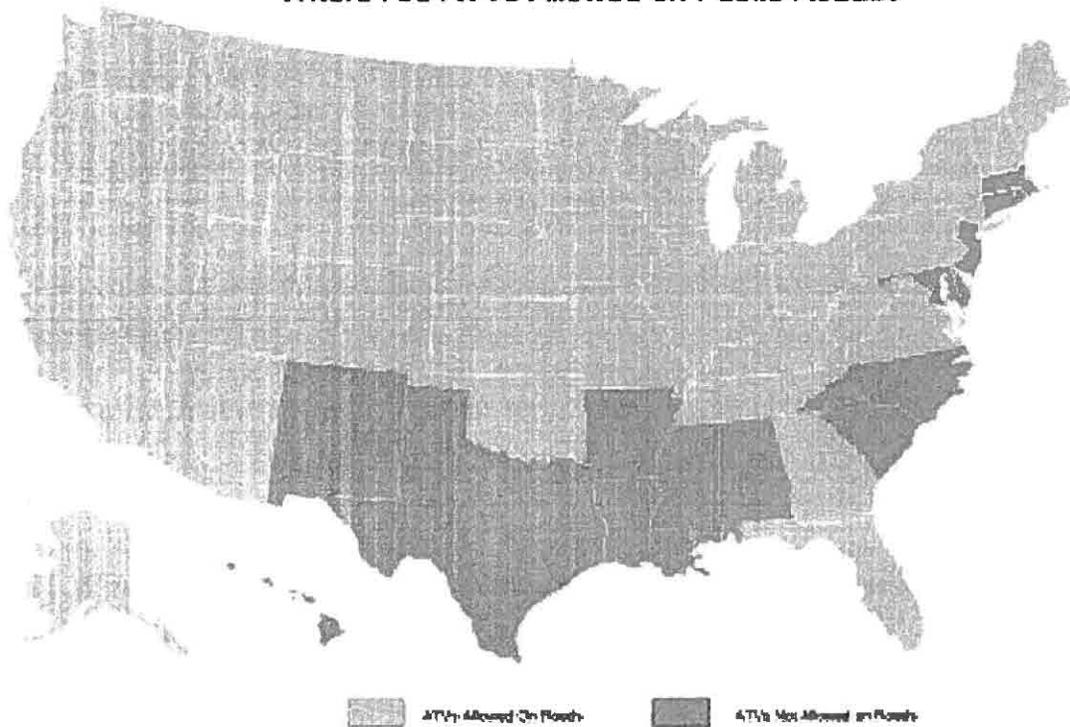
## New Urgency in ATV Safety

For more than a decade, CFA has prioritized and taken the lead on ATV safety, addressing issues such as the safety of three-wheel ATVs, death and injury rates of children riding adult-size ATVs, voluntary safety standards, and drafting model state legislation that, among other things, would ban ATVs from public roads.<sup>8</sup> CFA's work is expanding to focus on the issue of ATV operation on public roads as more jurisdictions allow this dangerous practice.

After monitoring repeated passage of laws and ordinances allowing ATVs on public roads, CFA conducted a survey of state laws. The results of the research are troubling. A majority of states—35—now allow ATV use on roads. Since 2004, 63 percent of those 35 states have enacted laws allowing ATVs onto public roadways, either directly in the law or by allowing local jurisdictions to pass ordinances—4 states passed such laws in 2013 alone.

## United States

### Where Are ATVs Allowed on Public Roads?



This is a dangerous trend that needs to be reversed immediately.

8. CFA ATV Model Law 2007, [http://www.consumerfed.org/elements/www.consumerfed.org/file/health/ATV\\_State\\_Model\\_Bill.pdf](http://www.consumerfed.org/elements/www.consumerfed.org/file/health/ATV_State_Model_Bill.pdf)

## Regulation of ATVs

ATVs are not primarily manufactured for on-road use and do not meet the National Highway Traffic Safety Administration's (NHTSA) statutory definition of motor vehicle. NHTSA, therefore, does not regulate ATV use on roads.<sup>9</sup> The Consumer Product Safety Commission (CPSC) has jurisdiction over ATVs.

### ATVs are not Designed to be Operated on Public Roads

The high center of gravity, narrow wheelbase, and low pressure tires that are designed to handle off-road conditions are a major safety concern on-road:

- **Tipping Danger.** A high center of gravity and narrow wheel base leads ATVs to be prone to rollovers when negotiating turns. In fact a December 2013 Insurance Institute of Highway Safety (IIHS) analysis of Fatality Analysis Reporting System (FARS) data indicated that 56 percent of fatal single-vehicle ATV incidents on public roads involved a rollover.<sup>10</sup> NHTSA's FARS system provides data about traffic fatalities on public roads.
- **Low Pressure Tires are not Suitable for Road Use:** Knobby low pressure ATV tires are explicitly designed for off-road use and may not interact properly with a road surface.

These design factors "increase the risk of operators losing control of the vehicle on roadway surfaces, particularly at roadway speeds, and/or when making right angle traffic turns."<sup>11</sup>

### Industry, Regulators, Advocates all Agree that ATVs Should not be Used on Roads

ATV manufacturer instruction manuals and warning labels, and the ATV trade association, the Specialty Vehicle Institute of America's (SVIA) written materials and statements, make clear that ATVs should not be operated on public roads. Honda goes beyond other manufacturers' warnings by including a warning that advises riders to get off their ATV and walk it across the road when a crossing is necessary.

- **ATV Trade Association Recommends Against Using ATVs on Paved Roads:** The ATV Safety Institute, a non-profit division of the SVIA, the trade association for ATV manufacturers, advises riders to "[n]ever ride on paved roads except to cross when done safely and permitted by law..."<sup>12</sup>
- **Individual Manufacturers Warn Against Driving ATVs on all Roads and Paved Surfaces:** ATV manufacturer manuals contain various warnings against riding ATVs on roads including:
  - **Polaris Sportsman 570:** "Operating an ATV on paved surfaces (including sidewalks, paths, parking lots and driveways) may adversely affect the handling of the ATV and could result in loss of control and accident or rollover. Avoid operating the ATV on pavement. ATV tires are designed for off-road use. If it's

9. 49 USC 30102(a)(6). <http://www.law.cornell.edu/uscode/text/49/30102>

10. Williams, Oesch, McCartt, Teoh, Sims, On-Road All-Terrain Vehicle (ATV) Fatalities in the United States, Insurance Institute for Highway Safety, Dec. 2013. <http://www.iihs.org/frontend/iihs/documents/masterfiledocs.ashx?id=2056>

11. Denning, Harland, Ellis, Jennissen, More fatal all-terrain vehicle crashes occur on the roadway than off: increased risk-taking characterizes roadway fatalities, Injury Prevention, Dec. 2012. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3717765/>

12. ASI Golden Rules. <http://www.atvsafety.org/>

unavoidable, travel slowly and avoid sudden turns or stops." The manual also warns against ever operating on public streets due to the risk of collisions: "Never operate the ATV on any public street, road or highway, including dirt and gravel roads."<sup>13</sup>

- **Kawasaki KFX90:** "Never operate an ATV on any paved surfaces, including sidewalks, drive ways, parking lots and streets," and "[n]ever operate an ATV on any public street, road or highway, even a dirt or gravel one."<sup>14</sup>
- **Yamaha Raptor 350:** "Always avoid operating an ATV on any paved surfaces, including sidewalks, driveways parking lots and streets," and "[n]ever operate an ATV on any public street, road or highway, even a dirt or gravel one"<sup>15</sup>
- **Honda TRX420TM:** "Your ATV is designed and manufactured for off-road use only. The tires are not made for pavement, and the ATV does not have turn signals and other features required for use on public roads. If you need to cross a paved or public road, get off and walk your ATV across," and "[y]ou should never ride your ATV on public streets, roads or highways, even if they are not paved. Drivers of street vehicles may have difficulty seeing and avoiding you, which could lead to a collision."<sup>16</sup>
- **The Consumer Product Safety Improvement Act Requires ATV Warning Labels that Clearly Warn Against Riding on Public Roads:** The Consumer Product Safety Improvement Act, which passed in 2008, codified existing voluntary standards for ATVs, making the ANSI/SVIA standard mandatory. This created a federal requirement for all ATVs to have a variety of warning labels, including one which warns ATV riders to: "NEVER USE ON PUBLIC ROADS."<sup>17</sup>
- **SVIA has Advocated Against Expanding the Legal Use of ATVs on Roads:**
  - **SVIA Has Opposed Ordinances that would increase ATV use on Roadways:** "SVIA opposed the legislation passed in Washington State earlier this year to allow licensing of ATVs for street use and urges the Board to reject allowing such use on county roads."<sup>18</sup>
  - **SVIA's Model State Legislation Includes a Prohibition Against On-Road Use:** Among other things, the model legislation prohibits "[o]peration on any public street, road, or highway except for purposes of crossing, as specified."<sup>19</sup>

13. Polaris Sportsman 570 2014 Owners Manual. [http://cdn.polarisindustries.com/polaris/common/parts-manuals/9924113r01\\_lo\\_res.pdf](http://cdn.polarisindustries.com/polaris/common/parts-manuals/9924113r01_lo_res.pdf)

14. Kawasaki KFX90 Owner's Manual. [http://www.kawasaki-techinfo.net/showOM.php?view\\_lang=EN&spec=US&book\\_no=99987-1802&lang\\_code=EN](http://www.kawasaki-techinfo.net/showOM.php?view_lang=EN&spec=US&book_no=99987-1802&lang_code=EN)

15. Yamaha Raptor 350 Owner's Manual. <http://tinyurl.com/kceqngj>

16. 2012 Honda TRX420TM Owner's manual on file at CFA Office.

17. 15 USC 2089(a)(1) establishes the American National Standard ANSI/SVIA as a mandatory standard. <http://www.law.cornell.edu/uscode/text/15/2089> See CPSC All Terrain Vehicles (ATVs) Presentation February 2010 for an example of the warning label. <http://tinyurl.com/naplldr>

18. SVIA Letter to Kittitas County Board of Commissioners, November 6, 2013.

19. SVIA Model State ATV Legislation. <http://www.svia.org/Relations/Legislation.aspx>

## The Majority of ATV Deaths Occur on Roads

ATVs are not designed for on-road use. Consumer and public health advocates and industry agree that ATVs should not be used on roads, yet the majority of ATV deaths occur on roads.

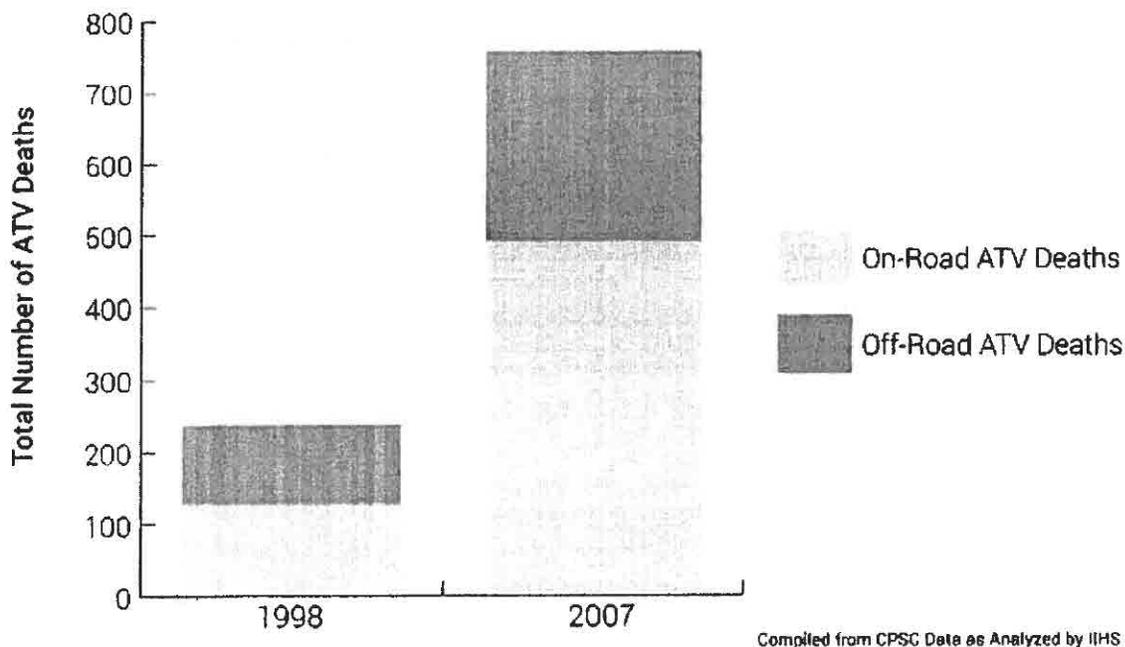
Obtaining a clear picture of ATV deaths is complex due to the existence of two data sources (the CPSC and NHTSA's Fatality Analysis Reporting System [FARS]). The data points below indicate their source—CPSC or FARS.

- **Consumer Product Safety Commission Data: 65 percent of ATV Deaths Occur on Roads:** Data from the U.S. Consumer Product Safety Commission from 2007 (the most recent complete data), as analyzed by IIHS, finds that 492 of 758 deaths where location was listed (93 percent of deaths)—or 65 percent of ATV rider deaths—occurred on roads (both public and private).<sup>20</sup>

Between 1998 and 2007, CPSC data indicates that there was a far greater increase in on-road deaths than off-road deaths.

- **Consumer Product Safety Commission Data: From 1998 to 2007, On-Road Deaths Increased 284 percent while Off-Road Deaths Increased 155 percent:** CPSC data, as analyzed by IIHS, indicates that ATV deaths (where location was identified) rose from 238 in 1998 to 758 in 2007. The number of on-road deaths increased more than off-road deaths.

### On-Road ATV Deaths Increase Two Times Faster Than Off-Road Deaths from 1998 - 2007



20. Williams, Oesch, McCartt, Teoh, Sims, On-Road All-Terrain Vehicle (ATV) Fatalities in the United States, Insurance Institute for Highway Safety, Dec. 2013. <http://www.iihs.org/frontend/iihs/documents/masterfiledocs.aspx?id=2056>

FARS data is available for more recent years than the CPSC data, but it includes only ATV deaths on public roads, while the CPSC's data includes deaths on public roads, private roads and off-road.<sup>21</sup> The most recent FARS data shows fatalities on public roads plateauing in 2008 and then declining up until 2011, when the analysis ends.

- **FARS Data: 19 percent Decline in Fatalities on Public Roads from 2008 to 2011—May be Due to Recession:** The December 2013 IIHS report posits that, like with the overall reduction in motor vehicle fatalities since 2007, this reduction may have roots in the plummeting sales of vehicles from 2007 to 2012. In 2007, 752,000 ATVs were sold compared to 289,000 in 2012.<sup>22</sup>

The vast majority of ATV deaths are on paved roads. This indicates that riders are disregarding both the warnings not to use ATVs on any public road and to avoid paved surfaces. This also indicates the consequences of state laws that allow legal operation of ATVs on roads.

- **FARS Data: 74 percent of ATV Deaths on Public Roads are on Paved Roads:** Of the fatal crashes taking place on public roadways (as opposed to a shoulder or median for instance) from 2007 to 2011, the surface was paved in 74 percent of instances according to a recent analysis of FARS data by the IIHS.<sup>23</sup>

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21. FARS and the CPSC also collect data differently leading to differences in reported fatalities.

22. Williams, Oesch, McCartt, Teoh, Sims, On-Road All-Terrain Vehicle (ATV) Fatalities in the United States, Insurance Institute for Highway Safety, Dec. 2013. Citing: Longthorne, A., Subramanian, R., & Chen, C.-L. (2010). An analysis of the significant decline in motor vehicle traffic fatalities in 2008. Report no. DOT HS-811-346. Washington, DC: U.S. Department of Transportation. And Sivak, M. (2008). Is the U.S. on the path to the lowest motor vehicle fatalities in decades? Report no. UMTRI-2008-39. Ann Arbor: University of Michigan Transport Research Institute. And Republican American. (2013). Side-by-sides drive like a car, act like a bike. Rep-Am.com, Jun 17. <http://www.rep-am.com/articles/2013/06/17/lifestyle/travel/731170.txt>

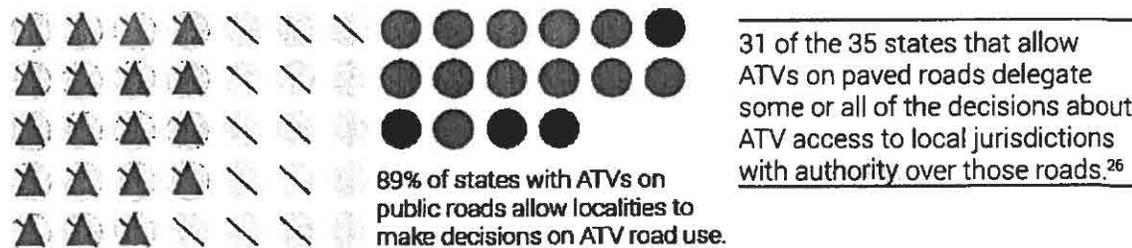
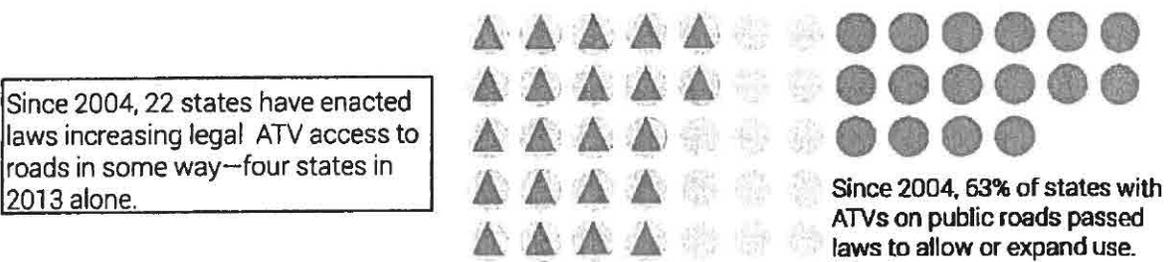
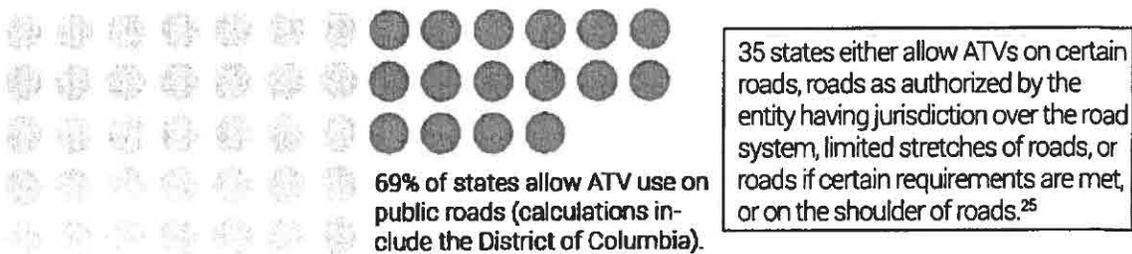
23. Williams, Oesch, McCartt, Teoh, Sims, On-Road All-Terrain Vehicle (ATV) Fatalities in the United States, Insurance Institute for Highway Safety, Dec. 2013. <http://www.iihs.org/frontend/iihs/documents/masterfiledocs.ashx?id=2056>

## An Increasing Number of States Allow ATVs on Roads: Ignoring Warnings and Fatalities

CFA staff conducted a survey of the fifty states and the District of Columbia to ascertain which states allowed ATVs on roads, or allowed local jurisdictions to open roads to ATVs. Staff then looked at legislative history to determine if the data supported that an increasing number of jurisdictions were allowing ATVs on roads.<sup>24</sup>

The results are startling. Despite the weight of industry and consumer advocate warnings, and the sobering data that indicates most ATV deaths occur on roads, the majority of states allow ATVs to be driven recreationally on public roads under certain circumstances or with local approval.

### An Increasing Number of Jurisdictions Allow ATVs to be Driven on Public Roads



24. Deciding whether or not an ATV is allowed on a road or not is not always straightforward. See Methodology section at end of report for discussion of how decisions were made.

25. See Appendix B for list of state laws.

26. CFA staff analysis of state laws.

## **Strong Laws Should Restrict Recreational Riding on Public Roads**

A strong state law will restrict all recreational ATV riding on all portions of a right-of-way, have few exceptions to that general rule, and will provide for consequences for violating the law.

### **A Good State Law Will Have Several Components:**

**Highly Restrictive:** "OHVs shall not be operated upon a public highway or street or sidewalk or right-of-way thereof located within this State."<sup>27</sup> **Analysis:** This is a strong prohibition that precludes riders from operating ATVs on the shoulder of roads.

- **Limited Exceptions**

- **Special Events:** "An OHV may be operated on a street or highway located within this State for a special event of limited duration, conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction."<sup>28</sup> **Analysis:** The limited duration and prearranged schedule language makes clear that this exception is for a parade type activity rather than allowing ATVs on the road at certain times of day for instance.
- **May be Pushed Along or Across a Road:** "An OHV may be pushed across or along such public way provided such OHV is in neutral or that the power train is otherwise disengaged..."<sup>29</sup> **Analysis:** Exceptions for crossing are common and several otherwise strong state laws allow ATVs to be ridden on roads to access off-road areas. Given how dangerous it is to ride ATVs on roads, requiring riders to push ATVs is preferable.

A strong enforcement provision is necessary for any effective law. The law in Delaware, for instance, has both fines and the ability to impound ATVs operated illegally on public roads. Fines should be of an amount sufficient to deter violation of the law.

- **Enforcement:**

- **1st Offense:**
  - **Fine:** \$100
  - **Impoundment:** Up to 100 days at owner's expense
- **Subsequent Offense:**
  - **Fine:** \$400
  - **Impoundment:** Mandatory 6 months at owner's expense
- **Impoundment Upon Probable Cause:** In addition to impoundment after a conviction, police officers may impound an ATV if they have probable cause to believe the ATV was used in violation of the law.<sup>30</sup> **Analysis:** The ability for law enforcement to stop dangerous behavior immediately could have a significant and positive impact on safety.

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27. Delaware Code, Title 21 § 6814(a). <http://delcode.delaware.gov/title21/c068/index.shtml>

28. Id. at (a)(2)

29. Id. at (a)(1)

30. Title 21 § 6831. <http://delcode.delaware.gov/title21/c068/index.shtml>

**Not all States that Restrict ATVs on Roads are Restrictive Enough**

**Accessing Off-Road Areas:** Some states, such as Massachusetts and New Jersey, as discussed in the methodology below, allow riders to drive on the road to access trails. Even minimal riding on roads is dangerous.

**Clear Enforcement:** Simply prohibiting ATVs from operating on roads is not enough—an enforcement mechanism is necessary. This is preferable to state laws which are unclear about the consequences of violating the law, or state laws such as Mississippi’s which does not contain enforcement mechanisms. As the governor of Mississippi was about to sign the ATV law in Mississippi which explicitly banned ATVs on public roads in 2012, one county sheriff stated that riders that violated the ban should get a ticket and be fined but didn’t know of a specific law that allowed officers to ticket ATV riders illegally using roads.<sup>31</sup> Law enforcement must have the tools to meaningfully enforce these laws.

**Non-Exhaustive List of Recent Proposed State Laws and Local Ordinances Increasing ATV Access to Public Roads**

While the list below is not exhaustive, even a partial compendium of recent proposed laws and ordinances demonstrates that there is interest and momentum in permitting ATVs on public roads—a dangerous activity that goes against the recommendation of manufacturers, the federal government, consumer and safety advocates, and the ATV trade association. States and local jurisdictions should not be endorsing the notion that ATVs are safe on public roads by legalizing such dangerous behavior.<sup>32</sup>

State	Jurisdiction	Citation	Status	Year	Description
Oklahoma	State	Senate Bill 1208 <sup>1</sup>	Proposed <sup>2</sup>	2014	Removes language that restricted ATVs on unincorporated county roads to husbandry activities only.
Utah	State	Senate Bill 154 <sup>2</sup>	Proposed	2014	Would increase access by removing prohibition on ATVs being used in a municipality of 7,500 or more. That municipality cannot be in a Class A county (population of 750,000 or more).
Iowa	County—Buchanan	News Article <sup>3</sup>	Adopted February 9	2014	Permits operation on gravel roadways. If rider lives on county paved road, may ride on shoulder to reach gravel roads.
Indiana	City—Oakland City	News Article <sup>4</sup>	Adopted January 28	2014	Allows ATVs on roads in city limits.

31. JB Clark, DJournal.com, May 19, 2012. <http://djournal.com/news/legislature-tightens-atv-law-but-no-fines/>

32. All citations within charts, including the above and in Appendix B, are endnotes to preserve continuity of information.

State	Jurisdiction	Citation	Status	Year	Description
Iowa	State	HF 619 <sup>5</sup>	Proposed	2014	Would allow access to all secondary roads in states. Cities would have to grant permission by ordinance.
Iowa	County--Washington	News Article <sup>6</sup>	Withdrawn	2014	Would have allowed operation on gravel roadways. If rider lives on county paved road, may ride on shoulder to reach gravel roads. Withdrawn because proponents thought the proposal was too narrow.
Iowa	County--Washington	News Article <sup>7</sup>	Proposed	2014	Would allow operation on gravel roadways. Anyone with license could ride on shoulder of paved road to access nearest gravel roads.
Iowa	County--Hancock	News Article <sup>8</sup>	Proposed <sup>9</sup>	2013	Would allow ATVs on secondary roads.
Wisconsin	State	2013 Assembly Bill 527 <sup>10</sup>	Proposed	2013	Increase road access by allowing ATVs to use roads to access gas, trails, etc.
Maine	State	HP 439 <sup>11</sup>	Proposed-- Did not Pass <sup>12</sup>	2013	Allow access to public way from one property to another for landscaping or maintenance work.
Washington	State	HB 2675 <sup>13</sup>	Proposed	2014	Substitute bill would allow ATVs on roads with Speed limits over 35 MPH and give local jurisdictions ability to allow ATVs on roads they have jurisdiction over.
Minnesota	County--Renville	News Article <sup>14</sup>	Proposed	2014	Would allow ATVs on designated county roads.
New Hampshire	City--Berlin	News Article <sup>15</sup>	Enacted	2014	Added more roads open to ATVs to already existing trail connector roads.
Washington	State	HB 1632 <sup>16</sup>	Enacted	2013	Granted greater access to county roads, cities or towns may authorize.
Missouri	State	HB 103 <sup>17</sup>	Enacted	2013	Allowed municipalities to authorize ATV use on roads within their jurisdiction.

State	Jurisdiction	Citation	Status	Year	Description
Indiana	State	PL 259 Sec. 16 <sup>18</sup>	Enacted	2013	Allowed cities and towns to authorize ATV use on roads over which they hold jurisdiction—county roads could already be designated.
Michigan	State	HB 4299 <sup>19</sup>	Enacted	2013	Expanded number of counties and municipalities that may authorize ATV use on public roads.
Indiana	County—Bartholomew	News Article <sup>20</sup>	Did not pass	2013	Would have opened county roads to ATVs.

## Recommendations

Given that ATVs are not designed to be driven on roads, that industry, the CPSC and consumer and safety advocates are in agreement that ATVs should not be operated on roads, and that most ATV deaths take place on roads, states should be working to restrict ATV access to public roads. Unfortunately that is not the case. The majority of states allow some access to public roads for recreational purposes—and the trend is for more states to allow such access.

To reverse this trend, all entities with an interest in ATV safety must clearly inform state and local officials about how dangerous ATVs are on roads.

- **State Laws:** States should pass bright-line laws prohibiting ATV use on all roadways, including the shoulder or any other part of the right of way, within a state. Further, state laws should not permit local jurisdictions to have authority to pass laws about ATV access. Local control of ATV access leads to rider confusion as to what is allowed where, to problems with enforcement of laws, and to increased operation of laws on roads.
- **Municipal and County Ordinances:** Where state laws allow local jurisdictions to make decisions regarding ATV access to public roads, those jurisdictions should not expand the permissible range of ATVs on public roads.
- **National Highway Traffic Safety Administration:** ATVs are not primarily manufactured for on-road use and do not meet NHTSA's statutory definition of a motor vehicle.<sup>33</sup> However, since states are increasingly passing laws permitting on-road use and ATV deaths are occurring primarily on roads, NHTSA should take concrete steps to address ATV safety including:
  - **Data and Expertise Sharing:** NHTSA should share data with the Consumer Product Safety Commission (CPSC) to ensure that all on-road ATV fatalities are captured. NHTSA could also share its vehicle and highway safety expertise with CPSC as the Commission evaluates the ATV on roads issue.
  - **Highway Safety Grant Program:** The grants that fund long standing state programs to increase highway safety are relevant to reducing ATV crashes on roads. NHTSA could expand its current programs that fund enforcement efforts to increase helmet use and decrease alcohol use on roads to ATVs.
- **The Consumer Product Safety Commission Needs to Prioritize ATV Road Use as a Safety Issue:** As the agency responsible for ATV safety, the CPSC should be a strong voice in opposing the operation of ATVs on roads and in educating consumers about the dangers of on road ATV operation. Additionally, the CPSC could:
  - **Release More Data:** The CPSC could improve ATV death data by including how many deaths occur on private versus public roads to clarify the location of ATV deaths and better inform researchers. This change would also make the CPSC's and NHTSA's data more compatible.
  - **Speed the Release of Data:** The most complete data available from CPSC is from 2007 and the last ATV Annual Report of ATV-Related Deaths and Injuries has data only up to 2011. More recent data would assist those working on ATV safety.

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33. 49 USC 30102(a)(6). <http://www.law.cornell.edu/uscode/text/49/30102>

- **All Segments of the ATV Industry Need to Prioritize Opposition to Laws and Ordinances Allowing ATVs on Roads:** The ATV industry needs to speak in a unified voice in opposition to proposed laws that would allow ATVs on roads, and must communicate to relevant lawmakers why ATVs should not operate on public roads; why proposed rules to expand ATV operation to roads should be opposed; and why existing laws that allow ATVs on roads must be repealed.
- **Consumer and Public Safety Advocates, the ATV industry and Federal Regulators:** All those with an interest in ATV safety need to work together to communicate the hazards of operating ATVs on roads and should work together to oppose state laws and local ordinances that compromise safety by increasing ATV access to roads.

## Appendix A: Methodology

Not every jurisdiction's law clearly allowed or restricted ATV use on roads. The information below explains how CFA staff categorized state laws when generating the analysis of this paper as well as the chart in the appendix to this paper. When analyzing the state laws, CFA staff focused on which states allowed recreational-focused riding on public roads, rather than specific work exceptions or de minimis exceptions for accessing off-road riding areas.

For the purposes of this study, states were deemed to allow ATVs on public roads if:

- **ATVs are Allowed on Roads Statewide:** ATVs were allowed on a class of road by right, generally if registered as a motorcycle or motor vehicle;
- **ATVs are Allowed on Roads by Political Subdivisions Having Authority Over Those Roads:** Most states that allow ATVs on roads leave the decision to counties or municipalities that have jurisdiction over their roads. This takes both the form of allowing local governments to opt-out of a broad state law allowing ATVs on roads, as well as allowing ATVs on roads where they would not otherwise be allowed. Sometimes an executive level entity, such as a transportation cabinet, may designate roads as open to ATVs.
- **ATVs are Allowed on the Shoulder of Roads:** Sometimes ATVs are allowed on the shoulder or extreme right hand side of a road.
- **More than De Minimis Stretches of Roads to Connect Trails:** There is often, but not always, a defined distance of ATV accessible road. The limit on how long the stretch of road ATVs are allowed on can be from 500 yards (Maine) to 10 miles (West Virginia, on any road that is not an interstate), to any portion of a highway (New York). These states were deemed to allow more than de minimis access to roads in order to connect trails.
- **ATVs were Allowed on Roads in Certain Districts or Areas:** For instance in Virginia, two specific county governments may authorize ATVs to use roads.
- **ATVs are Allowed on Roads with Certain Surfaces or Certain Speed Limits:** Florida for instance allows ATVs on unpaved roads with speed limits less than 35mph. Though counties may exempt from use.
- **ATVs are Allowed on Roads, During Certain Times of Day:** For instance during daylight hours.

For the purposes of this study, states were not deemed to allow ATVs on roads if:

- **The Law Was Silent or Unclear but an Attorney General Opinion or a Police Bulletin was on Point:** Sometimes the law is silent or confusing, and the Attorney General has given guidance to clarify the law. In two instances (Alabama and South Carolina) an Attorney General Opinion established that ATVs were not allowed on public roads. In Hawaii the law is silent, but a police bulletin states that ATVs are not allowed on roads.
- **There were Work Exceptions to the Ban of ATVs on Roads, such as Agricultural Use:** There are a variety of work exceptions to state prohibitions of ATVs on roads including agricultural, utility, law enforcement.
- **ATVs are Authorized to Cross Roads:** ATVs are often allowed to cross a road when a road

bisects an off-road area. The ATV Safety Institute considers this a safe use of ATVs if done correctly.<sup>34</sup>

- **ATVs are Allowed on Roads for Special Events:** In some states there is a general ban on ATVs on roads that can be lifted for a special event, such as a parade, with a limited duration and in a limited area.
- **ATVs Are Allowed to Operate Minimally to Reach Trails:** In New Jersey, for example, if there is no other way to access an off-road area, an ATV may operate adjacent and parallel to a road or right of way area.<sup>35</sup> In Massachusetts, during loading and unloading of an ATV, it may be operated adjacent to the traveled portion of the road (likely the shoulder where there is one) from the nearest possible point to the off-road area.<sup>36</sup> Both these uses were judged as de minimis and qualified that state law as restricting ATVs from roads.

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34. See ATV Safety Institute Golden Rules, <http://www.atvsafety.org/>. "Never ride on paved roads except to cross when done safely and permitted by law - another vehicle could hit you. ATVs are designed to be operated off-highway."

35. 39:3C-17 Operational limitations. [http://lis.njleg.state.nj.us/cgi-bin/om\\_isapi.dll?clientID=37609634&Depth=2&ID=WRAP&advquery=Operational%20limitations&depth=4&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.info&rank=&record=\(E07C\)&softpage=Doc\\_Frame\\_PG42&wordsaroundhits=2&x=39&y=7&z7=](http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=37609634&Depth=2&ID=WRAP&advquery=Operational%20limitations&depth=4&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.info&rank=&record=(E07C)&softpage=Doc_Frame_PG42&wordsaroundhits=2&x=39&y=7&z7=)

36. Ch. 90B Sec. 25 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90B/Section25>

## Appendix B: State Laws

State	State Law Allows ATVs on Paved Roads?	Year Law Enacted to Expand or Allow Road Access or Restrict Access
Alabama	<b>No</b> <sup>21</sup> (1985 Attorney General's opinion: "vehicles specifically designed by their manufacturers as off-the-road vehicles are not to be used on the streets and highways of this state.")	<b>1985</b> AG Opinion
Alaska	<b>Yes</b> <sup>22</sup> (When authorized by authority having jurisdiction, outside roadway or shoulder of non-controlled access). Under Administrative Code rather than statute.	<b>1979</b> <sup>23</sup> Last Update to section of Administrative Code.
Arizona	<b>Yes</b> <sup>24</sup> (ATVs that have the proper equipment may be registered as a motor vehicle.)	<b>2008</b> Laws 2008, Ch. 294, § 5. Added 28 ARS 1177. <sup>25</sup>
Arkansas	<b>No</b> <sup>26</sup>	N/A
California	<b>Yes</b> <sup>27</sup> (For connecting link between trail segments by local authority, for a distance of more than three miles. Pilot Program in Inyo County expands authority to 10 miles. <sup>29</sup> )	<b>2011</b> Pilot Program extends roads open to 10 miles (Added by Stats. 2011, Ch. 532, Sec. 4. Effective January 1, 2012. Repealed as of January 1, 2017, by its own provisions.) Created pilot program in Inyo County. <sup>29</sup> <b>1971</b> (Chapter 2 added by Stats. 1971, Ch. 1816. ) Local authority referenced in secondary sources as far back as 1993. <sup>30</sup>
Colorado	<b>Yes</b> <sup>31</sup> (States may designate roads. Local political subdivisions may designate roads but not state highways.)	<b>1990 or 1995</b> Early Session laws unavailable online. 1990 L. 89: Entire article added, p. 1366, § 1, effective April 1, 1990 1999 <b>1995</b> L. 95: (1)(a) and (2) amended and (1)(h) added, p. 341, § 9, effective July 1. 1(a) is section allowing a local road to be designated open.
Connecticut	<b>No</b> <sup>32</sup>	N/A
Delaware	<b>No</b> <sup>33</sup>	N/A
District of Columbia	<b>No</b> <sup>34</sup>	N/A
Florida	<b>Yes</b> <sup>35</sup> (Unpaved roads with speed limits under 35 mph during daylight allowed; counties may exempt roads from use <sup>36</sup> )	<b>2006</b> Florida Laws Chapter 2006-290 House Bill No. 7079 <sup>37</sup>
Georgia	<b>Yes</b> <sup>38</sup> (Towns, counties and municipalities to regulate zones of use)	<b>1976</b> HISTORY: Ga. L. 1976, p. 330, § 5. No other history provided in code.
Hawaii	<b>No</b> <sup>39</sup> (No laws found. Cite to police bulletin)	N/A

State	State Law Allows ATVs on Paved Roads?	Year Law Enacted to Expand or Allow Road Access or Restrict Access
Idaho	<b>Yes</b> <sup>40</sup> (Allowed on local roads; But local jurisdictions may limit ATV use on local roads through ordinances <sup>41</sup> )	<b>2008</b> House Bill 602 in 2008 expanded access to roads by making local political subdivisions opt out of allowing ATVS on streets rather than opt in. <sup>42</sup>
Illinois	<b>Yes</b> <sup>43</sup> (Local jurisdictions and the state may authorize on roads with speed limits of 35mph or less)	<b>2009</b> Law passed (effective 2010) Public Act 096-0279 <sup>44</sup> replaces "neighborhood vehicles" with "off-highway vehicles"
Indiana	<b>Yes</b> (counties may designate road systems outside cities or towns <sup>45</sup> ; cities and towns may regulate <sup>46</sup> ; may cross highways; may ride on shoulder if safe)	<b>2013</b> P.L.259-2013, SEC.16 expands discretion to cities and towns <sup>47</sup>  1995  1995 Ind. ALS 1; 1995 Ind. Acts 1; 1995 Ind. PL 1; 1995 Ind. HEA 1047. Added IC 14-16-1-20.
Iowa	<b>Yes</b> <sup>48</sup> (Both counties and cities may designate roads that can be used)	<b>2004</b> Section present in 2004 Acts, ch 1132, §53 allowed on county roads. <sup>49</sup> Cities allowed in same year by 2004 Acts, ch 1175, § 371 <sup>50</sup>
Kansas	<b>Yes</b> <sup>51</sup> (Allowed on county and township roads. Cities may allow)	<b>1994</b> Or earlier for County Roads; 1994 Attorney General opinion <sup>52</sup>
Kentucky	<b>Yes</b> <sup>53</sup> (Transportation cabinet, counties and towns may designate roads for ATV use)	<b>1998</b> <sup>54</sup> HISTORY: (Enact. Acts 1990, ch. 400, § 2, effective July 13, 1990; 1998, ch. 47, § 2, effective July 15, 1998; 2000, ch. 460, § 2, effective July 14, 2000; 2006, ch. 180, § 8, effective July 12, 2006.)
Louisiana	<b>No</b> <sup>55</sup>	N/A
Maine	<b>Yes</b> <sup>56</sup> (Municipalities and townships may designate ATV access routes; travel no more than 500 yards to cross a public way)	<b>2007</b> 2005, c. 626, §3 (AMD). 500 Yards  2007, c. 33, §1 (AMD). ATV Access Route
Maryland	<b>No</b> <sup>57</sup>	N/A
Massachusetts	<b>No</b> <sup>58</sup>	N/A
Michigan	<b>Yes</b> <sup>59</sup> (County and municipal roads; Also: the legislative body of a local unit of government may request the state transportation department to authorize the local unit of government to adopt an ordinance authorizing the operation of ORVs on a highway, other than an interstate highway, located within the local unit of government.)	<b>2013</b> Pub Acts 117 <sup>60</sup> & 118 <sup>61</sup> Expanded local control to all counties and to municipalities in addition to townships.  2008  Pub Acts 2008, No. 240, imd eff July 17, 2008. <sup>62</sup>  Expanded Sec. 81131 to allow local authorities to authorize ATV use on roads in eligible counties.

State	State Law Allows ATVs on Paved Roads?	Year Law Enacted to Expand or Allow Road Access or Restrict Access
Minnesota	<b>Yes</b> <sup>63</sup> (ATVs over 1,000 pounds may be operated within the public road right-of-way of a county state-aid or county highway on the extreme right-hand side unless prohibited by local authorities. Smaller ATVs may be ridden on the outside bank of a road unless prohibited by local authorities.)	<b>2007</b> 2007 c 131 art 1 s 13 <sup>64</sup> Added "extreme right hand side" section.
Mississippi	<b>No</b> <sup>65</sup> (Law changed in 2012 to explicitly outlaw on road use. <sup>65</sup> )	N/A
Missouri	<b>Yes</b> <sup>67</sup> (Cities, counties may allow special licenses. Municipalities may allow operation by ordinance.)	<b>2013</b> A.L. 2013 H.B. 103, § A, eff. Aug. 28, 2013. The 2013 amendment, by H.B. 103, added 1.(6) (which allows municipalities to authorize ATVs on local roads). <sup>68</sup>
Montana	<b>Yes</b> <sup>69</sup> (Can be ridden on controlled access road if registered and licensed; may be ridden on any road with proper authorization, or by ordinance in municipality).	<b>2011</b> En. Sec. 1, Ch. 106, L. 2011. Section enacted. <sup>70</sup>
Nebraska	<b>Yes</b> <sup>71</sup> (City or village ordinance, county resolution.)	<b>2007</b> 2007 Neb. ALS 307; 2007 Neb. Laws 307; 2007 Neb. LB 307. Added local authorization to allow on public roads. <sup>72</sup>
Nevada	<b>Yes</b> <sup>73</sup> (City or county may designate any portion of a highway within the city or county (no more than 2 miles 490.110) as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles with approval for the designation from the Department of Transportation.)	<b>2005</b> 2005, ch. 441, § 10, p. 2027. This section is effective January 1, 2006. <sup>74</sup>
New Hampshire	<b>Yes</b> <sup>75</sup> (City or town councils and boards of selectmen may authorize the use of sidewalks and class IV, class V or class VI highways and bridges, or portions thereof, for use by OHRVs. The operation of OHRVs may also be allowed on sidewalks adjacent to class I, II, III, or III-a highways.)	<b>1990</b> or earlier. Language for highway and bridges present in 1990 bills—online resources do not go back further than 1989. <sup>75</sup> HISTORY: 1981, 538:3. 1983, 449:5. 1988, 264:1, 2. 1990, 186:3, 4, eff. Oct. 1, 1990; 256:2, eff. June 27, 1990. 1996, 63:2, eff. July 1, 1996; 78:1, eff. July 12, 1996. 2004, 47:1, eff. July 2, 2004. 2005, 210:14-16, eff. July 1, 2006.
New Jersey	<b>No</b> <sup>77</sup>	N/A
New Mexico	<b>No</b> <sup>78</sup>	N/A
New York	<b>Yes</b> <sup>79</sup> (Department of transportation with respect to state highways, maintained by the state and any other governmental agency with respect to highways, including bridge and culvert crossings, under its jurisdiction may designate and post any such public highway or portion thereof as open for travel by ATVs when in the determination of the governmental agency concerned, it is otherwise impossible for ATVs to gain access to areas or trails adjacent to the highway.)	<b>1986</b> Add, L 1986, ch 402, § 11, eff Jan 1, 1987. Information from Lexis. No legislative history in online code and historical bills only available from 1995 onward.

State	State Law Allows ATVs on Paved Roads?	Year Law Enacted to Expand or Allow Road Access or Restrict Access
North Carolina	<b>No</b> <sup>80</sup>	N/A
North Dakota	<b>Yes</b> <sup>81</sup> (Controlled access highway in emergency. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles per hour.)	<b>2005</b> 2005, ch. 344, § 11  Registered ATVs allowed on paved roads in 2005. <sup>82</sup>
Ohio	<b>Yes</b> <sup>83</sup> (On highways in the county or township road systems whenever the local authority having jurisdiction over such highways so permits, On the berm or shoulder of a highway, other than a highway as designated in division (A)(1) of section 4519.40 of the Revised Code, when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane; On the berm or shoulder of a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose vehicle to another such area.)	<b>1999 or earlier</b> Local authority present as early as 1999. <sup>84</sup>  HISTORY: 134 v H 214 (Eff 3-7-72); 138 v H 450 (Eff 5-29-80); 147 v H 611. Eff 7-1-99; 149 v S 123, § 1, eff. 1-1-04.
Oklahoma	<b>Yes</b> <sup>85</sup> (Municipalities may authorize, and on unpaved roads which are located within the boundaries of any property of the Forest Service of the United States Department of Agriculture.)	<b>2008</b> Expanded from City street to streets and highways within a municipality with ordinance. <sup>86</sup>  2004  Allowed in City streets with ordinance. <sup>87</sup>
Oregon	<b>Yes</b> <sup>88</sup> (Where the highway is posted to permit snowmobiles or all-terrain vehicles. Ordinance is vague on who has authority to post but anecdotally municipalities have passed ordinances. <sup>89</sup> )	<b>1999 or Earlier</b> <sup>90</sup> HISTORY: 1983 c.338 § 727; 1985 c.72 § 3; 1985 c.459 § 29; 1989 c.991 § 13; 1999 c.372 § 2; 1999 c.565 § 5; 2007 c.887 § 3
Pennsylvania	<b>Yes</b> <sup>91</sup> (Crossing. The Department of Transportation on State-designated highways and local authorities on any highway, road or street within its jurisdiction may designate any highway, road or street within its jurisdiction as a snowmobile road, an ATV road, or both, and may, in its discretion, determine whether such road shall be closed to vehicular traffic or whether snowmobiles and ATV's may share this designated road with vehicular traffic.)	<b>1985 or Earlier</b> HISTORY: June 23, 1978, P.L.523, No.86, eff. imd.; July 11, 1985, P.L.220, No.56, eff. 60 days. Last amended in 1985
Rhode Island	<b>No</b> <sup>92</sup>	N/A
South Carolina	<b>No</b> <sup>93</sup> (AG opinions state that ATVs are not registered and so are not allowed on public highways.)	N/A

State	State Law Allows ATVs on Paved Roads?	Year Law Enacted to Expand or Allow Road Access or Restrict Access
South Dakota	<b>Yes</b> <sup>94</sup> (If licensed as a motorcycle having all necessary accessories but not on Interstates.)	<b>1989</b> or earlier Session laws unavailable before 1997 <sup>95</sup> 32-20-13. All-terrain vehicle licensed as motorcycle—Requirements—Use on interstate highway system prohibited—Violation as misdemeanor. HISTORY: Source: SL 1987, ch 233, § 2; 1989, ch 270, § 1.  32-20-12. Off-road vehicles—Operation on certain lands as misdemeanor—Registration—Title certificate.  HISTORY: Source: SL 1985, ch 238, § 8; 1986, ch 259; 1987, ch 232; 1987, ch 233, § 1; 1989, ch 256, § 18; SL 2003, ch 272 (Ex. Ord. 03-1) § 82.
Tennessee	<b>Yes</b> <sup>96</sup> (Any local governing body within an adventure tourism district may establish designated ATV streets—unpaved only; Counties may regulate operation on roads under county jurisdiction.)	<b>2011</b> Acts 1982, ch. 749, § 2; 2005, ch. 60, § 1; 2007, ch. 448, § 1; 2011, ch. 383, § 3. <sup>97</sup>
Texas	<b>No</b> <sup>98</sup>	N/A
Utah	<b>Yes</b> (On roads with one traffic lane in each direction if made street legal and the local authority allows if a local road.) <sup>99</sup>	<b>2008</b> 2008, S.B. 181 Off-highway Vehicle Use on Public Highways <sup>100</sup>
Vermont	<b>Yes</b> <sup>101</sup> (If the highway has been opened to all-terrain vehicle travel by the selectmen or trustees or local governing body and is so posted by the municipality.)	<b>1983</b> Local authorization allowed in original law. Agricultural use added in 1985 amendment. (Lexis notes older session laws unavailable online. Local authorization exists prior to 2009 amendments.)  HISTORY: Added 1983, No. 240 (Adj. Sess.), § 1; amended 1985, No. 8; 1991, No. 123 (Adj. Sess.), § 3; 2009, No. 50, § 81.
Virginia	<b>Yes</b> <sup>102</sup> (In two counties only between trails.)	<b>2003</b> Buchanan County added 2003. <sup>103</sup>  2011  Tazewell County added 2011. <sup>104</sup>
Washington	<b>Yes</b> <sup>105</sup> (With on road registration; on certain roads with a speed limit of 35 MPH or less; counties with populations of 15,000 or more must approve road use; Smaller counties may determine that roads are unsuitable for ATV use.)	<b>2013</b> 2013 changes in law expanded roads that ATVs can use and created cited section of law. 2013 2nd sp.s. c 23 § 6; ENGROSSED SUBSTITUTE HOUSE BILL 1632. <sup>106</sup>

State	State Law Allows ATVs on Paved Roads?	Year Law Enacted to Expand or Allow Road Access or Restrict Access
West Virginia	<p><b>Yes</b><sup>107</sup> (ATVs may operate on paved roads with no center lines—approximately 20,000 miles of road.<sup>108</sup> Additionally: The governing body of a municipality may regulate in any manner or prohibit, by lawfully enacted ordinance, the operation of all-terrain vehicles upon any street, road or avenue within the municipal corporate limits, The county commission of any county which has in effect and is operating under a countywide comprehensive plan may by lawfully enacted ordinance regulate or prohibit the operation of all-terrain vehicles on any road in the county, except interstate highways.)</p>	<p><b>2004</b> HB 4022; 2004, c. 12.<sup>109</sup></p>
Wisconsin	<p><b>Yes</b><sup>110</sup> (On roadways which are designated as all-terrain vehicle routes. These can be designated at local level according to state Dep. Of Natural Resources manual<sup>111</sup> also in definitions Sec. 23.33.)</p>	<p><b>1985</b><sup>112</sup> AtV Access Routes present in early Acts. HISTORY: History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258; 13.92 (1) (bm) 2.</p>
Wyoming	<p><b>Yes</b> (Roads designated a Wyoming off-road recreational vehicle trail by the government body having jurisdiction—including local.<sup>113</sup> Also those ATVs that can be registered as multipurpose vehicles can be operated on streets but not interstates.<sup>114</sup>)</p>	<p><b>2007</b> Multi-Purpose Vehicles<sup>115</sup> 2002 or Earlier for Recreational Vehicle Trail—present in earliest bills on website.<sup>116</sup>  HISTORY: Laws 1986, ch. 88, § 1; 2002 Sp. Sess., ch. 12, § 2; 2004, ch. 35, § 1; 2007, ch. 34, § 1.</p>

## Table Endnotes

1. OK SB 1208 <http://www.oklegislature.gov/BillInfo.aspx?Bill=SB1208&Session=1400>
2. UT SB 154 <http://le.utah.gov/~2014/bills/static/SB0154.html>
3. Tari Robertson, Independence Bulletin Journal, New ATV UTV Ordinance Goes in Effect Monday, February 8, 2014. [http://www.communitynewspapergroup.com/independence\\_bulletin\\_journal/news/article\\_3c36ccd5-903d-11e3-9d51-001a4bc887a.html](http://www.communitynewspapergroup.com/independence_bulletin_journal/news/article_3c36ccd5-903d-11e3-9d51-001a4bc887a.html)
4. Gabrielle Shirley, 14news.com, ATV Riders Now Have More Freedom on Oakland City Roads, January 29th, 2014. <http://webcache.googleusercontent.com/search?q=cache:ejd1c-bv5czl.14news.com/news/news/232313-atv-drivers-now-have-more-freedom-oakland-city-roads+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a>
5. Iowa HF 619. [http://search.legis.state.ia.us/NXT/gateway.dll/cl/85th%20qa%20-%20session%201/03\\_introduced/001\\_bills/01\\_house/hf%20061900.html?f=templates?fn=document-frameset.htm&sq=land%3AAll%20terrain%20vehicle%20Sx=server\\$3.0#LPH11](http://search.legis.state.ia.us/NXT/gateway.dll/cl/85th%20qa%20-%20session%201/03_introduced/001_bills/01_house/hf%20061900.html?f=templates?fn=document-frameset.htm&sq=land%3AAll%20terrain%20vehicle%20Sx=server$3.0#LPH11)
6. Mary Zielinski, Riverside Current, Supervisors to Re-Draft ATV Ordinance, January 29, 2014. <http://www.threechickspublications.com/riversidecurrent/news/2014/01/29/supervisors-to-re-draft-atv-ordinance/>
7. Mary Zielinski, Supervisors to Re-draft ATV Ordinance, Riverside Current. January 29, 2014. <http://www.threechickspublications.com/riversidecurrent/news/2014/01/29/supervisors-to-re-draft-atv-ordinance/>
8. Peggy Senzarino, Globegazette.com, Hancock County Considers ATV ordinance, October 28, 2013. [http://globegazette.com/news/local/hancock-county-considers-atv-ordinance/article\\_d448bb0e-07c6-5e3d-b5dc-4bd5757c394d.html](http://globegazette.com/news/local/hancock-county-considers-atv-ordinance/article_d448bb0e-07c6-5e3d-b5dc-4bd5757c394d.html)
9. Not listed in county ordinance. <http://www.hancockcountyva.org/County%20Ordinances.htm> There is text of the ordinance <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CDAQFjAR&url=http%3A%2F%2Fwww.hancockcountyva.org%2Fdownloads%2FOrdinances%2FOrdinance%252028%2520Draft%2520with%2520revision%252012022013.pdf&ei=RT35UvCaBMqlOQHnlG4Bq&usq=AEQjCNESm1zyqs4Ac1H2ELb2q9fgPRHPhw&sig2=paPk1wnvJTevtry6dyGdOw&bvm=bv60983673,d.dmQ&cad=rja>
10. 2013 Assembly Bill 527 <http://docs.legis.wisconsin.gov/2013/related/proposals/ab527>
11. HP 439 [http://www.mainelegislature.org/legis/bills/bills\\_126th/billtexts/HP043901.asp](http://www.mainelegislature.org/legis/bills/bills_126th/billtexts/HP043901.asp)
12. HP 439 Final Disposition [http://www.mainelegislature.org/legis/bills/display\\_ps.asp?id=620&PID=1456&snum=126](http://www.mainelegislature.org/legis/bills/display_ps.asp?id=620&PID=1456&snum=126)
13. Washington State, HB 2675—Substitute Bill. <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/House%20Bills/2675-S.pdf>
14. Tom Cherveney, Renville County Board Looking to Open Roads to Off-Highway Vehicles, West Central Tribune, Feb. 18, 2013. <http://www.wctrib.com/content/renville-county-board-looking-open-roads-highway-vehicles>
15. John Kziol, Union Leader, February 20, 2014. <http://www.unionleader.com/article/20140220/NEWHAMPSHIRE03/140229978&template=mobileart>
16. HB 1632 <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/House%20Passed%20egislature/1632-S.PL.pdf>
17. HB 103 <http://www.house.mo.gov/bills/summary.aspx?bill=HB103&year=2013&code=R>
18. PL 259 Sec. 16 [http://iga.in.gov/static-documents/8/4/0/7/8407e19c/acts\\_2013.pdf](http://iga.in.gov/static-documents/8/4/0/7/8407e19c/acts_2013.pdf)
19. HB 4299 <http://www.legislature.mi.gov/%28S%28xr43anvnrpxxi45kavnr155%29%29/mileg.aspx?page=GetObject&objectName=2013-HB-4299>

20. John Clark, The Republic, May 28 2013. [http://www.therepublic.com/view/local\\_story/Commissioners-nix-request-to-o\\_1369767324](http://www.therepublic.com/view/local_story/Commissioners-nix-request-to-o_1369767324)
21. Alabama Attorney General, Opinion 86-00033, 1985. <http://www.ago.state.al.us/opinions/pdf/8600033.pdf> Could not find law specifically on this issue. In a 1985 attorney general's opinion: "vehicles specifically designed by their manufacturers as off-the-road vehicles are not to be used on the streets and highways of this state." See also, Alabama Attorney General Opinion, 85-0048, 1985. <http://www.ago.state.al.us/opinions/pdf/8500488.pdf>
22. 13 AAC 02.455. Operation on highways and other locations <http://www.legis.state.ak.us/basis/aac.asp#13.02.450> Alaska Administrative Code implemented under authority of A.S. Sec. 28.05.011. Duty of commissioners to adopt regulations. <http://www.legis.state.ak.us/basis/statutes.asp#28.05.011>
23. Where there is not a link to a specific bill changing the law, the information was gathered from a Lexis search.
24. 8 ARS 1177. Off-highway vehicle user fee; indicia; registration; state trust land recreational permit; exception. Allows ATVs that have the proper equipment to be registered as a motor vehicle. <http://www.azleg.gov/FormatDocument.asp?InDoc=/ars/28/01177.htm&Title=28&DocType=ARS>
25. SB 1167 48th Legislature Second Session, Chaptered Version. <http://www.azleg.gov/legtext/43leg/2r/laws/0294.pdf>
26. ACA 27-21-106 <http://www.lexisnexis.com/hottopics/arcodes/>
27. California Vehicle Code 38026(a). <http://leginfo.legislature.ca.gov/faces/noDataFound.xhtml>
28. 38026.1. [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=VEH&sectionNum=38026.1](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH&sectionNum=38026.1)
29. Note in 38026.1 [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=VEH&sectionNum=38026.1](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH&sectionNum=38026.1)
30. National Off-Highway Vehicle Conservation Council. [nohvcclibrary.forestry.uga.edu/SCANNED%20FILES/0-0016.pdf](http://nohvcclibrary.forestry.uga.edu/SCANNED%20FILES/0-0016.pdf)
31. CRS Administration, Parks. 33-14.5-108. Off-highway vehicle operation prohibited on streets, roads, and highways. <http://www.lexisnexis.com/hottopics/colorado/>
32. Sec. 14-387. Rules of operation. Violations. [http://www.cga.ct.gov/current/pub/chap\\_255.htm](http://www.cga.ct.gov/current/pub/chap_255.htm)
33. Title 21 § 6814. Operation of OHVs – Upon public highways, streets, sidewalks or rights-of-way; penalties for violation. <http://delcode.delaware.gov/title21/c068/index.shtml>
34. Title 50, Subtitle 7, Ch. 22. § 50-2201.04b. Operation of all-terrain vehicles and dirt bikes. <http://www.lexisnexis.com/hottopics/dccode/>
35. Title 23, Ch. 316. 316.2123 Operation of an ATV on certain roadways. [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Stature&Search\\_String=&URL=0300-0399/0316/Sections/0316.2123.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Stature&Search_String=&URL=0300-0399/0316/Sections/0316.2123.html)
36. Example of county exempting itself from allowing ATVs on unpaved roads. [www.alachuacounty.us/Depts/BOCC/Ordinances/2006/06-035.pdf](http://www.alachuacounty.us/Depts/BOCC/Ordinances/2006/06-035.pdf)
37. Florida Laws Chapter 2006-290 House Bill No. 7079 [http://www.google.com/url?sa=t&rc=1&q=&esrc=s&source=web&cd=1&ved=0CCcQFiAA&url=http%3A%2F%2Flaws.flrules.org%2Ffiles%2Fch\\_2006-290.pdf&ei=XXTqUvbbFdHLSATMm0LqDg&usq=AFOjCNHQfLJCIS4\\_duzselQnl\\_8732X5Vw&sig2=x7R8Y9PovXBAkzj\\_vvl\\_m5A&hvm=by60444564.d\\_cWc&cad=rja](http://www.google.com/url?sa=t&rc=1&q=&esrc=s&source=web&cd=1&ved=0CCcQFiAA&url=http%3A%2F%2Flaws.flrules.org%2Ffiles%2Fch_2006-290.pdf&ei=XXTqUvbbFdHLSATMm0LqDg&usq=AFOjCNHQfLJCIS4_duzselQnl_8732X5Vw&sig2=x7R8Y9PovXBAkzj_vvl_m5A&hvm=by60444564.d_cWc&cad=rja)
38. Motor Vehicles and Traffic, Off-Road Vehicles § 40-7-5. Authority to regulate time periods and to establish zones of use. <http://www.lexisnexis.com/hottopics/gacode/Default.asp>
39. No laws on ATVs found. Police department bulletin from 2003 warns riders that using ATVs on roads is illegal. <http://www.hawaiiipolice.com/operating-atvs-on-public-roads-illegal-police-advise-12-09-03> and again here in 2006 [www.solutionsislandhawaii.com/downloads/atv\\_flyer.pdf](http://www.solutionsislandhawaii.com/downloads/atv_flyer.pdf)
40. 67-7122 REQUIREMENTS – REGISTRATION – PROCEDURE <http://legislature.idaho.gov/ldstat/Title67/T67CH71SFCT67-7122.htm>

41. 49-426. Exemptions from operating fees. 49-426(3) <http://legislature.idaho.gov/idstat/Title49/T49CH4SECT49-426.htm>
42. HB 602 <http://legislature.idaho.gov/legislation/2008/H0602.html>
43. 25 ILCS 5/11-1426.1 Operation of non-highway vehicles on streets, roads, and highways. <http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=062500050HCh+11+Art+X-1/&ActID=1815&ChapterID=49&SeqStart=125600000&SeqEnd=130700000>
44. Public Act 96-279. <http://www.ilga.gov/legislation/publicacts/96/096-0279.htm>
45. IC 14-16-1-20 Operation on highways and roads <http://www.in.gov/legislative/ic/2010/title14/ar16/ch1.pdf>
46. IC 9-21-1-3 Powers of local authorities; effective date of ordinances <http://www.in.gov/legislative/ic/code/title9/ar21/ch1.pdf>
47. 2013 Acts. PL. 259 Sec. 16 [http://iga.in.gov/static-documents/8/4/0/7/8407e19c/acts\\_2013.pdf](http://iga.in.gov/static-documents/8/4/0/7/8407e19c/acts_2013.pdf)
48. Title 8, Subtitle 2. 3211.10 Operation on roadways, highways, and trails. <http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>
49. 2004 Acts, Ch. 1132 Sec. 53. <https://www.legis.iowa.gov/docs/acts/80/2/1132.pdf>
50. 2004 Acts Ch. 1175 Sec. 371 <https://www.legis.iowa.gov/docs/acts/80/2/1175.pdf>
51. 8-15,100. Operation of all-terrain vehicles; where; when; exceptions. [http://www.kslegislature.org/li/b2013\\_14/statute/008\\_000\\_0000\\_chapter/008\\_015\\_0000\\_article/008\\_015\\_0100\\_section/008\\_015\\_0100\\_k/](http://www.kslegislature.org/li/b2013_14/statute/008_000_0000_chapter/008_015_0000_article/008_015_0100_section/008_015_0100_k/) See also Kansas Highway Patrol <http://www.kansashighwaypatrol.org/general/unusualvehicle/atv.html>
52. 1994 Attorney General opinion <http://ksag.washburnlaw.edu/opinions/1994/1994-102.htm>
53. KRS 189.515 Restrictions on operation of all-terrain vehicles. <http://www.lrc.ky.gov/statutes/statute.aspx?id=6408>
54. 1998 HB 195 <http://www.lrc.ky.gov/recarch/98rs/HB195/bill.doc>, Summary Page <http://www.lrc.ky.gov/recarch/98rs/HB195.htm>
55. RS 32:299 Off-road vehicles; authorization for use on the shoulders of certain public roads and highways; authorization for use on certain public property <http://www.legis.state.la.us/lss/lss.asp?doc=88237>
56. Title 12, Chapter 939 <http://www.mainelegislature.org/legis/statutes/12/title12sec13157-A.html>
57. See Md. CRIMINAL LAW Code Ann. § 6-405 Use of an off-road vehicle on public property. <http://www.lexisnexis.com/hottopics/mdcode/> and § 13-401. Driving or allowing certain unregistered vehicles to be driven <http://www.lexisnexis.com/hottopics/mdcode/> and Interactive Title and Registration Manual [www.mva.maryland.gov/.../Interactive-Title-and-Registration-Manual.pdf](http://www.mva.maryland.gov/.../Interactive-Title-and-Registration-Manual.pdf) ATVs cannot be registered.
58. Ch. 90B Sec. 25 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90B/Section25> Definitions in Sec. 20 exempt agricultural use from 90B. <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90B/Section20>
59. Ch. 324 Sec. 324.81131 <http://www.legislature.mi.gov/%28S%28ki04kt45132yquifibvzmr55%29%29/mileg.aspx?page=GetObject&objectname=mcl-324-81131> and Ch. 324 Sec. 81122 <http://www.legislature.mi.gov/%28S%28nkxu5145vc5i3v5545y2ib55%29%29/mileg.aspx?page=getObject&objectName=mcl-324-81122>
60. Pub Acts 117 of 2008 Summary Page <http://www.legislature.mi.gov/%28S%285bnkmo55n4fjhh5525z2lxnh%29%29/mileg.aspx?page=getObject&objectName=2013-HB-4284>
61. Public Act 118 of 2013 Summary Page <http://www.legislature.mi.gov/%28S%285bnkmo55n4fjhh5525z2lxnh%29%29/mileg.aspx?page=getObject&objectName=2013-HB-4299>
62. Pub Acts 2008, No. 240 Summary Page. <http://www.legislature.mi.gov/%28S%285bnkmo55n4fjhh5525z2lxnh%29%29/mileg.aspx?page=getObject&objectName=2007-HB-4323>

63. Ch. 84 Sec. 928 OPERATION REQUIREMENTS; LOCAL REGULATION. <https://www.revisor.mn.gov/statutes/?id=84.928>
64. 2007 c 131 art 1 s 13 <https://www.revisor.mn.gov/laws/?doctype=Chapter&year=2007&type=0&id=131>
65. § 63-31-3, Requirements to operate off-road vehicle on public property; off-road vehicle safety course <http://www.lexisnexis.com/hottopics/mnscodel/>
66. JB Clark, DJournal.com, May 19, 2012. <http://djournal.com/news/legislature-tightens-atv-law-but-no-fines/>
67. Ch. 304 Sec. 304.013 All-terrain vehicles, prohibited on highways, rivers or streams of this state, exceptions, operational requirements—special permits—prohibited uses—penalty. <http://www.moga.mo.gov/statutes/C300-399/304000013.HTM>
68. A.L. 2013 H.B. 103 Summary Page <http://www.house.mo.gov/hillsummary.aspx?bill=HB103&year=2013&code=B>
69. 23-2-824. Operation on public roads, streets, and highways. <http://leg.mt.gov/bills/mca/23/2/23-2-824.htm>
70. En. Sec. 1, Ch. 106, L. 2011 Summary Page and Links to Text. [http://laws.leg.mt.gov/legprd/LAW0203WSBSRV.ActionQuery?P\\_SESS=20111&P\\_BLTP\\_BILL\\_TYP\\_CD=&P\\_BILL\\_NO=&P\\_BILL\\_DFT\\_NO=&P\\_CHPT\\_NO=106&Z\\_ACTION=Find&P\\_ENTY\\_ID\\_SEQ2=&P\\_SBJT\\_SBJ\\_CD=&P\\_ENTY\\_ID\\_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203WSBSRV.ActionQuery?P_SESS=20111&P_BLTP_BILL_TYP_CD=&P_BILL_NO=&P_BILL_DFT_NO=&P_CHPT_NO=106&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)
71. 60-6,356. All-terrain vehicle; utility-type vehicle; operation; restrictions; city or village ordinance; county board resolution. <http://nebraskalegislature.gov/laws/statutes.php?statute=60-6.356>
72. LB 307 Summary page and Links to Text. [http://nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=497](http://nebraskalegislature.gov/bills/view_bill.php?DocumentID=497)
73. NRS 490.100 Authority of city or county to designate portion of highway for off-highway vehicle use; approval of Department of Transportation regarding state highways; interstate highways excluded; supervision of certain minors; limitation on purpose of use. <http://www.leg.state.nv.us/NRS/NRS-490.html>
74. 2005, ch. 441, § 10, p. 2027. This section is effective January 1, 2006. <http://www.leg.state.nv.us/Statutes/73rd/Stats200520.html#Stats200520page2027>
75. 215-A:6 Operation of All OHRVs. <http://www.gencourt.state.nh.us/rsa/html/xviii/215-a/215-a-mrq.htm>
76. Text of 1990 HB1083. <http://www.gencourt.state.nh.us/legislation/1990/HB1083.html>
77. 39:3C-17 Operational limitations. [http://lis.njleg.state.nj.us/cgi-bin/om\\_isapi.dll?clientID=37603634&Depth=2&TD=WRAP&advquery=Operational%20limitations&depth=4&expand-headings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&rank=&record={ED7C}&softpage=Doc\\_Frame\\_PG42&wordsaroundhits=2&x=39&y=7&zz=](http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=37603634&Depth=2&TD=WRAP&advquery=Operational%20limitations&depth=4&expand-headings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&rank=&record={ED7C}&softpage=Doc_Frame_PG42&wordsaroundhits=2&x=39&y=7&zz=)
78. 66-3-1011 Operation on streets or highways; prohibited areas. <http://public.nmcompcomm.us/NMPublic/gateway.dll/?f=templates&fn=default.htm>
79. VAT Article 48-C, Sec. 2405 Designation of highways and public lands for travel by ATVs <http://public.leginfo.state.nv.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@LLVAT+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=30767967+&TARGET=VIEW>
80. § 20-171.19(e). Prohibited acts by owners and operators. [http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_20/GS\\_20-171\\_19.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_20/GS_20-171_19.html) Entire chapter with exception: <http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.nl?statute=20>
81. 39-29-09. Operation of off-highway vehicles. <http://www.legis.nd.gov/cencode/t39c29.pdf>
82. ND Law 2005, ch. 344, § 11 <http://legis.nd.gov/assembly/59-2005/session-laws/documents/MTRVH.PDF>
83. 4519.41 Operation of vehicle on or near highway, street or road. <http://codes.ohio.gov/orc/4519>
84. 123rd Assembly SB 176. [http://www.legislature.state.oh.us/BillText123/123\\_SB\\_176\\_1\\_N.htm](http://www.legislature.state.oh.us/BillText123/123_SB_176_1_N.htm)

85. Title 47§47-11-1116. Self-propelled or motor-driven and operated vehicles - Golf carts, all-terrain, and utility vehicles - Operation on streets and highways. [http://webserver1.lsb.state.ok.us/OK\\_Statutes/CompleteTitles/os47.rtf](http://webserver1.lsb.state.ok.us/OK_Statutes/CompleteTitles/os47.rtf)
86. 2008 SB 2086 Summary page and Links to Text. <http://www.oklegislature.gov/AdvancedSearchForm.aspx> Final Text: [http://webserver1.lsb.state.ok.us/2007-08bills/SB/sb2086\\_enr.rtf](http://webserver1.lsb.state.ok.us/2007-08bills/SB/sb2086_enr.rtf)
87. 2004 HB 2265 Summary Page. <http://www.oklegislature.gov/AdvancedSearchForm.aspx> Enrolled Text [http://webserver1.lsb.state.ok.us/2003-04bills/HB/hb2265\\_enr.rtf](http://webserver1.lsb.state.ok.us/2003-04bills/HB/hb2265_enr.rtf)
88. 17 ORS 821.200 Exemptions from general prohibition on operating on highway or railroad <http://www.oregonlaws.org/ors/821.200>
89. Oregon Public Radio, John Day OKs 4-wheelers On City Streets, March 20, 2013. <http://www.opb.org/news/article/john-day-oks-4-wheelers-on-city-streets/>
90. 1999 c.372 § 2 [https://www.oregonlegislature.gov/bills\\_laws/laws/statutes/1999orl\\_aw0372.html](https://www.oregonlegislature.gov/bills_laws/laws/statutes/1999orl_aw0372.html)
91. Title 75 Ch. 77 § 7722. Designation of snowmobile and ATV roads. <http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&trl=75&div=0&chpt=77&sectn=22&subsectn=0>
92. § 31-3.2-7 Operation. Operation on streets and highways. <http://webserver.rilin.state.ri.us/Statutes/TITLE31/31-3.2/31-3.2-7.HTM>
93. 2006 AG Opinion in Response to Sherriff PJ Tanner. <https://www.google.com/url?q=http://www.scao.gov/wp-content/uploads/2011/03/jan5-06-Tanner.pdf&sa=U&ei=X2x-6UrneIqThyQH8poD4Dg&ved=0CAsQFjAC&client=internal-uds-cse&usq=AFOiCNFiiXquvnaCewP5wgrlv1BXzS7Mlw> Definition of highway at 56-3-20 <http://www.scstatehouse.gov/code/t156c003.php>
94. 32-20-13. All-terrain vehicle licensed as motorcycle—Requirements—Use on interstate highway system prohibited—Violation as misdemeanor. <http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=32-20-13>
95. SD Session Laws by Year [http://legis.sd.gov/Statutes/Session\\_Laws/Past\\_Sessions/Default.aspx](http://legis.sd.gov/Statutes/Session_Laws/Past_Sessions/Default.aspx)
96. 55-8-185. Use of off-highway motor vehicles on highways. <http://www.lexisnexis.com/hottopics/tncode/>
97. SB 1205 Summary Page and Link to Text. <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=%20SB1205&GA=107>
98. Sec. 663.037. OPERATION ON PUBLIC ROADWAY PROHIBITED. <http://www.statutes.legis.state.tx.us/Docs/TN/htm/TN.663.htm#663.037>
99. 41-6a-1509. Street-legal all-terrain vehicle – Operation on highways -- Registration and licensing requirements – Equipment requirements. [http://le.utah.gov/code/TITLE41/html/41\\_06a150900.htm](http://le.utah.gov/code/TITLE41/html/41_06a150900.htm)
100. Utah Legislature <http://le.utah.gov/~2008/html/doc/sbillhtm/sb0181s01.htm>
101. Title 23 Ch. 31 § 3506. Operation. <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=23&Chapter=031&Section=03506>
102. § 46.2-915.1. All-terrain vehicles and off-road motorcycles; penalty. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-915.1>
103. An Act to amend and reenact § 46.2-915.1 of the Code of Virginia, relating to operation of all-terrain vehicles. <http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+CHAP0313>
104. An Act to amend and reenact § 46.2-915.1 of the Code of Virginia, relating to operation of all-terrain vehicles. <http://leg1.state.va.us/cgi-bin/legp504.exe?111+ful+CHAP0822>
105. RCW 46.09.455 Authorized and prohibited uses for wheeled all-terrain vehicles. <http://apps.leg.wa.gov/rcw/default.aspx?cite=46.09.455>
106. 2013, HB 1632 Summary Page with Links to text. <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1632&year=2013>

107. §17F-1-1. Acts prohibited by operator; penalties for violations. And §17F-1-3. Local government authority to regulate. <http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=17f&art=1>
108. American Association of State Highway and Transportation Officials [scohts-sm.transportation.org/Documents/WestVirginiaReport.pdf](http://scohts-sm.transportation.org/Documents/WestVirginiaReport.pdf)
109. HB 4022 Text [http://www.legis.state.wv.us/Bill\\_Status/bills\\_text.cfm?billdoc=hb4022%20enr.htm&yr=2004&sessstype=RS&i=4022](http://www.legis.state.wv.us/Bill_Status/bills_text.cfm?billdoc=hb4022%20enr.htm&yr=2004&sessstype=RS&i=4022)
110. 23.33(4) [https://docs.legis.wisconsin.gov/document/statutes/23.33\(4\)](https://docs.legis.wisconsin.gov/document/statutes/23.33(4))
111. Wisconsin All Terrain Vehicle Laws [dnr.wi.gov/topic/atv/documents/ATV\\_Regs\\_2011\\_final.pdf](http://dnr.wi.gov/topic/atv/documents/ATV_Regs_2011_final.pdf)
112. 1985 a, 29 <https://docs.legis.wisconsin.gov/document/acts/1985/29>
113. 31-5-1601 Operation on highways. <http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title31/T31CH5AR16.htm>
114. 31-5-124 Off-road recreational vehicles; multipurpose vehicles; limitation on use; equipment. <http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title31/T31CH5AR1.htm>
115. 2007 HB13 <http://legisweb.state.wy.us/2007/Engross/HB0013.pdf>
116. HB0013 - Off-road recreational vehicles. <http://legisweb.state.wy.us/2002/engross/hb0013.pdf>