

**Fruita Planning Commission**

**Tuesday, July 12, 2016**

**A. CALL TO ORDER**

Chair Doug Van Etten called the meeting to order at 7:01pm. Members in attendance were: Richard Hctor, Janet Brazfield, Doug Van Etten, Keith Schaefer, Dave Karisny, and Heidi Jo Elder.

There were about 30 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.

7 yes votes; motion passes

**E. WITHDRAWN ITEMS**

None.

**F. CONTINUED ITEMS**

Application #:	2016-11
Applicant:	Travis and Ellen Robinson
Application Name:	Robinson Rental
Application Type:	Conditional Use Permit
Location:	1424 Niblick Way
Zone:	Adobe Falls PUD
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 this PUD zone.

The Planning Commission asked Dahna to explain the process of how the decision of this project will be made. Dahna explained the process of how this project will be on the Planning Commission’s agenda for August 9<sup>th</sup> and that there will be no decision or discussion of this project tonight (July 12, 2016).

**G. CONSENT ITEMS**

Approval of the minutes  
 June 14, 2016 Planning Commission meeting

Mel Mulder made a motion to approve the minutes.

Dave Karisny- Second.

7 Yes votes; motion passes.

**H. HEARING ITEMS**

Doug Van Etten read the hearing items as follows: (these two items were discussed together)

Application #	2016-12
Applicant	Adobe View Development
Application Name	Adobe View North
Application Type	Annexation
Location	965 18 Road
Zoning	County, AFT
Description	This is a request for the approval to annex and zone approximately 8.03 acres into the Fruita City Limits. The applicants have requested a South Fruita Residential zoning.

Application #:	2016-13
Applicant:	Adobe View Development
Application Name:	Adobe View North
Application Type:	Preliminary Plan
Location:	965 18 Road
Zone:	Unincorporated Mesa County, AFT.
Description:	This is a request to approve a Preliminary Plan for a 34 lot single family residential subdivision.

Steve Hejl- I am the representative for Adobe View Development Company, this project was approved in 2008 and then scraped so we are starting it over again. It is basically the same as the southern part, or original, Adobe View subdivision. It will look and be just like Adobe View and it will have the same restrictive covenants. The only thing that I differ from Staffs recommendations is the zoning; we would like to stay with the South Fruita Residential zone instead of Large Lot Residential. This would allow us more flexibility with our lot sizes. Coming back this time, we encountered some issues with the Grand Valley Drainage District. We will have to do detention for clean water quality. Also, the City Engineer has brought up an issue with our access point. I am not sure we will be able to fix the access point issue without moving it to a different location in the subdivision. Other than that, we agree with everything else that Staff has recommended.

Dahna Raugh- As Mr. Hejl said, this project was almost exactly approved 8 years ago before the economy went south. Since that time we have a new Master Plan and a new Land Use Code. The applicants were trying very much to have this development match the development to the south (the Adobe View neighborhood). But I understand that they have ran into some problems. Grand Valley Drainage District requires onsite detention so they are going to need more room to figure out how to retain water on that property. We also had a development on the east side of this property and on the east side of 18 Road (River Glen) that has a roadway that will be too close to the new one proposed in the Adobe View North subdivision, so they need to move it around. They will have to redesign the project a bit to accommodate for the changes. The zoning is where the issue really is for this project. Because they have to find room for onsite detention and move the roadway away from where a big buried drain is. In order to keep the same number of lots, they are going to have to make the lots smaller. The Large Lot Residential zone, which about 4.5 acres of this project is already zoned, allows lots sizes no less than 10,000 square feet in size. I their original proposal in front of you, there are no lots smaller than 10,000 square feet. Although the Master Plan supports South Fruita Residential zoning, Staff also supports Large Lot Residential zoning and to avoid have to different zones in the same development, Staff is recommending Large Lot Residential zoning. They need to make the lots smaller to deal with all the review comments, so Large Lot Residential zoning doesn't work because of lot size. So the applicants are asking for South Fruita Residential to get the 7,000 square foot lot size. Staff understands, however it makes the zoning a little messy but I think we can deal with it. As stated in the Staff Report, you can either zone the annexed property South Fruita Residential or Large Lot Residential because the Master Plan supports it either way. The development meets all approval criteria that must be considered for annexations and for the zone that they have requested and for preliminary plans as long as all review comments and issues identified in the Staff Report are adequately resolved.

#### PUBLIC COMMENTS:

Boyd Powell (975 Karp Avenue)- Boyd is the Vice President of the Adobe View Homeowners Association. Boyd made a comparison to lot size from the Adobe View subdivision that has already been developed and the proposed new Adobe View North development.

Gary Clayman (928 Mancos Way) – “Over the years we have had a lot of business dealings with Mr. Hejl. Over the years we found that he was not a true and honest person. I have records for you showing, over years and years, of the business deals that we have had with him that he has not followed up with or not completed what he said he would do.”

Gary Clayman talked about how Mr. Hejl told him that the lot sizes in the new subdivision were going to be the same size as the lots in the original Adobe View subdivision. Gary also talked about how he and Mr. Hejl discussed the improvements of the irrigation system. Gary wants Mr. Hejl to follow up on their business agreements before the new subdivision gets started.

Doug Van Etten invited anyone else from the public to come and talk about this project. No other comments were made.

#### PLANNING COMMISSION DISCUSSION

Dave Karisny- Dave pointed out that everything about this project looks like the project that was proposed in 2008 when the economy ultimately killed the project. And now that the project is back, 8 years later, there are some new requirements that effect the proposal. Dave mentioned the fact that this project will require onsite detention of storm water, due to this requirement, lot sizes will be effected which will change the configuration of the plans. Dave also mentioned the road alignment that is proposed to have access to 18 Road/ Pine Street. In the past the planning commission has tabled a preliminary plan application in the past in order to see the changes that are addressed by review agencies and staff to show a better rendering of what the final plans would look like. Dave feels that with the changes that need to be made he doesn't have a good sense of what the final build-out is going to look like. Dave is thinking that he would like to see this project tabled and brought back to Planning Commission with the comments addressed (onsite detention and new road alignment) on a new Preliminary Plan or Sketch Plan to get a better understanding of what the final development will look like.

Dahna Raugh- Commissioner Karisny it sounds like you are having a problem with the approval criteria for a preliminary plan that requires the ability to resolve all comments and recommendations from reviewers without a significant redesign of the proposed development?

Dave Karisny- That's correct.

Heidi Jo Elder- What is the confusion or the problem with the different zoning in the subdivision?

Dahna Raugh- So 4.5 acres is already in the city limits and is already zoned Large Lot Residential which allows 3 dwelling units to the acre and minimum lot size is 10,000 square feet. That gives them a certain amount of lots right away. The other 8 acres, is currently in the county and needs to be annexed and zoned. If it is the Large Lot Residential zone, the 10,000 square foot lot sizes are going to be a problem because they don't have enough land to get the same number of lots, move the roadway, and add onsite detention and still accommodate a large underground drain that runs through the property. In order to make it work, they will need the South Fruita Residential

zoning for the 8 acres set to be annexed so that some smaller lots can be created. It doesn't change the density; it is not an issue of more lots or less lots. It's an issue of jiggling things around so that you can accommodate for the changes that need to be made.

Heidi Jo Elder- Are there any other subdivisions that have two different zones?

Dahna Raugh- Not to my knowledge. But South Fruita Residential and Large Lot Residential are very similar. So although, we would expect a little bit of confusion but I think we can handle it. The City is willing to go either way with the zoning.

Keith Schaefer- Where is the drainage easement?

Dahna Raugh put up a picture of the Preliminary Plan to show Keith Schaefer where a large underground drainage pipe is. She also explained that the drain pipe is about 100 foot easement and the applicants had hoped to put roads over the pipe so they wouldn't lose any area for house construction and lots.

Mel Mulder- I am at a handicap due to some technical difficulties, so I have no comments.

Janet Brazfield made clear that about 4 acres, zoned Large Lot Residential, would be used for new development along with about 7.33 acres that is requested to be annexed. Janet asked if these subdivisions (Adobe View and Adobe View North) would have the same covenants and share the same irrigation water.

Dahna Raugh- Private covenants or private agreements between Mr. Hejl and other private individuals, the City has no power to enforce. So I can't shed any light on private agreements.

Janet Brazfield- So is there irrigation water available to the new subdivision?

Dahna Raugh- With the information we have and with the proposed preliminary plan, yes there is irrigation water available. Some of the existing irrigation structures used for the Adobe View subdivision is intended to be used for the Adobe View North subdivision. So when the Final Plat is ready turned in, City Staff makes sure there is an irrigation system and irrigation water available to the property. We also make sure that the things being constructed are done according to the plans that have been approved. If there is a problem between the developer and the HOA, somewhere along the line the city will become aware of it before everything is released from requirements. The city tries to insure there is a functional irrigation system.

Janet Brazfield- I agree with Mr. Karisny, I don't see enough here to make a comprehensive decision. So I would recommend it be delayed.

Richard Hctor- Dahna, when you say it would be messy, is this what you were talking about?

Dahna Raugh- The messy I was referring to was, if the City Council annexes the property with a different zone than the 4.03 acres that is already zoned. That could make it a little messy, the north half of the subdivision would have a zone with its own set of rules and regulations and the south half would have a different set of rules. I think the zoning line is going to hit right at the proposed street, Fruitland Avenue. So the developer will have to be careful with how he develops the lots that hit in that area.

Richard Hctor- Okay, thank you.

REBUTTAL:

Steve Hejl confirmed that the zoning would be different from the north half and the south half. (The north being South Fruita Residential and the south being Large Lot Residential).

Steve Hejl- If no decision is made on the preliminary plan tonight, I would ask the Planning Commission to move forward with the Annexation. The plan will only change a little with the access point being moved and some lot lines being adjusted to make room for onsite detention.

There was some discussion between Steve Hejl and Dave Karisny about how the plans will change and just to clarify where the changes need to be made. Steve showed the commissioners and public on the proposed preliminary plan of where the detention pond would be and where the new access point would be located. Steve showed that the access point will be aligned with River Rock Court and the detention pond will go in the southwest corner of the proposed new development of Adobe View North.

Dave Karisny- Mr. Chair, I don't believe I can table this preliminary plan anymore based on the petitioner's explanation. I don't believe there will be a major redesign of the plans. But I don't think it would be reasonable to expect about 3 lots that will have to be altered in order to address the changes that need to be made. I would be ready to make a recommendation tonight.

Dahna Raugh- I just want to make a quick point. The Land Use Code and State Law require applications to be approved within certain time frames. So I understand the Planning Commission is talking about potentially continuing this project for a month, but it is on your agenda and if you would like to continue it, you would need the applicant to agree on record to that continuance. If the applicant does not want to agree to the continuance and wants the Planning Commission to make a decision tonight, there is always the option for denial.

There was discussion about how the Planning Commission would want to make a motion. There was also discussion about how the configuration of the subdivision would change and what needed to be changed and if it were going to be a significant redesign. Sam Atkins (City Engineer) explained to the Planning Commission that the design of the subdivision would not need a significant redesign and the configuration would be similar to the Preliminary Plan.

Dave Karisny- Would the petitioner be willing to table this until the next meeting and provide use with more details and a better sketch addressing the changes?

Steve Hejl- I don't believe so.

Dave Karisny- Okay. It was worth asking.

ANNEXATION MOTION:

Dave Karisny- Mr. Chair, I recommend to the City Council that we approve the Annexation application with the condition that the 30 feet of right-of-way is designated for Pine Street and a 14 foot multipurpose easement be dedication along Pine Street before the annexation is completed.

Janet Brazfield- Second.

5 Yes Votes; 2 Abstentions.

ZONING MOTION:

Dave Karisny- Mr. Chair, I recommend that the annexed property be zoned South Fruita Residential since we can't use Large Lot Residential because there is a potential of 2 to 3 lots that could be under 10,000 square feet. So my recommendation to City Council would be to zone the annexed property South Fruita Residential.

Heidi Jo Elder- Second.

Janet Brazfield voted no, she feels it should be zoned Large Lot Residential.

Keith Schaefer voted no, no reason was given.

2 No Votes; 3 Yes Votes; 2 Abstentions

NOTE: The abstentions have the same effect as a "no" vote because a majority or two thirds vote of the members *present* is required to pass the motion.

PRELIMINARY PLAN MOTION:

Dave Karisny- Mr. Chair, I recommend to the City Council approval of the Adobe View North subdivision Preliminary Plan with the condition that all review comments and issues identified in the Staff Report be adequately resolved with the Final Plat application. I would strongly suggest that the petitioner has a way to express to the City Council the required changes and how it relates to the current sketch plan.

Heidi Jo Elder- Second.

Keith Schaefer- I think as a Planning Commission, we are not doing our jobs if we just approve this Preliminary Plan based on what we have so far. Our job is to get the plan, refine it and approve it and send it to City Council as far as I'm concerned. Without the final plan, I am not going to approve anything.

Richard Hctor- The petitioner says that he will 'try' to have the final sketch. I would be more inclined to see the final sketch before I could do an informed vote.

Doug Van Etten- I think it is important to understand the content of Mr. Karisny's motion. What we are sending to City Council is a recommendation. We are sending a good faith vote based on the motion and what the petitioner will bring to City Council.

Heidi Jo Elder- Staff does their job, they make recommendations to us. And we make recommendations to City Council based on what we see and our discussions. Our recommendation is not the final decision; City Council will have that final decision. It is our job to hear the public and put the comments together and make a decision based on that. It is not ever going to be a final decision.

Keith Schaefer- Normally it's a two step process for the Planning Commission to see the Preliminary and Final plans that's the way it was where I came from.

Dahna Raugh- Whatever is recommended tonight, approval or denial; it goes to the City Council for a decision on the Preliminary Plan. The next step is the Final Plat application. It doesn't go back out to review agencies for comments, there is no public notice, it doesn't go to the Planning Commission and it doesn't go to the City Council. Staff reviews it to make sure the Final Plat meets all the City requirements, meets all the approval criteria that the City Council has imposed on the project, and when Staff is satisfied that all the criteria have been met, the only thing that goes back through a public hearing is the City Council approval of the Subdivision Improvements Agreement (the contract between the City and the developer that guarantees the improvements will be made). The Planning Commission will not see this again unless one of two things happen; you continue it and the applicant agrees to it, or if the applicant runs into some big problem and decided on his own free will that he is going to back up and do a significant redesign and resubmit the Preliminary Plan.

Janet Brazfield voted no because she would like to see as close to a final sketch as possible in order to give a good recommendation to City Council.

3 No Votes; 3 Yes Votes; 1 Abstention

Doug Van Etten read the next hearing items on the agenda as follows:

Application #: 2016-14  
 Applicant: River City Consultants  
 Application Name: Aspen Village  
 Application Type: Annexation  
 Location: 1062 18 Road  
 Zone: Unincorporated Mesa County, AFT.  
 Description: This is a request to annex and zone approximately 6.73 acres at the corner of Aspen Avenue and Pine Street with a Community Residential zone.

Application #: 2016-15  
 Applicant: River City Consultants  
 Application Name: Aspen Village  
 Application Type: Preliminary Plan  
 Location: 1062 18 Road  
 Zone: Unincorporated Mesa County, AFT.  
 Description: This is a request to approve a Preliminary Plan for a 22 lot single family residential subdivision.

Tracy States- I'm Tracy States, I am a project coordinator for River City Consultants, we are doing the civil engineering and surveying for the property owner which is McCurter Land Company. This is a request for annexation, zoning and a preliminary plan. For the annexation, the application meets the requirements as stated in section 17.06.040 of the Land Use Code, the property has been enclave by the City of Fruita for many years. The required 30 feet of right-of-way and 14 foot multipurpose easement have been provided on the annexation maps as requested. The owner is requesting a zoning of Community Residential which is consistent with the City's goals and policies expressed in the Master Plan. With regards to the Preliminary Plan, the proposal is for 22 single family residential lots and is compatible with surrounding development. The subdivision provides for pedestrian connectivity and the trail connections will be adjusted to meet City requirements. With some redesign, the subdivision can provide future vehicular connectivity by providing a stub street to Laura Avenue to the east as City Staff is requesting. The applicant will be purchasing additional water shares. Landscaped detention is provided at the southwest corner of the subdivision and additional drainage impact fee will be collected from the developer as well. All review comments will be resolved at the time of Final Plat application. Aspen Village subdivision will be a covenant controlled community. All fencing will need approval from the architectural control committee. This applicant has done other nice developments in Fruita, like Elmwood Heights and the Kokopelli Commercial Subdivision on the south side of the interstate. Aspen Village will be very similar to Elmwood Heights as far as style and quality of home.

Dahna Raugh- This development process is similar to the last one (Adobe View North), this is an annexation, zoning and preliminary plan. This property also had a previous development plan, but

the current proposal is significantly different from the last one. The last one, the applicants proposed attached single family residential at a much higher density. I know the neighborhood was very unhappy with that, and they seem much happier with the newly proposed development. At this point, Staff has received no written comments from the public regarding the proposal. It does meet all approval criteria that must be considered for annexations as long as the right-of-way and multipurpose easements are provided. I do believe most of that has already been dedicated (shown on the preliminary plan and annexation map). The request for zoning is Community Residential zone; there are no issues with this request. There are some changes that need to be made to the preliminary plan. The big changes that will cause a redesign are Laura Avenue needs to be connected through the site. There are some minor improvements to Pine Street and Aspen Avenue, basically removing some curb cuts. An additional pedestrian access and a wider pedestrian access are needed on the north side to connect the cul-de-sacs to the trail on the north. Some of the cul-de-sacs need to be wider to meet the minimum requirements for fire protection issues. There needs to be a few changes to the rear of some of the lots but that does not cause a redesign. Staff believes that all the review comments and issues identified in the Staff Report can be met without a significant redesign of the proposed development. So Staff is recommending approval of the annexation, zoning, and the preliminary plan as long as all the review comments and issues identified in the Staff Report be adequately resolved with the Final Plat application.

#### PUBLIC COMMENTS

Bob Major- I live at 1804 J 6/10 Road. Bobs concern with this development is that his irrigation water comes from Canterbury Park subdivision and runs along the property of the proposed development. He believes that the irrigating line is actually on the property of the proposed development and would like to make sure that when the development goes in, his irrigation line and water are taken care of. He just wanted to make sure his irrigation system isn't changed in a negative way. His other concern is about privacy fencing along the north side of his property that would separate his property from someone else's property.

There was some discussion with the Planning Commissioners about where exactly his irrigation line is while referencing a map shown on the projector. Bob Major and the planning commissioners tried to make it clear as to where his irrigation line was exactly and it was determined that an official survey would need to be done in order to figure out where Bob Major's property line was.

The Planning Commissioners also addressed Bob Major's concerns regarding fencing and Bob just wants it to be 6 foot privacy fencing. It could be vinyl or wood, it doesn't matter to him.

Carol Hughes- I live at 145 Heatherly Lane. Her concerns are about the traffic on Aspen and Pine. She is concerned about how much more traffic will be generated and if it will be a safety issue.

C.A Arnold- 1075 E Aspen Avenue. C.A. is also concerned about the traffic that will be generated from this new development. \*\*He spoke about some other things but I was unable to hear what he was talking about.

Ann Domenicucci- 1220 Wolf Creek Court. Ann is also concerned about the traffic. She said during school, the traffic is really bad. She said she sat there (trying to turn from Pine Street onto Black Ridge Drive) for 20 minutes.

#### PLANNING COMMISSION DISCUSSION:

Keith Schaefer- Keith wanted to know about how the Laura Avenue stub street will be designed and how the developer will address the review comments when it comes to the access issues of Laura Avenue through the proposed subdivision.

Dahna addresses Keith's comments

Richard Hocter- Wanted to know who determines when a traffic light should go in when a new development is proposed.

Sam Atkins explained the process of how a traffic count is done and when the volume of vehicles and number of potential vehicles indicates a need for additional traffic control or a traffic signal.

Janet Brazfield wanted to know how the Laura Avenue stub out will affect the design of the subdivision. She also wanted to address the issues in the Staff Report that refers to the Lower Valley Fire Departments comments. Janet also asked how the developer is going to address the comments made by Mr. Robert Major who lives at 1804 J 6/10 Road.

Sam Atkins and Tracy States addressed Janet Brazfield's comments and made it clear that some of the lots will need to be adjusted to address comments in the Staff Report.

Tracey States addressed the comments about the Mr. Robert Majors irrigation issues and insured that his irrigation system will be taken care of and he would not go without.

Mel Mulder said the issue of traffic is nothing to shrug off but this project does meet the requirements.

Dave Karisny understands that the traffic can be an issue and there is really no way around it. He made a comparison to the traffic that the High School generates. Dave mentioned that the applicant has done a good job addressing Staffs comments.

Heidi Jo Elder's comments were about safety issues with the detention pond being on the corner on Aspen and Pine.

Tracey States said that the detention pond will have landscaping all around it and that it will not actually be holding water all the time. She mentioned that it will actually be a nice amenity on such a busy corner.

**ANNEXATION MOTION**

Janet Brazfield- Mr. Chair I move that we approve the annexation application with the condition that 30 feet of right-of-way and a 14 foot multipurpose easements are dedicated for both Pine Street and Aspen Avenue to the City of Fruita before the annexation is completed.

Mel Mulder- Second.

7 Yes Votes; motion passes

**ZONING MOTION**

Janet Brazfield- Mr. Chair I recommend approval of the rezone to Community Residential with no conditions.

Mel Mulder- Second.

7 Yes Vote; motion passes

**PRELIMINARY PLAN MOTION**

Janet Brazfield- Mr. Chair I recommend approval of the Aspen Village Preliminary Plan with the condition that all review comments and all issues identified in the Staff Report are adequately resolved with the Final Plat application.

Richard Hactor- Second.

7 Yes Votes; motion passes.

**I. COMMUNITY DEVELOPMENT ACTIVITY REPORT**

Dahna Raugh talked about how busy the Planning Department is getting about. She also wants to figure out a time when Planning Staff and the Planning Commissioners can get together to have a discussion about how the planning process works. It will be after a Planning Commission meeting within next month or the month after.

**J. VISITORS AND GUESTS**

None.

**Adjournment at 9:37pm**

Respectfully submitted,

Henry Hemphill  
City of Fruita Planning Technician

DRAFT



**Community Development Department  
Staff Report  
August 3, 2016**

Application #: 2016-18  
Application Name: Orchard House Vacation Rental  
Application Type: Conditional Use Permit  
Representative: Brian Young  
Property Owner: Danen Friedly  
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.

**Project Description:**

The subject property contains a 1,452 square foot detached single family house on an approximately .45 acre lot located on the southeast corner of Orchard Street and Pabor Avenue. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The entire home is intended to be available for rent on a less than month-to-month basis. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

**Surrounding Land Uses and Zoning:**

The property is surrounded by Community Residential zoning and other than a duplex directly to the west, the property is surrounded by single family detached houses. In this area, there is a vacation rental across the street to the north, one across the street to the east, and another one at the south end of the alley, south of the subject property.

# ZONING MAP



## 2015 AERIAL PHOTOGRAPH



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### Review of Applicable Land Use Code Requirements:

Table 17.07.060(F) of the Land Use Code requires a Conditional Use Permit (CUP) for Bed & Breakfast type of land use in the Community Residential zone. The Land Use Code defines a Bed & Breakfast as a facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis with no more than four guest rooms. It is not required to be owner occupied.

Section 17.07.070, Supplemental Zoning Regulations and Standards, Section A, identifies conditions and standards that must be met for a Bed & Breakfast use:

- 1. Where the applicable zoning district allows bed and breakfast uses as a Conditional Use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight**

**lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;**

The entire dwelling unit is intended to be used as the Bed and Breakfast. According to the Mesa County Assessor, this home contains 2 bedrooms and 1 ¼ bathrooms.

- 2. Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;**

The representative knows and understands that the kitchen and dining facilities may only serve the guests. However, this is not directly expressed in the Project Narrative.

- 3. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;**

Staff believes that the residential character of this property will not change. According to the project narrative, “the property will maintain its compatibility with adjacent properties and will not have a severe or disproportionate impact on other uses.”

- 4. In residential zones (including residential developments in the CMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.41;**

Chapter 17.41 of the Land Use Code permits an Address or Identification Sign, identifying the address and/or the occupants of a dwelling unit or of an establishment, with a maximum size of two square feet and a maximum height of four feet for a sign in this zone. No illumination of this sign is permitted. There are no signs on the subject property at this time. And according to the project narrative, “There will be no signs on the property for advertisement.”

- 5. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;**

Parking for guests will be provided by two parking spots under the carport and two in the paved driveway. Screening the parking area is not recommended.

**6. The bed and breakfast facility shall comply with all Building Codes adopted by the city;**

The applicant is currently doing some remodeling on the interior of the house. The applicant has received all permits required for the remodel. A certificate of occupancy will be required before the Bed & Breakfast becomes operable.

**7. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and**

There is no HOA associated with this property. All property owners within 350 feet of the subject property have been notified of this CUP application. At this time, staff has received no written public comments regarding this application.

**8. Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.**

Staff is unaware of any other existing or intended use of this property other than as a dwelling unit and/or as a short term rental as proposed by this CUP request.

Based on this information, this CUP request for a Bed & Breakfast meets or can meet the supplemental zoning regulations and standards of the Land Use Code.

Chapter 13 of the Land Use Code identifies the approval criteria that must be considered for CUP requests. The Code defines a CUP as a use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of the Land Use Code, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

**Section 17.13.040, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:**

**1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;**

Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of the Community Residential zone, which is to allow for moderate density single-family neighborhoods . If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion can be met. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan.

**2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;**

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.

It appears that this proposed vacation rental will be compatible with the Community Residential zoning uses and with the houses that surround the subject property. This criterion has been met.

**3. The proposed use will not materially endanger the public health or safety; and**

Use of the house for a vacation rental is not expected to endanger the public health or safety. According to the project narrative, “Relatives to the owner (Brian and Shannon Young- 632 E. Pabor) live across the street from the property and will be responsible for the property. Renters will have contact information for Brian & Shannon so that any issues that arise can be handled in a timely manner.” This criterion can be met.

**4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.**

Public services and facilities have been available to this property and will continue to be available to this property while it is used as a vacation rental. The impacts are not expected to be any greater than those generated by a single family residence. This criterion has been met.

Based on this information, this requested Conditional Use Permit meets or can meet all approval criteria for Conditional Use Permits and all supplemental zoning standards.

**Review Comments:**

All review comments received are included with this Staff Report. There are no concerns from reviewers regarding this Conditional Use Permit request.

**Public Comments:**

No written public comments have been received regarding this application.

**Staff Recommendation:**

Because all of the approval criteria for Conditional Use Permits and all supplemental zoning standards and regulations either are or can be met, Staff recommends approval of the proposed Bed & Breakfast with the condition that a certificate of occupancy be issued for the house before the business becomes operational.

**Fruita Planning Commission:** August 9, 2016

**Fruita City Council:** September 6, 2016

## **City of Fruita**

### **Conditional Use Permit application**

**164 North Orchard Ave, Fruita Co 81521**

### **"Orchard House" Vacation rental**

#### **Project Narrative**

The goal of this project is to allow visitors who vacation in Fruita and be able to feel "at home" rather than staying in hotels. This property is easy walking distance to downtown as opposed to hotels in the area so for events such as festivals, visitors have the option to walk rather than parking downtown. The property is currently being remodeled under City & County permits and is intended to be fully furnished and ready for vacationers. A certificate of occupancy will be obtained from Mesa County before the property will be rented.

#### **Project Compliance, Compatibility and Impact**

\*The proposed property is located on a .45 acre lot on the southeast corner of Pabor and Orchard. Currently zoned as "CR" (Community Residential), this property is eligible for Bed and Breakfast (1-4 guest rooms) per section 17.07.060 (F) Land Use / Zoning Table in the Fruita Land Use Code.

\*The proposed use will not materially endanger the public health and safety.

\*With the proposed conditional use, the property will maintain its compatibility with adjacent properties and will not have a severe or disproportionate impact on other uses.

\*There is room for four vehicles to park on the property. Two under the carport and two in the paved driveway (see attached survey plat).

\* Utility use on the property is expected to be lower than full time normal use as the residence is not continuously occupied. Utilities are typical gas, electric, water, sewer, irrigation and city trash service. Other public services such as transportation systems, wastewater disposal and treatment, police and fire will not require any more attention with this permit.

#### **Other pertinent information:**

\*Relatives to the Owner (Brian and Shannon Young – 632 E. Pabor) live across the street from the property and will be responsible for the property. Renters will have contact information for Brian & Shannon so that any issues that arise can be handled in a timely manner.

\*Renters will need to provide a valid credit card in order to book the property and the renter will need to be at least 25 years old.

\*Rentals will typically range from 2 to 60 days.

\*There will be no signs on the property for advertisement.

\*A list of rules and regulations, along with contact information will be posted in the property for renters.



# LAND DEVELOPMENT APPLICATION

Project Name: "ORCHARD HOUSE" VACATION RENTAL  
 Project Location: 164 N. ORCHARD AVE  
 Current Zoning District: RESIDENTIAL Requested Zone: VACATION RENTAL  
 Tax Parcel Number(s): 2697-171-07-002 Number of Acres: .45  
 Project Type: \_\_\_\_\_

Property Owner: DANEN FRIEDLY Developer: \_\_\_\_\_  
 Property Owner: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address: 630 E PABOE AVE Address: \_\_\_\_\_  
 City/State/Zip: FRUITA CO 81521 City/State/Zip: \_\_\_\_\_  
 Phone: 970 985-8436 Fax: NA Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: danenfriedly8@gmail.com E-mail: \_\_\_\_\_

**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: BRIAN YOUNG Engineer: \_\_\_\_\_  
 Contact: BRIAN YOUNG Contact: \_\_\_\_\_  
 Address: 632 E. PABOE AVE Address: \_\_\_\_\_  
 City/State/Zip: FRUITA CO 81521 City/State/Zip: \_\_\_\_\_  
 Phone: 970 433-1598 Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: byoung@sciol.com E-mail: \_\_\_\_\_

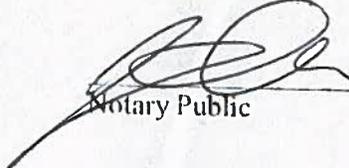
**This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.**  
**The above information is correct and accurate to the best of my knowledge.**

DANEN FRIEDLY  June 6, 2016  
 Name of Legal Owner Signature Date  
 \_\_\_\_\_  
 Name of Legal Owner Signature Date  
 \_\_\_\_\_  
 Name of Legal Owner Signature Date

STATE OF COLORADO ) State of Florida  
 ) ss.  
 COUNTY OF MESA ) County of Miami-Dade

The foregoing instrument was acknowledged before me this 6 day of June, 2016

My Commission expires: April 17, 2020

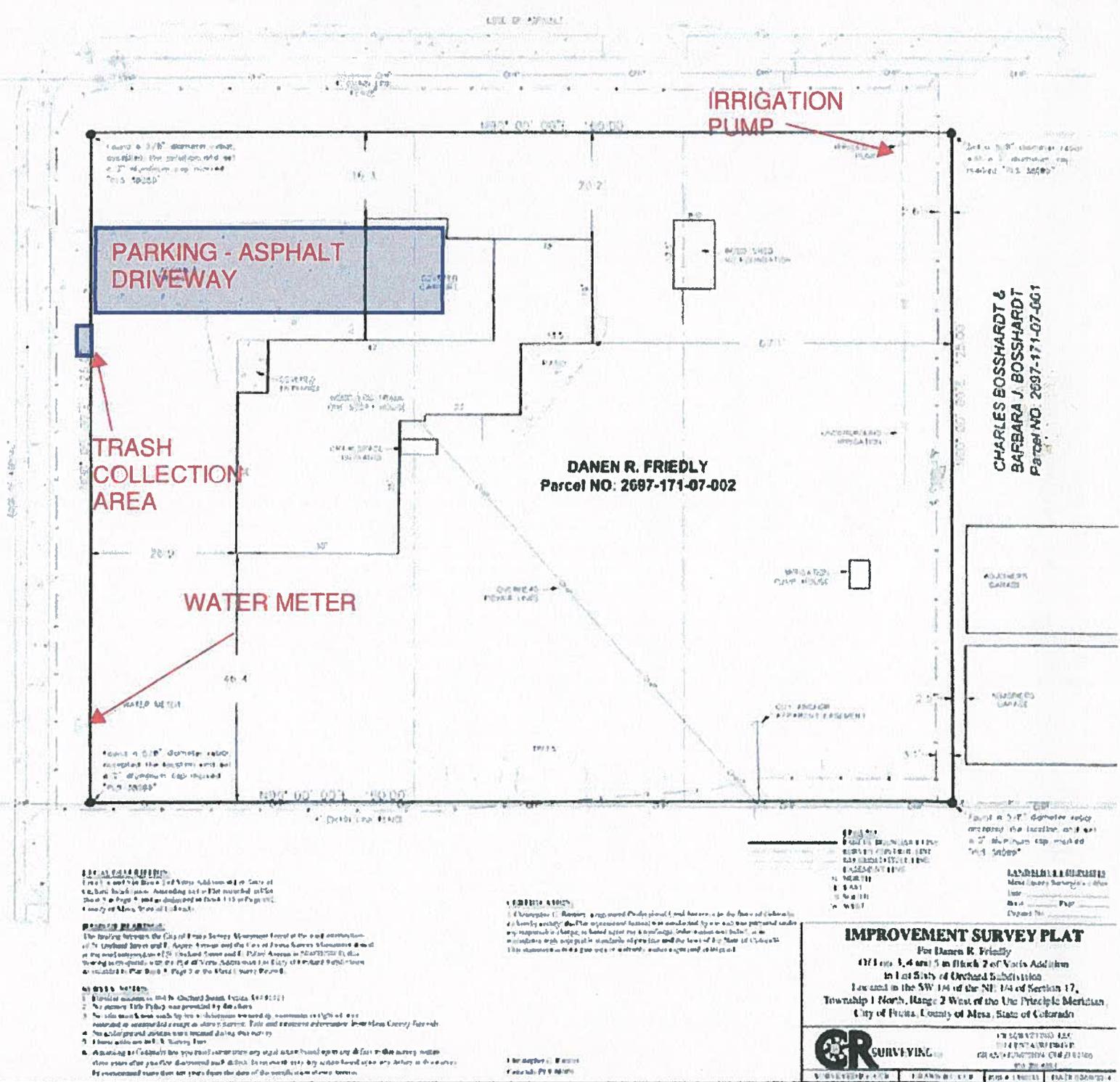
  
 Notary Public





# IMPROVEMENT SURVEY PLAT

Of Lots 3, 4 and 5 in Block 2 of Voris Addition in Lot Sixty of Orchard Subdivision,  
 Located in the SW 1/4 of the NE 1/4 of Section 17,  
 Township 1 North, Range 2 West of the Ute Principle Meridian,  
 City of Fruita, County of Mesa, State of Colorado



**\* APPROXIMATELY .45 ACRES**  
**\* PROPOSED USED IS VACATION RENTAL PROPERTY**  
**\* RESIDENCE IS APPROXIMATELY 1450 SF**

# Untitled Map

164 North Orchard

## Legend

 164 N Orchard St

Google earth

2015 Google

6.63 ft



Untitled Map

164 North Orchard

Legend

📍 164 N Orchard St

Google earth

© 2016 Google

📍 164 N Orchard St

80 ft





**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:



**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

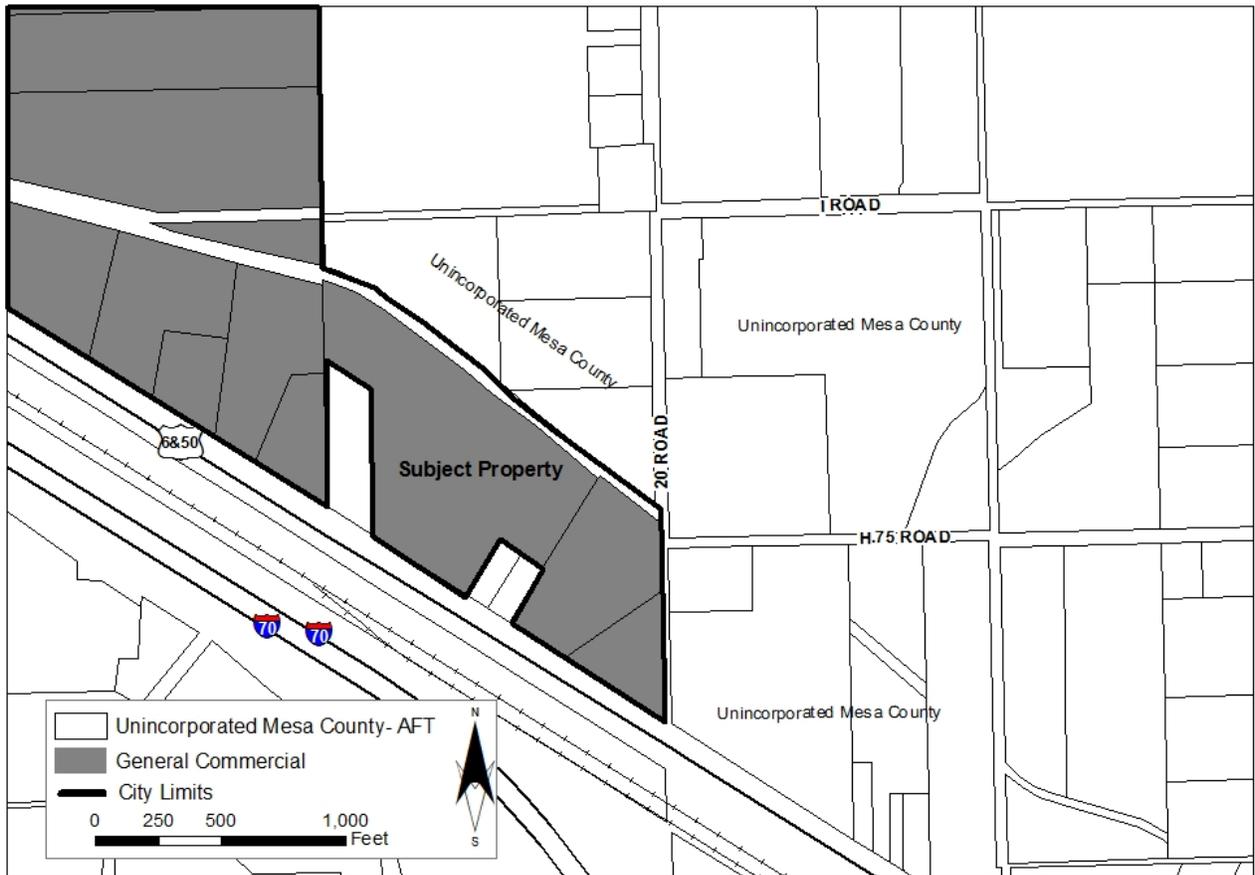
be approved by the City Council through the public hearing process which includes a recommendation from the Planning Commission.

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 multi-modal 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, Fruita, 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 Summer Bend Court Address: 127 N 7th St, Suite 300, Grand Junction, CO  
 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 \_\_\_\_\_ 31 May 2016  
 Name of Legal Owner Signature Date  
 \_\_\_\_\_  
 Name of Legal Owner Signature Date  
 \_\_\_\_\_  
 Name of Legal Owner Signature Date

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

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

My Commission expires: 10/20/2016

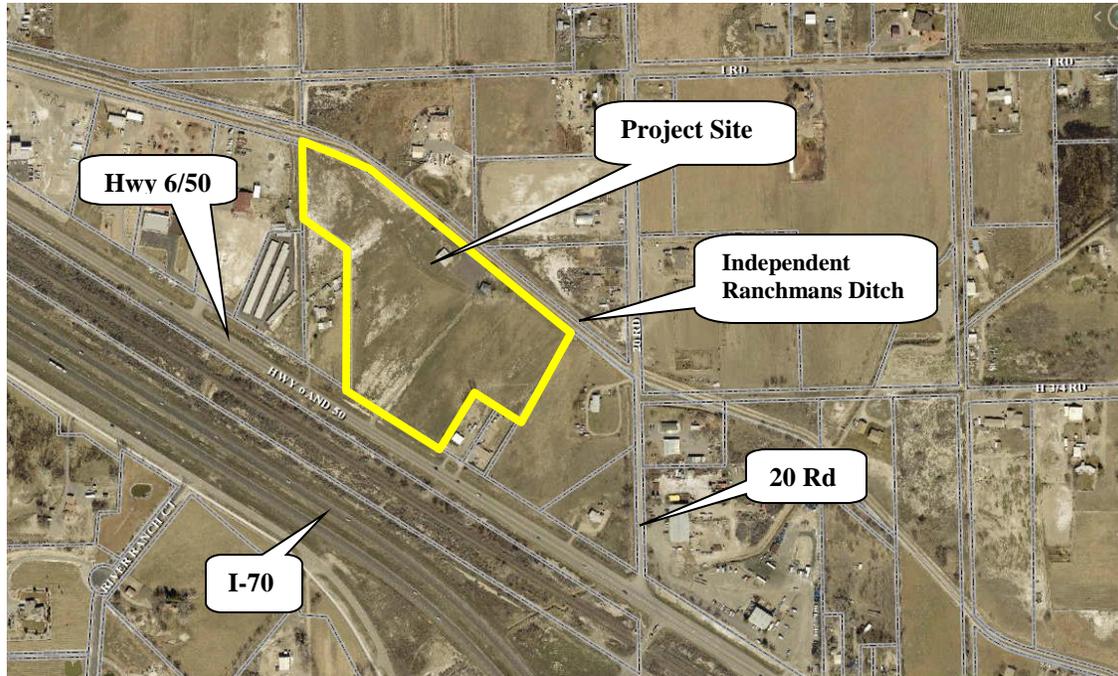
Donna R. McCarroll  
 Notary Public  
 DONNA R. MCCARROLL  
 NOTARY PUBLIC  
 STATE OF COLORADO  
 NOTARY ID 19924013441  
 MY COMMISSION EXPIRES OCTOBER 20, 2016

# 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# 2697-271-00-081). 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.

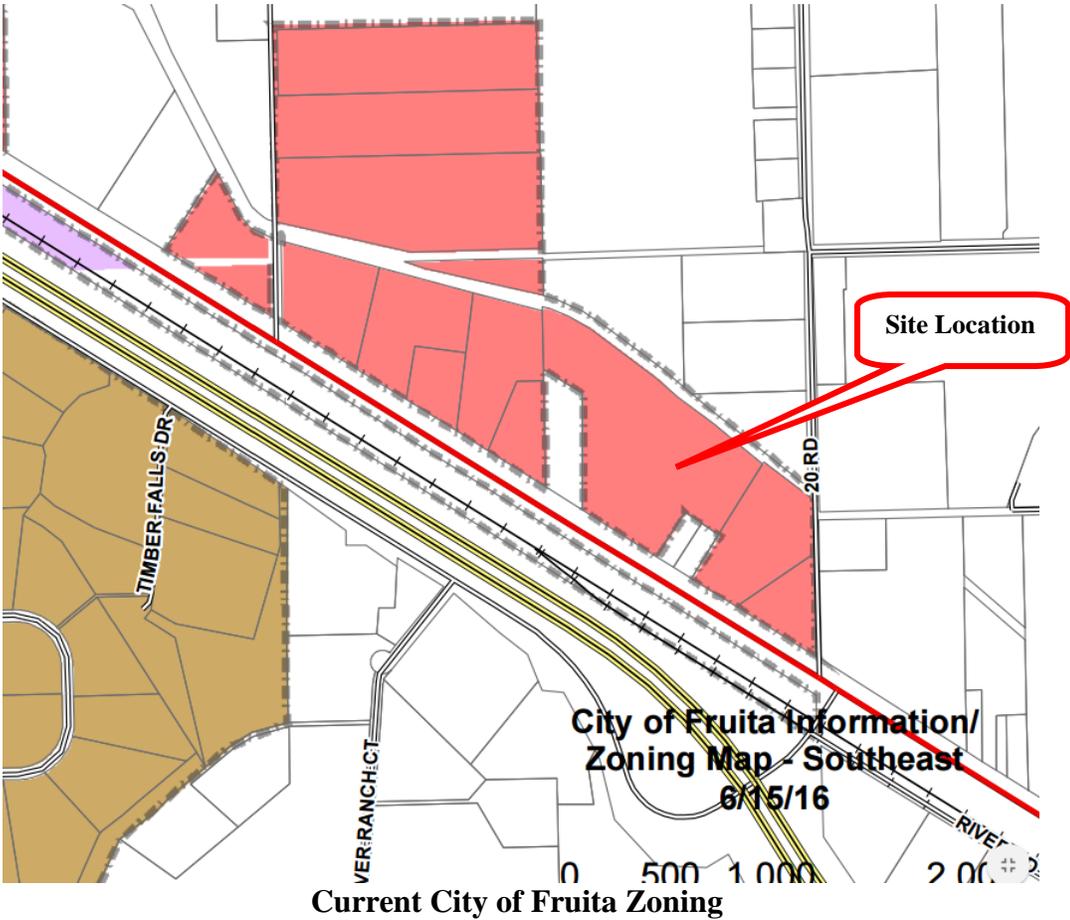
# Project Narrative for US Tractor 1984 Highway 6/50 Site Plan Review

**Zoning and Overlay Districts:**

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

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.



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

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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:

## **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 3-ft 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 1,1250 square feet. All parking spaces are 9-ft wide, 18.5-ft long and have a minimum of 25-ft isles.

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

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## **Utilities**

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

*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

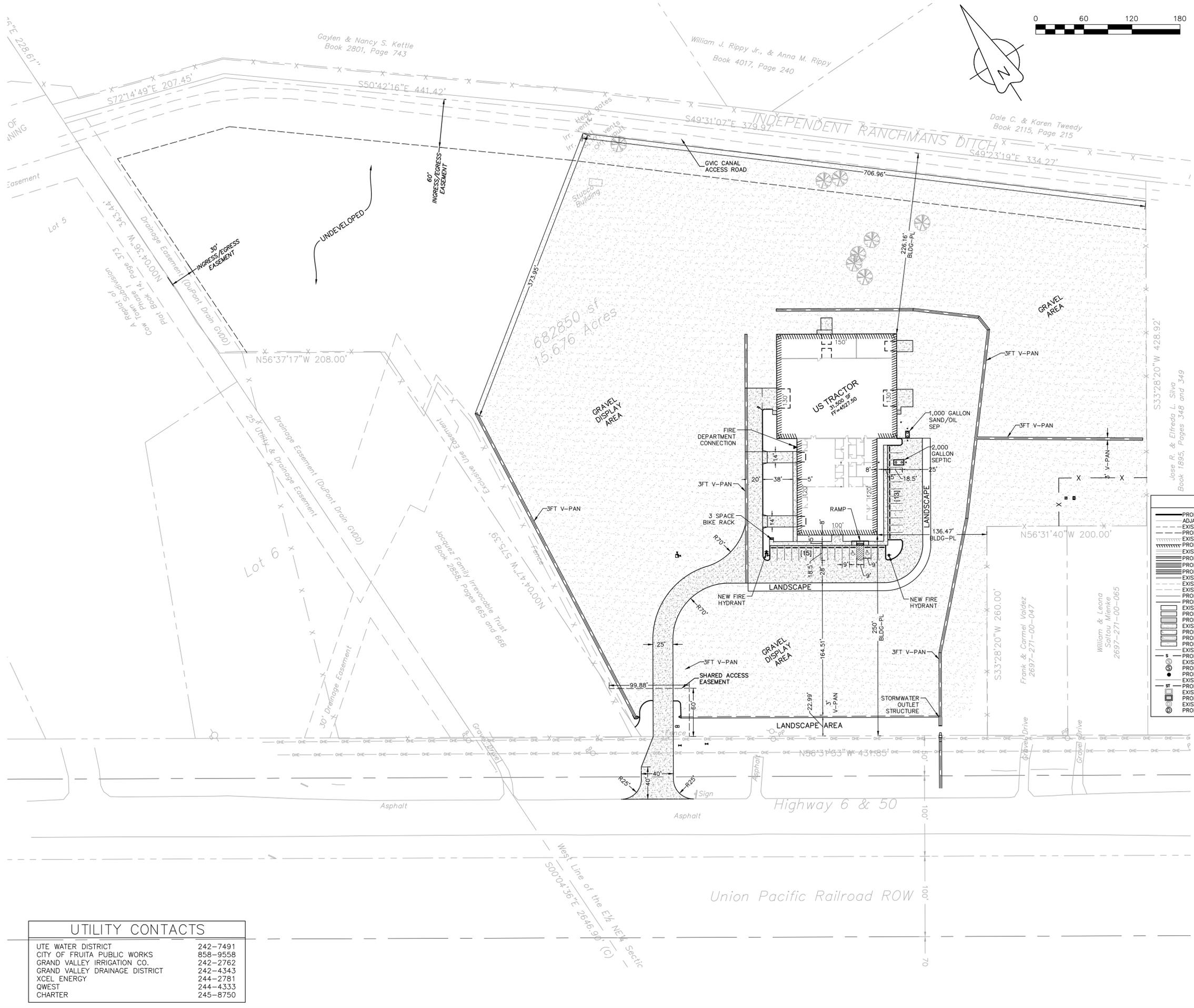
**Additional Info-**

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 (CDO) 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
- - -	ADJACENT PROPERTY LINE
- - -	EXISTING EASEMENT
- - -	PROPOSED EASEMENT
▨	EXISTING BUILDING
▨	PROPOSED BUILDING
▨	EXISTING CURB/GUTTER
▨	PROPOSED CURB/GUTTER
▨	PROPOSED SPILL CURB/GUTTER
▨	PROPOSED TRANSITION CURB/GUTTER
▨	EXISTING RETAINING WALL
▨	EXISTING 1-FT CONTOUR
▨	EXISTING 5-FT CONTOUR
▨	PROPOSED 1-FT CONTOUR
▨	PROPOSED 5-FT CONTOUR
▨	EXISTING ASPHALT
▨	PROPOSED ASPHALT
▨	EXISTING CONCRETE
▨	PROPOSED CONCRETE
▨	PROPOSED HEAVY DUTY CONCRETE
▨	PROPOSED GRAVEL
▨	EXISTING SANITARY SEWER
▨	PROPOSED SANITARY SEWER
▨	EXISTING SANITARY SEWER MANHOLE
▨	PROPOSED SANITARY SEWER MANHOLE
▨	EXISTING STORM SEWER
▨	PROPOSED STORM SEWER
▨	EXISTING STORM SEWER INLET
▨	PROPOSED STORM SEWER INLET
▨	EXISTING STORM SEWER MANHOLE
▨	PROPOSED STORM SEWER MANHOLE
▨	PROPOSED INLINE DRAIN
▨	EXISTING 8" WATER MAIN
▨	PROPOSED 2" DOMESTIC SERVICE
▨	PROPOSED 4" FIRE LINE
▨	EXISTING FIRE HYDRANT
▨	PROPOSED FIRE HYDRANT
▨	EXISTING WATER METER
▨	PROPOSED WATER METER
▨	PROPOSED METER/BACKFLOW VAULT
▨	PROPOSED IRRIGATION MANHOLE
▨	PROPOSED FENCE
▨	EXISTING FENCE
▨	PROPOSED TRAFFIC FLOW
▨	GRADE BREAK
▨	ROOF DRAIN (RD)
▨	STREET LIGHT POLE
▨	FIRE DEPARTMENT CONNECTION
▨	PARKING LOT LIGHT
▨	PROPOSED BUILDING LIGHT
▨	POWER POLE
▨	FLOWLINE
▨	EDGE OF PAVEMENT
▨	TOP OF CONCRETE
▨	TOP OF WALL
▨	EXISTING SANITARY SEWER MANHOLE
▨	PROPOSED SANITARY SEWER MANHOLE
▨	TOP OF CURB
▨	BACK OF CURB
▨	LANDSCAPE AREA
▨	UTILITY PEDESTALS

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.	REVISIONS	DESCRIPTION	DATE	BY

**A C G**  
**AUSTIN CIVIL GROUP, INC.**  
Land Planning • Civil Engineering • Development Services  
123 North 7th Street, Suite 300 • Grand Junction, Colorado 81501  
(970) 242-7540

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

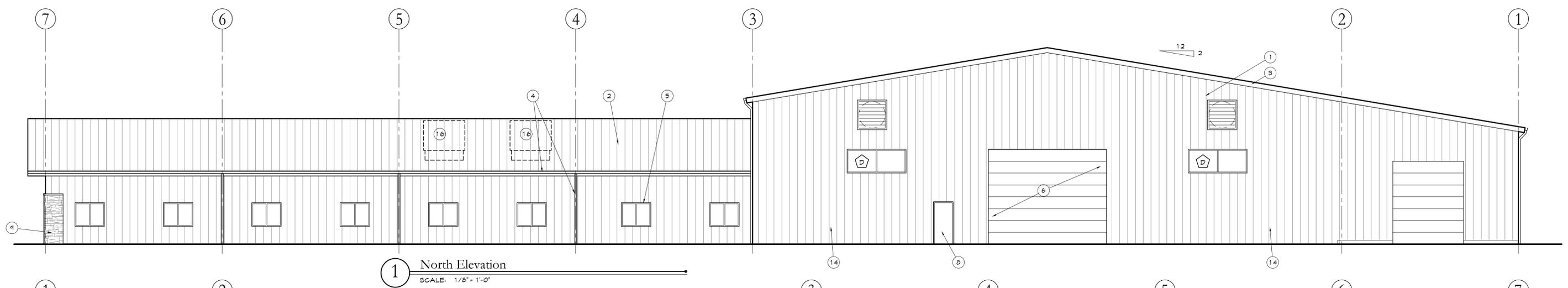


UTILITY CONTACTS	
UTE WATER DISTRICT	242-7491
CITY OF FRUITA PUBLIC WORKS	858-9558
GRAND VALLEY IRRIGATION CO.	242-2762
GRAND VALLEY DRAINAGE DISTRICT	242-4343
XCEL ENERGY	244-2781
QWEST	244-4333
CHARTER	245-8750

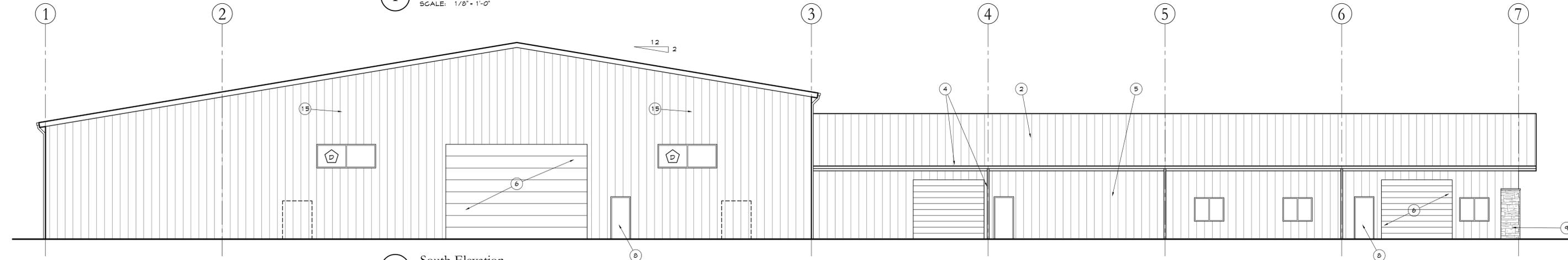
CITY OF FRUITA ENGINEERING	
APPROVED FOR CONSTRUCTION	DATE: _____
BY: _____	DATE: _____
ACCEPTED AS CONSTRUCTED	DATE: _____
BY: _____	DATE: _____

DRAWN BY: lms	DESIGNED BY: lms	CHECKED BY: _____	APPROVED BY: MFA
JOB NUMBER: 1269.0001			
DATE: 06-10-2016			
SCALE: 1"=60'			
SHEET NO: C-4			

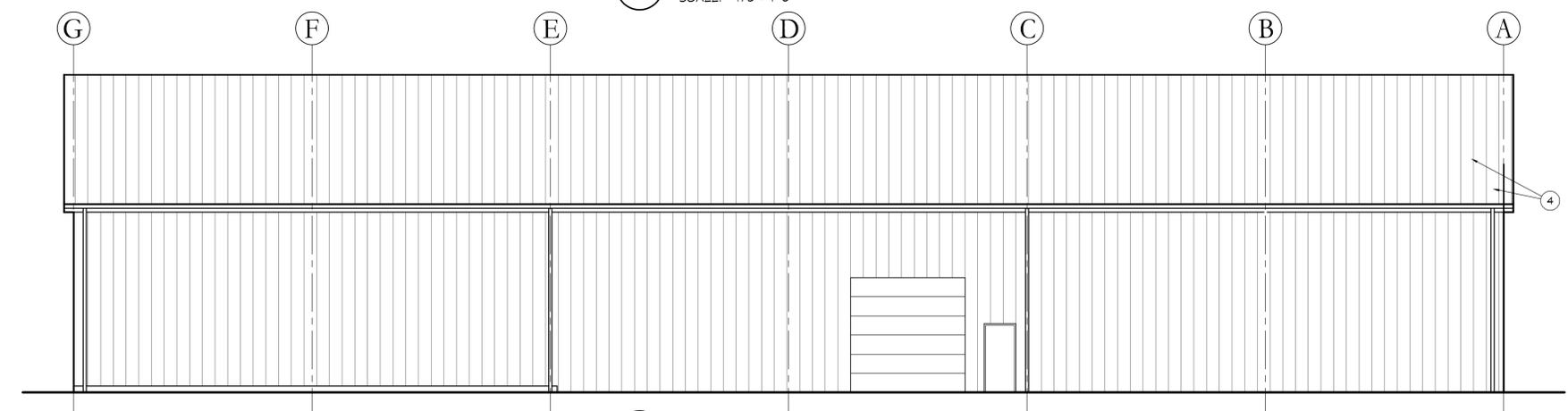
All details, construction, inspections, and testing shall conform to the City of Fruita Design Standards and Construction Specifications.



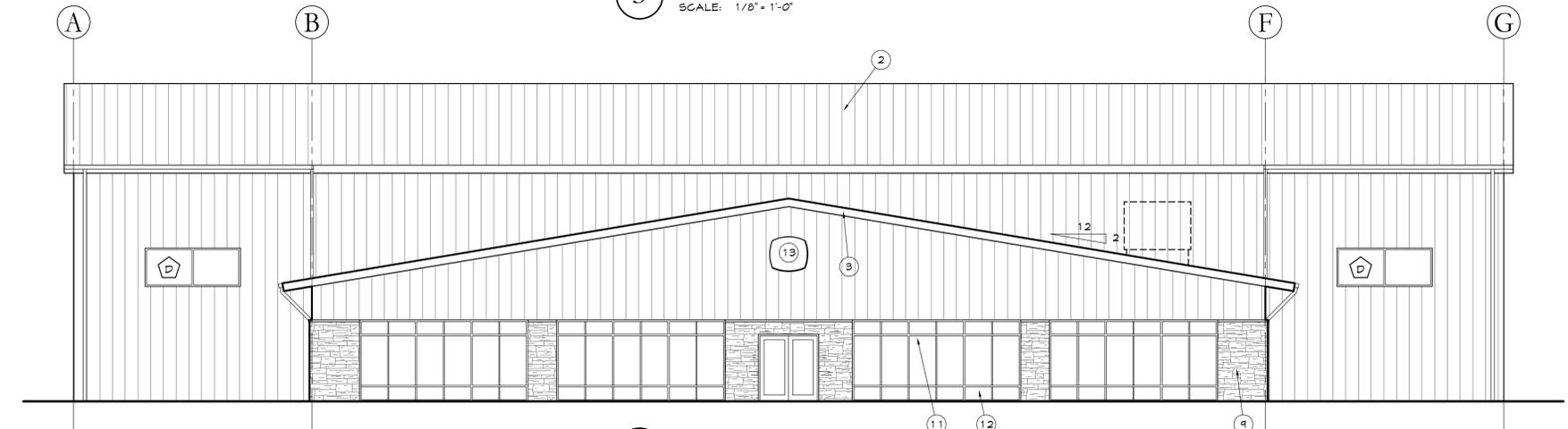
1 North Elevation  
SCALE: 1/8" = 1'-0"



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 EL DORADO STONE WITH REAL 3" THICK STONE SILLS AND WATER TABLES.
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

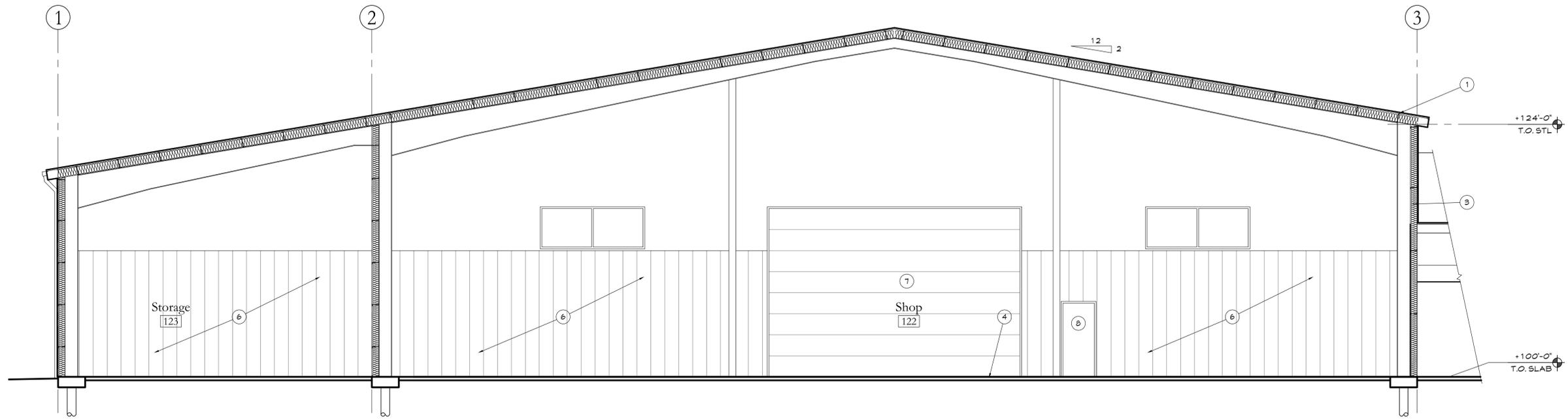
US Tractor  
Grand Junction, Colorado

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

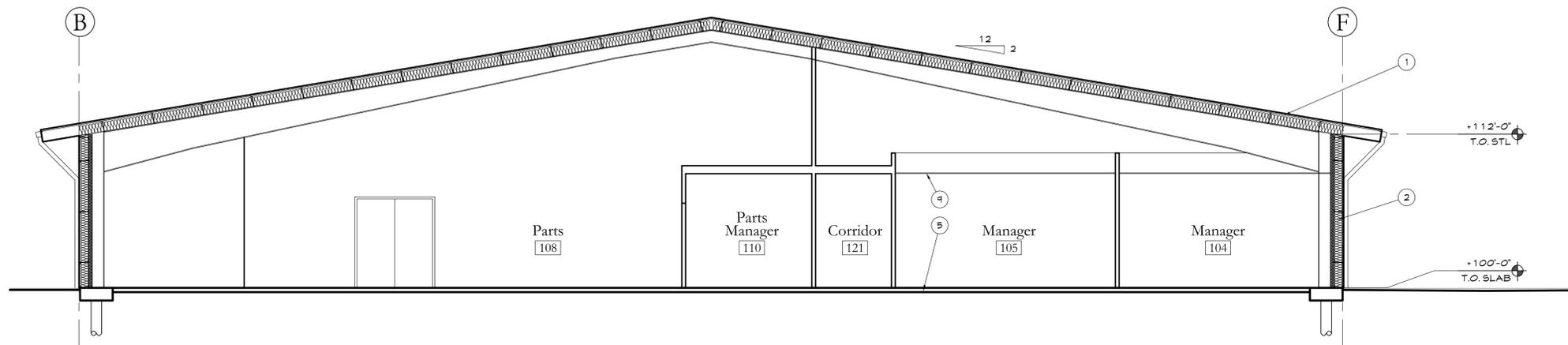
**Building Elevations**

SHEET NAME

**A3.1**  
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 0/2" THERMAL BLOCKING 0/ 10" PURLINS 0/ INSULATION BANDING. INSULATE WITH 16" BATTS FOR R-VALUE OF 49.
2	TYPICAL WALL 1 - METAL PANEL 0/8" GIRTS 0/ 3 1/2" STEEL STUDS. INSULATE WITH BATTS FOR R-VALUE OF 28.
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.

<b>MOTLEY ARCHITECTURE &amp; DESIGN</b> 915 S. 10th St. Montrose, CO 81401 p: (970) 249-1980 f: (970) 797-6811 motleyarc.com	<b>US Tractor</b> Grand Junction, Colorado
	PROJECT NO: 1511 PHASE: DD ISSUE & DATE: A-12/17/15 DRAWN BY: MAD CHECKED BY: Phil

STAMP	<b>Building Sections</b> SHEET NAME <b>A4.1</b> SHEET NUMBER
-------	-----------------------------------------------------------------------



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 F. 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 F. 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 FLAM COUNTER.
- 14 FLAM 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.

**MOTLEY ARCHITECTURE & DESIGN**  
 915 S. 10th St.  
 Montrose, CO 81401  
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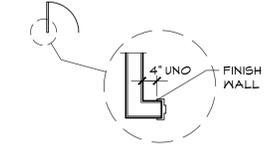
US Tractor - GJ

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.

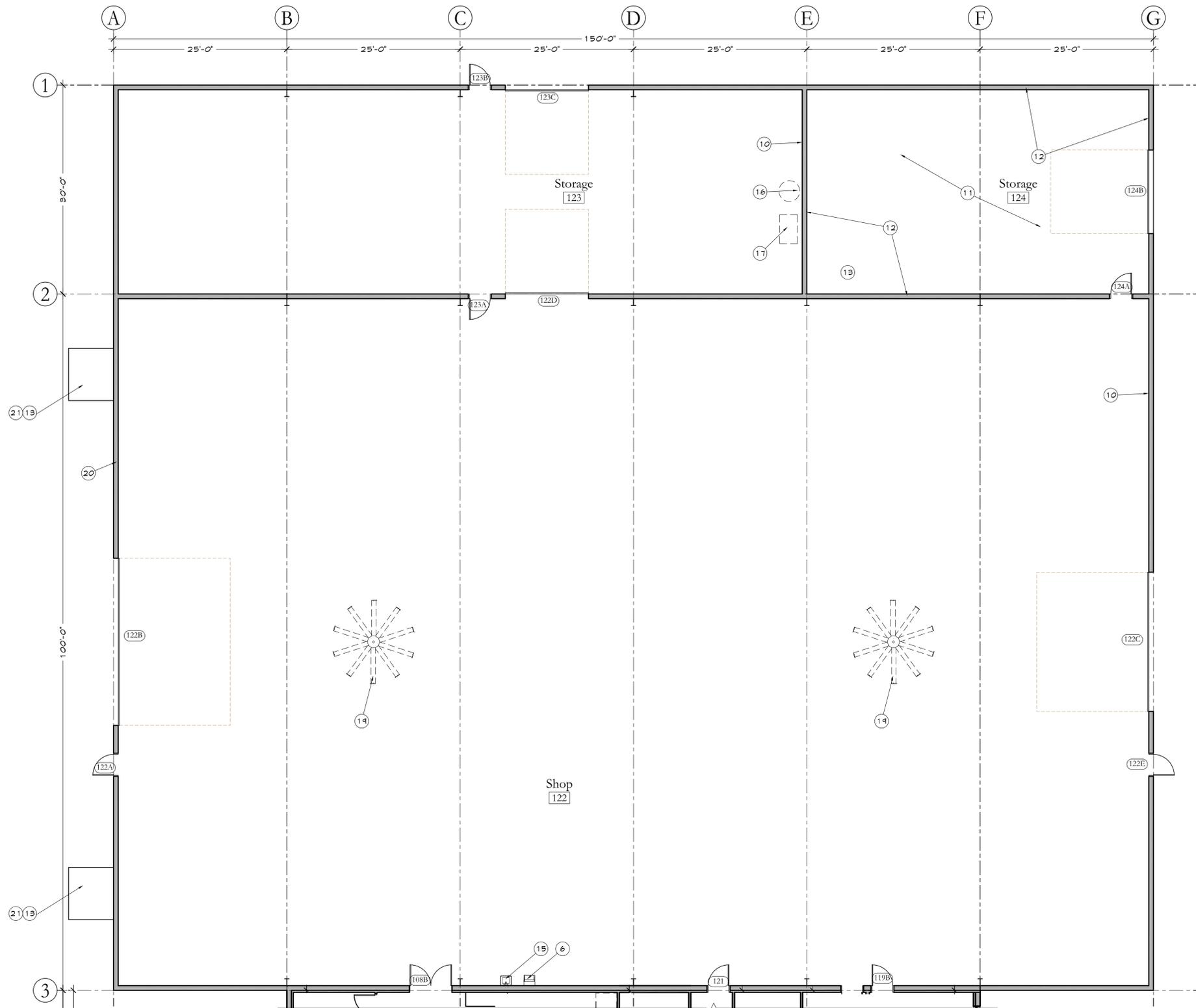


5. VERIFY LOCATION OF SMOKE DETECTORS, EXIT LIGHTS, AND EMERGENCY LIGHTS WITH ARCHITECT PRIOR TO INSTALLATION.
6. CENTER CEILING GRIDS IN AREAS UNLESS NOTED OTHERWISE.
7. PROVIDE FLOOR DRAINS IN TOILET ROOMS.

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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- 11 SLOPED CONCRETE FLOOR.
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- 13 WALL MOUNTED EVAPORATIVE COOLER ABOVE.
- 14 FLAM COUNTER.
- 15 HAND WASH SINK.
- 16 COMPRESSOR LOCATION. EQUIPMENT BY OWNER.
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- 19 PRE-WIRE FOR HIGH VOLUME, LOW SPEED FAN.
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STAMP

US Tractor - GJ

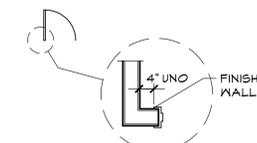
Grand Junction, Colorado

Contacts:

Contractor

General Notes

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- 2. ALL DIMENSIONS ARE TO FACE OF CONCRETE/STUD/MASONARY UNLESS NOTED OTHERWISE.
- 3. TYPICAL DOOR OFFSET AT PARTITION WALL.



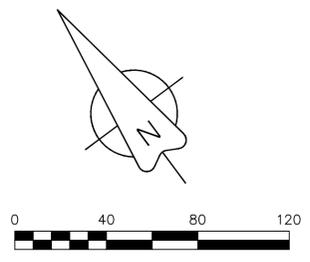
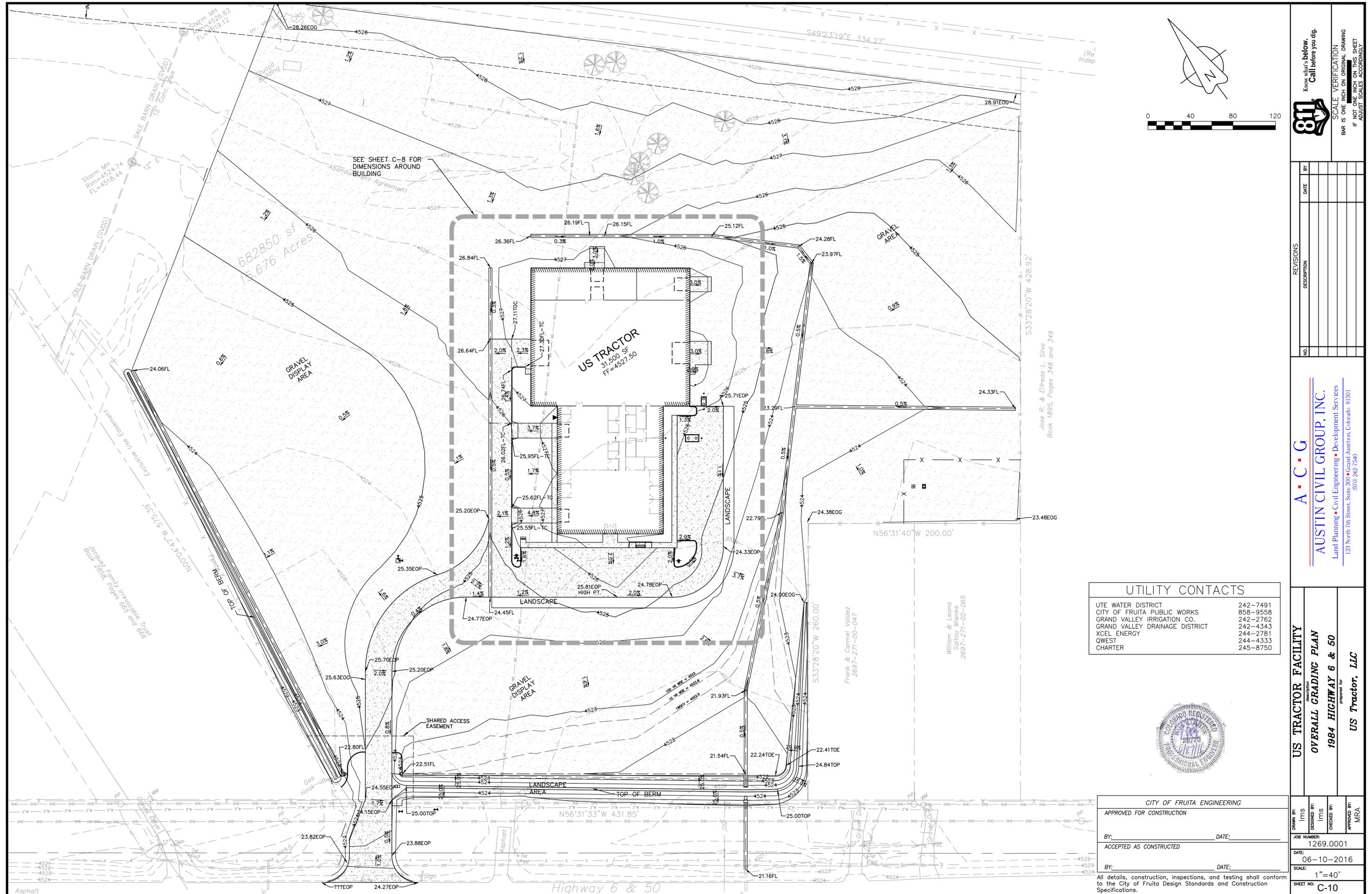
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- 6. CENTER CEILING GRIDS IN AREAS UNLESS NOTED OTHERWISE.
- 7. PROVIDE FLOOR DRAINS IN TOILET ROOMS.

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



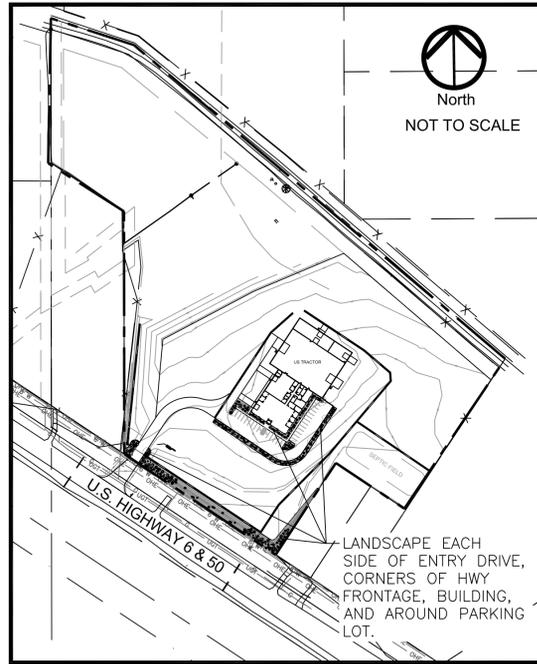
UTILITY CONTACTS	
UTE WATER DISTRICT	242-7491
CITY OF FRUITA PUBLIC WORKS	858-9558
GRAND VALLEY IRRIGATION CO.	242-2762
GRAND VALLEY DRAINAGE DISTRICT	242-4343
XCEL ENERGY	244-2781
QWEST	244-4333
CHARTER	245-8750



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

<p>Know what's below. Call before you dig.</p> <p>SCALE VERIFICATION BAR IS ONE INCH ON ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET ADJUST SCALES ACCORDINGLY.</p>	
NO.	REVISIONS DESCRIPTION
DATE	
BY	
<p><b>A · C · G</b>  <b>AUSTIN CIVIL GROUP, INC.</b>          Land Planning • Civil Engineering • Development Services          123 North 7th Street, Suite 300 • Grand Junction, Colorado 81501          (970) 242-7540</p>	
<p><b>US TRACTOR FACILITY</b>          OVERALL GRADING PLAN          1984 HIGHWAY 6 &amp; 50          prepared for  <b>US Tractor, LLC</b></p>	
DRAWN BY:	DESIGNED BY:
CHECKED BY:	APPROVED BY:
JOB NUMBER:	1269.0001
DATE:	06-10-2016
SCALE:	1"=40'
SHEET NO.:	C-10

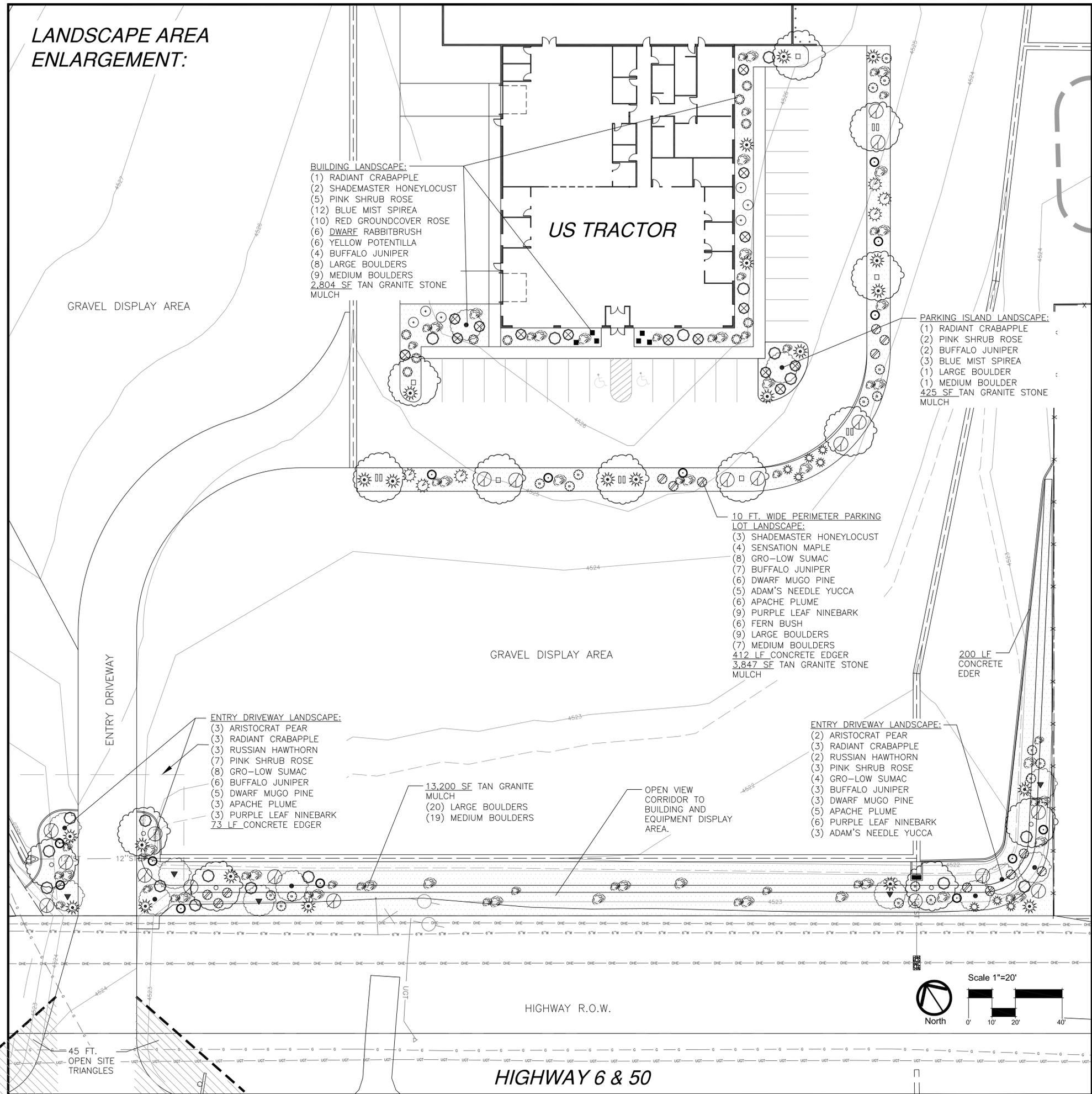
**OVERALL SITE:**



**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 BUTERIC 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:**



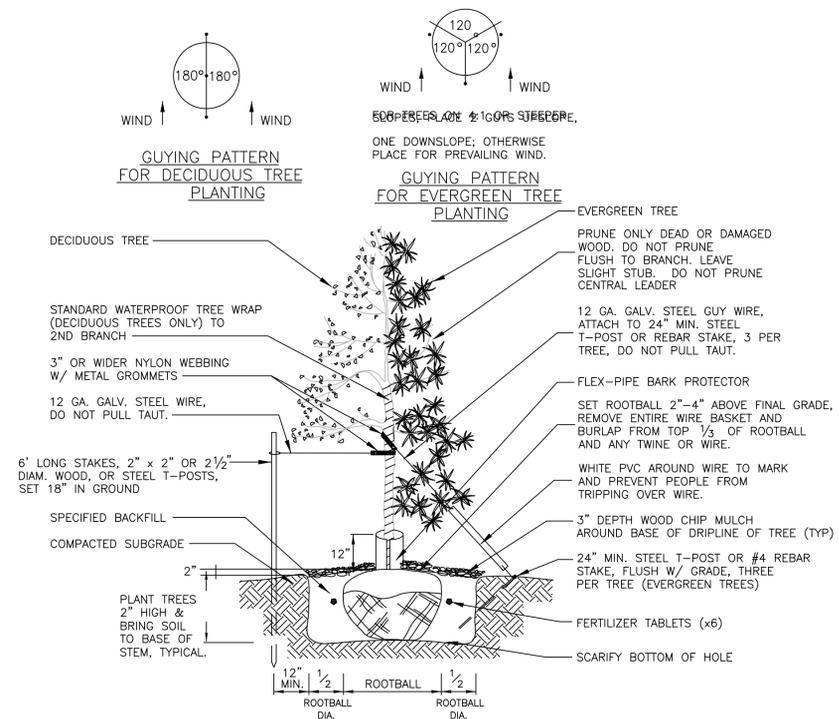
REVISIONS	BY

Julee Wolverton,  
Landscape Architect

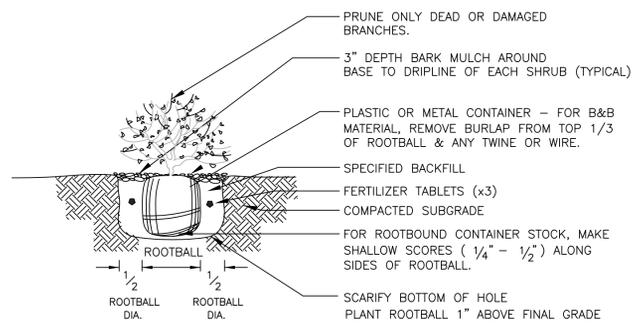
wolverton@montrose.net  
61945 Nighthawk Road  
Montrose, CO 81403  
phone: 970.249.9392  
cell: 970.417.1779  
www.juleewolverton.com

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

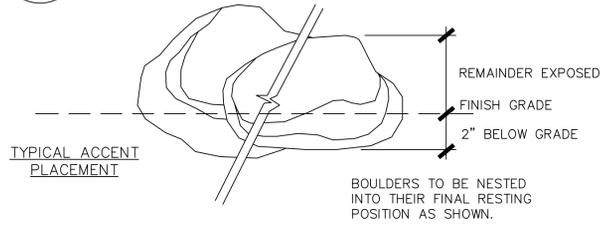
DATE 06-20-16
SHEET TITLE LANDSCAPE PLAN
SHEET No. L-1



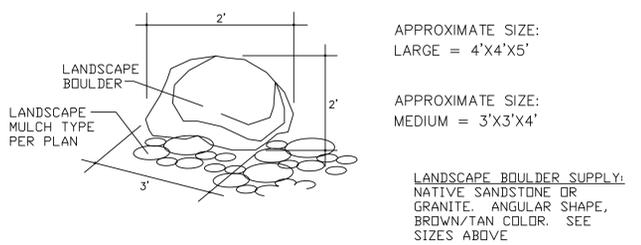
**A** TREE PLANTING SECTION  
L-2 NOT TO SCALE



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



1. PLACEMENT OF LANDSCAPE BOULDERS REFERS TO BOULDERS PLACED IN THE GROUND WITH 2" OF ITS MASS NESTED BELOW GRADE AND THE REMAINDER OF ITS MASS ABOVE FINISHED GRADE.
2. CARE SHALL BE TAKEN DURING PLACEMENT AND HANDLING TO AVOID UNNATURAL SCARRING OF THE EXPOSED SURFACE.



**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	4 TOTAL	ACER NEGUNDO 'SENSATION'	SENSATION MAPLE	MEDIUM	25'-35'	2" CALIPER	B&B
	CRA	5 TOTAL	CRATAEGUS AMGIBUA	RUSSIAN HAWTHORN	LOW	15'-18'	2" CALIPER	B&B
	GLE	5 TOTAL	GLEDITSIA 'SHADEMASTER'	SHADEMASTER HONEYLOCUST	LOW	30'-40'	2" CALIPER	B&B
	MAL	8 TOTAL	MALUS 'RADIANT'	RADIANT CRABAPPLE	LOW	20'-25'	2" CALIPER	B&B
	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	LOW	EXISTING	VARIES	EXISTING

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

GROUND PLANE

REVISIONS	BY

Julee Wolverton,  
Landscape Architect

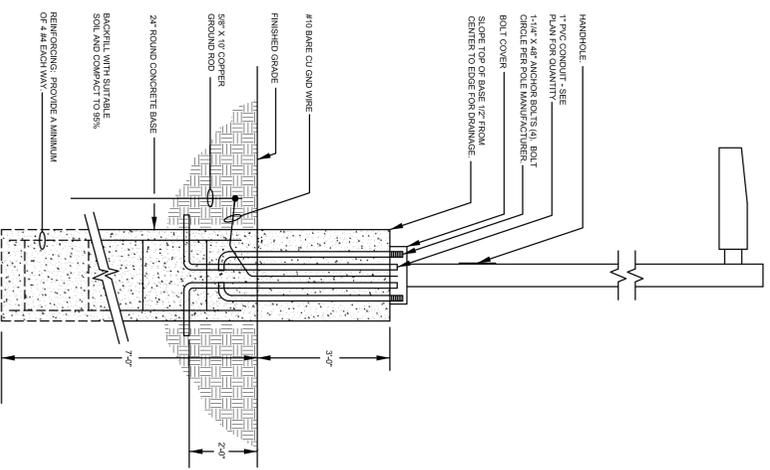
wolverton@montrose.net  
61945 Nighthawk Road  
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phone: 970.249.9392  
cell: 970.417.1779  
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**John Deere Equipment Sales**  
**Landscape Plan**  
**Fruita, Colorado**

DATE  
06-20-16

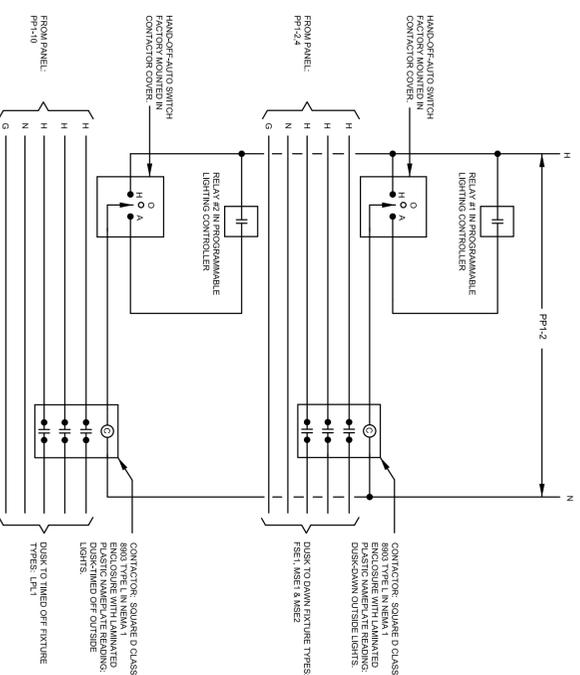
SHEET TITLE  
LANDSCAPE LEGEND, NOTES, & DETAILS

SHEET No.  
**L-2**



LIGHT POLE BASE FIXTURE TYPE "LPL1"

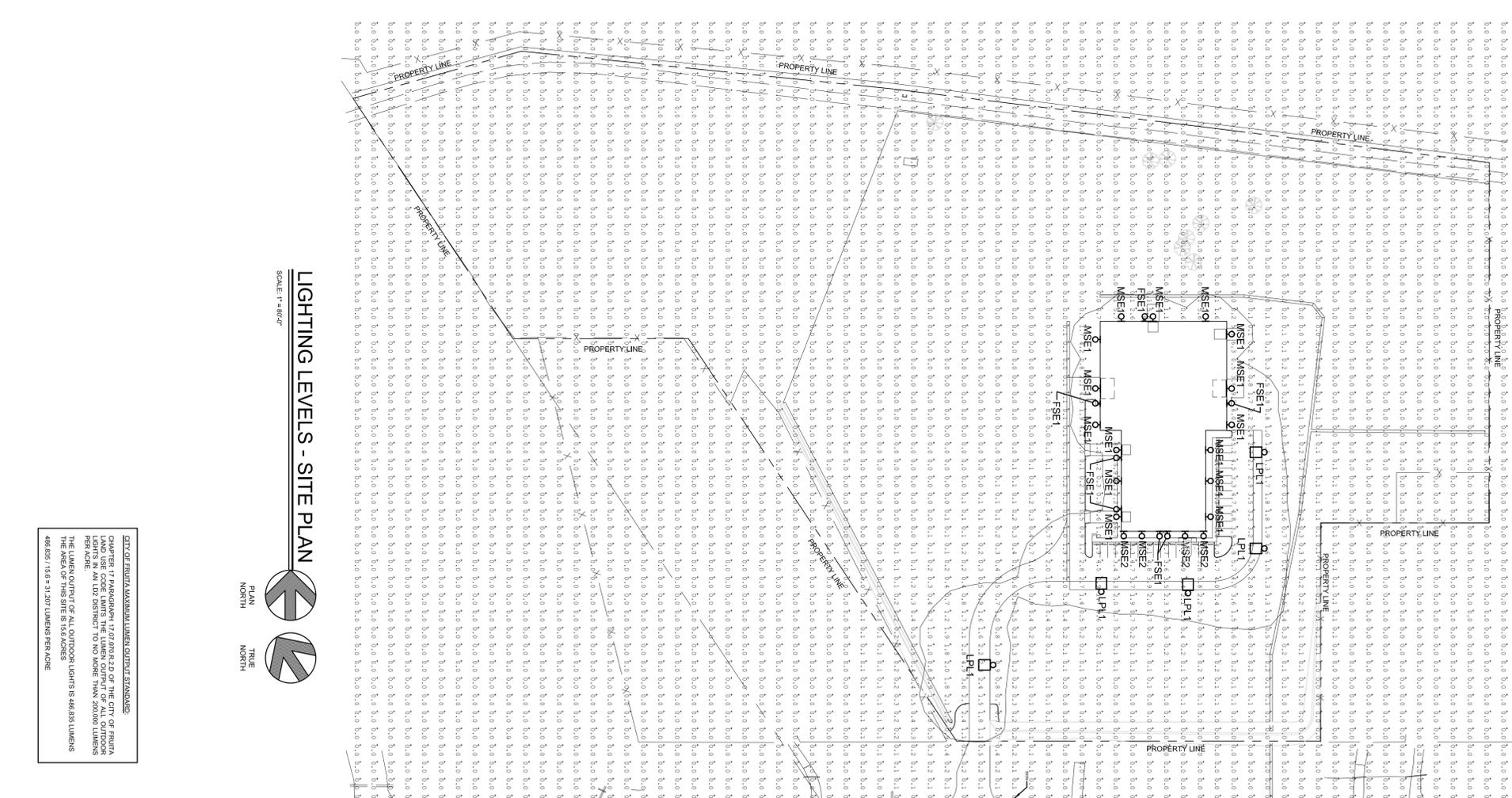
NO SCALE



EXTERIOR LIGHTING CONTROL

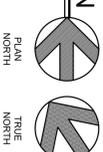
NO SCALE

SITE LIGHTING FIXTURE SCHEDULE		LIGHTING FIXTURE DESCRIPTION		
	<b>FSE1</b> FLUORESCENT SECURITY WALL SURFACE WIDTH/PROJECTION: 9.125" FIXTURE HEIGHT: 7.25" APERTURE: RECTANGULAR	MANUFACTURER: LITONIA CATALOG #2ND HALF: 2TR1... HOUSING: JOHN DEERE GREEN CAST ALUMINUM DIFFUSER: TEMPERED GLASS REFLECTOR: SPECULAR CLEAR ALUM. AIMING: CUT-OFF ENVIRONMENT: 20FT TO 120 DEG F & WET	MANUFACTURER: GE INITIAL LUMENS PER LAMP: 2400 COLOR RENDERING INDEX: >=82 RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 32 LAMP TYPE: FLUORESCENT	ADDITIONAL FIXTURE DESCRIPTION POST FLUORESCENT SECURITY FIXTURE BY MESA-EDISON OR HIBBELT OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A MEDIUM DISTRIBUTION.
	<b>FSE1EM</b> FLUORESCENT MOUNTING: WALL SURFACE WIDTH/PROJECTION: 9.125" FIXTURE HEIGHT: 7.25" APERTURE: RECTANGULAR	MANUFACTURER: LITONIA CATALOG #1ST HALF: WST 23 CATALOG #2ND HALF: 2TR1... HOUSING: JOHN DEERE GREEN CAST ALUMINUM DIFFUSER: TEMPERED GLASS REFLECTOR: SPECULAR CLEAR ALUM. AIMING: CUT-OFF ENVIRONMENT: 20FT TO 120 DEG F & WET	MANUFACTURER: GE INITIAL LUMENS PER LAMP: 2400 COLOR RENDERING INDEX: >=82 RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 32 LAMP TYPE: FLUORESCENT	ADDITIONAL FIXTURE DESCRIPTION POST FLUORESCENT SECURITY FIXTURE BY MESA-EDISON OR HIBBELT OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A MEDIUM DISTRIBUTION.
	<b>LPL1</b> L.E.D. MOUNTING: POLE FIXTURE HEIGHT: 25" APERTURE: RECTANGULAR	MANUFACTURER: LUMINA CATALOG #1ST HALF: 1S24L137P18 CATALOG #2ND HALF: 2TR1... HOUSING: DARK BRONZE PAINTED ALUMINUM REFLECTOR: HYDROFORMED ENVIRONMENT: 20FT TO 120 DEG F & WET	MANUFACTURER: GE INITIAL LUMENS PER LAMP: 3947 COLOR RENDERING INDEX: >=80 RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 416 LAMP TYPE: L.E.D.	ADDITIONAL FIXTURE DESCRIPTION THIS FIXTURE IS TO HAVE A 30 FOOT STRAIGHT SQUARE MOUNTING. THIS FIXTURE IS TO BE INSTALLED ON A SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE BY MESA-EDISON OR HIBBELT OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A WIDE THROW DISTRIBUTION.
	<b>MSE1</b> METAL HALIDE SECURITY WALL SURFACE WIDTH/PROJECTION: 9.125" FIXTURE HEIGHT: 7.25" APERTURE: RECTANGULAR	MANUFACTURER: LITONIA CATALOG #2ND HALF: MWT... HOUSING: JOHN DEERE GREEN CAST ALUMINUM DIFFUSER: TEMPERED GLASS REFLECTOR: HYDROFORMED ENVIRONMENT: 20FT TO 120 DEG F & WET	MANUFACTURER: GE INITIAL LUMENS PER LAMP: 16000 COLOR RENDERING INDEX: >=80 RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 175 LAMP TYPE: METAL HALIDE	ADDITIONAL FIXTURE DESCRIPTION THIS METAL HALIDE SECURITY FIXTURE BY MESA-EDISON OR HIBBELT OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A WIDE THROW DISTRIBUTION.
	<b>MSE2</b> METAL HALIDE MOUNTING: WALL SURFACE WIDTH/PROJECTION: 9.125" FIXTURE HEIGHT: 7.25" APERTURE: RECTANGULAR	MANUFACTURER: LITONIA CATALOG #2ND HALF: MWT... HOUSING: JOHN DEERE GREEN CAST ALUMINUM DIFFUSER: TEMPERED GLASS REFLECTOR: HYDROFORMED ENVIRONMENT: 20FT TO 120 DEG F & WET	MANUFACTURER: GE INITIAL LUMENS PER LAMP: 16000 COLOR RENDERING INDEX: >=80 RATED LIFE: >=15,000 HOURS NOMINAL WATTS: 175 LAMP TYPE: METAL HALIDE	ADDITIONAL FIXTURE DESCRIPTION THIS METAL HALIDE SECURITY FIXTURE BY MESA-EDISON OR HIBBELT OR SUBMIT A CUT SHEET & CATALOG NUMBER FOR AN ALTERNATE FIXTURE AND RECEIVE APPROVAL 5 DAYS PRIOR TO BID. THIS FIXTURE IS TO HAVE A WIDE THROW DISTRIBUTION.



LIGHTING LEVELS - SITE PLAN

SCALE: 1" = 80'



CITY OF FRUITA MAXIMUM LIGHT OUTPUT STANDARDS:  
CHANGES 17 REGULATIONS 17.07.03.03.01 OF THE CITY OF FRUITA  
LAND USE CODE LIMITS THE LIGHT OUTPUT OF ALL OUTDOOR  
LIGHTS IN AN LDZ DISTRICT TO NO MORE THAN 20,000 LUMENS  
PER SQUARE FOOT OF THE OUTDOOR LIGHTS.  
THE MEANS OF MEASUREMENT OF LIGHT OUTPUT SHALL BE  
483.85 / 1.64 = 297 LUMENS PER ACRE

 <b>GVECS</b> GRAND VALLEY ENGINEERING SOLUTIONS ELECTRIC MECHANICAL CONSULTING ENGINEERS GRAND JUNCTION, CO 81501 (970) 296-0333 FAX (970) 246-4319	
<h1>US Tractor Facility</h1> <p>1984 Highway 6 &amp; 50 Fruita, Colorado</p>	
<p>STAMP</p>	
<p>Contractor</p>	
<p>Lighting Levels Site Plan</p>	
PROJECT NO:	15049/1511
PHASE:	DD
ISSUE & DATE:	07/19/16
DRAWN BY:	KJM
CHECKED BY:	WJM
<h1>ES1.1</h1>	
<p>SHEET NUMBER</p>	

**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:

---

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.

---

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

---

GVDD has no issues with this proposal.

---

**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](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)



**Community Development Department  
Staff Report  
August 3, 2016**

**Application #:** 2016-11  
**Project Name:** Robinson Rental  
Property Owner: Travis and Ellen Robinson  
Representative: Travis and Ellen Robinson  
Application Type: Conditional Use Permit  
Location: 1424 Niblick Way  
Zone: Adobe Falls PUD

**Request:** 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 residential zones.

**Project Description:**

The subject property contains a 2,987 square foot detached single family house and a 400 square foot finished attached guest house on an approximately 16,120 square foot lot which is located on Niblick Way in the Adobe Falls subdivision. The 400 square foot attached guest house is attached by a roof; however the actual guest house is separate from the main house. The property owner has requested a Conditional Use Permit (CUP) to use the guest house for a vacation rental by owner.

The finished guest house is intended to be available for rent on a less than month-to-month basis. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

**Surrounding Land Uses and Zoning:**

The subject property is surrounded by PUD zoning, the majority of the land surrounding the property is vacant lots. Directly to the south is the Adobe View Golf Course. To the north, south, and west are residential lots and homes. The uses in these zones are primarily single family residential dwelling units.

## Zoning Map



## 2015 AERIAL PHOTOGRAPH



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

Table 17.07.060(F) of the Land Use Code requires a Conditional Use Permit (CUP) for Bed & Breakfast type of land use in the Community Residential zone. The Land Use Code defines a Bed & Breakfast as a facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis with no more than four guest rooms. It is not required to be owner occupied.

Section 17.07.070, Supplemental Zoning Regulations and Standards, Section A, identifies conditions and standards that must be met for a Bed & Breakfast use:

- 1. Where the applicable zoning district allows bed and breakfast uses as a Conditional Use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;**

The building to be used as the vacation rental is the finished guest house which includes a bathroom and a bedroom area and a living room. The main house, which contains four bedrooms according to the Mesa County Assessor's Office, will not be used as part of this vacation rental business.

- 2. Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;**

The project narrative says, "We will not be offering any sort of food or beverage services."

- 3. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;**

According to the project narrative, "the guest house will be set up as a residential home." Staff interprets this as not changing the residential character of the dwelling or neighborhood.

- 4. In residential zones (including residential developments in the CMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.41;**

Chapter 17.41 of the Land Use Code permits an Address or Identification Sign, identifying the address and/or the occupants of a dwelling unit or of an establishment, with a maximum size of two square feet and a maximum height of four feet for a sign in this zone. No illumination of this sign is permitted. There are no signs on the subject property at this time. And based on the project narrative, "We will also not have any signage at the property."

**5. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;**

The parking for this vacation rental will be in the driveway as stated in the project narrative "We have dedicated off street parking in our driveway, so this will not add to cars in the street". There are a total of 6 off street car parking spaces available. No screening is recommended.

**6. The bed and breakfast facility shall comply with all Building Codes adopted by the city;**

The house was built in 2014 and has received a Certificate of Occupancy. Staff has no reason to believe the building doesn't continue to meet the building codes.

**7. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and**

According to the project narrative, "The HOA does not specifically prohibit operating a Bed and Breakfast." All property owners within 350 feet of the subject property have been notified of this CUP application. At this time, staff has received written comments addressing this CUP in the form of a letter and a signed petition that is overwhelmingly against this CUP application. The letter and petition have been included in the Staff Report.

Staff has received a copy of a letter sent to Travis and Ellen Robinson from Richard Livingston of Livingston & Mumby, LLC, which states "The application for a Conditional Use Permit (CUP) for your property to operate a B & B will be in violation of the Declaration of Covenants, Conditions and Restrictions for Adobe Falls Subdivision. Article V of the Declaration restricts the use of lots to residential purposes only." It is unclear if Mr. Livingston represents the HOA or an individual property owner.

**8. Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a**

**dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.**

Staff is unaware of any other existing or intended use of this property other than as a dwelling unit and/or as a short term rental as proposed by this CUP request.

Based on this information, this CUP request for a Bed & Breakfast meets all but one of the supplemental zoning regulations and standards of the Land Use Code. Supplemental zoning standard #7 states that it is the responsibility of the applicant to demonstrate that there is no violation of the covenants. This has not been demonstrated.

Chapter 13 of the Land Use Code identifies the approval criteria that must be considered for Conditional Use Permit (CUP) requests. The Code defines a CUP as a use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of the Land Use Code, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

**Section 17.13.040, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:**

- 1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;**

Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title, which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of this Planned Unit Development (PUD) zone, which is to allow for moderate density single-family neighborhoods. If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion has not been met because supplemental standard #7 requires the representative to demonstrate that the proposed Bed and Breakfast (VRBO) would not be in violation of any of the subdivisions covenants. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan.

- 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;**

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.

It appears that this proposed vacation rental will be able to coexist with other existing houses in the area without having a disproportionate or severe impact on the neighborhood. Due to the characteristics of the surrounding land uses it appears that this Bed & Breakfast will be compatible with the zoning that surrounds the subject property. Staff sees no negative impact to the neighborhood or the proposed use being disproportionate to the current land uses in the surrounding area. This criterion has been met.

**3. The proposed use will not materially endanger the public health or safety; and**

Use of the house for a vacation rental is not expected to endanger the public health or safety. This criterion can be met.

**4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.**

Public services and facilities have been available to this property and will continue to be available to this property while it is used as a vacation rental. The impacts are not expected to be any greater than those generated by a single family residence. This criterion has been met.

Based on this information, this requested Conditional Use Permit does not meet all approval criteria for Conditional Use Permits and all supplemental zoning standards. Because supplemental zoning standard #7 requires the representative to demonstrate that the proposed Bed & Breakfast (VRBO) would not be in violation of any of the subdivisions covenants, and what has been

demonstrated is that the issue is debatable, this supplemental zoning standard has not been met.

**Review Comments:**

All review comments received are included with this Staff Report. There are no concerns from review agencies regarding this Conditional Use Permit request.

**Public Comments:**

Public comments have been received and have been included with this Staff Report.

**Staff Recommendation:**

Staff recommends denial of this CUP because the representative has not demonstrated that the proposed Bed and Breakfast would not be in violation of the subdivisions covenants as required by the supplemental zoning standards of the Land Use Code.

**Fruita Planning Commission:** August 9, 2016

**Fruita City Council:** September 6, 2016

**From:** [Travis Robinson](#)  
**To:** [Henry Hemphill](#)  
**Subject:** Re: Public Notice Sign  
**Date:** Friday, July 01, 2016 11:29:13 AM

---

Hi Henry,

We would like to postpone our planning commission appearance to Aug 9th.

Thanks, Travis

On Thursday, June 16, 2016, Henry Hemphill <[hhemphill@fruita.org](mailto:hhemphill@fruita.org)> wrote:

Travis,

The public notice sign is ready for you to pick up and place at the subject property. It can be picked up by you or Ellen here at the Civic Center. It should go in your front yard and it will be there until the August 2<sup>nd</sup> City Council hearing for final decision.

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

**LIVINGSTON & MUMBY, LLC**  
Attorneys at Law

J. Richard Livingston  
jrl@imgjlaw.com

2764 Compass Drive, #200A  
Grand Junction, CO 81506  
(970) 242-7322 Fax (970) 242-0698

Keith G. Mumby  
(1931-2014)

June 27, 2016

Mr. and Mrs. Travis Robinson  
1424 Niblick Way  
Fruita, CO 81521

COPY

Re: Conditional Use Permit

Dear Mr. and Mrs. Robinson:

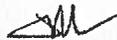
The application for a Conditional Use Permit (CUP) for your property to operate a B & B will be in violation of the Declaration of Covenants, Conditions and Restrictions for Adobe Falls Subdivision. Article V of the Declaration restricts the use of lots to residential purposes only.

Please be advised that the CUP application will be contested and, if approved, contested further in the Mesa County District Court. Reconsideration of your decision to pursue a business activity on your property will avoid such legal proceedings.

Should you or your attorney have any questions, please contact me.

Sincerely yours,

LIVINGSTON & MUMBY, LLC

  
J. Richard Livingston

JRL:jlc

cc: Client  
Fruita Planning Department

**LIVINGSTON & MUMBY, LLC**  
ATTORNEYS AT LAW

J. Richard Livingston  
[jrl@lmgilaw.com](mailto:jrl@lmgilaw.com)

2764 Compass Drive, #200A  
Grand Junction, CO 81506  
(970) 242-7322 Fax (970) 242-0698

Keith G. Mumby  
(1931-2014)

July 7, 2016

**Via Email & First Class Mail**

Dahna Raugh  
City of Fruita Planning Department  
325 E. Aspen Avenue  
Fruita, CO 81521

Re: Robinson Rental CUP  
2016-11

Dear Dahna:

Enclosed please find a Petition in Opposition to the above-referenced CUP Application scheduled for the July 12, 2016 Planning Commission meeting. The Petition has been signed by all the property owners in Adobe Falls Subdivision except the Applicant. Please enter the Petition in the file for this matter.

It is my intention to appear for any hearing on this matter. I would appreciate it if you would advise me as to any scheduling changes should they occur.

Thank you for your time and assistance.

Sincerely yours,

LIVINGSTON & MUMBY, LLC



J. Richard Livingston

JRL:jlc

Enclosure

cc: Adobe Falls, LLC





# LAND DEVELOPMENT APPLICATION

Project Name: Robinson Rental  
 Project Location: 1424 Niblick Way Fruita CO 81521  
 Current Zoning District: PUD Requested Zone: None  
 Tax Parcel Number(s): \_\_\_\_\_ Number of Acres: \_\_\_\_\_  
 Project Type: Conditional Use Permit

Property Owner: Travis & Ellen Robinson Developer: \_\_\_\_\_  
 Property Owner: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address: 1424 Niblick Way Address: \_\_\_\_\_  
 City/State/Zip: Fruita CO 81521 City/State/Zip: \_\_\_\_\_  
 Phone: 970.640.8641 Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: travis@robinson@gmail.com E-mail: \_\_\_\_\_

**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: \_\_\_\_\_ Engineer: \_\_\_\_\_  
 Contact: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address: \_\_\_\_\_ Address: \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_ E-mail: \_\_\_\_\_

**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.**

Travis Lane Robinson [Signature] 4.21.16  
 Name of Legal Owner Signature Date  
 \_\_\_\_\_  
 Name of Legal Owner Signature Date  
 \_\_\_\_\_  
 Name of Legal Owner Signature Date

STATE OF COLORADO)  
 ) ss.  
 COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of May, 2016

My Commission expires: \_\_\_\_\_

**DEBRA WOODS**  
 NOTARY PUBLIC  
 STATE OF COLORADO  
 NOTARY ID #20094002789  
 My Commission Expires January 23, 2017

[Signature]  
 Notary Public

# VESTED RIGHTS OPTION FORM

Chapter 17.47 of the Fruita Land Use Code requires a landowner to request vested rights in writing at the time a Land Development Application is submitted **IF** the landowner wishes the approval of the Land Development Application to create a vested property right pursuant to Sections 24-68-101, et. seq., C.R.S.

The purpose of this document is to clearly identify whether or not a property owner is requesting creation of a vested right.

I, Travis Robinson, understand the City's requirements regarding vested rights and the need to request vested rights at the time a Land Development Application for a Site Specific Development Plan is submitted **IF** I want a vested property right to be created with the approval of my Land Development Application.

Name of the Land Development Application: \_\_\_\_\_

Address of subject property: 1424 Niblick Way Fruita CO 81521

Tax Parcel Number(s): 2697-213-13-006

Application Type:

Site Design Review       Conditional Use Permit       Minor Subdivision  
 Major Subdivision       Planned Unit Development       Other \_\_\_\_\_

Vested Rights **ARE** requested for this development. I understand and acknowledge that certain delays in my project's approval time may result in order to meet the hearing and notice requirements of state law for the creation of a vested property right.

Vested Rights **ARE NOT** requested for this development, and I choose to voluntarily waive this right. I have been advised by the City to consult an attorney prior to signing this waiver. Further, I understand that this waiver does not abridge any common law vested rights which I may acquire nor does it diminish any right which may exist under the City's land use regulations, except for Chapter 17.47 of the Fruita Land Use Code.

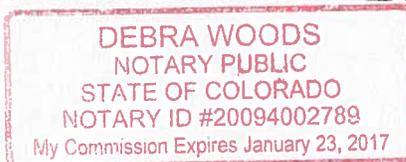
Property Owner Signature: [Signature]

Property Owner Signature: \_\_\_\_\_

STATE OF COLORADO    )  
                                          )  
COUNTY OF MESA        )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of May, 2016  
by TRAVIS ROBINSON (Property Owners name(s)).

WITNESS MY HAND AND OFFICIAL SEAL



My Commission Expires: \_\_\_\_\_ Notary Public: [Signature]

May 3<sup>rd</sup>, 2016

My wife and I are looking to rent our property located at 1424 Niblick Way Fruita, CO 81521. We have a 400 sq ft guest house at our primary residence and would like to host overnight guests via peer to peer accommodations tools such as AirBnB.com. We typically share the property with our guests during the rental periods (average stay is two nights), and we have a number of tools to research and vet our guests before agree to rent to them. We check our guests in and out, handle the bookings and clean the property ourselves.

Having the property set up as a peer to peer accommodation / AirBnB will not materially affect the neighborhood. Our property currently backs up to a public golf course so we are in an area of mixed use with residential and commercial use. The HOA does not specifically prohibit operating a Bed and Breakfast. It will be strictly enforced that we will share our property with short term rental guests.

The guest house will be set up as a residential home. It will be fully furnished with a living room, bathroom, and one bedroom. We advertise the space to accommodate one to three guests at a time. We also expect that the bulk of the guest stays will be during the spring festival and mountain bike season. We plan to rarely have guests during the summer and winter.

We intend to list the property with AirBnB, an established vacation rental company to help control who rents the guest house. The renters agree to the contract provisions of AirBNB and must place a \$500 deposit. We will not be offering any sort of food and beverage services. We have dedicated off street parking in our driveway, so this will not add to cars in the street. We will also not have any signage at the property.

Thank you for your time in considering our conditional use permit.

Sincerely,

Travis and Ellen Robinson

## Henry Hemphill

---

**From:** Travis Robinson [travisrobinson@gmail.com]  
**Date:** Friday, July 22, 2016 1:48 PM  
**To:** Henry Hemphill  
**Subject:** Fwd: [Privileged] Short-Term Residential Use of Your Property Re: Robinson File - HOA Covenants and attorney letter  
**Attachments:** Mesa\_oshane\_ballounlaw\_Reception Number\_2433914\_7-5-2016.pdf; oshane\_ballounlaw\_4268726\_7-5-2016.pdf; oshane\_ballounlaw\_4543401\_7-5-2016.pdf

Hi Henry, here's the case and my attorney's analysis.

Have a great weekend. Travis

----- Forwarded message -----

**From:** O.Shane Balloun <o.shane@ballounlaw.com>  
**Date:** Tuesday, July 5, 2016  
**Subject:** [Privileged] Short-Term Residential Use of Your Property Re: Robinson File - HOA Covenants and attorney letter  
**To:** Travis Robinson <travisrobinson@gmail.com>

**Disclaimer: this is attorney-client privileged and confidential. It is not a guarantee of title or otherwise, and it does not represent a formal title opinion. Rather, this missive is a discussion of your options with respect to litigating or making claims regarding the short-term residential rental use of your property.**

Travis:

*Houston 1997 1997 v. Wilson Mesa Ranch Homeowners Ass'n* (Colo. App. 2015)  
<http://caselaw.findlaw.com/co-court-of-appeals/1710512.html>

As I remembered, ambiguous covenant language is to be narrowly construed in Colorado, and candidly, this case is perfectly on point.

In *Houston 1997 1997*, the court distinguished between the covenants at issue, and the holding in *Jackson & Co. (USA), Inc. v. Town of Avon*, 166 P.3d 297, 298–300 (Colo. App. 2007). In *Jackson*, the earlier court held that the short term rental of a duplex with six individual bedroom-bathroom suites was impermissible under the relevant municipal ordinance and subdivision plat, which explicitly prohibited the use of the property within the residential subdivision as a lodge. But in *Houston 1997 1997*, the court here found no such prohibitory language or definition to "residential" in the HOA restrictive covenants and thus distinguished the facts. Even still, the previous *Jackson* court appeared to hold the vacation rentals impermissible not because of the HOA covenants but because of restrictions in the plat and/or the municipal land use ordinances.

As you read, the *Houston 1997 1997* court narrowly construed the restrictive covenants at issue, which prohibited commercial activity and allowed residential activity to include short term residential rentals, because it found no express restrictive language prohibiting short-term rentals in the HOA restrictions, the plat, or in the municipal land use ordinances.

I looked up the plat map for your subdivision and was unable to find any pertinent restrictions on the recorded plat. It is attached. As we talked about, the Adobe Falls restrictive covenants do not define "residential

purposes" in any way, which leads me to believe, like you, that the *Houston 1997 1997* view applies: short-term residential rentals are residential in nature vis-à-vis the restrictive covenants' use of the term.

ed and breakfast facility, as you likely already know, is defined as "[a] facility of **residential** character that provides sleeping accommodations with or without meals for hire on a day-to-day basis."

Thus, if you succeed in obtaining the CUP for bed and breakfast use, the FMC will only serve to disambiguate the HOA's restrictive covenants in your favor and strengthen your claims under *Houston 1997 1997*, because the covenants do not define "residential" in any interpretive clauses, but the Municipal Code will define your conditional use to be residential.

If/when the permit is granted, there appears to be no further legal impediment to you using your property to rent out via AirBNB, and at this point, there appears to be no case in Colorado that would support your opponent's position.

O.Shane

Balloun Law Professional Corporation  
355 Harris Avenue, Suite 201  
Bellingham, Washington 98225

(360) 318-7778 | (206) 501-3073 | (650) 899-2992 | (307) 200-7594  
(360) 318-7798 fax | (360) 483-5960 vfax

<http://www.ballounlaw.com>

---

On Fri, Jul 1, 2016 at 6:25 PM, Travis Robinson <[travisrobinson@gmail.com](mailto:travisrobinson@gmail.com)> wrote:  
Hi O.Shane,

The address is: 1424 Niblick Way Fruita, CO 81521

Attached are the CC&Rs and the letter from the HOA attorney.

Thank you again for taking a look at this.

Best, Travis



File\_000.jpeg

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HOUSTON 1997 1997 v. WILSON MESA RANCH HOMEOWNERS ASSOCIATION INC

## HOUSTON 1997 1997 v. WILSON MESA RANCH HOMEOWNERS ASSOCIATION INC

Print

17

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### Colorado Court of Appeals, Div. III.

**David HOUSTON, Trustee of the David Houston 1997 Trust dated October 6, 1997, Plaintiff-Appellee, v. WILSON MESA RANCH HOMEOWNERS ASSOCIATION, INC., a Colorado nonprofit corporation, Defendant-Appellant.**

14CA1086

Decided: August 13, 2015

Solomon Law Firm, P.C., Joseph A. Solomon, Telluride, Colorado, for Plaintiff-Appellee Dewhirst & Dolven, LLC, Miles M. Dewhirst, Jeffery D. Bursell, Denver, Colorado; Garfield & Hecht, PC, Mary Elizabeth Geiger, Glenwood Springs, Colorado, for Defendant-Appellant

¶1 In this dispute regarding the scope of restrictive covenants, defendant, Wilson Mesa Ranch Homeowners Association, Inc., appeals the district court's judgment on the pleadings in favor of plaintiff, David Houston, Trustee of the David Houston 1997 Trust dated October 6, 1997. We affirm.

#### I. Background

¶2 Wilson Mesa Ranch is a subdivision in San Miguel County. The subdivision is subject to protective covenants that are enforced by the Association's board of trustees. The covenants provide, as relevant here, that "the lands within Wilson Mesa Ranch [are intended to] be developed and maintained as a highly desirable scenic and secluded residential area;" that all tracts designated on the recorded plats by number "shall be residential tracts;" and that "[n]o lands within Wilson Mesa Ranch shall ever be occupied or used for any commercial or business purpose nor for any noxious activity and nothing shall be done on any of said lands which is a nuisance or might become a nuisance to the owners of any of said lands."

¶3 Houston owns a single-family residence in the subdivision. Beginning in December 2012, Houston began renting out the property for short-term vacation rentals. He advertised the residence on the website of VRBO, a company that facilitates the booking of such rentals. When the board learned that Houston had been renting out the residence, it adopted an amendment ("Section 11") to its administrative procedures that prohibited Association members from renting out their properties for periods of less than thirty days without prior board approval. Section 11 also provided for a \$500 fine for each violation of this prohibition.

¶4 The board notified Houston of its adoption of Section 11 and ordered him to comply with it. Houston objected to Section 11 as an unlawful attempt to amend the covenants. The board responded that short-term rentals were a commercial use that was already prohibited under the covenants, and that Section 11 was simply adopted to clarify the board's position and set forth procedures for seeking an exception to the prohibition.

¶5 After the board denied Houston's request to continue leasing the property on a short-term basis, he took two additional rental reservations through VRBO. The board treated these reservations as anticipatory breaches of the covenants and Section 11 and fined Houston \$500 for each reservation.

¶6 Houston then filed this action, seeking a declaration that the Association could not bar the short-term rental of his property based on the commercial use prohibition in the covenants. The Association counterclaimed for a declaration that the covenants barred rentals of less than thirty days; that Section 11 was enforceable against Houston; and that Houston was in violation of the covenants and Section 11 by advertising, and taking reservations for, short-term rentals of his property. The Association also sought a permanent injunction requiring Houston to comply with the covenants and Section 11.

¶7 Both parties moved for judgment on the pleadings pursuant to C.R.C.P. 12(c). In a detailed written order, the district court entered judgment in favor of Houston and dismissed the Association's counterclaims. It reviewed the covenant language, found no Colorado case law that was "dispositive on the issue of whether a prohibition on commercial use bars short term rentals or conversely whether the requirement of residential use is somehow inconsistent with short term rentals," and reviewed cases from other jurisdictions that the parties had cited. The court concluded that nothing in the covenants prohibited short-term rentals, either expressly or by implication; that the covenant language was ambiguous regarding the permissibility of short-term rentals; and that, because such ambiguity required that all doubts be resolved in favor of the free and

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unrestricted use of property, the covenants did not prohibit or limit Houston's short-term vacation rentals. It also found that Section 11's "differentiation between forbidden 'short term' rentals and permitted 'long term' rentals [was] arbitrary and not plainly within the confines of the [c]ovenants," thus, the fines imposed against Houston were not enforceable.

## II. Discussion

### A. Standards of Review and Applicable Law

¶8 Our review is de novo, both because the district court's judgment was a judgment on the pleadings, see *Melat, Pressman & Higbie, L.L.P. v. Hannon Law Firm, L.L.C.*, 2012 CO 61, ¶17, and because the court construed a written instrument. See *In re Estate of Foiles*, 2014 COA 104, ¶20.

¶9 We construe restrictive covenants according to their plain language, interpreting them as a whole and keeping in mind their underlying purpose. See *Evergreen Highlands Ass'n v. West*, 73 P.3d 1, 3 (Colo.2003); *Good v. Bear Canyon Ranch Ass'n*, 160 P.3d 251, 253 (Colo.App.2007). A covenant will be enforced as written if it is clear on its face. *Good*, 160 P.3d at 253. However, if there is any ambiguity or doubt as to the meaning of a covenant, we must adopt the construction that favors the unrestricted use of property. *Id.* at 253–54; see also *Double D Manor, Inc. v. Evergreen Meadows Homeowners' Ass'n*, 773 P.2d 1046, 1048 (Colo.1989).

### B. Scope of the Covenants

¶10 It is undisputed that the covenants do not expressly prohibit short-term rentals of residences within Wilson Mesa Ranch. The issue is whether such rentals are prohibited by necessary implication based on covenant language that (1) Wilson Mesa Ranch is to "be developed and maintained as a residential area," with all subdivision tracts to be "residential tracts," and that (2) "[n]o lands within Wilson Mesa Ranch shall ever be occupied or used for any commercial or business purpose." The Association contends that the district court erred in failing to construe the "commercial use" prohibition as precluding unapproved rentals of less than thirty days, and in failing to recognize that such short-term rentals are inconsistent with the covenants' "residential use" requirement. We disagree.

¶11 We are aware of no Colorado case that has addressed the meaning of prohibitions against "commercial use" or requirements of "residential use" in the context of short-term rentals of residences. With the exception of *Double D Manor*, discussed below, Colorado case law discussing these terms in other contexts affords little guidance in resolving the issue before us.

¶12 Like the district court, we find the two Colorado cases on which the Association relies—*Jackson & Co. (USA), Inc. v. Town of Avon*, 166 P.3d 297, 298–300 (Colo.App.2007), and *E.R. Southtech, Ltd. v. Arapahoe County Board of Equalization*, 972 P.2d 1057, 1059–60 (Colo.App.1998)—to be distinguishable. The Jackson division concluded that a duplex with six individual bedroom-bathroom suites, used for short-term vacation rentals, qualified as a "lodge" under the definition of that term in a municipal ordinance; thus, such short-term rentals were impermissible under the ordinance and a subdivision plat that explicitly prohibited the use of property within the residential subdivision as a lodge. There is no such explicit prohibition in the covenants here.

¶13 In *Southtech*, the division held that, for property tax purposes, rentals of space in a large housing complex for less than thirty days should be taxed as a "hotel-type commercial use," while longer rentals should be taxed as "apartment-type residential" use. The division relied on constitutional and statutory provisions that excluded "hotels and motels" from the definition of "residential real property" for property tax purposes but included "apartments" in that definition. Again, the covenants at issue here do not contain similar definitional language.

¶14 We therefore look to the plain meaning of the covenant language, and we find guidance in cases from other jurisdictions that have applied this language in situations involving short-term rentals of residential property.

#### 1. Requirement That Subdivision Tracts Be "Residential"

¶15 "Residential" is defined as "used, serving, or designed as a residence or for occupation by residents." Webster's Third New International Dictionary 1931 (2002). "Residence" means "the act or fact of abiding or dwelling in a place for some time; an act of making one's home in a place." *Id.*; see also *The American Heritage Dictionary of the English Language* 1483 (4th ed.2000) (defining "residential" as "[o]f, relating to, or having residence," or "[o]f, suitable for, or limited to residences," and defining "residence" as "[t]he place in which one lives; a dwelling," or "[t]he act or a period of residing in a place").

¶16 "'Residential use,' without more, has been consistently interpreted as meaning that the use of the property is for living purposes, or a dwelling, or a place of abode." *Lowden v. Bosley*, 909 A.2d 261, 267 (Md.2006); see also *Mullin v. Silvercreek Condo. Owner's Ass'n*, 195 S.W.3d 484, 490 (Mo.Ct.App.2006) (A place used for "residential purposes" is, according to its plain and ordinary meaning, "one in which people reside or dwell, or which they make their homes, as distinguished from one which is used for commercial or business purposes." (quoting *Blevins v. Barry-Lawrence Cnty. Ass'n for Retarded Citizens*, 707 S.W.2d 407, 408 (Mo.1986))).

¶17 Although "residential" unambiguously refers to use for living purposes, courts have recognized ambiguity in the term in cases involving short-term rentals or other situations where those residing in the property are living there only temporarily, not permanently. See *Yogman v. Parrott*, 937 P.2d 1019, 1021 (Or.1997) ("The ordinary meaning of 'residential' does not resolve the issue between the parties. That is so because 'residence' can refer simply to a building used as a dwelling place, or it can refer to a place where one intends to live for a long time."); *Scott v. Walker*, 645 S.E.2d 278, 283 (Va.2007) (Restrictive covenant's requirement that lots be used for "residential purposes" was "ambiguous both as to whether a residential purpose requires an

intention to be physically present in a home for more than a transient stay and as to whether the focus of the inquiry is on the owner's use of the property or the renter's use. Moreover, if the phrase 'residential purposes' carries with it a 'duration of use' component, it is ambiguous as to when a rental of the property moves from short-term to long-term."); see also *Dunn v. Aamodt*, 695 F.3d 797, 800 (8th Cir.2012) (phrase "residential purposes" in restrictive covenant was ambiguous as to short-term rental of property). These courts concluded that, because ambiguities in restrictive covenants were to be construed in favor of the free use of property, short-term rentals were not precluded as inconsistent with residential use.

¶18 Other courts have found no ambiguity, reasoning that, as long as the property is used for living purposes, it does not cease being "residential" simply because such use is transitory rather than permanent. In *Lowden*, 909 A.2d at 267, the court summarized cases applying the term "residential" to a variety of structures used for habitation purposes and recognizing that the transitory or temporary nature of such use did not defeat the residential status. It concluded that "[w]hen the owner of a permanent home rents the home to a family, and that family, as tenant, resides in the home, there obviously is no violation of the [d]eclaration. While the owner may be receiving rental income, the use of the property is unquestionably 'residential.'" *Id.* In *Pinehaven Planning Board v. Brooks*, 70 P.3d 664, 667–68 (Idaho 2003), the covenants at issue restricted the use of residential property to the construction of a single-family residence, which could not be used for commercial, industrial, or business purposes. The Idaho Supreme Court held that renting a property to people who used it for residential purposes, whether short or long term, did not violate the covenants. *Id.* at 668–69; see also *Slaby v. Mountain River Estates Residential Ass'n*, 100 So.3d 569, 579 (Ala.Civ.App.2012) ("[P]roperty is used for 'residential purposes' when those occupying it do so for ordinary living purposes. Thus, so long as the renters continue to relax, eat, sleep, bathe, and engage in other incidental activities they are using the [property] for residential purposes."); *Ross v. Bennett*, 203 P.3d 383, 388 (Wash.Ct.App.2008) (rejecting argument that short-term vacation rentals were distinguishable from permitted long-term rentals and concluding that: "Renting the home to people who use it for the purposes of eating, sleeping, and other residential purposes is consistent with the plain language of the . [c]ovenant. The transitory or temporary nature of such use by vacation renters does not defeat the residential status.").

¶19 In this case, the pleadings and attached documents do not suggest that renters used Houston's residence for anything other than ordinary living purposes, and the Association does not so argue. In these circumstances, we agree with the courts that have held that mere temporary or short-term use of a residence does not preclude that use from being "residential." Moreover, even if we were to find the covenants ambiguous in this regard, we would be required to adopt the construction of "residential" that favors the free and unrestricted use of Houston's property. See *Good*, 160 P.3d at 253–54.

## 2. Prohibition Against Commercial Use

¶20 "Commercial" means "occupied with or engaged in commerce related to or dealing with commerce [or] having profit as the primary aim." Webster's Third New International Dictionary 456 (2002). "Commerce," in turn, means "the exchange or buying and selling of commodities esp. on a large scale," but it can also mean "dealings of any kind." *Id.* A "commercial use" is one "that is connected with or furthers an ongoing profit-making activity." Black's Law Dictionary 1775 (10th ed.2014).

¶21 As with the requirement of "residential use," the dictionary definitions of "commercial" and "commercial use" do not by themselves resolve the question of whether short-term vacation rentals are prohibited under the covenants at issue here; and the covenants do not further define those terms.

¶22 As in cases construing "residential use," some courts have recognized an ambiguity in the term "commercial use" when deciding whether prohibitions against commercial use apply to short-term rentals of residential property. See *Yogman*, 937 P.2d at 1021 ("commercial" use encompasses a broad range of meanings, from merely using the property in a way that generates revenue up to operating a business, such as a bed and breakfast, with profit as its primary aim); see also *Russell v. Donaldson*, 731 S.E.2d 535, 538–39 (N.C.Ct.App.2012) (where covenants did not define "business or commercial purpose," they were ambiguous as to whether short-term residential vacation rentals came within the prohibition against use of lots for such purpose; however, upon review of cases from other states, and given requirement that ambiguities be construed in favor of unrestricted use of property, court held that prohibition did not bar short-term residential vacation rentals).

¶23 Other courts have held that prohibitions against commercial or business uses unambiguously do not bar short-term vacation rentals of residences where a renter uses the premises for residential activities such as eating and sleeping and not for commercial activities such as running a business. In *Slaby*, a residential association claimed that property owners' short-term rentals of their cabin violated restrictive covenants prohibiting commercial use. 100 So.3d at 571. However, the court reviewed case law from other states and agreed with "the majority of other jurisdictions" that rental of the cabin for eating, sleeping, and other residential purposes did not amount to commercial use. *Id.* at 580–82; see also *Pinehaven Planning Bd.*, 70 P.3d at 668 ("[R]enting [defendants'] dwelling to people who use it for the purposes of eating, sleeping, and other residential purposes does not violate the prohibition on commercial and business activity as such terms are commonly understood."); *Lowden*, 909 A.2d at 267 ("The owners' receipt of rental income in no way detracts from the use of the properties as residences by the tenants."); *Mason Family Trust v. DeVany*, 207 P.3d 1176, 1178 (N.M.Ct.App.2009) ("While [the owner's] renting of the property as a dwelling on a short-term basis may have constituted an economic endeavor on [his] part, to construe that activity as one forbidden by the language of the deed restrictions [prohibiting use for business or commercial purposes] is unreasonable and strained. Strictly and reasonably construed, the deed restrictions do not forbid short-term rental for dwelling purposes.").

¶24 We agree with the cases discussed above and conclude that short-term vacation rentals such as Houston's are not barred by the commercial use prohibition in the covenants. Our conclusion is consistent with the

Colorado Supreme Court's holding, in a different context, that receipt of income does not transform residential use of property into commercial use. In *Double D Manor*, the court addressed a homeowners association's challenge to use of property in the subdivision as a home for developmentally disabled children. 773 P.2d at 1046. In rejecting the association's argument that such use was not a permissible "residential use" because *Double D* used the property to earn money to pay wages and cover costs, the court stated: "Double D's receipt of funding and payment to its staff to supervise and care for the children do not transform the use of the facilities from residential to commercial." *Id.* at 1051.

¶25 Finally, we are not persuaded to reach a contrary conclusion based on the cases on which the Association relies.

¶26 *Ewing v. City of Carmel—By—The—Sea*, 286 Cal.Rptr. 382, 388 (Cal.Ct.App.1991), cited by the Association for the proposition that short-term vacation rentals are inconsistent with the residential character of a neighborhood, was addressing the validity of a municipal ordinance explicitly prohibiting rentals under thirty days in an area zoned for single-family residential use; it was not interpreting a covenant lacking any such explicit prohibition. In *Mission Shores Ass'n v. Pheil*, 83 Cal.Rptr.3d 108, 110–13 (Cal.Ct.App.2008), the amended covenants—unlike the covenants here—expressly prohibited rentals of under thirty days. Similarly, in *Munson v. Milton*, 948 S.W.2d 813, 817 (Tex.App.1997), the court relied on specific language in the covenants that defined "business use" to include "transient-type housing" as supporting a conclusion that short-term rentals were prohibited.

¶27 Finally, in concluding that short-term rentals were prohibited under the covenants at issue in *Benard v. Humble*, 990 S.W.2d 929, 930 (Tex.App.1999), the court applied a Texas statute requiring that covenant language be "liberally construe[d]." Noting the tension between the statutory requirement and the common law, the court observed:

The present case is a prime example of the dilemma: The deed restrictions in question do not explicitly contain language covering temporary renting of property. Were we to give construction against the drafter of the covenant [instead of liberally construing it], we would be required to reverse the trial court's judgment [finding that short-term rentals are prohibited].

*Id.* at 931.

¶28 Unlike Texas, Colorado adheres to the common law principle that ambiguities in covenants are construed in favor of the unrestricted use of property.<sup>22</sup>

¶29 In sum, we conclude that Houston's short-term vacation rentals are not barred under the covenants.

#### C. Validity of Section 11

¶30 The Association further contends that the district court erred in concluding that Section 11, the amendment to the board's administrative procedures that precludes unapproved short-term rentals and imposes fines for violations of that prohibition, was arbitrary and thus unenforceable. We agree with the district court that Section 11 is unenforceable, although we reach that conclusion for reasons other than those stated by the district court. See *Meister v. Stout*, 2015 COA 60, ¶8 (where district court reaches correct result, its judgment may be affirmed on different grounds that are supported by the record).

¶31 The Association argues that Section 11 was adopted at a "duly called and duly conducted board meeting" to "clarify" that the [covenants'] prohibition on commercial and business uses of property prohibits the unapproved short-term rental" of lots within the subdivision. However, as set forth above, the covenants do not prohibit such rentals.

¶32 Thus, while the Association has the authority to enforce the covenants, it cannot rely on that authority to enforce a nonexistent covenant provision. For short-term vacation rentals to be prohibited, the covenants themselves must be amended. It is undisputed that the amendment procedure set forth in the covenants—which, among other things, requires a vote of three-fourths of the Association members and permits such vote only at ten-year intervals—was not followed here. The board's attempt to accomplish such amendment through its administrative procedures was unenforceable. See *Mauldin v. Panella*, 17 P.3d 837, 838–39 (Colo.App.2000) (purported amendments to restrictive covenants that would have precluded the plaintiff's proposed use of his property were invalid because they were not promulgated in compliance with covenant provisions regarding amendment procedures); *Johnson v. Howells*, 682 P.2d 504, 505 (Colo.App.1984) (same); cf. *Good*, 160 P.3d at 253–55 (where covenants allowed amendment and amendment procedures were followed, amendment prohibiting construction of guest houses and caretaker residences was valid).

#### D. Attorney Fees

¶33 Given our resolution of the issues raised in this appeal, we deny the Association's request for attorney fees under section 3833.3–123(1)(c), C.R.S.2014.

#### III. Conclusion

¶34 The judgment is affirmed.

#### FOOTNOTES

##### FOOTNOTE.

1. In a letter to the Association (which, because it was attached to Houston's verified complaint, could be considered by the district court in ruling on cross-motions under C.R.C.P. 12(c), see *Van Schaak v. Phipps*, 38

Colo.App. 140, 143, 558 P.2d 581, 584 (1976); see also C.R.C.P. 10(c)), Houston's counsel explained the use of the property as follows: The HOA also argues that the current use is a commercial use. It is not. Mr. Houston has owned his Wilson Mesa home for over twenty years. At one point, he used the home for long-term rental. After that time, he made the decision he did not want the wear and tear on the house that permanent tenants bring. As a consequence he stopped renting it and hoped to use it more. However, it became apparent without people in the house and the accompanying maintenance, the house actually suffered. Mr. Houston decided the best solution for the property was to have it used to some extent, and thus he has been leasing it out for some vacation rental use. The home is very small. Occupancy is limited to a maximum of four guests. It is typically used by a couple, or a single adult. Mr. Houston also has a local caretaker handling maintenance and other related home needs. The amount of people staying in the residence with one vehicle certainly presents less road traffic than if Mr. Houston had a permanent tenant with two vehicles. Also, Wilson Mesa is usually quite vacant. Most properties are rarely occupied second homes. Very few homes are occupied on a full time basis. Also, these are seven acre parcels and do not have neighbors wall to wall.

2. In its reply brief, the Association also cites unpublished cases from three other jurisdictions. Because these unpublished opinions are not to be used as precedent under the rules of those jurisdictions, we do not consider them.

Opinion by JUDGE VOGT \*FD\* Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S.2014.

JUDGE LICHTENSTEIN and JUDGE FOX concur.

RESEARCH THE LAW	Cases & Codes / Opinion Summaries / Sample Business Contracts / Research An Attorney or Law Firm
MANAGE YOUR PRACTICE	Law Technology / Law Practice Management / Law Firm Marketing Services / Corporate Counsel Center
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**Community Development Department  
Staff Report  
August 3, 2016**

Application #: 2016-17  
Application Name: Mineral House  
Application Type: Conditional Use Permit  
Property Owner: Danny Gene Mitchell Jr.  
Representative: Danny Gene Mitchell Jr.  
Location: 626 Mineral Court  
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.

**Project Description:**

The subject property contains a 1,196 square foot detached single family house on an approximately 9,150 square foot lot. The house has 3 bedrooms and 2 bathrooms. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The entire home is intended to be available for rent on a less than month-to-month basis. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

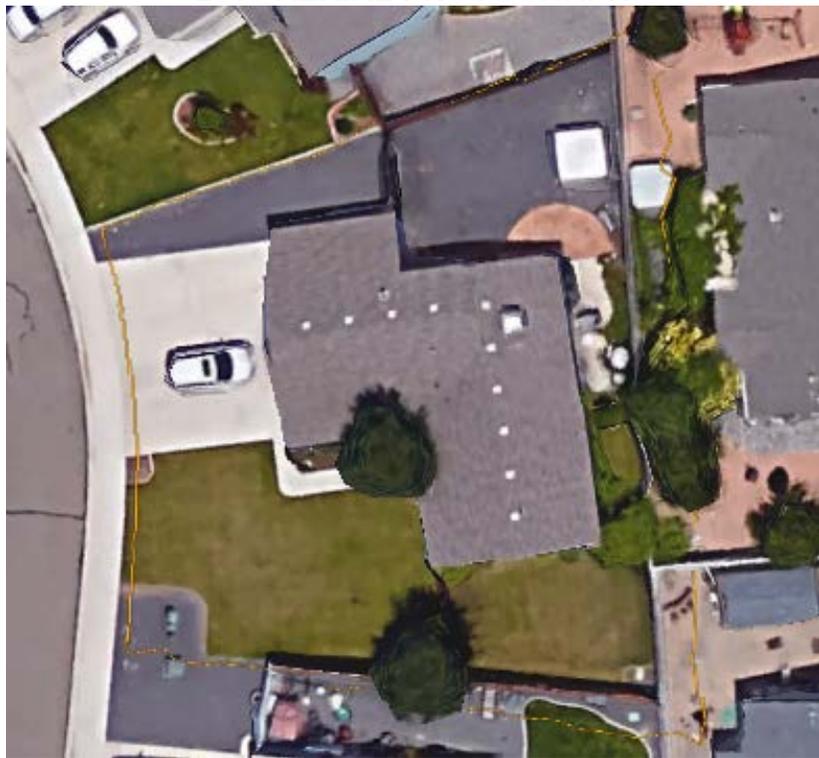
**Surrounding Land Uses and Zoning:**

The property is surrounded by Community Residential zoning and is located in the Stone Mountain subdivision. All surrounding land uses are single family detached residential houses.

# ZONING MAP



# 2015 AERIAL PHOTOGRAPH



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

Table 17.07.060(F) of the Land Use Code requires a Conditional Use Permit (CUP) for Bed & Breakfast type of land use in the Community Residential zone. The Land Use Code defines a Bed & Breakfast as a facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis with no more than four guest rooms. It is not required to be owner occupied.

Section 17.07.070, Supplemental Zoning Regulations and Standards, Section A, identifies conditions and standards that must be met for a Bed & Breakfast use:

- 1. Where the applicable zoning district allows bed and breakfast uses as a Conditional Use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;**

The entire dwelling unit is intended to be used as the Bed and Breakfast. According to the project narrative and the Mesa County Assessor, this home contains 3 bedrooms and 2 bathrooms.

- 2. Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;**

The applicants know and understand that the kitchen and dining facilities may only serve the guests. According to the project narrative "The kitchen will be outfitted for guests to do their own cooking if they desire. No food service or meal preparation will be provided for them."

- 3. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;**

The project narrative states that no changes to the exterior of the building are intended and Staff believes that the residential character of this property will not change based on the information submitted.

- 4. In residential zones (including residential developments in the CMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.41;**

Chapter 17.41 of the Land Use Code permits an Address or Identification Sign, identifying the address and/or the occupants of a dwelling unit or of an establishment, with a maximum size of two square feet and a maximum height of four feet for a sign in this zone. No illumination of this sign is permitted. There are no signs on the subject property at this time.

**5. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;**

Parking for guests will be provided on the driveway and an adjacent graveled area. It appears that at least four vehicles can fit in this area. The garage also may be available for parking. Screening of the parking area is not recommended.

**6. The bed and breakfast facility shall comply with all Building Codes adopted by the city;**

This house was constructed in 2003, according to the Mesa County Assessor's website. Staff has no reason to believe that the house does not meet building codes.

**7. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and**

There is a HOA associated with this property and they have been contacted by the applicants. According to the project narrative, "We have already approached the home owners' association to ensure their support. They conducted a survey of surrounding homeowners and have given their support in the form of a letter". The letter of support is provided with the project narrative.

**8. Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.**

Staff is unaware of any other existing or intended use of this property other than as a dwelling unit and/or as a short term rental as proposed by this CUP request.

Based on this information, this CUP request for a Bed & Breakfast meets or can meet the supplemental zoning regulations and standards of the Land Use Code.

Chapter 13 of the Land Use Code identifies the approval criteria that must be considered for CUP requests. The Code defines a CUP as a use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of the Land Use Code, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

**Section 17.13.040, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:**

- 1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;**

Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of the Community Residential zone, which is to allow for moderate density single-family neighborhoods . If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion can be met. The Land Use Code is one of the main documents used to implement the goals and policies of the city's Master Plan.

- 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;**

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.

It appears that this proposed vacation rental will be compatible with the surrounding CR zones as the residential character is not intended to be affected. This criterion has been met.

**3. The proposed use will not materially endanger the public health or safety; and**

Use of the house for a vacation rental is not expected to endanger the public health or safety. According to the project narrative the applicants have provided their contact information to the HOA “in case an emergency arises or a customer is not following the house rules”. This criterion has been met.

**4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.**

Public services and facilities have been available to this property and will continue to be available to this property while it is used as a vacation rental. The impacts are not expected to be any greater than those generated by a single family residence. This criterion has been met.

Based on this information, this requested Conditional Use Permit meets or can meet all approval criteria for Conditional Use Permits and all supplemental zoning standards.

**Review Comments:**

All review comments received are included with this Staff Report. There are no concerns from reviewers regarding this Conditional Use Permit request.

**Public Comments:**

At this time, staff has received one written comment from the owner of the property directly to the north (638 Mineral Court) requesting that this CUP be denied, and two written comments from the tenet and homeowner at 652 Mineral Court requesting the CUP also be denied. These letters are included with this Staff Report.

**Staff Recommendation:**

Because all of the approval criteria for Conditional Use Permits and all supplemental zoning standards and regulations either are or can be met, Staff

recommends approval of the proposed Bed & Breakfast. No conditions of approval are recommended.

**Fruita Planning Commission:** August 9, 2016

**Fruita City Council:** September 6, 2016

To Whom It May Concern,

I am writing in regard to my next-door neighbor at 626 Mineral Ct. requesting to turn his residence into a Bed and Breakfast. As a mother of two little girls, especially in today's world, I am sure you can understand my constant concern for my daughters' safety and well-being; a neighborhood where my children are familiar with its residents is crucial to me. I am extremely concerned with my neighbor's home being occupied by strangers for any period of time, not to mention the noise and traffic concern of strangers coming and going in my neighborhood.

~~It~~ I'm sure<sup>it</sup> will come as no  
surprise, I am not the only parent in  
my neighborhood. In fact, there are  
at least 7 small children currently  
living in this neighborhood, all of which  
enjoy spending time outside riding  
bikes and scooters and playing together.  
We as residents NEED to feel safe  
with our children playing outside  
without fear of complete strangers  
coming and going with unknown  
intentions. I strongly urge you  
to NOT allow my neighborhood  
to turn into a tourist attraction  
and keep it the safe, friendly  
RESIDENCE it was meant to be.

Caiti Holder

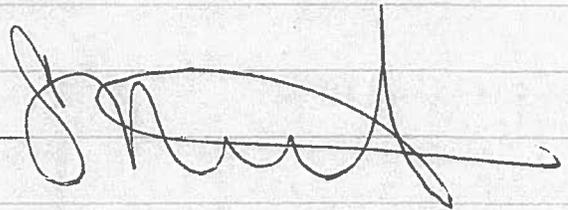
Aug 2, 2016

To Whom it may concern,

I live at 652 Mineral<sup>crt</sup> & I

have 2 small children who play outside 90% of the day. My biggest reason for choosing this house, was the safety of the cul-de-sac. I do not think its a good idea to have people in & out of 626 Mineral crt.

We are not in favor of a Bed-n-Breakfast on Mineral CA

A handwritten signature in black ink, appearing to be "John", written over a horizontal line.

July 31, 2016

To whom it may concern,

We purchased 652 Mineral Ct. to rent to families long term and feel that having a Bed-n-Breakfast (which is basically the same as a motel) at 626 Mineral Ct. is not appropriate for the culdesac.

The culdesac has young families with young children and safety is a priority.

Having different people and traffic on a daily basis is in no way in the best interest of the families who reside in the culdesac.

We are not in favor of a Bed-n-Breakfast on Mineral Ct.

CK Hope MFB REAL LLC



# LAND DEVELOPMENT APPLICATION

Project Name: Mineral House  
 Project Location: 626 Mineral Ct, Fruita, CO 81521  
 Current Zoning District: residential Requested Zone: residential  
 Tax Parcel Number(s): 2697-201-22-013 Number of Acres: 0.21 Acre  
 Project Type: Vacation rental home

Property Owner: Danny Gene Mitchell Jr. Developer: N/A  
 Property Owner: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address: 1956 S. Broadway Address: \_\_\_\_\_  
 City/State/Zip: Grand Junction, CO 81507 City/State/Zip: \_\_\_\_\_  
 Phone: 970-201-2260 Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: gene.mitchell@bresnan.net E-mail: \_\_\_\_\_

**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.**

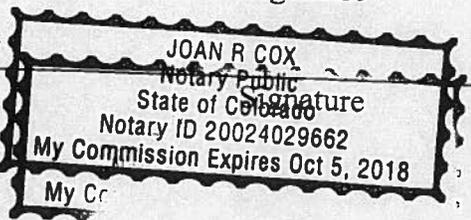
Owner Rep: Danny Gene Mitchell Jr. Engineer: N/A  
 Contact: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address: 1956 S. Broadway Address: \_\_\_\_\_  
 City/State/Zip: Grand Junction, CO 81507 City/State/Zip: \_\_\_\_\_  
 Phone: 970-201-2260 Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: gene.mitchell@bresnan.net E-mail: \_\_\_\_\_

**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.**

Danny Gene Mitchell Jr [Signature] 6-12-16  
 Name of Legal Owner Signature Date

\_\_\_\_\_  
 Name of Legal Owner Signature Date

\_\_\_\_\_  
 Name of Legal Owner Signature Date



STATE OF COLORADO )  
 ) ss.  
 COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of June, 20 16.

My Commission expires: 10/5/18

[Signature]  
 Notary Public

# VESTED RIGHTS OPTION FORM

Chapter 17.47 of the Fruita Land Use Code requires a landowner to request vested rights in writing at the time a Land Development Application is submitted IF the landowner wishes the approval of the Land Development Application to create a vested property right pursuant to Sections 24-68-101, et. seq., C.R.S.

The purpose of this document is to clearly identify whether or not a property owner is requesting creation of a vested right.

I, Danny Gene Mitchell Jr., understand the City's requirements regarding vested rights and the need to request vested rights at the time a Land Development Application for a Site Specific Development Plan is submitted IF I want a vested property right to be created with the approval of my Land Development Application.

Name of the Land Development Application: Mineral House

Address of subject property: 626 Mineral Ct., Fruita, CO 81507

Tax Parcel Number(s): 2697-201-22-013

Application Type:

- Site Design Review       Conditional Use Permit       Minor Subdivision  
 Major Subdivision       Planned Unit Development       Other \_\_\_\_\_

**Vested Rights ARE requested for this development.** I understand and acknowledge that certain delays in my project's approval time may result in order to meet the hearing and notice requirements of state law for the creation of a vested property right.

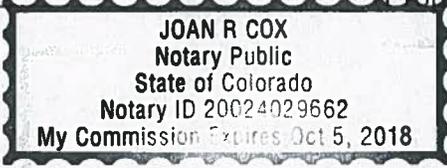
**Vested Rights ARE NOT requested for this development,** and I choose to voluntarily waive this right. I have been advised by the City to consult an attorney prior to signing this waiver. Further, I understand that this waiver does not abridge any common law vested rights which I may acquire nor does it diminish any right which may exist under the City's land use regulations, except for Chapter 17.47 of the Fruita Land Use Code.

Property Owner Signature: Danny Gene Mitchell Jr.

Property Owner Signature: \_\_\_\_\_

STATE OF COLORADO    )  
                                          )  
COUNTY OF MESA        )

The foregoing instrument was acknowledged before me this 12 day of June, 20 16  
by Danny Gene Mitchell Jr. (Property Owners name(s))



WITNESS MY HAND AND OFFICIAL SEAL

My Commission Expires: 10/5/18 Notary Public: Joan R Cox

## **Project Narrative for Mineral House Project**

The house at 626 Mineral Court is an 1196 square foot; ranch style single dwelling built in 2003 and located in Stone Mountain Estates. There are 3 bedrooms and 2 bathrooms. (See Attachment A) There will be no change to the exterior of the dwelling and no signage placed. The house is currently insured by State Farm (see Attachment B).

The house will only be utilized for short term vacation rentals such as those listed on websites such as VRBO and Air B-N-B. We will accept a maximum of 6 people for the dwelling. Short tem rentals will allow us to ensure that the inside and outside of the property is kept in acceptable condition and will have the least effect on the surrounding neighborhood.

We have already approached the home owners' association to ensure their support. They conducted a survey of surrounding homeowners and have given their support in the form of a letter. (See Attachment C)

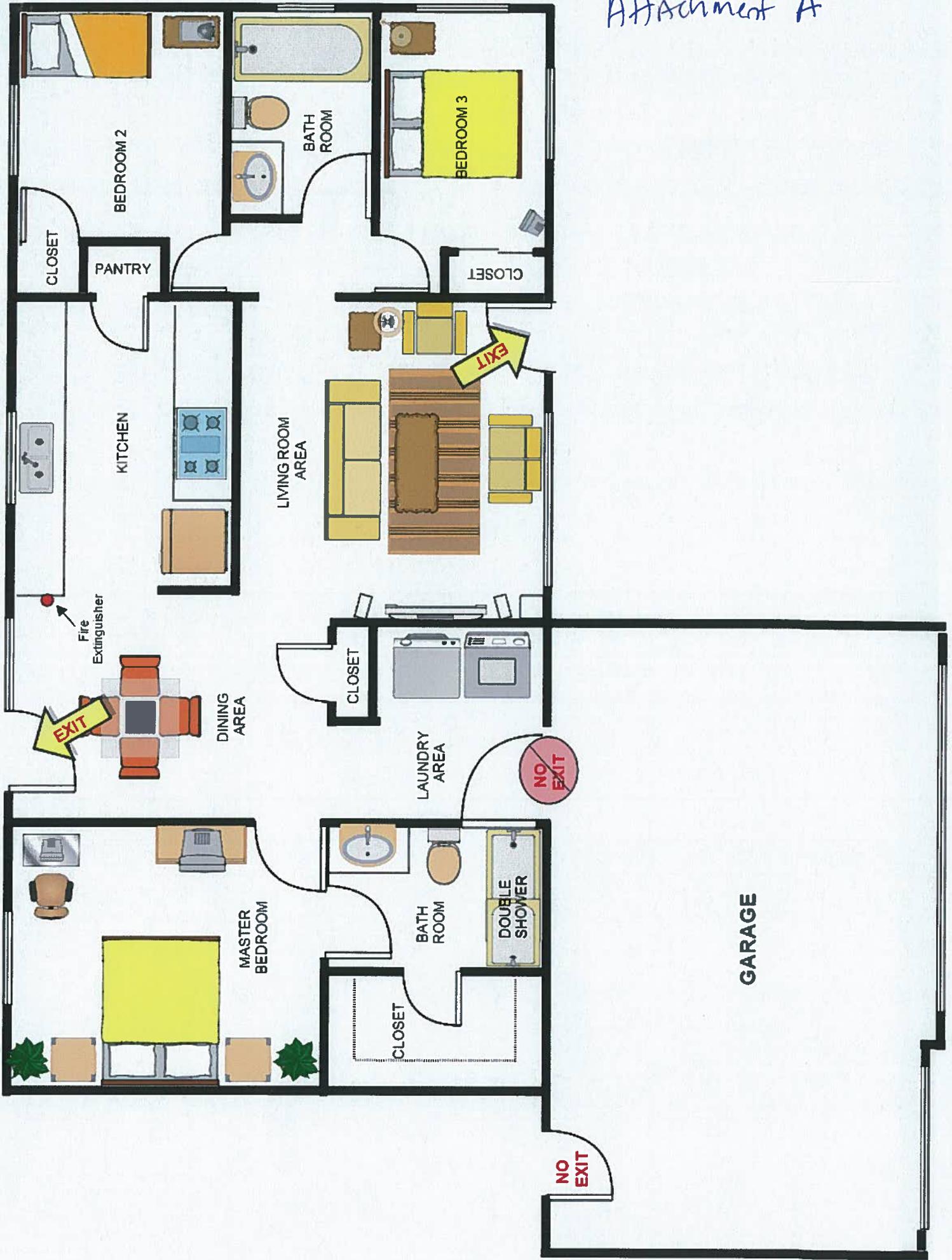
We have already provided the home owners' association board members, one of whom lives immediately behind our property, with our immediate contact information in case an emergency arises or a customer is not following the house rules. The house rules (See Attachment D) pertaining to the potential effects on surrounding residences are: quiet time after 10PM every night, no smoking on the property and no illegal drug use on the property.

For safety, the house is already equipped with a fire extinguisher in the kitchen, smoke detectors (3) and a carbon monoxide detector.

The kitchen will be outfitted for guests to do their own cooking if they desire. No food service or meal preparation will be provided for them.

The driveway and RV gravel parking can hold up to 5 vehicles which exceeds the parking requirement. This will prevent vehicles from needing to park in the street.

The yard area will be maintained by us personally as will the driveway and walkway snow removal.





1555 Promontory Circle  
Greeley, CO 80638-0001

**Attachment B**

C-20- 2383-FAD1 H W F

004152 0001  
**MITCHELL, DANNY GENE & SABRINA**  
1956 S BROADWAY  
GRAND JCT CO 81507-8502



ST-0306-0000

Location: 626 MINERAL CT  
FRUITA CO  
81521-2454

**Loss Settlement Provisions (See Policy)**  
A1 Replacement Cost - Similar Construction  
B1 Limited Replacement Cost - Coverage B

**Forms, Options, and Endorsements**

Homeowners Policy	FP-7955
Increase Dwlg up to \$37,000	OPT ID
Ordinance/Law 10%/ \$18,500	OPT OL
Jewelry and Furs \$1,500/\$2,500	OPT JF
Homeowners Policy Endorsement	FE-3425.1
Amendatory Endorsement	FE-2340
Civil Union Endorsement	FE-8790
Back-Up Dwel/Listed Property	FE-5706.3
Vacancy	* FE-7470.1

\*Effective: OCT 02 2015

**POLICY NUMBER 86-B6-Z718-7**

Homeowners Policy  
OCT 02 2015 to OCT 02 2016

**TO BE PAID BY MORTGAGEE**

**Coverages and Limits**

**Section I**

A Dwelling		\$185,000
Dwelling Extension	Up To	18,500
B Personal Property		138,750
C Loss of Use		Actual Loss Sustained

**Deductibles - Section I**

All Losses 2.00%	3,700
------------------	-------

**Section II**

L Personal Liability	\$300,000
Damage to Property of Others	500
M Medical Payments to Others (Each Person)	1,000

**Annual Premium**

Annual Premium	\$646.00
Previous Balance Due	30.90

**Premium Reductions**

Utility Rating Credit	48.00
Home Alert Discount	13.00
Home/Auto Discount	370.00
Claim Record Discount	80.00

Inflation Coverage Index: 229.9

Please help us update the data used to determine your premium. Contact your agent with the year each of your home's utilities (heating/cooling, plumbing, or electrical) and roof were last updated.

*Thanks for letting us serve you...*

5030 401B 1  
H2,DR,NP,6E  
**Agent SEAN BRUMELLE CLU, CHFC**  
**Telephone (970) 523-9700 or (303) 674-1121**

Moving? See your State Farm agent.  
See reverse for important information.  
Prepared AUG 03 2015

REB

Attachment C

**STONE MOUNTAIN ESTATES  
P.O. BOX 441  
FRUITA, COLORADO 81521**

August 13, 2015

Dear Sabrina and Gene Mitchell

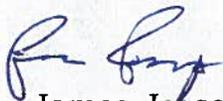
Thank you for presenting your request at the annual meeting in April 2015; at the meeting there did not seem to be anyone against it, also an email was sent out to the Homeowners and there has not been any comment, thus the HOA Board of Stone Mountain Estates does not have a problem with you making your house at 626 Mineral Court available for short term rental.

The Board with your help in working with them will add an amendment to the By-Laws and the Covenant.

We trust that you will keep us abreast of your progress in obtaining the documentation of this.

The Board's would like a (record only) copy of any Fruita City approvals for this type of property use if the City requires any such documentation in case any issues come up with belaboring home owners in the future.

Regards,



James Jessop

President

Stone Mountain Estates HOA

## **Mineral House 2015 – “Good to know!”**

Welcome to the Mineral House!

We hope your stay is a pleasant one and that you will tell your friends about us!

Please familiarize yourself with these (4) pages of information.

It is provided to ensure well-being for you and for our future guests as well.

It is also information that will be “good to know” during your stay with us!

### **POLICY –**

**Check out – 12 PM (NOON)** – no exceptions.

We must ready the property for the next guest.

If you see that you will overrun this time, please call us immediately.

An hourly rate of \$80/hr will be charged in ½ hour increments for time beyond 12 PM unless prior arrangements are made.

### **NO SMOKING**

**This is a “non-smoking” property in its entirety.** In order to provide the very best stay for you and all future guests, we ask that you refrain from smoking on this property for, both the health concerns of future guests, and in light of recent Colorado legislation, we do not wish to incur this particular liability.

**NOTE:** Failure to follow this request will result in early termination of stay and being barred from any future rentals here. **Deposit will be forfeited. NO REFUND.** Consider yourself warned.

### **CURFEW**

We must ask for quiet after **10 PM**, and we would *prefer it after 9 PM* – remember, you are in a neighborhood of working families. Not everyone is on a vacation in the homes around you. **Please respect their space too.**

### **BREAKAGE**

It happens. Face it. Sometimes it does. You break something but you really didn't mean to – *please let us know when this happens.*

**YOU** are responsible for any and all breakage, loss, stolen or missing items from this house!

Many times we will overlook small incidences, BUT *unreported or gross negligence will result in being charged replacement costs and/or a loss of security deposit.*

### **CHECK OUT**

- Please **strip all bedding** and leave it on top of the bed.
- Please check that the **gas valve is turned off at the wall for the gas grill.**
- Leave key on kitchen counter.
- Lock door behind you as you leave.

## Mineral House – “Amenities”

There is a “map” of the Mineral House showing the fire exits and location of it’s contents.

**Telephone – (970) 639-7474**

Includes long distance in the U.S. – you may also receive calls at this number.

**Washer & Dryer -**

**Please empty the dryer lint trap** at upon use. This will help maintain longevity.

**Towels and washcloths** are located on the shelves directly above the washer & dryer.

Rags and cleaning cloths are here too.

**Kitchen –**

Leftover foods – eat at your own risk. We will throw out any food that is questionable, but at times may leave unopened or non-risk items for consumption. Again, this is at your own risk but they are free for your consumption.

***NOTE:** Please do not remove any item for use outside of this home. All utensils, pots, pans, cups, glasses, etc., are for use exclusively for this house and while occupied, not for camping, hiking, nor any other day/week excursions outside this property. Even the best of intent lends to loss of convenience items. Please respect the next guest’s stay.*

Clean up after yourself – please place soiled dishes in the dishwasher and run it as needed and at least, on your check-out date. Dishwasher soap is below the sink, along with other cleaning supplies if needed.

**Consumables and paper products –**

A “starter” supply of toilet paper and paper towels has been provided.

*Please do not flush any hygiene products down the toilet, but wrap and place them in a trash receptacle.*

**Lost Door Key -** a lost key will incur a \$75.00 charge to cover locksmith fees to re-key locks.

## Mineral House – “Odds & Ends”

It is truly our intent to provide a comfortable and enjoyable environment for you to stay in.

We dislike having to state the obvious, but for some, it is a necessity and the reason you read these pages now.

A few more noteworthy items:

### Heating & Cooling -

**SUMMER** - the house is cooled by evaporative cooling (aka “swamp cooler”)

which uses much less energy than typical refrigerated air conditioning but will provide comfortable living when operated properly.

Please **do not** leave exterior doors or windows open with the swamp cooler in operation. This will create “muggy” air and ineffective cooling.

**DO** leave ALL bedroom doors cracked open at night to ensure proper airflow and cooling. Each bedroom has a ceiling duct (UpDux) to keep air moving throughout the house and up through the attic area. Failure to leave bedroom doors slightly open will stop air flow and your room will get HOT quickly.

The swamp cooler is operated via thermostat and may be adjusted to your comfort level. However, swamp coolers have their limitations too.

Outside temperatures in excess of 100 degrees, you may experience slightly warmer temperatures in the house. This is normal, and to be expected.

**Note:** the humidified air sometimes causes the doors to swell making them difficult to open or close so please do not force doors or windows.

This is normal with swamp cooler operation.

**WINTER** - heat comes from radiant in-floor heat. Please do not adjust the thermostat. This type of in-floor heating requires a set temperature.

Exterior doors left open too long can result in up to a 6 hour recovery time. We encourage you to keep doors shut tightly during cold weather when possible. *Adjusting the thermostat will not make it get warm any faster.*

**Automatic sprinklers** – In the summer, these may come on at any given time. Be aware.

**Parking** – is preferred in the driveway – not in the street.

Vehicles that leak oil should be parked in the gravel area only!

**Trash Can** – is located out the back door and around the side of the house. Please keep the lid on tightly to ward off unwanted pests!

**Gas Grill** - PLEASE PULL IT OUT AWAY FROM THE HOUSE BEFORE LIGHTING!!  
If the unit is too close to the house it WILL MELT THE SIDING!!

Grill Lighting Procedure:

- After making sure all grill valves are "OFF" turn "ON" the **main gas valve** for the gas line to the stove. This valve has a **RED HANDLE**, located on the house.

- Open the grill.
- Turn one burner valve ON to the "LIGHT" icon position.
- Ignite by pushing the red button on the grill panel, repeatedly until lit. If the unit does not light after several pushes, turn all burners OFF and wait 30 seconds before retrying. This will allow excess gas to safely disperse.
- Turn all burners OFF and CLOSE THE MAIN GAS VALVE AT THE HOUSE when done grilling.

**Fire Extinguisher** – located just inside the back door, mounted on the lower cabinet.

**Safety is no laughing matter!** There are smoke detectors and carbon monoxide detectors for your safety. In the event there is any "chirping" noise from the units or other problems, contact us immediately – DO NOT DISABLE THESE UNITS!

Sometimes these units will be set off upon cooking, if food is burned or spill-over messes. They are very sensitive to any smoke. The loud alarm sound alone will drive you from the house, but most times can be resolved by turning off the stove/oven, open doors and windows, to eradicate the smoke.

We hope that with this information you will have an enjoyable stay!

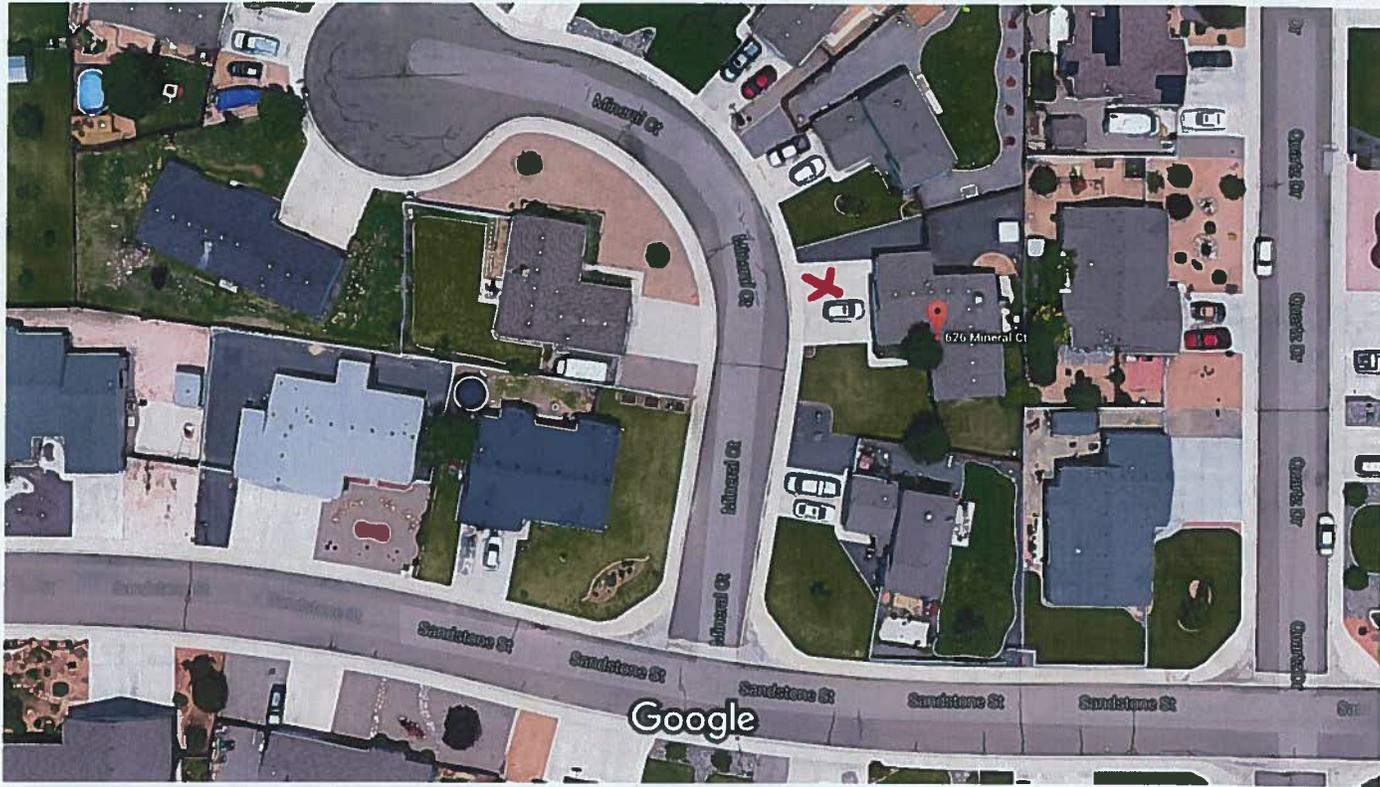
**In the event of an emergency - dial 911**

**CONTACT INFORMATION – Gene Mitchell – Owner (970) 201-2260**

**Sabrina Mitchell - Owner (505) 360-8817**



Google Maps 626 Mineral Ct



Imagery ©2016 Google, Map data ©2016 Google 20 ft



626 Mineral Ct  
Fruita, CO 81521

Google Maps 626 Mineral Ct



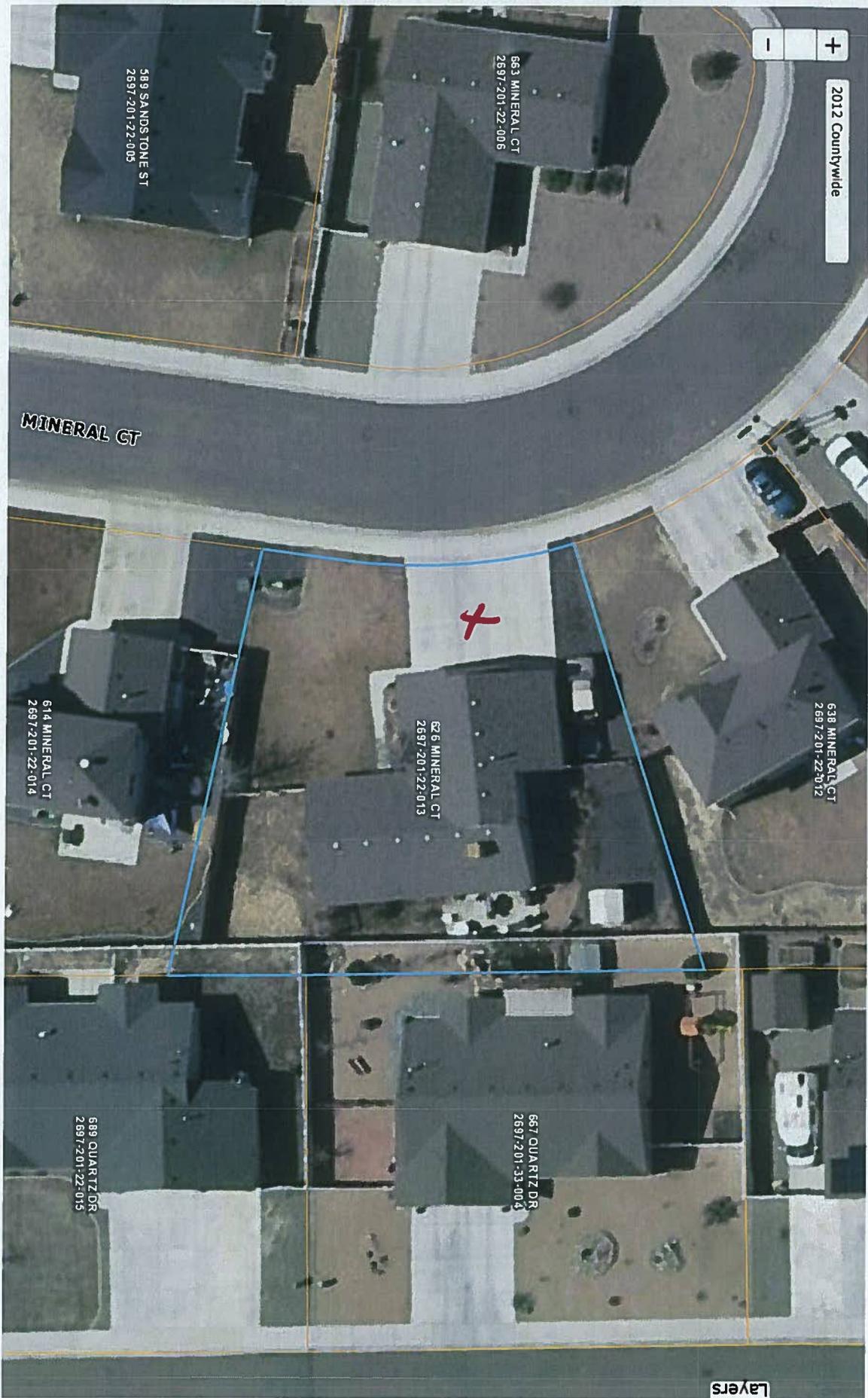
Imagery ©2016 Google, Map data ©2016 Google 20 ft

S.P. page 3 of 5

Assessor (Parcel Info)

Search By...

Share



S.P. page 4 of 5

X=696488.1 Y=4335723.8

5m  
20ft



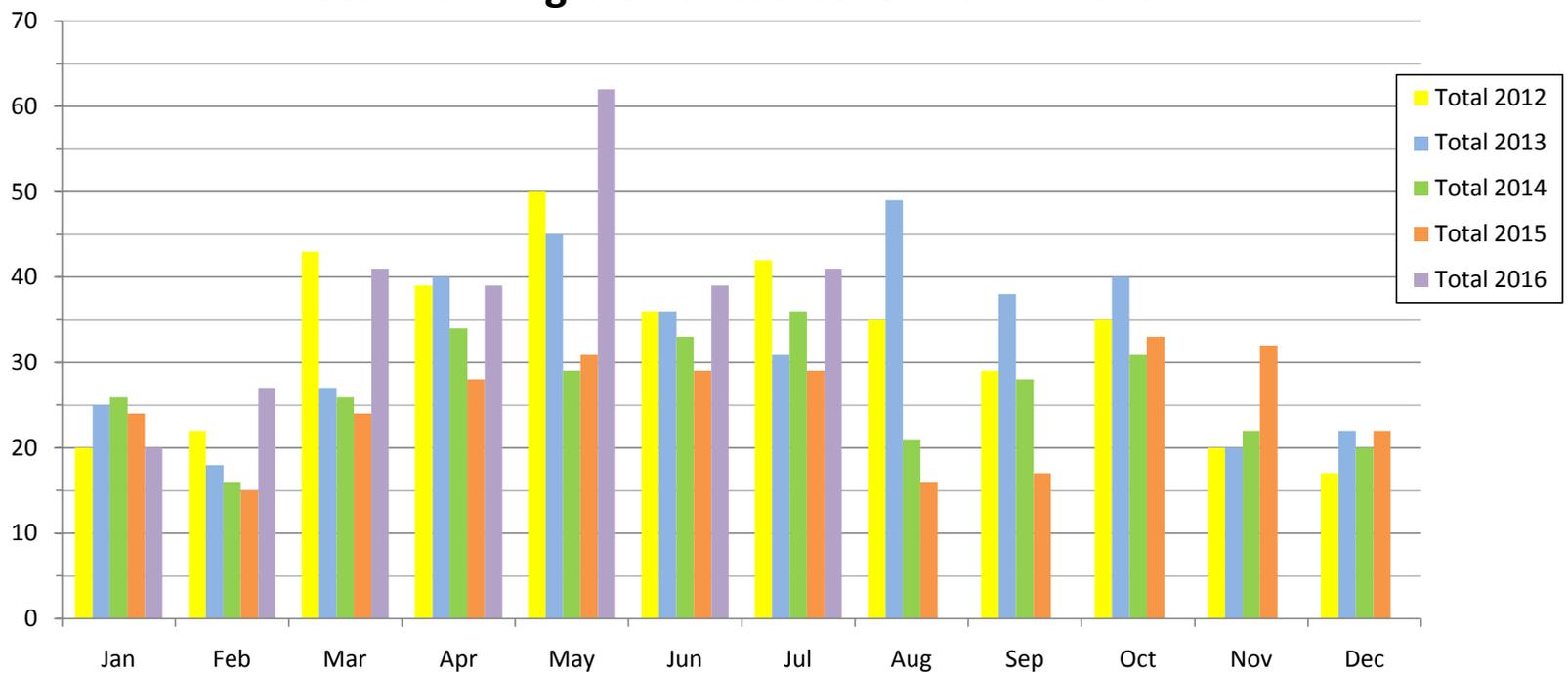
minor ed. 10.1.17

**MONTHLY DEVELOPMENT REPORT 2016**

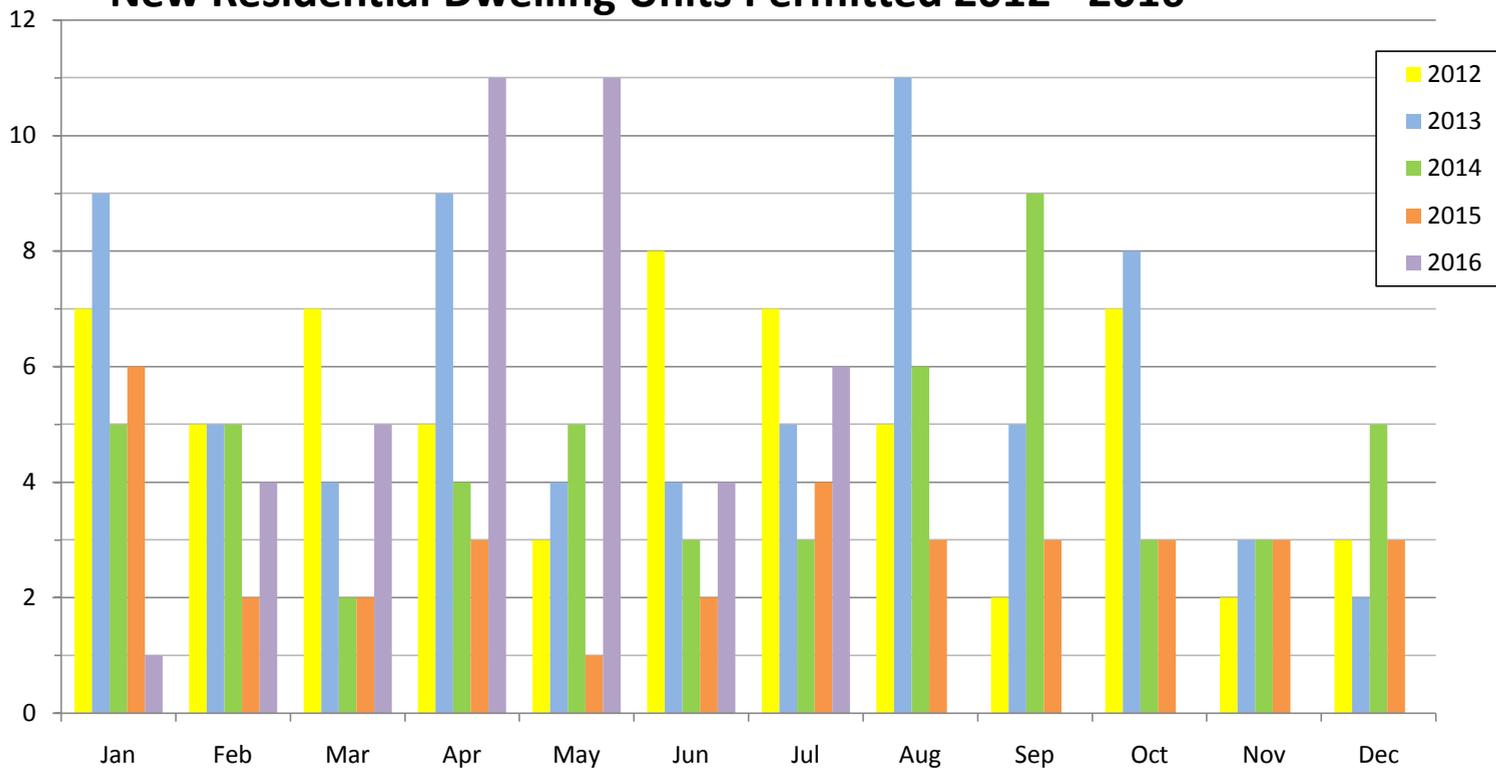
**RESIDENTIAL D/U's PERMITTED AND TOTAL PERMITS ISSUED**

	Total 2010	RES 2010	Total 2011	RES 2011	Total 2012	RES 2012	Total 2013	RES 2013	Total 2014	RES 2014	Total 2015	RES 2015	Total 2016	RES 2016	RES AVER
Jan	16	10	16	2	20	7	25	9	26	5	24	6	20	1	6
Feb	16	5	17	7	22	5	18	5	16	5	15	2	27	4	5
Mar	38	2	41	13	43	7	27	4	26	2	24	2	41	5	5
Apr	45	19	29	3	39	5	40	9	34	4	28	3	39	11	8
May	41	6	28	3	50	3	45	4	29	5	31	1	62	11	5
Jun	36	5	30	0	36	8	36	4	33	3	29	2	39	4	4
Jul	29	9	21	3	42	7	31	5	36	3	29	4	41	6	5
Aug	27	4	16	3	35	5	49	11	21	6	16	3			5
Sep	23	2	22	5	29	2	38	5	28	9	17	3			4
Oct	33	5	35	6	35	7	40	8	31	3	33	3			5
Nov	26	4	22	1	20	2	20	3	22	3	32	3			2
Dec	19	3	17	0	17	3	22	2	20	5	22	3			2
	<b>349</b>	<b>74</b>	<b>294</b>	<b>46</b>	<b>388</b>	<b>61</b>	<b>391</b>	<b>69</b>	<b>322</b>	<b>53</b>	<b>300</b>	<b>35</b>	<b>269</b>	<b>42</b>	<b>54</b>

**Total Planning Clearances Issued 2012 - 2016**



**New Residential Dwelling Units Permitted 2012 - 2016**



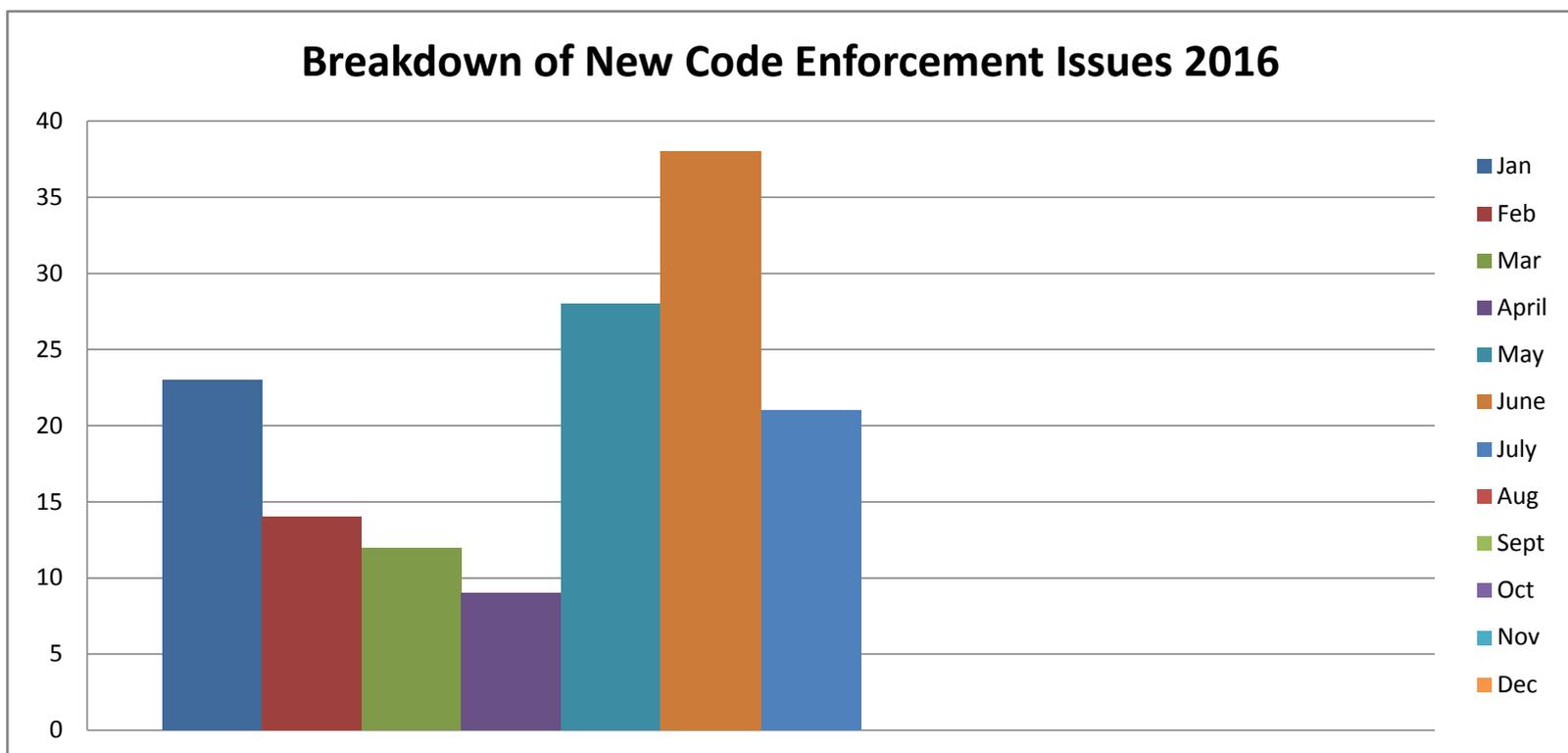
**Break Down of other Development Permits Issued 2016**

	Fence	Com	Remodel	Res Remodel	Upgrade	Roof	ge/C arpo	Addtn	Sign	Shed	Demo	Mobile	Porch/Patio	Misc.	Total
Jan	3	0	2	2	5	1	1	0	2	0	0	0	0	4	20
Feb	1	0	2	2	7	2	0	0	3	2	0	0	1	7	27
Mar	11	0	1	3	5	3	1	1	3	6	0	0	1	6	41
April	10	1	0	0	4	2	0	1	2	3	0	1	0	15	39
May	6	0	3	3	6	15	0	0	4	5	0	0	3	17	62
June	6	0	2	1	9	3	0	1	3	2	1	0	1	10	39
July	10	0	2	2	3	4	0	0	3	2	2	0	2	11	41
Aug															0
Sept															0
Oct															0
Nov															0
Dec															0
YTD	47	1	12	13	39	30	2	3	20	20	3	1	6	70	269

**Break Down of New Code Enforcement Issues 2016**

	Weeds	Trash	Junk Vehicles	Permits	Business	Snow	Obstructions	Trailer	Signs	Tires	Trees	Appliances	Other	Total
Jan	0	0	0	0	7	12	0	1	1	0	0	0	2	23
Feb	2	0	0	2	0	6	0	0	0	0	1	0	3	14
Mar	1	2	1	1	2	0	0	1	1	0	0	0	3	12
April	1	1	1	0	2	0	0	0	0	0	1	0	3	9
May	10	4	2	0	1	0	1	2	3	0	2	0	3	28
June	20	3	0	1	1	0	1	2	2	0	5	0	3	38
July	13	1	0	1	0	0	1	1	0	0	4	0	0	21
Aug														0
Sept														0
Oct														0
Nov														0
Dec														0
YTD	47	11	4	5	13	18	3	7	7	0	13	0	17	145

**Breakdown of New Code Enforcement Issues 2016**





## MONTHLY REPORT

### FRUITA COMMUNITY DEVELOPMENT ACTIVITIES

AUGUST 2016

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AUGUST 2016

#### PLANNING COMMISSION:

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.

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.

Application #: 2016-11  
Applicant: Travis and Ellen Robinson  
Application Name: Robinson Rental  
Application Type: Conditional Use Permit  
Location: 1424 Niblick Way  
Zone: Adobe Falls PUD  
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 this PUD zone.

Application #: 2016-17  
Applicant: Danny Gene Mitchell Jr.  
Application Name: Mineral House  
Application Type: Conditional Use Permit  
Location: 626 Mineral Court  
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.

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JULY 2016

## PLANNING COMMISSION:

Application # 2016-12  
Applicant Adobe View Development  
Application Name Adobe View North  
Application Type Annexation  
Location 965 18 Road  
Zoning County, AFT  
Description This is a request for the approval to annex and zone approximately 8.03 acres into the Fruita City Limits. The applicants have requested a South Fruita Residential zoning.

Application #: 2016-13  
Applicant: Adobe View Development  
Application Name: Adobe View North  
Application Type: Preliminary Plan  
Location: 965 18 Road

Zone: Unincorporated Mesa County, AFT.  
Description: This is a request to approve a Preliminary Plan for a 34 lot single family residential subdivision.

Application #: 2016-14  
Applicant: River City Consultants  
Application Name: Aspen Village  
Application Type: Annexation  
Location: 1062 18 Road  
Zone: Unincorporated Mesa County, AFT.  
Description: This is a request to annex and zone approximately 6.73 acres at the corner of Aspen Avenue and Pine Street with a Community Residential zone.

Application #: 2016-15  
Applicant: River City Consultants  
Application Name: Aspen Village  
Application Type: Preliminary Plan  
Location: 1062 18 Road  
Zone: Unincorporated Mesa County, AFT.  
Description: This is a request to approve a Preliminary Plan for a 22 lot single family residential subdivision.

## RECENT SUBMITTALS:

September 13, 2016 Planning Commission meeting:

1. Chapter 7 LUC Amendment
2. Mudd VRBO
3. Wicked Wrench C.U.P.

\*Check out [www.fruita.org/cd](http://www.fruita.org/cd) for more details and to see what is going on in the Planning Department.