

**FRUITA CITY COUNCIL
JULY 5, 2016
7:00 P.M.**

1. INVOCATION AND PLEDGE OF ALLEGIANCE

2. CALL TO ORDER AND ROLL CALL

3. AGENDA - ADOPT/AMEND

4. PROCLAMATIONS AND PRESENTATIONS

- A. PROCLAMATION -** Proclaiming July 6, 2016 as "Family Health West Day" in the City of Fruita to be accepted by FHW President/CEO Mark Francis
- B. PROCLAMATION –** Designation of July 2016 as Parks and Recreation Month in the City of Fruita to be accepted by Tom Casal, City of Fruita Recreation Superintendent

5. PUBLIC PARTICIPATION

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

6. CONSENT AGENDA

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

- A. MINUTES –** A request to approve the minutes from the May 17, 2016 City Council meeting
- B. MINUTES –** A request to approve the minutes from the June 7, 2016 City Council meeting
- C. LIQUOR LICENSE RENEWAL –** A request to approve the renewal of a Retail Liquor Store License – Malt, Vinous and Spirituous and Tastings Permit for In the Middle Liquors located at 303 Highway 6 & 50
- D. RIVERFRONT COMMISSION APPOINTMENTS –** A request to approve the Riverfront Commission Appointments

- E. BOARDS AND COMMISSIONS APPOINTMENT – A request to approve the appointment of Amanda Ewing to the Parks and Recreation Advisory Board to fulfill an unexpired term plus an additional three year term to expire in February of 2021**
- F. ORDINANCE 2016-07 – Second Reading – A request to approve an Ordinance granting a franchise to Bresnan Communications, LLC to construct, operate and maintain a cable television system in the City of Fruita, Colorado**
- G. ORDINANCE 2016-08 – Second Reading – A request to approve an Ordinance amending Chapter 2.28 of the Fruita Municipal Code concerning Municipal Court**
- H. CONDITIONAL USE PERMIT REQUEST – A request to approve a Conditional Use Permit (CUP) for a Vacation Rental by Owner located at 1950 Timber Falls Dr. (the Great Divide Villa)**
- I. CONDITIONAL USE PERMIT REQUEST – A request to approve a Conditional Use Permit (CUP) for a Vacation Rental by Owner located at 107 E. Pabor Avenue (the Sagebrush House Vacation Rental)**
- J. MESA GRAND MINOR SUBDIVISION – A request to approve a minor subdivision with vested rights for the Mesa Grand Minor Subdivision**
- K. RESOLUTION 2016-21 – A request to approve a Resolution setting a hearing date to determine the eligibility of approximately 6.73 acres of property located at 1062 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures (Aspen Village Annexation)**
- L. RESOLUTION 2016-22 – A request to approve a Resolution setting a hearing date to determine the eligibility of approximately 7.33 acres of property located at 965 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures (Adobe View North Annexation)**
- M. RESOLUTION 2016-23 - A request to approve a Resolution supporting a Great Outdoors Colorado "Connect Initiative" grant application for the Kokopelli Trail connection of the Riverfront Trail**

7. PUBLIC HEARINGS

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

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

A. Community Development Director Dahna Rough

- 1) **ORDINANCE 2016-09 – First Reading –** An introduction of an Ordinance amending the Official Zoning Map of the City of Fruita by rezoning approximately 0.65 acres of property located at 433 and 503 East Aspen Avenue from Community Residential (CR) to Planned Unit Development (PUD) for publication of public hearing on August 2, 2016 (Sacred Heart Church)

8. ADMINISTRATIVE AGENDA

9. CITY MANAGER'S REPORT

10. COUNCIL REPORTS AND ACTIONS

A. Council Reports and Actions

- B. EXECUTIVE SESSION –** A request to convene in Executive Session regarding personnel issues under C.R.S. Section 24-6-402(4)(F) (City Manager Evaluation without the City Manager present)

11. ADJOURN

A PROCLAMATION
Declaring July 6, 2016 as:

"FAMILY HEALTH WEST DAY"

Whereas, Family Health West officially opened its doors on July 3, 1946 as a 20-bed hospital, known then as the Fruita Community Hospital Association; and

Whereas, by 1951 citizens sought after the expansion of the hospital but because funding was limited, area ranchers and farmers met on a cold spring morning and in a convoy of 16 sugar beet trucks, drove to Utah and brought back loads of bricks to expand the hospital building; and

Whereas, in the early 1980's Lower Valley Hospital, doing business as Family Health West, began to implement a broader range of health care services and started focusing on elder care; and

Whereas, thanks to a dedicated and persistent Board of Trustees, Family Health West was successful with a face to face meeting in Washington, DC to convince top USDA officials to give them a \$2.5 million loan to build a 120-bed nursing home; and

Whereas, Family Health West, with its proven record of meeting the health care needs of the Lower Valley, funds and donations were again and again awarded and given to Family Health West to build three more elderly housing facilities: Independence Village, The Oaks and The Willows; and

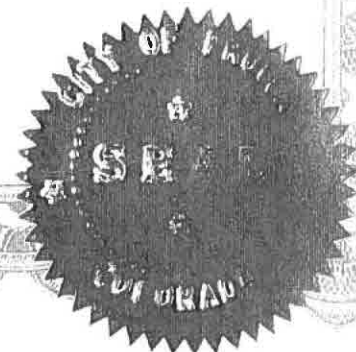
Whereas, once again in 2007, Family Health West heeded the call of the Lower Valley community and began work on a new state of the art hospital, which required cooperation and collaboration between the City of Fruita and School District 51 which then resulted in the construction of the beautiful Little Salt Wash Park as well as the Fruita Community Recreation Center; and

Whereas, Lower Valley Hospital Association, also known as Family Health West also known as Colorado Canyons Hospital and Medical Center serves not only the medical needs of all Lower Valley citizens, but to thousands all across Mesa County, the State of Colorado and beyond with their continued care of the elder population, a 16 bed hospital, a surgical center, a level 4 trauma designated emergency department, a CAP certified lab, a complete array of X-Ray services including MRI, CAT Scan and 3D mammography, as well as all levels of physical, occupational and speech therapy. Additionally, Colorado Canyons Hospital and Medical Center provides an array of physician services including neuro spine surgery, podiatry, interventional pain management, women's health, rheumatology and pediatric rehabilitation.

NOW THEREFORE, I LORI BUCK, MAYOR OF THE CITY OF FRUITA, DO HEREBY PROCLAIM JULY 6, 2016 FAMILY HEALTH WEST DAY IN THE CITY OF FRUITA IN RECOGNITION OF THEIR 70 YEARS OF UNTETHERED DEVOTION OF SERVING THE HEALTH CARE NEEDS OF THE CITIZENS OF FRUITA AND BEYOND.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the official seal of the City of Fruita this 5th day of July, 2016.

Lori Buck, Mayor of the City of Fruita



Designation of July as Parks and Recreation Month

WHEREAS parks and recreation programs are an integral part of communities throughout this country, including City of Fruita; and

WHEREAS our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and

WHEREAS parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation areas are fundamental to the environmental well-being of our community; and

WHEREAS parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and

WHEREAS our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS the U.S. House of Representatives has designated July as Parks and Recreation Month; and

WHEREAS City of Fruita recognizes the benefits derived from parks and recreation resources

NOW THEREFORE, BE IT RESOLVED BY, I, LORI BUCK, MAYOR ON BEHALF OF THE FRUITA CITY COUNCIL, DO HERBY PROCLAIM that July is recognized as Parks and Recreation Month in the City of Fruita.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the official seal of the City of Fruita this 5th day of July, 2016.

Lori Buck, Mayor of the City of Fruita



**FRUITA CITY COUNCIL
REGULAR MEETING
MAY 17, 2016**

1. INVOCATION AND PLEDGE OF ALLEGIANCE

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

2. CALL TO ORDER AND ROLL CALL

Council members present were Bruce Bonar, Dave Karisny, Kyle Harvey, Ken Kreie, Joel Kincaid and Louis Brackett. Mayor Buck called the meeting to order at 7:00 p.m.

Mayor Buck asked if there were any corrections or additions to the agenda. Deputy City Clerk Deb Woods noted that a Proclamation needed to be added to the agenda: A Proclamation for "Armed Forces Day" in the City of Fruita on May 21, 2016.

3. AGENDA – ADOPT/AMEND

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

4. PROCLAMATIONS AND PRESENTATIONS

A. PROCLAMATION – PROCLAIMING MAY 15 – 21, 2016 AS "POLICE WEEK" AND MAY 15, 2016 AS "PEACE OFFICERS MEMORIAL DAY" IN THE CITY OF FRUITA

Mayor Buck read the Proclamation. Chief Macy introduced many law enforcement personnel that were present at the meeting, as well as Betty and Rod Dalley, parents of Acting Fruita Police Chief Dan Dalley, who was killed in 2001. Chief Macy requested that the Proclamation be accepted by Mr. and Mrs. Dalley.

B. PROCLAMATION – PROCLAIMING MAY 21, 2016 AS "ARMED FORCES DAY" IN THE CITY OF FRUITA (ADDED TO THE AGENDA)

Mayor Buck read the Proclamation, which was accepted by Louis Brackett, veteran and Jr. Vice Commander for the American Legion Post 2006. He thanked all veterans in the audience and asked those that have served the nation to stand to be recognized.

Mr. Brackett said he wanted to remind everyone that many of the freedoms that we have would not have been possible without the sacrifices of the men and women in the U.S. Armed Forces.

Mr. Brackett extended an invitation for all to attend the Memorial Day Service that will be conducted by American Legion Post 2006 at the Elmwood Cemetery on Monday, May 30, 2016 at 11:00 a.m.

C. PRESENTATION – WYATT POPP, CIVIC ENGINEER AT OLSSON ASSOCIATES AND FRUITA PARKS AND RECREATION ADVISORY BOARD MEMBER WILL PRESENT THE CITY OF FRUITA WITH THE ENGINEERING EXCELLENCE NATIONAL RECOGNITION AWARD FOR THE AERIAL SURVEY OF THE KOKOPELLI TRAIL

Councilor Kreie stated that he had invited co-worker Wyatt Popp to speak about an award won by the City of Fruita and Olsson and Associates.

Mr. Popp from Olsson Associates presented the City with an award of recognition from the American Council of Engineering Companies (ACEC). Olsson Associates participated in a partnership with the City of Fruita to conduct an unmanned aerial survey of the Kokopelli Trail. Mr. Popp said this was an innovative approach to surveying and he thanked the City of Fruita for partnering on the project.

D. PRESENTATION – A PRESENTATION FROM RON POLLARD, PRESIDENT OF FUNSHARES, INC. CONCERNING ATVS/OHVS IN CITY LIMITS

Mr. Ron Pollard had a PowerPoint presentation regarding the allowance of off-highway vehicles on city streets. He noted that they are legal in approximately 40 states, but not Colorado.

Mr. Pollard asked County Commissioner John Justman (present in the audience) if the county had any horror storied since they adopted laws to allow off road vehicles on county roads.

Commissioner Justman stated that Mesa County passed an ATV ordinance with restrictions: riders have to be 16 years old and have a valid driver's license, and the ATV has to have a legal muffler that was factory installed as well as headlights and taillights. Riders are not required to wear helmets, but Mesa County does suggest that they do. Commissioner Justman said that as far as he knew, there have been no issues whatsoever on county roads since the Ordinance went into effect last November.

Commissioner Justman added that he believed that state legislation had just passed that allows ATVs to cross state highways, but it was a very contentious issue.

Mr. Pollard presentation included pictures of remodeled/revamped vehicles, dune buggies, jeeps and other vehicles that people like to drive recreationally because they can fit in places where regular vehicles can't. The photos also included shots of many areas around Fruita where recreational vehicles are popular and fun for people to go.

In regards to safety issues, Mr. Pollard said that accidents are 99% the fault of the driver and 1% of the off highway vehicle.

Mr. Pollard noted that someone at a previous Council meeting said that they couldn't imagine people parking OHVs at City Market, but he thought it would actually be easier to park next to them than it would a big truck with a trailer.

Mr. Pollard continued that many people have OHVs and in reality, the vehicles have four wheels, a steering wheel and disc brakes, so they are very car-like.

Mr. Pollard showed more photos of many well-known local people riding their OHVs and said that it is just a really neat recreation option, especially with all the areas around Fruita that are suitable for it.

Mr. Pollard said that these vehicles should be able to generate income for the City because people like to live and visit places that offer a wide variety of personal freedoms and fun activities. He added that states all around Colorado use the multi-purpose vehicle privilege to draw freedom-lovers of all types including Arizona, Utah, Wyoming and Montana, which have very liberal laws on the books. All of these states require the addition of safety equipment such as mirrors, turn signals, and horns in addition to the things that Commissioner Justman mentioned that are required in Mesa County.

Mr. Pollard stated that the following counties in Colorado have also legalized the use of ATVs and UTVs: Montezuma, Moffat, Rio Blanco, Hinsdale and Ouray. Garfield County is currently considering allowing them as well.

The following cities and towns in Colorado currently have ordinances allowing the use of these multi-purpose vehicles in their jurisdictions: Craig, Meeker, Rangely, Silverton and Delta. Clifton is unincorporated so ATV and UTV use is allowed there under Mesa County's regulations.

These Colorado cities and counties require that the operators have a driver's license and insurance. Safety equipment required is standard on most ATVs and UTVs. Craig is the only city requiring a permit.

Mr. Pollard suggested that the City of Fruita adopt Mesa County's requirements plus the additional requirements of mirrors, turn signals and horns. He said any of the vehicles of any brand can have these things added and many of them already have them.

Mr. Pollard said he also would suggest something easy that would require almost zero staffing to collect the money: issue a three-year permit for around \$75; something that would look like a license plate.

Mr. Pollard said the above requirements should encourage responsible participants without hindering current, non-city use.

Mr. Pollard also said he hoped that Utah could reciprocate with Colorado to allow out-of-state people with tags on their multi-purpose vehicles.

Mayor Buck said that the Council needs to decide if this is something that they want to move forward with and then it would be taken to a Council workshop with the new Council members to hammer out whether the majority wants to allow the multi-purpose vehicles or not, whether in a limited way or without a lot of limitations.

Mayor Buck added that the Council did receive one e-mail about the subject, which would be discussed at the workshop. She explained that workshop sessions of the Council are open to the public, but without public comment and then if the Council decides to move forward, it would go back to a public hearing, which would be open for public comment.

Mesa County Commissioner John Justman stated that there is an ATV loop in Rio Blanco County going into Utah and the Commissioners there have said that having the loop has helped the towns of Meeker, Craig and Vernal. They towns actually made a deal with the state highway department along Highway 13 where there is an easement on the right-of-way to run the ATVs to complete the large loop. Commissioner Justman added that there haven't been any safety issues on the loop.

Commissioner Justman continued that in Hinsdale County (Lake City), the county sheriff is a retired Arizona highway patrolman and when the regulations were first passed in Arizona, there was a lot of anticipated doom and gloom, but they found that wasn't their experience at all.

He added that in Hinsdale County, there was a court case where users had legal license plates on their ATVs and the court decided that the highway patrol had to allow the multi-purpose vehicles on the highway.

Commissioner Justman said that the experiences that he is aware of have all been positive.

Mayor Buck asked if anyone wanted to weigh in on the matter during the Public Participation section of the agenda.

5. PUBLIC PARTICIPATION

Kelly Brady, 725 Pinyon Ct., Fruita stated that she was present at the meeting to request a reversal to the current approved Code in regards to the dismissal of the Conditional Use Permit for the area of Grand Avenue in Fruita where the City does not allow industrial shops such as mechanic repair shops. She said that Kim's Auto Parts has been a small business in Fruita for 21 years and she feels that mechanic shops should be allowed to come into Fruita, especially in areas that are set up for them. Ms. Brady said that Fruita needs as much business in the City limits as possible to be able to support three auto parts stores and that not allowing a legitimate group that have been trying to follow the rules to start a company in Fruita will only hurt the community.

Ms. Brady continued that if they (mechanics' shops) are not granted a permit to establish their business here, it will force them to move to Grand Junction.

Ms. Brady said she realizes that there are other industrial properties available in Fruita, but they would have to be built from the ground up, whereas the properties on Grand Avenue already have buildings ready to go.

Ms. Brady said that she understands that change is bound to happen, but she feels as though everyone must all work together to grow a strong community with all of its diversity.

Mayor Buck requested that this issue be placed on the May workshop agenda as well because there were some interesting points that were brought up that were worth being discussed and to make sure that the Council didn't overlook something.

Mr. Jackson Berry, 330 McFarland Court in Grand Junction stated that he was an agent representing the property in the Downtown Mixed Use zone that was disallowed by the City for an automotive repair shop. He said that the neighboring property has a Conditional Use Permit for doing auto repair and that the property he was representing has been used for diesel repair for the past three years (historically known as Pierce Automotive) and that it does not have a residence that borders it; there is only a junkyard and industrial buildings surrounding the property.

Mr. Berry stated that he completely agrees with what Kelly Brady said about driving business away from Fruita and into Grand Junction and that the other point he wanted to make was that the alternative locations (for an auto repair shop) would have to be built from the ground up, which would cost an excessive amount of money for a new business.

Mr. Mel Mulder, 983 E. Pabor Avenue in Fruita, weighed in on the OHV issue. He said that horseback riders trailer their horses to the trail and then they ride their horses, dirt bike riders trailer their dirt bikes to the trail and ride their dirt bikes, and so ATV/OHV riders should trailer their vehicles to the trails and then ride the trails. He said as it stands right now, he has to purchase a permit every year for his ATV to ride it in the state park for \$25 per year. Mr. Mulder continued that his ATV is not safety rated; it doesn't have brake lights, turn signals or a seat belt. He suggested that the Council solve the ATV/OHV problem in the City limits of Fruita by requiring the multi-purpose vehicles to pass a safety inspection, riders to be 16 years old, license plates and insurance purchased, then people can ride on City streets.

There were no further comments from the public.

6. CONSENT AGENDA

- A. SPECIAL EVENT LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE THE SPECIAL EVENT LIQUOR PERMIT APPLICATION FROM THE FRUITA ROTARY CLUB TO SELL BEER AT THE MIKE THE HEADLESS CHICKEN FESTIVAL ON JUNE 3, 2016 FROM 3:00 PM TO 10:00 PM AND ON JUNE 4, 2016 FROM 11:00 AM TO 10:00 PM AT CIVIC CENTER PARK INCLUDING THE PARKING LOT AND ONE BLOCK OF ASPEN AVENUE BETWEEN N. PEACH STREET AND N. ELM STREET**
- B. TRANSFER OF A LIQUOR LICENSE APPLICATION – A REQUEST TO APPROVE THE TRANSFER OF A HOTEL AND RESTAURANT LIQUOR LICENSE – MALT, VINOUS AND SPIRITUOUS FROM THE FEEDLOT RESTAURANT AND BAR TO ROSCO'S INC. DBA KANNAH CREEK BREWING COMPANY WEST LOCATED AT 456 KOKOPELLI BLVD., UNIT J**

- C. NEW LIQUOR LICENSE APPLICATION – A REQUEST TO APPROVE A TAVERN LIQUOR LICENSE – MALT, VINOUS AND SPIRITUOUS FOR GEARS FROZEN YOGURT AND SMOOTHIES LOCATED AT 211 A E. ASPEN AVENUE**
- D. NEW LIQUOR LICENSE APPLICATION – A REQUEST TO APPROVE A BEER AND WINE LIQUOR LICENSE FOR DTF? WINE BAR AND TAPAS, LLC LOCATED AT 138 S PARK SQUARE, STE. #102**
- E. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF ANNIE PAYNE TO THE PARKS AND RECREATION ADVISORY BOARD FOR A THREE YEAR TERM TO EXPIRE IN MAY OF 2019**
- F. RESOLUTION 2016-18 – A REQUEST TO APPROVE A RESOLUTION APPROPRIATING ADDITIONAL FUNDS IN VARIOUS FUNDS FOR PURPOSES SPECIFIED**
- G. INTERGOVERNMENTAL AGREEMENT (IGA) – A REQUEST TO APPROVE AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF FRUITA AND MESA COUNTY CONCERNING THE COLORADO RIVERFRONT TRAIL AND AUTHORIZE THE MAYOR TO EXECUTE THE IGA**
- H. APRIL 2016 FINANCIAL REPORTS – A REQUEST TO APPROVE THE APRIL 2016 FINANCIAL REPORTS**

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

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

7. PUBLIC HEARINGS

There were no public hearing items on the agenda.

8. ADMINISTRATIVE AGENDA

- A. PUBLIC WORKS DIRECTOR KEN HALEY/CITY MANAGER MIKE BENNETT**
 - 1) DISCUSSION ON DRAINAGE NEEDS AND FEES**

City Manager Mike Bennett noted that staff and the Council had a discussion about the Grand Valley Drainage District (GVDD) fee at a recent workshop session, but before staff pays the bill to the GVDD, they want to make sure that Council had an opportunity to discuss any concerns or thoughts they might have.

Mr. Bennett stated that the GVDD assessed fees and sent the bills out to residents and businesses including the City of Fruita. He said that Public Works Director Ken Haley did a great job working with the GVDD to go through the initial list of properties that the City owns to determine what should be included in the billing, and the total bill for the City was brought down to just under \$13,000 for the year. Those fees are due at the end of May and Mr. Bennett noted that at the last Council meeting, the Council approved moving money from the Contingency Account to cover the bill from the GVDD.

Mr. Bennett continued that since that time, a couple of things have occurred: the Mesa County Board of Commissioners and the Grand Junction Chamber of Commerce have filed a lawsuit against the GVDD contending the appropriateness of assessing the fees and whether they are a fee or not. Also, the City of Fruita received a check from the GVDD for \$90,000 from fee revenues received from all areas in the valley to be set aside for large capital projects to be completed over time. Mr. Bennett added that at least \$90,000 must be spent within the Fruita City limits on drainage projects and said that staff had deposited that check but has not yet appropriated it for any particular projects. Staff plans to meet with the Drainage District to coordinate projects that are deemed to be priorities.

Mr. Bennett said that City Attorney Ed Sands was asked whether or not the City should pay the GVDD bill and Mr. Sands' recommendation was that this was simply a Council decision whether to pay it now or hold off and see what happens with the litigation. Mr. Sands concluded that there would be no harm either way.

Mr. Bennett stated that it was staff's recommendation that the City pay the GVDD bill and continue to work as closely as possible with the GVDD to get the most benefit for the residents of Fruita related to drainage projects.

Mr. Bennett said that if the Council needed more background or had questions, Public Works Director Ken Haley would be happy to address them.

Councilor Kincaid asked if there was a timeline on when the City would execute an Intergovernmental Agreement (IGA) with the GVDD for what has to be done.

Mr. Bennett responded that Mr. Haley has requested to sit down with the GVDD to do that.

Mr. Haley stated that staff has had some initial discussions with the GVDD over the priorities and administration of spending the \$90,000 and an IGA was in the process of being drafted that the Council would likely see in June.

Mayor Buck said staff had done a great job of turning what could have been a very bad situation into a pretty okay situation.

Councilor Kreie asked if the litigation were to be found not in favor of the GVDD, would the City be able to recoup the money for the drainage fees (\$13,000)? Mr. Bennett said it would depend on how the litigation turns out.

Councilor Kreie asked if the City were to spend the \$90,000 under that same scenario, would the City have to give it back to the GVDD at some point?

Mr. Bennett said that staff had asked that question, and although it still depends on how everything goes, the \$90,000 is actually separate and is not the City's liability because it has been turned over specifically for drainage projects regardless of the outcome of the lawsuit.

- **COUNCILOR BONAR MOVED THAT THE COUNCIL DIRECT STAFF TO PAY THE CURRENT GRAND VALLEY DRAINAGE DISTRICT (GVDD) FEES AND WORK WITH THE GVDD ON MAXIMIZING AND PRIORITIZING THE AMOUNT OF DRAINAGE WORK TO BE COMPLETED WITHIN THE CITY LIMITS BY DEVELOPING AN IGA WITH THE GVDD. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

B. PARKS AND RECREATION DIRECTOR TURE NYCUM

1) PARKS AND RECREATION UPDATE

Parks and Recreation Director Ture Nycum and Recreation Superintendent Tom Casal gave the Council and update on the Parks and Recreation Department including Parks, Open Space and Trails, Recreation and the Fruita Community Center, and current and future projects of the department. Many statistics, operations, programs, special events and budget numbers were presented. The full PowerPoint presentation is on file at the City Clerk's Office.

C. CITY MANAGER MIKE BENNETT

1) ANNUAL EVALUATION OF CITY MANAGER – ESTABLISHING THE SCHEDULE FOR THE ANNUAL EVALUATION OF THE CITY MANAGER AND APPROVAL OF THE EVALUATION FORM

City Manager Mike Bennett noted that the Fruita City Charter and the contract between the City and the City Manager require an annual evaluation. The evaluation includes written comments from not only the City Council, but also from anybody in the public that wants to give input.

The evaluation form is the same one that has been used for a number of years and Mr. Bennett said that he has looked at other types of formats that were of interest to him in respect to receiving information from the City Council, but the City has to use the same form for the public that the Council uses, so the same form was being proposed to be used again.

He noted that the Council needed to finalize and approve the evaluation form by motion and then there would be a legal publication on May 23, 2016 that the evaluation form would be available to the public from June 1st through June 30th, when public comments are due. On July 5th, the Council

will hold an Executive Session to draft the City Manager's evaluation (without the City Manager present) and on July 19th, the Council will hold an Executive Session to present the evaluation to the City Manager.

- **COUNCILOR BONAR MOVED TO DIRECT STAFF TO PUBLISH THE CHARTER-MANDATED NOTICE, MAKE THE APPROVED EVALUATION FORM AVAILABLE FOR USE BY THE PUBLIC, SCHEDULE AN EXECUTIVE SESSION FOR JULY 5, 2016 TO PREPARE THE EVALUATION AND SCHEDULE AN EXECUTIVE SESSION ON JULY 19, 2016 TO PRESENT THE REVIEW TO THE CITY MANAGER. COUNCILOR BRACKETT SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

9. COUNCIL REPORTS AND ACTIONS

COUNCILOR BONAR

Councilor Bonar reported that on the previous Thursday, he went to the Colorado Parks and Wildlife Commission dinner at the request of the Mayor, who was not available. He said that the statewide Commission has annual meetings and this year the meeting was held in Grand Junction. After several days of meeting, the Commission has a community picnic to open the meeting up to the public. Councilor Bonar said it was a very informal affair; there were no speakers or presentations; it was just about 100 people attending a catered meeting that he said was very nice.

Councilor Bonar said he spent some time talking with the Mayor of Palisade, who stated that the big "hot-button" issue in Palisade is short-term rentals and how the town is trying to catch up with them all.

Councilor Bonar said he also spoke to quite a number of Fruita residents and got a lot of feedback on trails, the downtown project and other things. He also said he spent a lot of time talking with Ken Mayberry, the Superintendent of the Colorado National Monument and it turns out that Councilor Bonar worked with Ken's father in Moab in the early 1980s, so they had a lot of stories to compare about how Moab developed and how Fruita is developing. Councilor Bonar said the widespread opinion that he received was "don't let Fruita become Moab."

Councilor Bonar said it was a pleasant and entertaining evening and he even met a lot of Fruita people that he did not know.

Councilor Bonar continued that the History Fair would be held on the coming Saturday (May 21st) at 10:00 a.m. in the Council Chambers and the history room next door.

Councilor Bonar also reported that earlier that day, he heard two promos for the Mike the Headless Chicken Festival on KAFM Radio and they were done very well.

COUNCILOR KARISNY

Councilor Karisny reported that he, the City Manager, the Mayor and City staff were out in downtown Fruita in wheelchairs cruising around and he thought everyone learned some things. He said that he was really struck by how unforgiving the chairs were on so many different surfaces; it didn't take much of a lip on a sidewalk to feel it.

Councilor Karisny said they went up and down both sides of Aspen Avenue and Channel 5 News followed them. Nick Saylor, Director of Rehabilitation from Family Health West and his wife came along and was helpful in getting everyone on their way.

Councilor Karisny reported that he would be meeting with Todd Hollenbeck the following day to talk about the next Grand Valley Regional Transportation meeting to be held on Monday, May 23rd. Mr. Hollenbeck is going to give Councilor Karisny a quick orientation concerning what to anticipate.

Councilor Karisny also stated that the next 5-2-1 Drainage Authority meeting will be held on Wednesday, June 29th at 2:00 at the Mesa County Courthouse Training Room. Public Works Director Ken Haley said he did receive confirmation of the meeting.

Councilor Karisny said that Mel Mulder gave him the two binders he had from the 5-2-1 and he had read over the most recent minutes from the last couple of meetings, but he thought it would really be helpful if he could sit down with Ken Haley and the City Manager to get a refresher course on the 5-2-1 Drainage Authority.

Councilor Karisny continued that the Mesa Land Trust would be having a potluck On May 22nd.

Councilor Karisny said that when Governor Hickenlooper was talking to the Fruita City Council, he was trying to remember a saying, which was "Everything that needs to be said has already been said, but since no one was listening, everything must be said again." The quote was from a 1947 Nobel Prize winning French author in literature who was alive from 1869 until 1951.

Councilor Karisny said that right underneath that quote was one that said "there was nowhere to go but everywhere, so just keep on rolling under the stars." -Jack Kerouac

COUNCILOR HARVEY

Councilor Harvey reported that the Arts and Culture Board met the previous Wednesday and continues planning for next year's "An Evening of Art and Fruita Gala." The tentative date that they have selected is Saturday, March 11, 2017 and it will be held in the gymnasium at the Fruita Community Center, so the board is hoping that there will be more artists and booths. The board is also looking at having a little more emphasis on the music at the event.

Councilor Harvey also reported that right before he came to the City Council meeting, he attended his first Riverfront Commission meeting and they discussed the following topics:

1. With the help of Colorado Mesa University, the Riverfront Commission completed a survey to see if people in Mesa County would be supportive of a Voluntary Surcharge Program (VSP) so

that when people make purchases (at City Market, for example), the amount would be rounded up to the nearest dollar and the additional money would go to the Riverfront Foundation. People could also have the choice of a direct donation of \$1. The survey involved 300 random consumers and 118 businesses and the results were pretty overwhelmingly clear that people would be supportive of a program like that and would like to see it happen.

Some of the problems the Riverfront Commission is running into are that a lot of people don't understand who is in charge of the Riverfront Trail; they don't make the connection that the Riverfront Trail and the Concert Series are actually projects of the Riverfront Commission and the Riverfront Foundation, so the board is looking at ways to better educate the public about that. Councilor Harvey added that there are a lot of numbers in the summary of the survey that he would be happy to give to the City Manager to share with the rest of the City Council.

2. The Riverfront Commission also discussed the Los Colonias amphitheater. They have raised \$3.5 of the \$3.7 million needed and they are pretty confident that they will get the rest of the funding and will be able to complete the project in the fall of 2017.

COUNCILOR KREIE

Councilor Kreie reported that the Downtown Advisory Board meeting was cancelled that week, along with the banner making. He said he did have breakfast with the County Commissioners the previous week and also the Federal Mineral Lease meeting to observe.

Councilor Kreie stated that another organization that he is involved in (Cavalcade) is now an official 501(c)(3) nonprofit.

COUNCILOR KINCAID

Councilor Kincaid stated that he had spoken with Barb and the Visitors Convention Bureau about some of the grant opportunities that are coming up, as well as more potential partnerships with Fruita's Tourism Advisory Board. Grant dollars will be available for marketing, which would mean less dollars will have to be taken out of the Tourism budget. The Board has been talking about this for the last year and about how to partner with the Town of Palisade and the City of Grand Junction to make marketing dollars go farther. Councilor Kincaid said there are two or three different grant opportunities available from the State of Colorado.

Councilor Kincaid added that he had a Tourism Advisory Board meeting the following week. He noted that Cobb & Associates now is under new ownership, and hopefully the new owner will attend the Fruita Tourism Board meeting to give an overview on where the situation stands with marketing for the City of Fruita.

Councilor Kincaid also stated that he attended the Fruita Area Chamber of Commerce Board and the Farmers' Market will start on June 25th. In the past the Chamber has charged \$150 for a booth space, but now vendors have the choice of paying for a \$200 booth fee in order to get a specific spot on the venue so that there are no arguments about who gets what spot.

The Fruita Chamber is doing a member Appreciation Lunch on May 25th from 11:30 to 1:00 p.m. and Councilor Kincaid said that City staff were also invited. The Chamber is starting a new "Shop Fruita" campaign to get more people to shop locally instead of going to Grand Junction. The Chamber did just provide free listings for all Fruita businesses (Chamber member or not) on the Chamber's website. Councilor Kincaid said that once the gofruita.com website is launched, it will drive traffic to that section of the Chamber's website. He added that last he heard, there were 360 members of the Fruita Chamber and that 40% of them are located in Fruita, so this will give Fruita businesses a little more exposure.

Councilor Karisny asked where the tear-off maps that the Chamber made are available. Councilor Kincaid said that the Chamber has a lot of them but has also distributed them to all the hotels and the Welcome Center. Councilor Kreie said they were also available at the Monument book store. Deputy City Clerk added that the City had some in the Civic Center as well.

Councilor Karisny asked which other states had been advertising for Fruita. Councilor Kincaid responded that the State of Colorado actually advertises Fruita internationally. He added that the Tourism Board has found that local advertising dollars are spent in areas that are 50 to 75 miles outside of Fruita up to about 250 miles heading east, but out toward Utah, there really hasn't been a good return on investments in advertising.

COUNCILOR BRACKETT

Councilor Brackett said that he thought the update given to the Council on the Parks and Recreation Department was excellent. He added that the City is very fortunate to have the staff it does.

Councilor Brackett recognized Annie Payne (present in the audience) who was just appointed to the Parks and Recreation Advisory Board. He said she would be a very good asset to the Board and welcomed her.

Councilor Brackett stated that on May 5th, the Parks and Recreation Advisory Board met and they were given a presentation from Colorado Discover Ability regarding how they've grown in working individuals with special needs by getting them very involved in outdoor recreation including rafting, fishing and other outdoor sports. He asked the City Manager if he had anything to add.

Mr. Bennett stated that he would add that the Colorado Discover Ability's request at that meeting was that they be allowed to give the City Council a presentation at some point in time. He said it was a great connection because the City is not capable of providing services to those with disabilities on its own, and that it just makes sense to partner with Colorado Discover Ability. Mr. Bennett said that the Council may need to consider some outside agency funding for them, as Colorado Discover Ability would like to be part of that new process as the Council goes through its budget process this year.

Councilor Brackett said he thinks that Colorado Discover Ability adds to the overall quality of life that Fruita is looking for.

Councilor Brackett continued that he looked forward to his first Police Commission meeting the following evening as the Council liaison. He noted that he has a background in law enforcement and the military, so he does have a personal interest in doing what he can to support the Fruita Police Department, the Chief and the community.

MAYOR BUCK

Mayor Buck noted that she, the City Manager and City Clerk/Finance Director Margaret Sell met with Dan Robinson, the new Fruita Municipal Court Judge. She said that it sounds like there will be so much better of a working relationship for everybody and that collectively, they will hire the new Municipal Court Clerk. She added that City Attorney Ed Sands is working on the language to have the Court Clerk under the supervision of the City Clerk and that it was nice to see that there was dialogue that wasn't contentious.

Mayor Buck also noted that the Public Lands Day Happy Hour would be held the following evening at 5:30 at the Copper Club. A hike was also scheduled for 2:00, which she wouldn't be able to do, but that she would be at the Copper Club for the Happy Hour.

Mayor Buck continued that on that Thursday at 5:30, there would be a new dinosaur exhibit at Dinosaur Journey, which she planned on attending. Councilor Karisny said he would be attending that as well.

Mayor Buck stated that she and Mr. Bennett would be meeting with Pat Kennedy the following day to talk about things that happened in the 1990s regarding outdoor recreation, the BLM plan, the loss of Colorado Canyons to mountain biking and the gain of 18 Road for mountain biking.

Mayor Buck said that she and Mr. Bennett went to Camilla's Kaffe about their sidewalk restaurant issue, but Camilla wasn't available until Friday. She said she didn't think Camilla has heard from an elected official concerning the seriousness that the City holds on keeping the walkway in front of the restaurant open, so she thought that was the next step. Mayor Buck said she would try to make Camilla understand that it is not just City staff harassing her and that the City is ready to take it to the next level if necessary by sending an official letter stating the violation. Any subsequent violations would then cause a hearing date to be set before the Council to revoke the Sidewalk Restaurant permit. Mayor Buck said that this way, there would be documentation and a paper trail.

10. CITY MANAGER'S REPORT

City Manager Mike Bennett thanked everyone for coming out on Sunday to host Governor Hickenlooper. He said it was a whirlwind of discussion, but the Governor seemed very pleased with the efforts of the City, which dovetail with his priorities in the area of outdoor recreation.

Mayor Buck thanked Parks and Recreation Director Ture Nycum for his all around support services on the previous Sunday.

Mr. Bennett continued that the Council will have more discussions during the goal-setting and budget sessions concerning the City's mountain water (reservoirs) because there is a lot of resources

and time put towards it each year. In addition, there are potential liabilities; an issue just came up with Reservoir 2, which is showing signs of recent sliding of the soil, which will require City staff to do some monitoring. The monitoring that has been done so far shows that the situation is worse than first thought; there has been more movement in the last week and the dam inspector is going to require the City to hire a consultant to monitor and do work at the reservoir. Mr. Haley has been working directly with the dam inspector, who has been very cooperative in helping work through the issue.

Mr. Bennett stated that the following evening at Cavalcade at 7:00, he and Community Development Director Dahna Raugh and Code Enforcement Officer Mark Angelo would be meeting with downtown businesses about the proposed changes to the Sign Code. He noted that Mrs. Raugh had talked to a majority of the businesses to invite them to the meeting, which will allow the businesses an opportunity to give feedback. Mr. Bennett stated that the feedback received at this meeting would be discussed at the May workshop session of the City Council and then the Ordinance should be ready for consideration of adoption at the first Council meeting in June.

Mayor Buck asked if Mr. Bennett wanted any elected officials at the meeting at Cavalcade and Mr. Bennett said he didn't think the Council needed to feel any pressure to be there because staff would be bringing the feedback to the Council in one week at the workshop meeting.

Mr. Bennett said that there were a lot of upcoming events that would be included in his weekly update. The raft trip for staff and City Council has been scheduled for June 10th. On June 14th, Mr. Bennett said he would be giving a tour of City facilities and current projects from 9:00 am to noon. He said Council members could schedule a tour individually if necessary.

Mr. Bennett said that the Western Colorado Economic Summit hosted by the Grand Junction Economic Partnership (GJEP) would be held on June 1st and he planned to attend. The fee for the all-day event is \$100 or people can chose to come to the lunch event only, which is \$45. He asked if any Council members were interested in attending either of those. He said he knew of at least one person on the Tourism Advisory Board was interested in going to at least the luncheon. Mayor Buck said she would like an all-day ticket. Councilor Kreie said he would be interested in attending as well.

Mr. Bennett stated that he and the Mayor received an e-mail from Mountain Khakis, who has created a button-down mountain biking trail shirt that they are calling the "PBR" Trail shirt. In their catalog, they have a picture of the PBR Trail with a rider on the trail and the words "Fruita, Colorado." This catalog goes out to all the vendors and international and national buyers such as REI, Cabella's and Nordstrom.

Mr. Bennett said that Human Resources Director Odette Brach has been talking with Bud Signs regarding the Co-Op banner that fell down. The quote staff received to put a banner back up was \$13,200. Staff went to the group that originally installed the banner, but they are no longer in business. The person who worked there, however, is trying to coordinate with Bud Signs to see if there is anything salvageable and staff anticipates another quote, although it probably will be for around the same amount because the old components cannot be used and because of the difficulty of installation. Mr. Bennett said he asked Mrs. Brach to look into some of the funding that the City

has for signs and banners and there is a couple of thousand there. There could also be some funds that weren't given to Cobb & Associates that could be considered for the banner.

Mr. Bennett said that hopefully by the end of the week he would have more information about the banner issue.

11. ADJOURN

With no further business before the Council, the meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita

**FRUITA CITY COUNCIL
REGULAR MEETING
JUNE 7, 2016**

1. INVOCATION AND PLEDGE OF ALLEGIANCE

A moment of silence was observed in lieu of the Invocation and the Pledge of Allegiance was recited.

2. CALL TO ORDER AND ROLL CALL

Council members present were Bruce Bonar, Dave Karisny, Joel Kincaid and Louis Brackett. Councilors Ken Kreie and Kyle Harvey were excused absent. Mayor Buck called the meeting to order at 7:00 p.m.

Mayor Buck asked if there were any corrections or additions to the agenda.

3. AGENDA – ADOPT/AMEND

- **COUNCILOR DAVE KARISNY MOVED TO APPROVE THE AGENDA AND TO ADD AN ITEM TO THE CONSENT AGENDA (ITEM 6.H): A REQUEST TO APPROVE THE APPOINTMENT OF HEIDI ELDER TO THE PLANNING COMMISSION FOR A THREE YEAR TERM TO EXPIRE IN JUNE OF 2019. COUNCILOR KINCAID SECONDED THE MOTION. THE MOTION PASSED WITH FOUR YES VOTES.**

4. PROCLAMATIONS AND PRESENTATIONS

- A. PROCLAMATION – PROCLAIMING THE MONTH OF JUNE 2016 AS “BIKE MONTH” AND WEDNESDAY, JUNE 22, 2016 AS “BIKE TO WORK DAY” IN THE CITY OF FRUITA TO BE ACCEPTED BY FRUITA PARKS AND RECREATION DEPARTMENT STAFF**

Mayor Buck read the Proclamation. City Manager Mike Bennett accepted it on behalf of the Parks and Recreation Department. He noted that on Wednesday, June 22nd, the City would be recognizing “Bike to Work Day” by having an event where people would meet at the Dinosaur Journey Museum at 6:30 a.m. and ride bikes together on the new section of the Lower Little Salt Wash Trail to the Fruita Community (Recreation) Center, where Family Health West would be serving breakfast. There is a competition between City staff and local businesses on who will have the most people riding their bikes to work that day and the winner will receive a trophy. Mr. Bennett added that if people are interested in a “Bike to Work” (BTW) shirt, they were available for \$9 or \$11 by contacting Cheri Delaney at the Fruita Community Center.

Mr. Bennett said that this was the same day that he and Councilor Ken Kreie would be going to the Colorado Municipal League (CML) Conference in Vail.

5. PUBLIC PARTICIPATION

There were no comments from the public.

6. CONSENT AGENDA

- A. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE LICENSE – MALT, VINOUS AND SPIRITUOUS FOR FRUITA LIQUOR MART LOCATED AT 423 E. HIGHWAY 6 & 50**
- B. ORDINANCE 2016-05 – SECOND READING – A REQUEST TO APPROVE AN ORDINANCE AMENDING SECTION 6.04.010 OF THE FRUITA MUNICIPAL CODE CONCERNING ANIMAL CONTROL DEFINITIONS**
- C. ORDINANCE 2016-06 – SECOND READING – A REQUEST TO APPROVE AN ORDINANCE AMENDING SECTION 17.07.070(H) OF THE FRUITA LAND USE CODE OF THE FRUITA MUNICIPAL CODE CONCERNING FENCES**
- D. ORDINANCE 2016-07 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE GRANTING A FRANCHISE TO BRESNAN COMMUNICATIONS, LLC TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF FRUITA, COLORADO FOR PUBLICATION OF PUBLIC HEARING ON JULY 5, 2016**
- E. ORDINANCE 2016-08 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 2.28 OF THE FRUITA MUNICIPAL CODE CONCERNING MUNICIPAL COURT FOR PUBLICATION OF PUBLIC HEARING ON JULY 5, 2016**
- F. CONTRACT FOR SEWER SERVICE – A REQUEST TO APPROVE A CONTRACT FOR SEWER SERVICES AT 1024 18 ROAD (PERCIVALS)**
- G. FRUITA LIQUOR MART CONDITIONAL USE PERMIT AND SITE DESIGN REVIEW – A REQUEST TO APPROVE THE FRUITA LIQUOR MART CONDITIONAL USE PERMIT AND SITE DESIGN REVIEW WITH THE CONDITION THAT ALL REVIEW COMMENTS AND ISSUES IDENTIFIED IN THE STAFF REPORT MUST BE ADEQUATELY RESOLVED BEFORE A PLANNING CLEARANCE FOR A BUILDING PERMIT IS ISSUED**
- H. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF HEIDI ELDER TO THE PLANNING COMMISSION (ADDED TO THE AGENDA)**

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

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

7. PUBLIC HEARINGS

A. COMMUNITY DEVELOPMENT DIRECTOR DAHNA RAUGH

1) ORDINANCE 2016-01 – SECOND READING – A REQUEST TO APPROVE AN ORDINANCE AMENDING CHAPTER 17.41 OF THE FRUITA LAND USE CODE, SIGN CODE *(CONTINUED FROM THE FEBRUARY 2, MARCH 1 AND MAY 3, 2016 COUNCIL MEETINGS)*

Community Development Director Dahna Raugh stated that the Council and staff had been talking about signs for longer than six months. She said that one of the reasons for amending the Sign Code was a recent United States Supreme Court decision that required that regulations for signs not control what the sign says because that is a violation of free speech, which can be solved by adding one line into the Land Use Code that says, "Any signs authorized by the Land Use Code can substitute non-commercial copy for commercial copy."

Mrs. Raugh continued that the biggest issue was temporary off-premise signs and staff started out with the intent of trying to make all of the signs that are seen in Fruita somehow be legal, but then over time, it was realized that with more signs coming up, there was a potential for problems.

Mrs. Raugh stated that the last time Ordinance 2016-01 was continued, it was to allow staff one more opportunity to talk to the business community because originally, staff was thinking of allowing two signs within 500 feet of a business, but now the regulations allow one sign right in front of the business.

Mrs. Raugh said she had visited downtown businesses for two or three days and she talked to just about everybody in the area that currently has signs out. She added that staff also held a meeting on May 18th at the Cavalcade, at which about ten people attended representing eight different businesses. In her discussions with the business community, Mrs. Raugh said that she believes most of the businesses understood the problems that the Council was facing trying to allow more signs in more locations and they also understood why staff and potentially the Council were going to narrow it down to allowing one sign right in front of a business.

Mrs. Raugh continued that at the May 18th meeting, the business community asked staff to look at a way to help direct customers to the businesses, specifically from the interstate access and other major routes into the City. Staff is investigating that issue and how it could potentially be addressed.

Mrs. Raugh said she would answer any questions about the language proposed for the Land Use Code amendment.

Mayor Buck opened up the public hearing on Ordinance 2016-01. Hearing no comments, she closed the public hearing and referred back to the City Council.

Councilor Karisny said that the Council took a lot of time with the issue to try and get it right. He asked if the Ordinance were approved but then something needed to be changed, would current businesses be grandfathered in or would they be affected by the new changes? Mrs. Rough responded that they would be grandfathered in for the day because one of the requirements in the proposed language is that the temporary signs out in the public area have to be brought in at the end of every business day. She added that if staff sees a problem, then staff can also immediately require those temporary signs to be removed on a permanent basis, but the Land Use Code would have to be amended to make that happen.

Councilor Karisny asked for confirmation that if the City (hypothetically) chooses to change (for example) the size limits for signs in six months, then everyone who had a large sign wouldn't be required to make it smaller because they were grandfathered in. Mrs. Rough said that the business would have to follow the new size regulations if the Council wanted them to.

Mrs. Rough continued that because of the signs' temporary nature and because they are required to be brought in at the end of every business day, the grandfather status does not apply.

- **COUNCILOR BONAR MOVED TO APPROVE ORDINANCE 2016-01 – SECOND READING – AMENDING CHAPTER 41, SIGN CODE OF THE FRUITA LAND USE CODE. COUNCILOR KINCAID SECONDED THE MOTION. THE MOTION PASSED WITH FOUR YES VOTES.**

8. ADMINISTRATIVE AGENDA

A. PUBLIC WORKS DIRECTOR KEN HALEY

- 1) **RESOLUTION 2016-19 – A REQUEST TO APPROVE A RESOLUTION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF FRUITA AND THE 5-2-1 DRAINAGE AUTHORITY FOR PROVISION OF COLORADO DISCHARGE PERMIT SYSTEM (CDPS) MUNICIPAL SEPARATE STORM SEWER (MS4) STORMWATER PHASE II PERMIT SERVICES AND AUTHORIZE THE MAYOR TO EXECUTE THE IGA**

Public Works Director Ken Haley stated that the 5-2-1 Drainage Authority was created back in 2014 and is a partnership between Mesa County, the City of Grand Junction, the City of Fruita, the Town of Palisade and the Grand Valley Drainage District. For the past few years, the 5-2-1 has been focused mainly on administering the storm water permits for those entities.

Mr. Haley explained that up until now, Fruita hasn't had to comply with those permit requirements because the City was just under the threshold for being considered an urbanized area. The City has now passed over that threshold and the state has now issued a storm water permit that will go into

effect on July 1st, which means that Fruita will now have to comply with the MS4 storm water permit requirements.

Mr. Haley said that the requirements are mainly related to water quality for storm water, so any construction sites will now have to get not only a state storm water permit if they are disturbing over an acre of land, they will also have to get a local storm water permit. Inspections of the construction sites will have to be completed, whether they are for private development or public projects.

Mayor Buck asked how this would affect the Greenway Business Park and Mr. Haley responded that the park would be subject to the requirements. He noted that the other entities have been doing this for six years already and they have uploaded all the requirements to the 5-2-1 to do all the storm water permitting, inspections and all the documentation necessary for the state. The permit also requires a public education component. Mr. Haley said it just makes sense to have a valley-wide approach and just have one entity responsible for it instead of all the entities doing their own thing.

Mr. Haley stated that if Fruita did want to consider implementing its own program rather than handing over those services to the 5-2-1, it would require additional staff and expenses whereas the City of Fruita is already a member and a contributing partner of the 5-2-1 because staff has known that the requirements were coming for awhile and have been preparing for it.

Mr. Haley noted that the Council did approve an Ordinance in March of last year in preparation for the permit requirements.

Mr. Haley said that the IGA before the Council is almost identical to what the City of Grand Junction and the Town of Palisade have with the 5-2-1 Drainage Authority. Mesa County's is a little bit different because their enforcement is different.

Mr. Haley said it was staff's recommendation that the Council approve Resolution 2016-19. The 5-2-1 Drainage Authority is scheduled to consider the IGA at their June 29th board meeting.

Councilor Brackett asked Mr. Haley what he saw as a possible disadvantage if the Council were not to approve the Resolution.

Mr. Haley said that if the City wanted to implement its own program, City staff would have to be doing their own separate permitting and inspection processes, as well as extensive documentation, so the City would probably have to hire one full-time engineer and at least one half-time construction inspector. The City would also need to devote some funds towards public education and a couple other things.

Mr. Haley added that Fruita's yearly contribution to the 5-2-1 for the past few years has been between \$5,000 and \$6,000, but it would easily cost over \$30,000 for the City to implement its own program.

- **COUNCILOR BONAR MOVED TO APPROVE RESOLUTION 2016-19 – ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE**

CITY OF FRUITA AND THE 5-2-1 DRAINAGE AUTHORITY FOR PROVISION OF COLORADO DISCHARGE PERMIT SYSTEM MUNICIPAL SEPARATE STORM WATER PHASE II PERMIT SERVICES. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH FOUR YES VOTES.

2) UPDATE ON PUBLIC WORKS DEPARTMENT

Mr. Haley gave the Council a PowerPoint presentation on the City's Public Works Department. The presentation included what the Public Works Department does, the current condition of City infrastructure, and issues and challenges faced by the Public Works Department.

There are nine divisions within Public Works made up of 21 full-time employees, 3 part-time employees and 5 seasonal employees. Most of the operations of the Department require staff to be able to respond 24/7 for sewer backups, road issues, and safety issues. One staff member is on call at all times and there is always a Wastewater operator on call.

Mr. Haley noted that the City has a lot of staff that is skilled in a lot of different things, but that is transitioning into keeping certain people in more focused areas. Some of the biggest changes are moving to a two-crew leader system and the creation of a Fleet Manager position.

Mr. Haley said that pretty much every division of the Public Works Department is focused on the core services of the City: streets, utilities, water, wastewater, making sure things are built right and making sure things are maintained.

Mr. Haley said he has learned that the average age of the City's full-time maintenance workers is over 50 years old. He said these people are very skilled in welding, framing, equipment operation, and truck driving, but he wanted the Council to be aware that there are going to be some challenges with turnover in the not too distant future.

Mr. Haley's presentation included reviews of the Engineering Department, Road Maintenance and Traffic Safety, Buildings and Facilities, Mountain Water and Properties, Fleet Maintenance, Utilities and the Sewer Fund.

Mr. Haley stated that the current condition of City infrastructure is fair, but that maintenance will be important moving forward in to the future.

Issues and challenges of the Public Works Department include:

- Lagoon Development
- Mountain Water liabilities – need to develop plan
- Wastewater Treatment Facility and collection issues
- Staffing and funding

Councilor Karisny asked if the City of Fruita could share any maintenance resources with other municipalities such as the City of Grand Junction when in a situation like needing a part for a piece of equipment. Mr. Haley responded that the City doesn't stock a whole lot of parts except for belts,

hoses and air filters and there isn't any sharing of inventory between municipalities. He added that municipalities in the valley do share a lot of knowledge on a regular basis, however.

One highlight of Mr. Haley's presentation was in regards to a Wastewater Reclamation Facility Needs Assessment that was recently completed that identified operational issues with the plant and upcoming regulations. Regulations about water quality have changed (to remove phosphorus), which will be an expensive endeavor for the City to address. Staff is currently doing some testing to try to use what the City has to treat phosphorus and will be trying other methods to try to comply with the regulations. If these efforts are unsuccessful, it will cost the City at least \$1 million to address the situation.

Mr. Haley added that the Needs Assessment Study identified over \$5 million worth of projects that will need to be completed in the next 5 to 10 years. Staff has tried to keep sewer rates flat for Fruita residents, but expenses increase every year for the sewer fund, so staff will be looking at updating sewer rates to remain financially sustainable.

Councilor Karisny said that when the Wastewater Treatment Facility was being proposed to be built, there were at least two, maybe three different types of processes that could have been used and the one the City chose was one that would contribute more success in meeting a number of the EPA future guidelines. He asked if the City was still facing challenges despite that.

Mr. Haley responded that the regulation that drove the need for construction of a new Wastewater Treatment Facility was the requirement for ammonia removal and the City's old sewer lagoon system could not manage. The City then selected an activated sludge process based on the ability to nitrify and treat the ammonia to high levels, but at that time, no one even knew about the future requirements for phosphorus removal. Phosphorus was not something that was monitored or had to be treated, but that changed and now treatment is required as per the EPA regulation.

9. COUNCIL REPORTS AND ACTIONS

COUNCILOR BONAR

Councilor Bonar reported that the Historic Preservation Board met the previous day and discussed the most recent History Fair and planning for next year. The Board has been invited to do the History Fair at the Cavalcade again next year. Councilor Bonar stated that Civic Center building is extremely well suited for the History Fair for the segment of the population that is intensely interested in the history because they can spend a lot of time going through the Lower Valley Heritage Room to look at the abundance of materials. He said that unfortunately, however, the Civic Center location does not lend itself to the person who is casually interested in history. There was a tremendous turnout at the first History Fair that was held at the Cavalcade, but attendance has dropped consistently each year since then. The Board is therefore looking at holding the History Fair at the Cavalcade sometime in May of next year. The current thought is to also have someone at the Lower Valley Heritage Room available during the Fair so that anyone whose curiosity is sufficiently peaked can be sent to the Civic Center.

Councilor Bonar also reported that a Historic Preservation Board member resigned because of schedule conflicts, so he asked everyone to send any interested persons to the Board.

COUNCILOR KARISNY

Councilor Karisny stated that he attended the Grand Valley Regional Transportation Committee meeting. He reviewed all the names of directors and staff for the GVRTC, the Metropolitan Planning Organizations (MPO), Grand Valley Transit (GVT), the Mesa County Regional Transportation Planning Office, the Technical Advisory Board, and CDOT Region 3.

Councilor Karisny said that the two big roles of the GVRTC are: 1) all the regional planning and 2) the creation of a Transportation Improvement Plan (TIP). This plan was adopted at the last meeting of the GVRTC. The plan contains all the state and federally funded transportation projects in the urbanized area initiated by Mesa County, the City of Grand Junction, the Town of Palisade, the City of Fruita and the Colorado Department of Transportation.

Councilor Karisny continued that the biggest transportation project in the Plan is I-70 B. There have been a number of improvements that have been made along I-70 B, but there are still a number of improvements that are still to come. He said this takes up a lot of the state and federal funds that come to the Grand Valley, although there are other projects.

Councilor Karisny said the reason this happens is that the projects are based on population trends and transportation needs, which are based on some of the studies that have been done such as the 2035/2040 Transportation Studies of roads within the urbanized area. The studies suggest that in 10 or 20 years, certain roads are going to fail.

Councilor Karisny reviewed the projects listed in the Transportation Improvement Plan, one of which will affect Fruita: US Highway 6 Fruita to I-70 B milepost 20 to 25.9. It is out of City limits, but will affect the 6 & 50 corridor.

Councilor Karisny reported that the 2017/2020 Transportation Improvement Plan (TIP) was approved at the GVRTC meeting. It is a four year rolling plan that is reviewed annually and can be modified. He added that the TIP itself is renewed every four or five years.

Councilor Karisny added that the Colorado Division of Aeronautics gave a presentation at the GVRTC meeting. He provided the Council with a lot of information from the presentation.

Councilor Karisny said another topic discussed at the GVRTC meeting was the Rural Regional Statewide Bus Network Plan, which tries to create bus routes to urbanized areas. There is a route that comes from Denver and goes to Glenwood Springs which may be extended to Grand Junction, giving potential tourists the opportunity to use the bus route. Councilor Karisny said that there are some problems with the idea because the route is supposed to be able to bring people back and forth in a timely manner.

Councilor Karisny also said that the GVRTC discussed the roundabout project at Broadway and the Redlands Parkway.

Councilor Karisny reported that the new GVRTC routes took effect mid-May and the April analysis showed that the Fruita route was reduced by about four stops. The GVRTC is going to track the current progress of the new routes and possibly make changes to them if necessary.

Councilor Karisny reported on some smaller facts that were discussed at the GVRTC meeting such as the TRANs Bond proposal, Mesa County's coordination of advertising on buses, the contract for GVRTC and the need for RFPs, building compressed natural gas fill stations, the types of buses the GVT has, the plan for replacing buses (1 per year) with the goal of having all the same size and type of bus, and maintenance of the buses.

Todd Hollenbeck stated at the GVRTC meeting that the local funding for the GVRTC is about \$100,000 less than what it had been and he wants to pursue a five-year contract with the local municipalities for future funding.

Councilor Karisny also reported that he attended the Fruita residents and HOA Board members meeting at the Fruita Community Center on May 21st. Code Enforcement Officer Mark Angelo and Officer Ross Young gave a presentation regarding weeds, abandoned vehicles, traffic issues, home occupation businesses, permits that are required, animal complaints, tree issues, trash and other things. He said it would be great to advertise the presentation better and have more people participate in it, although the people who did participate seemed very receptive of the information.

Councilor Karisny said he has had a number of homeowners come to him with lots of different issues and he has referred them to John McBride with Public Works or the City's website where residents can submit their issue online. He added that Mr. McBride has responded incredibly quickly to the residents' concerns.

COUNCILOR KINCAID

Councilor Kincaid reported that Grand Junction Farmers' Market is being moved to the Cross Orchards property owned by the Museum of Western Colorado (MWC).

He also reported that the "Old Fossil" golf event would be held during the weekend of the Fruita Fall Festival. The Chamber is partnering with Family Health West for the event.

Councilor Kincaid said that August 27th was the scheduled date for the Feast of Skulls and the MWC is looking for auction items.

Councilor Kincaid also stated that for the July workshop session, the Council would be meeting with the MWC regarding plans to build fundraising and the status of all their properties.

Councilor Kincaid said that the Tourism Advisory Council met the new owner of Cobb & Associates, TJ Elbert, who did not appear to know a lot about what is going on. Mr. Elbert assured the Board he would get up to speed and get Fruita's tourism on track.

Councilor Kincaid noted that the new billboard on I-70 was the wrong size, so they are in the process of getting a new one installed.

The Tourism Advisory Board also discussed video content for the tourism website, which is one of the main things the Board has budgeted for this year. The Board is working with Aha Consulting to get the tourism website (gofruita.com) moved over to the new platform and it should be ready to be previewed by the end of the week.

COUNCILOR BRACKETT

Councilor Brackett reported that he attended the Police Commission meeting two weeks prior and the board discussed law enforcement issues that have been occurring. Chief Judy Macy gave her report on what's been happening in Fruita, which include a lot of minor incidents that officers have been able to handle without any problem. Chief Macy also mentioned that there were some increases in animals (dogs) getting let loose and not be controlled or on a leash, which led to a couple of minor incidents.

Chief Macy did indicate that there's going to be a Police Commission meeting in July and she will give a report to the Council. Overall, she is pleased with staffing of the Police Department, but is in the same situation as Public Works with needing to get new officers on board once senior officers retire.

Councilor Brackett also reported that the Parks and Recreation Board met the previous Thursday and Mr. Nycum gave a complete report on the trail systems and how well that is going in terms of the grants that have been submitted. He also discussed the raft trip on June 10th and the meeting with the Governor about the City's trails.

Mr. Nycum also gave a report on the update of how well the Fruita Community Center is doing, not only in terms of revenue, but also concerning participation (the number of visits, programs, groups, and special events).

MAYOR BUCK

Mayor Buck stated that the Economic Development Summit was interesting; she stayed until lunch and couldn't stay any longer, but Mr. Bennett and Councilor Kreie stayed through the whole day event.

Mayor Buck also said that the Parks and Recreation Department did a great job at the Mike the Headless Chicken Festival; she heard many compliments about City staff getting the band Cracker to play at the event. She added that it was very well attended and the weather was cooperative.

Mayor Buck said she received e-mails that everyone was okay with only a couple of Council members meeting with the School District, who was also bringing only two or three people to discuss how to attempt to tackle some issues. She asked the Deputy City Clerk to reach out to the School District to come up with a date and time for the lunch meeting.

Mayor Buck noted that the Senior Task Force is kind of stalling out, so she has talked to Mr. Nycum about having the Board meet every other month because the members are just not interested

in doing things. The seniors are still collecting their can money, which they use for specific things like fixing their pool table.

10. CITY MANAGER'S REPORT

Mr. Mike Bennett said that it was amazing that there were 250 chickens in the Council Chambers and the other two rooms upstairs at the Civic Center for the Mike the Headless Chicken Festival. He said staff did a great job of keeping it pretty clean using plastic. This was twice the amount of chickens that were at last year's MTHC festival and he agreed with Mayor Buck that the event was very well attended. Mr. Bennett said that he heard a lot of good things about it.

Mr. Bennett noted that the upcoming Thursday would mark the start of the Thursday Night Concert Series at 7:30 p.m. at Civic Center Park through August 11th. The fourth Friday in June will be the first Food Truck Friday for the summer in Fruita.

Mr. Bennett said that before the Thursday Night Concert on June 9th, the Council Chambers was reserved from 6:00 to 7:00 for Mesa County to conduct a Broadband Community input meeting. He said that one of the steps that City Council took was putting a question on the ballot at the last municipal election to override Senate Bill 152. This will allow the City to more fully participate in a process that is already going on. Mesa and Garfield Counties have a joint grant funded half by the Department of Local Affairs (DOLA) to look into where all the fiber is located in the valley. Part of that process includes getting community input, so Mesa County has advertised a series of meetings just like the one being held in the Council Chambers.

Mr. Bennett continued that as the Counties' grant process goes along (the study), the next phase would be for them to seek grant funds for construction.

Mr. Bennett stated that he has tickets for the Riverfront Concert Series and Dinosaur Day (June 11th from (9:00 am to 5:00 pm) at Dinosaur Journey if anyone wanted them.

Mr. Bennett also said that earlier that day, he had lunch in Montrose with Sam Mamet, Executive Director of the Colorado Municipal League (CML) and most of the City Managers on the Western Slope. It was the first day for the new City Manager at the City of Grand Junction (Greg Caton). At that luncheon, Mr. Bennett learned that because of the Supreme Court lawsuit with the State of Colorado in regards to severance taxes, the state had to give refunds to many companies. The total amount of the refunds is still unknown, so DOLA put a freeze on the April and August cycles of their grant processes. Mr. Bennett pointed out that the City of Fruita has a large grant request in the April cycle for \$1.2 million in combination with a \$2 million request to GOCO. CML was able to keep the (outside of the freeze) direct distribution (which has dramatically changed over the years), so the City of Fruita budgeted about \$150,000 for this year compared to \$1.2 million in 2008 or 2009.

Mr. Bennett said that there is hope that in a couple of weeks that the Joint Budget Committee will address a request to unfreeze the April grant cycle. There is much more concern as to whether there will even be an August cycle or not or how small it will be.

Mr. Bennett said staff was grateful that they had applied in April for the \$1.2 million grant instead of waiting for the August grant cycle. He said he would keep the Council posted.

Mr. Mamet also talked about a number of initiatives that could be on the ballot this year.

Mr. Bennett noted that the Deputy City Clerk was trying to schedule photo sessions for new professional headshots of the City Council. He asked if the Council wanted simple backgrounds for the headshots or something different.

Councilor Kincaid recommended that the same plain background be used for all Council members so they match and won't be time consuming to get done. Mayor Buck and the other Council members agreed.

Mr. Bennett said staff would try to get the photo sessions scheduled for a time before the next regular Council meeting (June 21st).

Mr. Bennett added that he had set aside a date of June 14th to give a tour of City facilities and properties for any Council members that might be interested. Councilors Brackett and Karisny said they were interested in going on the tour.

Mr. Bennett reviewed some of the details for the Council and Department Director's raft trip. Councilor Bonar noted that the water levels keep going up on a daily basis.

11. ADJOURN

With no further business before the Council, the meeting was adjourned at 8:44 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: JULY 5, 2016

RE: LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE LICENSE – MALT, VINOUS, AND SPIRITUOUS AND TASTINGS PERMIT FOR IN THE MIDDLE LIQUORS LOCATED AT 303 HIGHWAY 6 & 50

BACKGROUND

The Retail Liquor Store License and Tastings Permit for In the Middle Liquors located at 303 Highway 6 & 50 are up for renewal. Their current license and Tasting Permit expire on **September 22, 2016**.

Pursuant to Chapter 5.20.090 of the Fruita Municipal Code, Tastings Permits run concurrently with a Retail Liquor Store License renewal. In the Middle Liquors has submitted to the City Clerk's Office the required application form, fee, tastings log and written control plan for the renewal of the Tastings Permit as outlined in Chapter 5.20.090 of the Fruita Municipal Code.

The Police Department report indicates that there have not been any violations or incidents reported to them in the last year and there is nothing unusual or of concern that would hinder renewal of the license. The City Clerk's Office has not been advised of any issues or concerns related to the liquor license during the past year. The Fruita Police Department's memorandum is attached.

There are two current Alcohol Seller/Server Responsibility certificates on file in the City Clerk's Office for employees of In the Middle Liquors. This is a class given by the City of Grand Junction and is the equivalent of TIPS training in the City of Fruita.

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

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

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

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

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

OPTIONS AVAILABLE TO THE COUNCIL

1. Renewal of the Retail Liquor Store License and Tastings Permit.
2. Schedule a hearing date to determine if there is good cause for the license and/or tastings permit to be suspended or revoked.

RECOMMENDATION

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

**RENEW THE RETAIL LIQUOR STORE LICENSE AND TASTINGS PERMIT
FOR IN THE MIDDLE LIQUORS LOCATED AT 303 HIGHWAY 6 & 50.**

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

IN THE MIDDLE LIQUORS
303 US HWY 6 & 50
FRUITA CO 81521

Fees Due	
Renewal Fee	\$227.50
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

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

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name IN THE MIDDLE LIQUORS INC		DBA IN THE MIDDLE LIQUORS		
Liquor License # 42624880000	License Type Liquor Store (city)	Sales Tax License # 42624880000	Expiration Date 09/22/2016	Due Date 08/08/2016
Operating Manager SABRINA DEVEYDT	Date of Birth 10-24-59	Home Address 603 E. INDIAN CREEK DR. - GRAND JUNCTION, CO 81506		
Manager Phone Number 970-210-6334		Email Address IN THE MIDDLE LIQUORS @ GMAIL.COM		
Street Address 303 US HWY 6 & 50 FRUITA CO 81521				Phone Number 9708587791
Mailing Address 303 US HWY 6 & 50 FRUITA CO 81521				

- Do you have legal possession of the premises at the street address above? ☒ YES ☐ NO
Is the premises owned or rented? ☐ Owned ☒ Rented* *If rented, expiration date of lease 8-1-17
- Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. ☐ YES ☒ NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. ☐ YES ☒ NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.
☐ YES ☒ NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. ☐ YES ☒ NO

AFFIRMATION & CONSENT

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

Type or Print Name of Applicant/Authorized Agent of Business SABRINA DEVEYDT	Title CO-OWNER
Signature <i>Sabrina Devaydt</i>	Date 6-20-16

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

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

Local Licensing Authority For The City of Fruita	Date
Signature LORI BUCK	Title MAYOR
	Attest



CITY OF FRUITA TASTINGS PERMIT APPLICATION

This application must be filed with the City of Fruita, 325 E. Aspen, Fruita, Co, 81521, Attn: Deputy City Clerk. To apply for a Tastings Permit, you must already have a Retail Liquor Store License. The application fee is \$100.00 annually. The Tastings Permit will run concurrently with your Retail Liquor Store License. Your check should be made payable to the City of Fruita.

Licensee Name:	IN THE MIDDLE LIQUORS, INC.
DBA:	" "
Physical address:	303 US Hwy 6+50 - FRUITA 81521
Business Phone:	970-858-7791
State License Number:	42624880000

ATTACH a written Control Plan to establish how the Licensee will conduct the tastings.

OATH OF APPLICANT

SD I understand that any server working a Tasting must have *already* completed a Seller-Server or TIPS training as required by the State of Colorado, Department of Revenue, Liquor Enforcement Division Standards.

SD I understand that a log book must be maintained of all Tastings and that this log book must be accessible to city personnel at all times. We recommend that training certificates for all servers involved in Tastings be maintained in this log book.

SD I have received an excerpt of the Tastings regulation but acknowledge that it is my responsibility to keep current on State and City rules and regulations.

SD I understand and agree that it is my responsibility and the responsibility of all of my agents and employees to comply with all applicable law, including all applicable provisions of the Fruita Municipal Code and the Colorado Liquor or Beer Code with affect my license and/or the activities conducted under that license.

Sabrina Delgado
Authorized Signature

Co-Owner
Title

6-29-16
Date

City of Fruita Office Use Only

Date Received <u>6/29/16</u>	Amount Paid <u>100⁰⁰</u>	Date License Sent
Category	License #	Approved <input type="checkbox"/> Denied <input type="checkbox"/>
Check # <u>7905</u>	Cash	Other <u> </u>

June 29, 2016

To: City of Fruita
Tastings Permit Application

From: In The Middle Liquors, Inc.
303 US Hwy 6 & 50
Fruita, CO 81521

Re: Control Plan for Tasting Permit

This letter is to let the City of Fruita know how I will conduct our wine / beer tastings here at In The Middle Liquors:

- Our tasting cart will be located in front of the checkout counters to be viewed by all angles (front counter & camera's).
- It will be staff by my employee's at all times, the ones that have gone to the alcohol serving class. I listed on the other sheet who would be working the cart. They have been told never to leave the cart unattended.
- Each employee has been informed of the rules that City of Fruita have laid down for us and have agreed to follow them. Example: only 4 bottles on the cart, serving only 1oz at a time, & only 4 samples to one customer, etc.
- After 6pm, we will discard (empty) any open bottles that are left on the cart and the cart will be placed in the back till the next use.

I thank you for this opportunity you have given us, and wish great success for the City of Fruita & us on this adventure.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sabrina Deveydt', with a stylized flourish at the end.

Sabrina Deveydt
Co-Owner of In The Middle Liquors, Inc.

LOG OF TASTINGS HELD AT: IN THE MIDDLE LIQUORS

1. Tastings must not exceed five (5) HOURS IN A DAY. The hours do not have to be consecutive.
2. Tastings will not begin before 11:00 a.m. or after 7:00 p.m.
3. Tastings may only occur on four days in a week (Monday to Saturday)
4. Tastings are limited to 104 tasting days per year.

NOTE: ANY VIOLATIONS OF THE CITY OF FRUITA OR STATE LIQUOR CODE MAY RESULT IN REVOCATION, SUSPENSION, AND / OR ENFORCEMENT AS MAY BE IMPOSED BY THE LOCAL LICENSING AUTHORITY.

DATE OF TASTING	SERVER	START	STOP	TOTAL HOURS
9/16/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
9/17/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
9/23/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
9/24/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
9/30/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
10/1/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
10/7/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
10/8/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
10/14/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
10/15/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
10/21/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours

10/22/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
10/28/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
10/29/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
11/4/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
11/5/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
1/11/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
11/12/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
11/18/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
11/19/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
11/23/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
11/26/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
12/2/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
12/3/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
12/9/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
12/10/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
12/16/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
12/17/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours

12/23/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
12/24/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
12/30/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
12/31/2016	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
1/6/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
1/7/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
1/13/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
1/14/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
1/20/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
1/21/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
1/27/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
1/28/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
2/3/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
2/4/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
2/10/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
2/11/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
2/17/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours

2/18/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
2/24/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
2/25/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
3/3/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
3/4/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
3/10/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
3/11/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
3/17/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
3/18/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
3/24/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
3/25/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
3/31/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
4/1/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
4/7/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
4/8/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
4/14/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
4/15/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours

4/21/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
4/22/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
4/28/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
4/29/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
5/5/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
5/6/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
5/12/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
5/13/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
5/19/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
5/20/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
5/26/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
5/27/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
6/2/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
6/3/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
6/9/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
6/10/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
6/16/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours

6/17/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
6/23/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
6/24/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
6/30/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
7/1/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	1:00 p.m.	3:00 p.m.	2 hours
7/7/2017	Mackenzie Hone or Sonja Larson will be serving beer or wine - cart will be located in front of check out countiers	3:00 p.m.	6:00 p.m.	3 hours
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**CITY OF FRUITA
MEMORANDUM**

TO:	FRUITA POLICE DEPARTMENT
FROM:	DEBRA WOODS, DEPUTY CITY CLERK
DATE:	JUNE 21, 2016
RE:	RETAIL LIQUOR LICENSE RENEWAL
License Information	
Licensee:	IN THE MIDDLE LIQUORS
Location:	303 HIGHWAY 6 & 50
Type of License:	RETAIL LIQUOR STORE - MALT VINOUS AND SPIRITUOUS LIQUOR LICENSE
Expiration Date of Current License:	SEPTEMBER 22, 2016
City Council Hearing Date :	JULY 5, 2016
DUE DATE FOR POLICE REPORT:	JULY 1, 2016

**Tips certificates on File
(CITY OF GJ SELLER/SERVER RESPONSIBILITY TRAINING)**

Employee:	Date of Training:
JANET GILSTAD	4/9/2014
JAVIER GUZMAN	4/9/2014

Report of Fruita Police Department

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

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

Signature <u>Paula Ropuch</u>	Date <u>6-21-16</u>
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AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK FOR COUNCILOR KYLE HARVEY

DATE: JULY 5, 2016

RE: RIVERFRONT COMMISSION APPOINTMENTS

BACKGROUND

The Riverfront Commission Interview Committee interviewed candidates on Monday, June 20, 2016 and recommend the following appointments for three year terms until June 2019:

Larry Copeland (reappointment)3 year term
William Findlay (reappointment)3 year term
Laney Heath.....3 year term
Orilee Witte3 year term

FISCAL IMPACT

N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Representation of the City on regional boards and commission help to promote the City's interests and concerns and provides a link between these agencies and the City of Fruita.

OPTIONS AVAILABLE TO THE COUNCIL

1. Accept, deny or amend the recommendations of the selection committee for appointments to the Riverfront Commission

RECOMMENDATION

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

APPROVE THE RECOMMENDATION OF THE RIVERFRONT COMMISSION INTERVIEW COMMITTEE AND APPOINT THE INDIVIDUALS NOTED TO THE RIVERFRONT COMMISSION FOR THE SPECIFIED TERMS

Debra Woods

From: Stephanie Tuin [stepht@ci.grandjct.co.us]
Sent: Wednesday, June 22, 2016 9:13 AM
To: Debra Woods; Margaret Steelman; kristen.cole@mesacounty.us; lchitwood@townofpalisade.org
Subject: Riverfront Commission
Attachments: Stephanie Tuin.vcf

Hello everyone,

I am not sure if your interview rep passed along to you their recommendation for appointments to the Riverfront Commission. Their recommendation is reappointing Larry Copeland and William Findlay, and appointing Laney Heath and Orilee Witte. Please have your governing body make these appointments and let me know when this has happened so we can contact these applicants and let them know.

Call if you have any questions.

Thanks!

Stephanie Tuin, MMC

Grand Junction City Clerk

970-244-1511

stepht@gjcity.org



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL
FROM: DEBRA WOODS FOR MAYOR BUCK AND COUNCILOR BRACKETT
DATE: JUNE 5, 2016
RE: BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF AMANDA EWING TO THE PARKS AND RECREATION ADVISORY BOARD TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN FEBRUARY OF 2021

BACKGROUND

On June 28, 2016 City staff was advised that Parks and Recreation Board member Jaynie Searcy verbally resigned from the board, thus creating a vacancy.

Amanda Ewing submitted an application for a seat on the Parks and Recreation Board on May 11, 2016 (copy attached).

If Ms. Ewing is appointed, there will be no vacancies remaining on the Parks and Recreation Advisory Board.

FISCAL IMPACT

N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Boards and Commissions provide valuable input to the City and help establish goals and objectives. They provide a link between citizens of Fruita and city government.

OPTIONS AVAILABLE TO THE COUNCIL

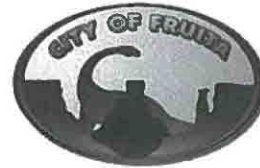
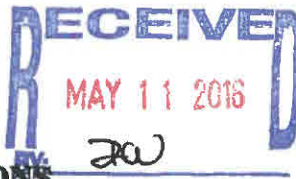
1. Appoint Amanda Ewing to the Parks and Recreation Board.
2. Instruct staff to publish a notice of vacancy and repeat the process.

RECOMMENDATION

It is the recommendation of Mayor Buck and Councilor Brackett that the City Council by motion:

- **APPROVE THE APPOINTMENT OF AMANDA EWING TO THE PARKS AND RECREATION ADVISORY BOARD TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN FEBRUARY OF 2021**

**CITY OF FRUITA
BOARDS AND COMMISSIONS
MEMBERSHIP APPLICATION**



BOARD OR COMMISSION: Parks and Rec

NAME: Amanda Ewing

MAILING ADDRESS: 151 Ponderosa Dr.
Fruita, CO 81521

RESIDENCE ADDRESS: same as above

PHONE NUMBER: 970-275-2165 970-244-3023
Home Work

E-MAIL ADDRESS: panda521@yahoo.com

How long have you been a resident of Fruita? 1.5 years

Occupation/Employer: BLM contractor

List any volunteer and/or work experience:

I have worked for government agencies including Forest Service, Bureau of Land Management, and Natural Resources Conservation Service. I have knowledge of numerous laws and regulations that pertain to working with private landowners and managing public lands.

Are you presently serving on a board or commission? If so, which one(s)?

Orchard Valley HOA- member at large

Why do you want to be a member of this board or commission?

My desire is two tiered. Firstly, I want to develop a strong bond with the community in order to feel like it is truly my community. This requires me to get involved and be a part of what is already here. Secondly, I want to be helpful. Honestly I'm not entirely sure how I can be of help, yet. It seems like offering my time is a good first step

List any abilities, skills, or interests which are applicable to the board or commission for which you are applying.

As a parent, I realize the value of having various facilities to encourage getting outside and enjoying the wonderful weather we have in Fruita instead of sitting inside looking at electronic devices. There are numerous studies showing how being outside is good for mental health. I'm personally interested in having good mental health and definitely interested in living in a community that is striving to provide those opportunities. I feel lucky to live in a place that has such nice infrastructure and I get excited thinking about all the possibilities to come.

City of Fruita
Boards and Commissions Application
Page 2

Are you committed to attending meetings?



Yes



No

Are you committed to serving an entire term?



Yes



No

Please specify any activities which might create serious conflict of interest if you should be appointed to a particular board or commission. (If unsure, please call the City Manager's office at 858-3663)

List any licenses, certificates or other specialized training applicable to the board or commission for which you are applying.

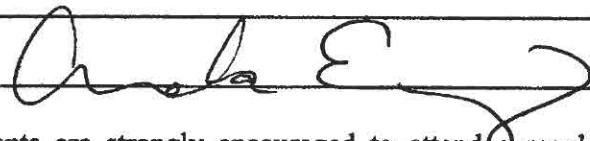
Degree in Wildlife Biology
Mother of two preteen girls- I think this counts for specialized training

Additional information or references you believe may be helpful in considering your application.

Katie Stevens- BLM Grand Junction Field Office Manager
kasteven@blm.gov; 970-244-3010

Justin Clifton- Sedona City Manager
jclifton@sedonaz.gov; 928-204-7127

Signature



Date 5-11-16

All applicants are strongly encouraged to attend a regularly scheduled meeting of the board or commission for which they are applying. Frequent non-attendance may result in termination of the appointment.

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES

Please feel free to submit a resume along with this application. Application and any attachments should be returned to the Fruita City Council c/o the City Clerk, 325 E. Aspen, Fruita, CO 81521. Although we have indicated the best time to apply for a particular board, we accept applications for any of the boards year-round. Thank you.

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: MARGARET SELL, FINANCE DIRECTOR
DATE: JULY 5, 2016
RE: ORDINANCE 2016-07 – SECOND READING – AN ORDINANCE ADOPTING A
FRANCHISE AGREEMENT WITH BRESNAN COMMUNICATIONS LLC (AKA
CHARTER COMMUNICATIONS)

BACKGROUND

The City of Fruita has had a Franchise Agreement for cable television services since 1968. The last agreement was adopted in 2004 and was extended for an additional two year term in 2013. This ordinance adopts a new Franchise Agreement with Bresnan Communications. A franchise agreement allows Bresnan the use of the city right of way for the operation of the cable television system. In exchange for the use of right of way, a franchise fee is assessed on the gross revenue. The following is a summary of the major terms contained in the Franchise Agreement

1. Nonexclusive use of streets to construct and maintain any fixtures necessary for the maintenance and operation of the cable system.
2. Term. The term of the Franchise Agreement is 10 years with an automatic 5 year extension unless either party notifies the other of its desire not to extend the agreement at least 3 years before the expiration date.
3. Franchise Fee. Bresnan shall pay 3% of gross revenues to the City for the use of city streets. This is an increase from the 2.5% franchise fee currently in effect.
4. Community Programming. Option for future use of cable system for noncommercial video programming for education and government access programming and provisions for funding a portion of community programming services through a subscriber fee not to exceed \$0.04 per subscriber.

FISCAL IMPACT

This ordinance increases the franchise fees received by the City and will increase revenue from \$12,000 to \$15,000 on an annual basis (based on 2015 revenues).

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Maintenance and repair of the City's infrastructure is one of the primary goals and objectives of the City. The Franchise Agreement allows for use of city streets by outside agencies with franchise fees received to offset the cost of the City's ongoing obligation to maintain streets.



City of Fruita
325 E. Aspen,
Fruita, CO 81521
(970) 858-3663
www.fruita.org

OPTIONS TO THE COUNCIL:

1. Publish the Ordinance for public hearing with or without amendments

RECOMMENDATION:

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

**ADOPT ORDINANCE 2016-07 GRANTING A FRANCHISE TO BRESNAN COMMUNICATIONS,
LCC TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY
OF FRUITA, COLORADO**

ORDINANCE 2016-07

AN ORDINANCE GRANTING A FRANCHISE TO BRESNAN COMMUNICATIONS, LLC, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF FRUITA, COLORADO:

WHEREAS, the City of Fruita, Colorado granted a Franchise to construct, operate, and maintain a cable television system to Bresnan Communications, LLC, (hereinafter referred to as "Grantee" and also known locally as Charter Communications), the current operator of the cable system in the City of Fruita through the adoption of Ordinance 2004-27 dated December 7, 2004; and

WHEREAS, a two year extension was granted to the Franchise Agreement by the City of Fruita, Colorado through the adoption of Ordinance 2013-04 dated April 16, 2013, and

WHEREAS, the City Fruita finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community; and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

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

SECTION 1 **Definition of Terms**

1.1 Terms. For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural

number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. "Cable System," "Cable Service," and "Basic Cable Service" shall be defined as set forth in the Cable Act.
- B. "Board/Council" shall mean the governing body of the Grantor.
- C. "Cable Act" shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
- D. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.
- E. "Franchise" shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the public ways within all or a specified area in the Service Area.
- F. "Gross Revenue" means any revenue, as determined in accordance with generally accepted accounting principles, received by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that such phrase shall not include: (1) any taxes, fees or assessments collected by the Grantee from Subscribers for pass-through to a government agency, including, without limitation, the FCC user fee, the franchise fee, or any sales or utility taxes; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law and (5) any Educational and Governmental ("EG") access fees (as described in Section 13 hereof) recovered from Subscribers.
- G. "Person" shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- H. "Service Area" shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto.
- I. "State" shall mean the State of Colorado.
- J. "Street" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights of way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Service

Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

- K. "Subscriber" shall mean any Person lawfully receiving Cable Service from the Grantee.

SECTION 2

Grant of Franchise

2.1 Grant. The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, State or local law.

2.2 Term. The Franchise and the rights, privileges and authority hereby granted shall be for an initial term of ten (10) years, commencing on the Effective Date of this Franchise as set forth in Section 15.10. This Franchise will be automatically extended for an additional term of five (5) years from the expiration date as set forth in Section 15.10, unless either party notifies the other in writing of its desire to not exercise this automatic extension (and enter renewal negotiations under the Cable Act) at least three (3) years before the expiration of this Franchise. If such a notice is given, then the parties will proceed under the federal Cable Act renewal procedures.

2.3 Police Powers and Conflicts with Franchise. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance necessary to the safety, health, and welfare of the public, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Grantor. In the event of any conflict between this Franchise and any Grantor ordinance or regulation that is not generally applicable, this Franchise shall control.

2.4 Cable System Franchise Required. No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise.

SECTION 3
Franchise Renewal

3.1 Procedures for Renewal. The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

SECTION 4
Indemnification and Insurance

4.1 Indemnification. The Grantee shall, by acceptance of the Franchise granted herein, defend the Grantor, its officers, boards, commissions, agents, and employees, for all claims for injury to any Person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within ten (10) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determined in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to represent the Grantor. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System, including any EG channels.

4.2 Insurance.

- A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, Combined Single Liability (C.S.L.) \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos Umbrella Liability	\$1,000,000 per occurrence C.S.L.

Umbrella Liability

\$1,000,000 per occurrence C.S.L.

- B. The Grantor shall be added as an additional insured, arising out of work performed by Charter, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.
- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

SECTION 5

Service Obligations

5.1 No Discrimination. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

5.2 Privacy. The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

SECTION 6

Service Availability

6.1 Service Area. The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least thirty (30) residences per linear strand mile of cable (excluding any home subscribing to any satellite service) as measured from Grantee's closest trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for service. If such residence is located within one hundred twenty five (125) feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rate for standard installations. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee or to any area which is financially or technically infeasible. Grantee at its discretion may make Cable Service available to businesses within the Service Area. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided. Nothing herein shall be construed to limit the Grantee's ability to offer or provide bulk rate discounts or promotions.

6.2 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 6.1 above, the Grantee shall only be required to extend the Cable System to Subscribers in that area if the Subscribers are willing to share the capital costs of extending the Cable System. The Grantee may require that payment of the capital contribution in aid of construction borne by such

potential Subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the Cable System from the tap to the residence.

6.3 Underground New Development. In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior written notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the five day period, the cost of new trenching is to be borne by Grantee.

6.4 Annexation. The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise upon sixty (60) days written notice from the Grantor, subject to the conditions set forth below and Section 6.1 above. The Grantor shall also notify Grantee in writing of all new street address assignments or changes within the Service Area. Grantee shall within ninety (90) days after receipt of the annexation notice, pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the Grantor if the Grantor has provided a written annexation notice that includes the addresses that will be moved into the Service Area in an Excel format or in a format that will allow Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Service Area, Grantee shall pay franchise fees within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 15.5 with a copy to the Director of Government Relations. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this section.

SECTION 7

Construction and Technical Standards

7.1 Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.

7.2 Construction Standards and Requirements. All of the Grantee's plant and equipment, including but not limited to the antenna site, head end and distribution system, towers, house

connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 Safety. The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

7.4 Network Technical Requirements. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

7.5 Performance Monitoring. Grantee shall test the Cable System consistent with the FCC regulations.

SECTION 8

Conditions on Street Occupancy

8.1 General Conditions. Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property without obtaining all legally required permits of the Grantor.

8.2 Underground Construction. The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities.

8.3 Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street within the Service Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. The Grantee shall adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the Cable System in the Service Area, provided that such codes are of general applicability and such codes are uniformly and consistently applied by the Grantor as to other public utility companies and

other entities operating in the Service Area. Notwithstanding the above, the Grantee may set off any administrative permit fees or other fees required by the Grantor related to the Grantee's use of Grantor rights-of-way against the franchise fee payments required under Section 10.1 of this Franchise.

8.4 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8.5 Restoration of Public Ways. Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

8.6 Removal in Emergency. Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Grantor to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence by the Grantor.

8.7 Tree Trimming. Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

8.8 Relocation for the Grantor. The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.

8.9 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is give reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall

be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

8.10 Reimbursement of Costs. If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

8.11 Emergency Use. If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorneys' fees and costs.

SECTION 9 **Service and Rates**

9.1 Phone Service. The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

9.2 Notification of Service Procedures. The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. Grantee shall give the Grantor thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

9.3 Rate Regulation. Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC.

9.4 Continuity of Service. It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee's rights under Section 15.1 of this Franchise.

SECTION 10
Franchise Fee

10.1 Amount of Fee. Grantee shall pay to the Grantor an annual franchise fee in an amount equal to three percent (3%) of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fees under federal law. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law.

10.2 Increase in Franchise Fees.In the Event the City decides during the term of this Agreement to assess a franchise fee of a greater amount than the franchise fee specified in Section 10.1 of this Agreement, Grantee agrees to pay to the City the new amount after a public hearing in which the public and Grantee are given an opportunity to comment on the impact of the higher fee and the City Council has adopted an ordinance approving a negotiated franchise amendment imposing such increased fee. In no event shall Grantee pay a franchise fee greater than the maximum provided by applicable law. Such increased fee shall take effect on the next available billing cycle in which the higher fee may be placed on Subscribers' bills.

10.3 Payment of Fee. Payment of the fee due the Grantor shall be made on a quarterly basis, within forty-five (45) days of the close of each calendar quarter and transmitted by electronic funds transfer to a bank account designated by Grantor. The payment period and the collection of the franchise fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise as set forth in Section 15.10. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges.

10.4 Accord and Satisfaction. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

10.5 Limitation on Recovery. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due. If any Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from the last day of the fiscal year in which payment was due, at the annual rate of one (1%) percent over the prime interest rate.

SECTION 11

Transfer of Franchise

11.1 Franchise Transfer. The Franchise granted hereunder shall not be assigned, other than by operation of law or to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

SECTION 12

Records, Reports and Maps

12.1 Reports Required. The Grantee's schedule of charges for regular Subscriber service, its policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Grantor upon request.

12.2 Records Required.

The Grantee shall at all times maintain:

- A. A record of all written complaints received regarding interruptions or degradation of Cable Service, which record shall be maintained for one (1) year.
- B. A full and complete set of plans, records and strand maps showing the location of the Cable System.

12.3 Inspection of Records. Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any and all of Grantee's records maintained by Grantee as is reasonably necessary to ensure Grantee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential books, records or maps that constitute proprietary or confidential information to the extent Grantee make the Grantor aware

of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person.

SECTION 13
Education and Government (EG) Access

13.1 Community Programming.

A. Upon the second and fifth anniversary of this Franchise, upon written request of the Grantor, the Grantor and Grantee will meet to discuss the possibility of providing one (1) channel on the Cable System for use by the Grantor for non-commercial, video programming for education and government ("EG") access programming. The EG channel may be placed on any tier of service available to subscribers. If all of the following conditions are satisfied, Grantee will provide one (1) downstream access Channel upon no less than 120 days' written notice from the Grantor following such meeting and receipt of the following:

- (1) Grantor has passed a resolution stating that there is demonstrated community need for EG access programming;
- (2) Grantor has passed a resolution in which it agrees to fund all the operational expenses for such programming;
- (3) Grantor provides a letter to Grantee identifying those entities or persons who will be responsible for providing access programming and agreeing to indemnify Grantee for any negligence or willful misconduct of such entities or persons for such access programming; and
- (4) A statistically-significant representative sample survey of Subscribers in the Service Area indicates that more than twenty-five percent (25%) of Subscribers are somewhat interested or very interested in viewing EG access programming; provided, however, that any such survey shall be at Grantee's option and cost, and shall be conducted and concluded within ninety (90) days of the meeting with the Grantor described above. If Grantee opts not to conduct such a survey, then this subsection (4) shall not be a condition to providing EG Funding.

B. If the EG channel provided pursuant to this section is occupied by non- local or character-generated programming fifty (50%) percent of the time during "regular viewing hours" for any ten (10) consecutive week period, the Grantee shall have a right to a return of the EG channel upon one hundred twenty (120) days' notice to

Grantor of its intent to reclaim the EG channel. For purposes of this subsection, "regular viewing hours" shall be the hours between 1 p.m. and 11 p.m., Monday through Friday, and between noon and midnight on weekends.

13.2 Community Access Funding.

- A. Upon the second and fifth anniversary of this Franchise, upon written request of the Grantor, the Grantor and Grantee will meet to discuss the possibility of providing capital funding for Grantor's non-commercial, video programming for education and government ("EG") access programming ("EG Funds"). The Grantor shall prepare an EG Funding plan that will identify the capital support needed to fund the EG access. The Grantor and Grantee shall agree upon the amount of such capital support and the amount to be recovered from Subscribers. If all of the following conditions are satisfied, Grantee will provide EG Funds upon no less than 120 days' written notice from the Grantor following such meeting and receipt of the following:
 - a. Grantor has passed a resolution requesting that the Grantee begin collecting EG Funds from Subscribers, not to exceed \$.04 per subscriber per month for payment to the Grantor;
 - b. Grantor has passed a resolution in which it agrees:
 - i. to fund all the operational expenses for such programming; and
 - ii. to only use such EG Funds for capital expenses in accordance with federal law.
 - iii. A statistically-significant representative sample survey of Subscribers in the Service Area indicates that more than twenty-five percent (25%) of Subscribers are somewhat interested or very interested in viewing EG access programming; provided, however, that any such survey shall be at Grantee's option and cost, and shall be conducted and concluded within ninety (90) days of the meeting with the Grantor described above. If Grantee opts not to conduct such a survey, then this subsection (iii) shall not be a condition to providing EG Funding.
- B. All EG Funds must be spent for EG capital in compliance with federal law. Grantee shall have the right to request information from the Grantor about use of the EG Funds to confirm such compliance.
- C. Grantee shall have the right to stop its collection from Subscribers and payment to the Grantor of the EG Funds if Grantee no longer carries any EG channels on its Cable System.

SECTION 14
Enforcement or Revocation

14.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

14.2 Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

14.3 Public Hearing. If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Board shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with subsection 15.5 hereof. The Grantee shall have the right to present evidence and to question witnesses. The Grantor shall determine if the Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Grantee may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

14.4 Enforcement. Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 14.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 14.5 below.

14.5 Revocation.

- A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of

substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

- B. At the hearing, the Board shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Board shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Board *de novo*. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.
- C. Notwithstanding the above provisions, the Grantee does not waive any of its rights under federal law or regulation.
- D. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place.

14.6 Conditions of Sale.

- A. If a renewal of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.
- B. The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given no more than twelve (12) months to effectuate a transfer of its Cable System to a qualified third party. During said time period, Grantee shall exercise all due diligence to effectuate a transfer. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the

Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

SECTION 15

Miscellaneous Provisions

15.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

15.2 Minor Violations. Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

15.3 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

15.4 Equal Protection. If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Grantor, the Grantor shall within thirty (30) days of a written request from Grantee, modify this Franchise to insure that the obligations applicable to Grantee are no more burdensome than those imposed on the new competing provider. If the Grantor fails to make modifications consistent with this requirement, Grantee's Franchise shall be deemed so modified thirty (30) days after the Grantee's initial written notice. As an alternative to the Franchise modification request, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired thirty (30) days after written notice to the Grantor. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity.

15.5 Notices. Unless otherwise provided by federal, State or local law, all notices, reports or demands pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested, nationally or internationally recognized courier service such as Federal Express or electronic mail communication to the designated electronic mail address provided below. Grantee shall provide thirty (30) days' written notice of any changes in rates, programming services or channel positions using any reasonable written means. As set forth above, notice served upon the Grantor shall be delivered or sent to:

Grantor: City of Fruita
c/o City Manager
325 E. Aspen Ave., Ste 155
Fruita, CO 81521

Grantee: Bresnan Communications, LLC. by
Charter Communications, Inc., its Manager
VP/GM, KMA
1860 Monad Road
Billings, MT 59102

Copy to: Charter Communications
Attn: Vice President of
Government Affairs
12405 Powerscourt Drive
St. Louis, MO 63131

15.6 Public Notice. Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Grantor.

15.6.1 Grantor shall provide written notice to Grantee within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 15.6 above.

15.7 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent

jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

15.8 Entire Agreement. This Franchise and any Exhibits hereto constitute the entire agreement between Grantee and the Grantor and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

15.9 Administration of Franchise. This Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee. Any determination by the Grantor regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

15.10 Effective Date. The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. This Franchise shall expire on _____, 2026, unless extended in accordance with Section 2.2 of the Franchise or by the mutual agreement of the parties. If any fee or grant that is passed through to Subscribers is required by this Franchise, other than the franchise fee, such fee or grant shall go into effect sixty (60) days after the Effective Date of this Franchise.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 5TH DAY OF JULY, 2016**

ATTEST:

City of Fruita

City Clerk

Lori Buck Mayor

ACCEPTANCE

Accepted this ____ day of _____, 2016, subject to applicable federal, State and local law.

Bresnan Communications, LLC
By Charter Communications, Inc., its Manager

Signature: _____

Print Name: _____

Title: _____

Franchise Ordinance
City of Fruita, Colorado
Bresnan Communications, LLC.

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: MARGARET SELL, FINANCE DIRECTOR
DATE: JULY 5, 2016
RE: ORDINANCE 2016-08 – SECOND READING – AN ORDINANCE AMENDING CHAPTER 2.28 OF THE FRUITA MUNICIPAL CODE CONCERNING MUNICIPAL COURT

BACKGROUND

The Fruita City Council directed staff to prepare an ordinance amending the Municipal Code concerning the organization and structure of the Municipal Court as it relates the Court Clerk position to reflect changes in the supervision of the Court Clerk and other housekeeping changes.

- The attached ordinance makes changes to the process for establishing compensation for the Judge and Court Clerk with these amounts established through the adoption of the budget.
- The language “Clerk of the Court” has been changed to read “Municipal Court Clerk”.
- The responsibility for appointment and supervision of the Municipal Court Clerk is changed from the Judge, an independent contractor, to the City Manager or his designee as an employee of the City required to follow established personnel policies and procedures.

FISCAL IMPACT

There is no fiscal impact from the adoption of this ordinance.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This ordinance aligns the City’s laws as they relate to city employees and independent contractors with regulatory guidelines published by the IRS concerning determination of independent contractor status vs employee status.

OPTIONS TO THE COUNCIL:

1. Publish a notice of public hearing for the ordinance (as presented or with amendments) for further consideration by the Council.
2. Take no action and leave the existing ordinances in effect.

RECOMMENDATION:

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

ADOPT ORDINANCE 2016-08 AMENDING CHAPTER 2.28 OF THE FRUITA MUNICIPAL CODE CONCERNING MUNICIPAL COURT

ORDINANCE 2016-08

**AN ORDINANCE AMENDING CHAPTER 2.28 OF THE FRUITA MUNICIPAL CODE
CONCERNING MUNICIPAL COURT**

WHEREAS, there are outdated provisions in the Fruita Municipal Code relating to the administration of personnel of the Fruita Municipal Court which need to be updated to reflect current employment practices of the City of Fruita, and

WHEREAS, it is the intent of this ordinance to update personnel provisions related to Municipal Court.

**BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA,
COLORADO:**

Section 1: Section 2.28.080 of the Fruita Municipal Code and Ordinance 2000-08, S1 (part) is hereby amended as follows:

2.28.080 MUNICIPAL JUDGES-COMPENSATION. The City Council shall provide ~~by ordinance~~ for the salary of the Municipal Judge. Such salary shall be a fixed annual compensation and payable on a monthly or other periodic basis. Payment of any fees or other compensation based directly on the number of individual cases handled or heard by the Municipal Judge is prohibited. If an assistant or associate municipal judge acts in the absence of the Municipal Judge, ~~his~~ **THE** salary may be adjusted so as to compensate the assistant or associate municipal judge.

Section 2: Section 2.28.110 of the Fruita Municipal Code and Ordinance 2000-08, S1 (part) is hereby amended as follows:

2.28.110 COURT CLERK-POSITION ESTABLISHED. There is hereby established the position of ~~Clerk of the~~ Municipal Court **CLERK**. ~~Provided however, The presiding Municipal Judge may serve as ex-officio clerk if the business of the Court is insufficient to warrant a separate full-time or part-time clerk.~~

Section 3: Section 2.28.120 of the Fruita Municipal Code and Ordinance 2000-08, S1 (part) is hereby amended as follows:

2.28.120 COURT CLERK-APPOINTMENT. The MUNICIPAL COURT Clerk ~~of the Municipal Court~~ shall be appointed AND SUPERVISED by the ~~Municipal Judge~~ CITY MANAGER OR HIS DESIGNEE. ~~In addition, the Municipal Judge shall exercise supervisory powers concerning the job performance of the Clerk, and shall have the power to discipline or terminate the Clerk in accordance with the City of Fruita's personnel policies and procedures.~~ INPUT FROM THE MUNICIPAL JUDGE WILL BE CONSIDERED IN THE APPOINTMENT, SUPERVISION AND EVALUATION OF THE MUNICIPAL COURT CLERK.

Section 4: Section 2.28.130 of the Fruita Municipal Code and Ordinance 2000-08, S1 (part) is hereby amended as follows:

2.28.130 COURT CLERK-DUTIES. The ~~Clerk of the~~ Municipal Court CLERK shall have such duties as are delegated to ~~him~~ THE COURT CLERK by ordinance, court rule, THE CITY MANAGER OR HIS DESIGNEE. ~~or by the Municipal Judge.~~ The Municipal Court Clerk shall file monthly reports with the City Clerk of all fines and costs collected or received by the Municipal Court, and shall SUBMIT ALL SUCH FINES AND COSTS ~~pay~~ to the ~~City Treasurer~~ FINANCE DIRECTOR ~~said fines and costs which shall~~ TO be deposited in the general fund of the City.

Section 5: Section 2.28.140 of the Fruita Municipal Code and Ordinance 2000-08, S1 (part) is hereby amended as follows:

2.28.140 COURT CLERK-COMPENSATION. The City Council shall provide ~~by ordinance~~ for the salary of the ~~Clerk of~~ Municipal Court CLERK, ~~except that if the Municipal Judge serves as ex-officio clerk, he shall not receive any additional compensation.~~

Section 6: Section 2.28.150 of the Fruita Municipal Code and Ordinance 2000-08, S1 (part) is hereby amended as follows:

2.28.150 COURT CLERK-BOND. The ~~Clerk of the~~ Municipal Court CLERK shall give a performance bond in the sum of not less than \$2,000.00 to the City. The performance bond shall ~~be approved by the City Council and~~ be conditioned upon the faithful performance of ~~his~~ THE duties OF THE COURT CLERK, and for the faithful accounting for, and payment of, all funds deposited with or received by the Court. ~~When the Municipal Judge serves as ex-officio Clerk of the Municipal Court, he shall execute the performance bond required by this Section.~~

Section 7: Section 2.28.160 of the Fruita Municipal Code and Ordinance 2000-08, S1 (part) is hereby amended as follows:

2.28.160 COURT FACILITIES AND SUPPLIES; APPROPRIATIONS. The City Council shall furnish the Municipal Court with suitable courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies, and furniture for the proper conduct of the business of the Court. The City Council shall, on an annual basis, budget and appropriate funds to pay the annual salary of the Municipal Court Judge and any ~~assistant~~ **ASSOCIATE** judges, the salary of the Municipal Court Clerk, together with the other expenses as may be necessary for the proper operation of the Municipal Court.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS ____ DAY OF _____, 2016**

ATTEST:

City of Fruita

Margaret Sell, City Clerk

Lori Buck, Mayor



AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Community Development Department

DATE: July 5, 2016

RE: Great Divide Villa, Conditional Use Permit
(Application #2016-09)

BACKGROUND

This is a request for a Conditional Use Permit (CUP) for a Bed & Breakfast business (also known as a vacation rental by owner or VRBO) in an existing house located at 1950 Timber Falls Drive and is in a Planned Unit Development (PUD) zone. The Land Use Code requires a CUP for this type of business in all residential zones, and this PUD is for mainly residential land uses.

The subject property contains a 2,567 square foot, 4 bedroom and 2 ½ baths single family detached dwelling unit on an almost 3 acre lot located on Timber Falls Drive. The entire house is intended to be available for rent on a less than month-to-month basis, and the owners have requested approval of a CUP for this use.

The proposed CUP meets or can meet all approval criteria and standards that must be considered for a Bed & Breakfast use and a CUP. No written public comments were received. No reviewers expressed a significant concern regarding the proposed use. There are no major concerns with the proposed CUP for a Bed & Breakfast (VRBO) business with the exception of an address problem in this area.

The addresses in this area don't fit in the city's address number grid system. Sometime last year, emergency medical services had a difficult time finding the location of a house along Timber Falls Drive because the address grid numbers and street names are incorrect. Timber Falls Drive was approved as a private shared driveway, not as a public roadway, in 1997, and the plat of the subdivision did not identify any names for streets or driveways. Subsequent plats to create more lots identify the shared driveway and don't identify a name for the driveway. The address numbers assigned to the lots in the subdivisions correspond to the 1900 block of Frontage Road, an east-west road, so all

houses should be addressed as the 1900 block of Frontage Road. Between 2000 and 2006, the private shared driveway acquired the name Timber Falls Drive, which is oriented north-south, and is in the 1600 block of the city's address grid. All lots in this area are addressed with 1900 numbers and some lots use the name Frontage Road, and some houses use the name Timber Falls Drive, leading to more confusion.

Additionally, the Mesa County Assessor's Office identifies the subject property as 1953 Frontage Road, yet the property owners believe that their address is 1950 Frontage Road. Staff recommends that the address issues be resolved so that guests of this vacation rental business do not have problems if emergency services are necessary. Additionally, solving the address issues in this area will help guests and visitors find this business or other properties in the area and will help avoid long term problems with deliveries as well as emergency services. This issue should be resolved before the business becomes operational.

Staff recommends that the private driveway not be named and require all lots be readdressed with Frontage Road for the street name. This avoids problems with determining who is responsible for maintaining the driveway (because it appears to be a public street) including eliminating the need for private property owners to maintain a street sign which is an on-going problem in the city. Staff can spearhead this issue to help resolve the problem as soon as possible.

The owners of the subject property are aware of the need to resolve this issue.

At the June 14, 2016, Planning Commission public hearing, the project was on the Commission's consent agenda and was recommended for approval by a vote of 5-0.

FISCAL IMPACT

The proposed CUP should have a positive fiscal impact on the city. The use appears to be compatible with the surrounding area and will generate lodging tax used to market and promote the city.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This CUP meets or can meet all approval criteria and standards of Fruita's Land Use Code (2009, as amended). The Land Use Code (along with other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implement the City's goals and policies as outlined in the City's Master Plan including the Fruita Community Plan.

OPTIONS AVAILABLE TO COUNCIL

1. Deny the proposed Conditional Use Permit.
2. Approve the proposed Conditional Use Permit with or without conditions.

RECOMMENDATION

Staff recommends that the City Council move to approve application Great Divide Villa Conditional Use Permit for a Vacation Rental (Bed & Breakfast) with the condition that the address issue be resolved before the business becomes operational.



**Community Development Department
Staff Report
June 8, 2014**

Application #: 2016-09
Applicant: Rick and Tona Goering
Application Name: Great Divide Villa
Application Type: Conditional Use Permit
Location: 1950 Timber Falls Drive
Zone: Planned Unit Development

Request: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). A Conditional Use Permit is needed to have a Bed and Breakfast in this PUD zone.

Project Description:

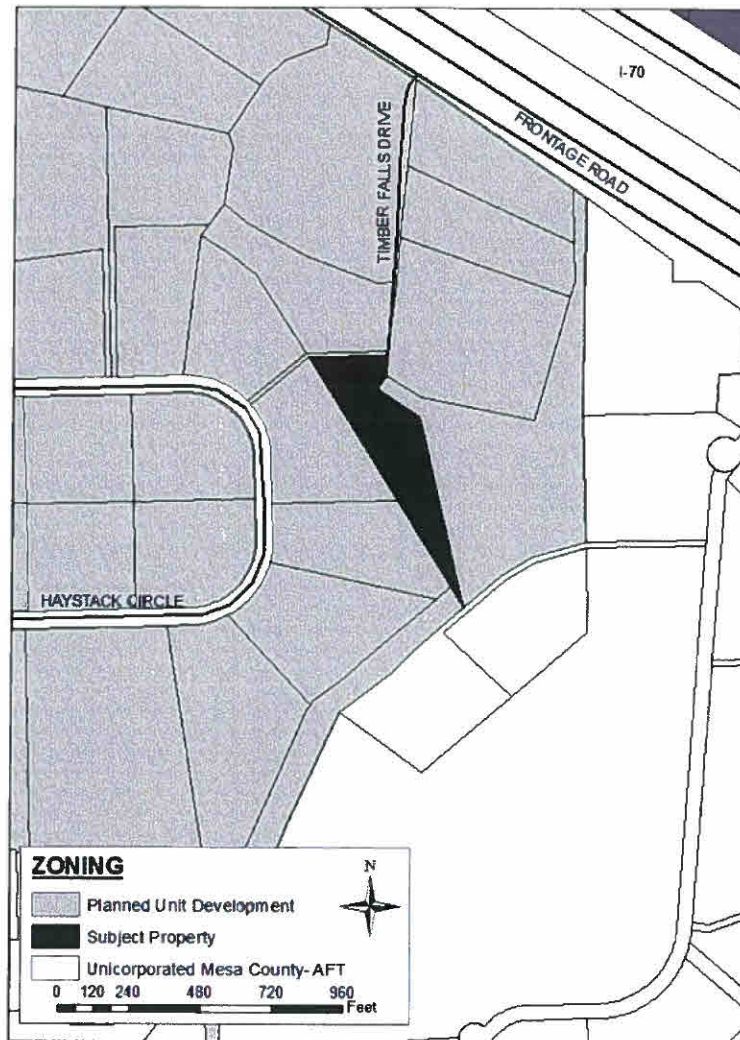
The subject property contains a 2,567 square foot, 4 bedroom and 2 ½ baths single family detached dwelling unit on an almost 3 acre lot located on Timber Falls Drive. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner which is defined by the Land Use Code as a Bed and Breakfast. The entire dwelling unit is intended to be available for rent on a less than month-to-month basis.

Because no PUD guide was adopted when this PUD zone was established in 1997, Staff is using the information in the covenants, along with the plat and other information in the annexation and subdivision files to determine the development regulations applicable to this PUD zone. The Fruita Land Use Code requires a CUP to operate a Bed and Breakfast in all zones that allow single family detached dwelling units, Staff has determined that a CUP also be required for a Bed and Breakfast in this PUD zone and is subject to the supplemental zoning standards for this use. The subject property is zoned Planned Unit Development.

Surrounding Land Uses and Zoning:

The subject property is surrounded by large lot single family detached dwelling units and unincorporated Mesa County land zoned AFT (agricultural, forestry, transition)

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 all zones that allow single family detached residential uses. 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 house will be used as the vacation rental. The house contains 4 bedrooms.

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;**

According to the project narrative, "The kitchen facilities will serve residents and guests only the facilities will NOT be used for any commercial activity."

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 residential character will remain the same."

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, "No advertising or signage will be present."

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

According to the project narrative, "Parking is available for at least 4+ vehicles." Because this is a large lot area with ample parking available, screening of parking areas does not appear to be necessary.

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

A building inspection will be required before the business becomes operational to ensure that the building complies with the City's adopted 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

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 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.

According to Section 17.13.40.C of the Land Use Code, a Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:

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;**

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.

The main concern with the proposed use is in relation to an address problem in this area because the addresses don't fit in the city's address number grid system. Sometime last year, emergency medical services had a difficult time finding the location of a house along Timber Falls Drive because the address grid numbers and street names are incorrect. Timber Falls Drive was platted and approved as a private shared driveway, not as a public roadway, in 1997. Subsequent plats to create more lots identify the shared driveway and don't identify a name for the driveway. The address numbers assigned to the lots in the subdivisions correspond to the 1900 block of Frontage Road, an east-west road, so all houses should be addressed as the 1900 block of Frontage Road. Between 2000 and 2006, the private shared driveway acquired the name Timber Falls Drive, which is oriented north-south, and is in the 1600 block of the city's address grid. All lots in this area are addressed with 1900 numbers and some lots use the name Frontage Road, and some houses use the name Timber Falls Drive, leading to more confusion.

Additionally, the Mesa County Assessor's Office identifies the subject property as 1953 Frontage Road, yet the property owners believe that their address is 1950 Frontage Road. Staff recommends that the address issues be resolved so that guests of this vacation rental business do not have problems if emergency services are necessary. Additionally, solving the address issues in this area will help guests and visitors find this business or other properties in the area and will help avoid long term problems with deliveries as well as emergency services. This issue should be resolved before the business becomes operational.

Staff recommends that the private driveway not be named and require all lots be readdressed with Frontage Road for the street name. This avoids problems with determining who is responsible for maintaining the driveway (because it appears to be a public street) including eliminating the need for private property owners to maintain a street sign which is an on-going problem in the city. Staff can spearhead this issue to help resolve the problem as soon as possible.

If the address issue is resolved, and 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 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 Planned Unit Development zoning that surrounds the subject property. Staff sees no negative impact to the neighborhood or 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. A building inspection will be required to ensure that the house meets the minimum requirements of the adopted Building Codes. According to the project narrative, "This property is in compliance with all building codes adopted by the city." 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:

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 the address issue be resolved before the business becomes operational.

Fruita Planning Commission: June 14, 2016

Fruita City Council: July 5, 2016



LAND DEVELOPMENT APPLICATION

Project Name: Great Divide Villa
 Project Location: 1950 Timber Falls Dr.
 Current Zoning District: _____ Requested Zone: _____
 Tax Parcel Number(s): _____ Number of Acres: _____
 Project Type: Band B, URBO

Property Owner: Rick D. Goering Developer: _____
 Property Owner: Tona L. Goering Contact: _____
 Address: 1950 Timber Falls Dr Address: _____
 City/State/Zip: Fruita, CO 81521 City/State/Zip: _____
 Phone: 970-640-9203 Fax: 970-858-8777 Phone: _____ Fax: _____
 E-mail: tonagoering@msn.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: Tona Goering - Self 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.

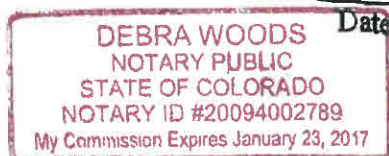
Rick Goering R. D. Goering 4-20-16
 Name of Legal Owner Signature Date
Tona Goering Tona Goering 4-20-16
 Name of Legal Owner Signature Date

Name of Legal Owner

Signature

Date

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)



The foregoing instrument was acknowledged before me this 20th day of April, 2016

My Commission expires: 1/23/2017

Debra Woods
 Notary Public

**CITY OF FRUITA
CITY ENGINEER REVIEW SHEET**

PROJECT: Goering VRBO
1953 Timber Falls Drive

Petitioner: Rick and Tona Goering

Reviewer: Sam Atkins

REVIEW STAGE: ☐ Sketch Plan ☐ Preliminary Plan ☐ Final Plan
(Check One) **☒ VRBO/Site Plan**

REVIEW COMMENTS

General: Petitioner is requesting the use of an existing building on the property for VRBO type use at 1953 Timber Falls Drive.

Summary of Recommendations:

Engineering recommends approval of application.

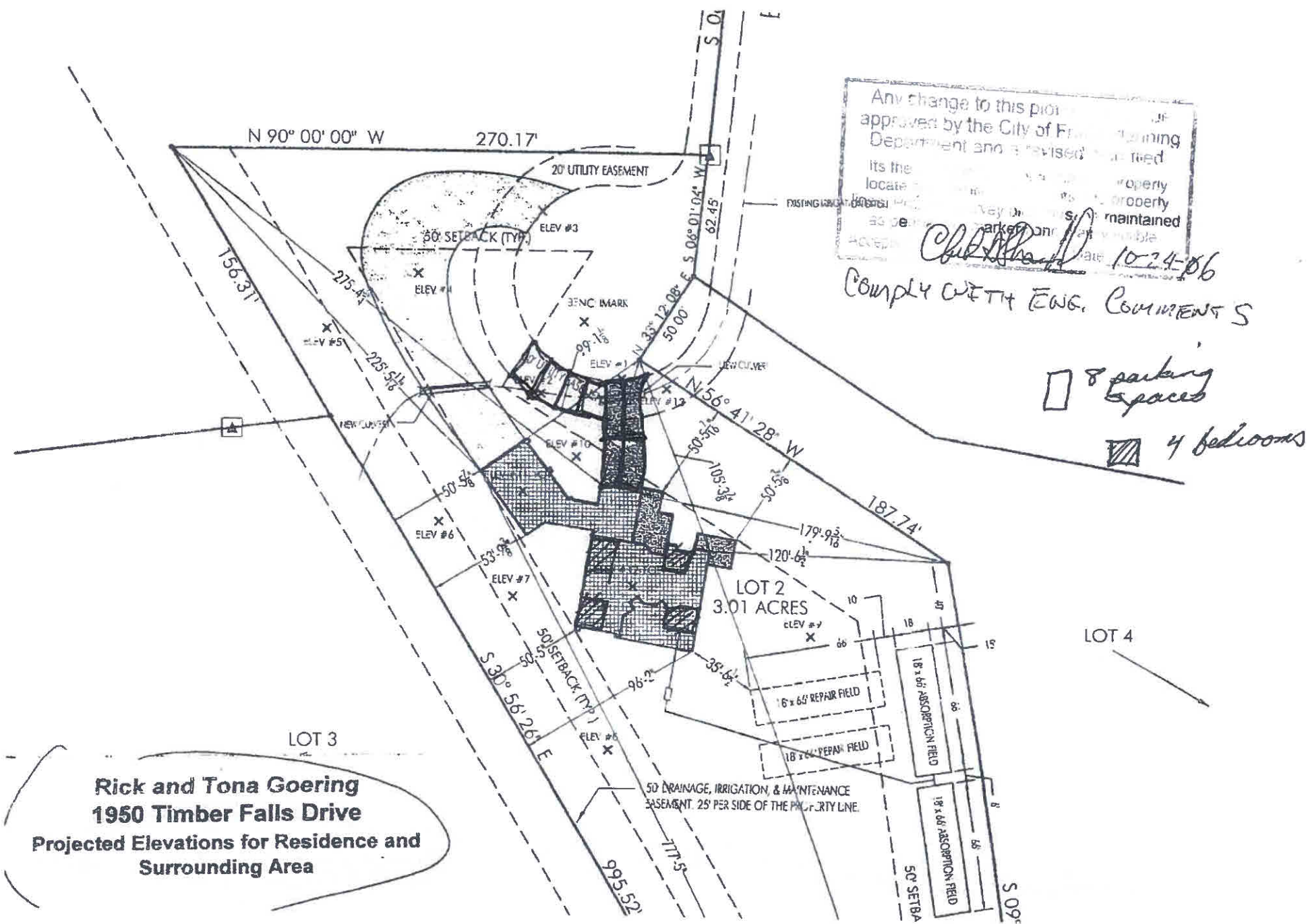
**Great Divide Villa
1950 Timber Falls Drive
Fruita, CO 81521**

**Rick and Tona Goering
970-640-9203
970-640-9262**

Proposed usage: Vacation Rental House; Bed and Breakfast Regulations & Standards

**Size: 3 acres
2,567 sq ft
4 bedrooms, 2 1/2 baths**

- 1. This is a residential dwelling that contains 4 bedrooms. The guests provide all of their own meals.**
- 2. The kitchen facilities will serve residents and guests only. The facilities will NOT be used for any commercial activity.**
- 3. The residential character will remain the same.**
- 4. No advertising or signage will be present.**
- 5. Parking is available for at least 4+ vehicles.**
- 6. This property is in compliance with all Building Codes adopted by the city.**
- 7. There is no HOA for this property.**
- 8. Home Occupation**
 - 1. All materials, products, fixtures and activities associated with the home occupation are stored in the house itself, which is fully enclosed and complies with applicable building and land use codes.**





FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Community Development Department

DATE: July 5, 2016

RE: Sagebrush House Vacation Rental, Conditional Use Permit
(Application #2016-10)

BACKGROUND

This is a request for a Conditional Use Permit (CUP) for a Bed & Breakfast business (also known as a vacation rental by owner or VRBO) in an existing house located at 107 E. Pabor Avenue and is in a Community Residential (CR) zone. The Land Use Code requires a CUP for this type of business in the CR zone.

The subject property contains a 2,217 square foot single family detached house and a 600 square foot unfinished detached garage on an approximately .35 acre lot. The entire house is intended to be available for rent on a less than month-to-month basis. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

There are no major concerns with the proposed CUP for a Bed & Breakfast (VRBO) business. No reviewers expressed a significant concern regarding the proposed use. It appears that the proposed CUP meets or can meet all approval criteria and standards that must be considered for a Bed & Breakfast use and a CUP. No written public comments were received.

At the June 14, 2016, Planning Commission public hearing, the project was on the consent agenda and was recommended for approval by the Planning Commission by a vote of 5-0.

FISCAL IMPACT

The proposed CUP should have a positive fiscal impact on the city. The use appears to be compatible with the surrounding area and will generate lodging tax used to market and promote the city.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This CUP meets or can meet all approval criteria and standards of Fruita's Land Use Code (2009, as amended). The Land Use Code (along with other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implement the City's goals and policies as outlined in the City's Master Plan including the Fruita Community Plan.

OPTIONS AVAILABLE TO COUNCIL

1. Deny the proposed Conditional Use Permit.
2. Approve the proposed Conditional Use Permit with or without conditions.

RECOMMENDATION

Staff recommends that the City Council move to approve the Sagebrush House Conditional Use Permit. No conditions of approval are recommended.



**Community Development Department
Staff Report
June 8, 2016**

Application #: 2016-10
Applicant: Mike and Kristy Driver
Application Name: Sagebrush House Vacation Rental
Application Type: Conditional Use Permit
Location: 107 E. Pabor 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:

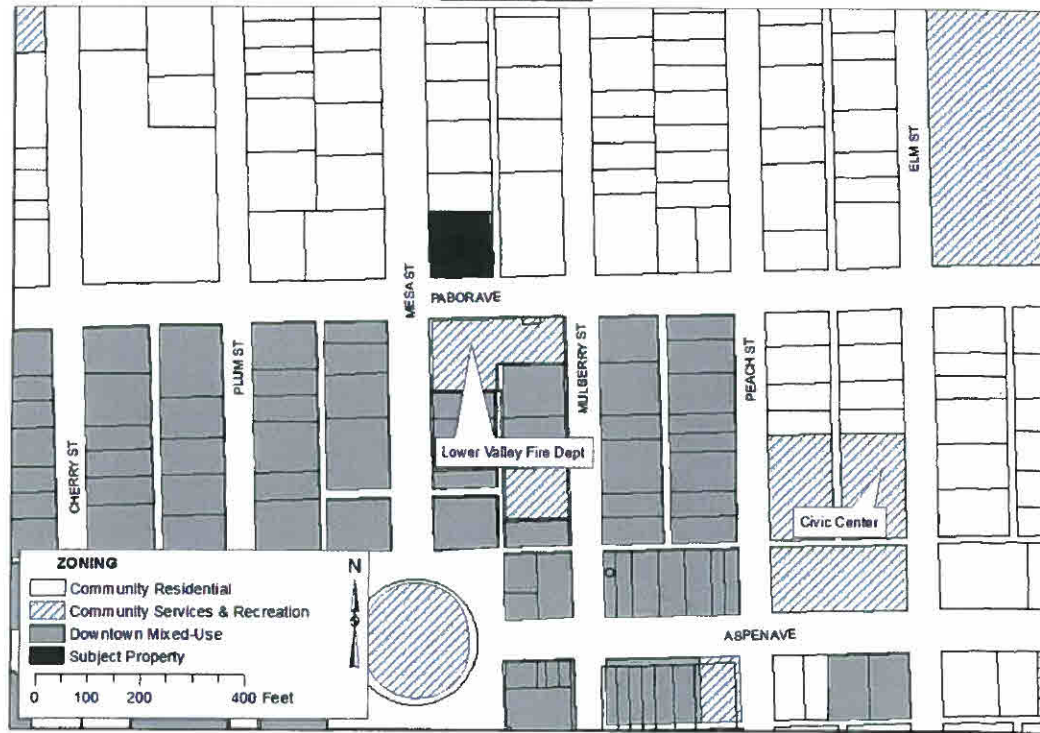
The subject property contains a 2,217 square foot detached single family house and a 600 square foot unfinished detached garage on an approximately .35 acre lot located on East Pabor Avenue. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

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.

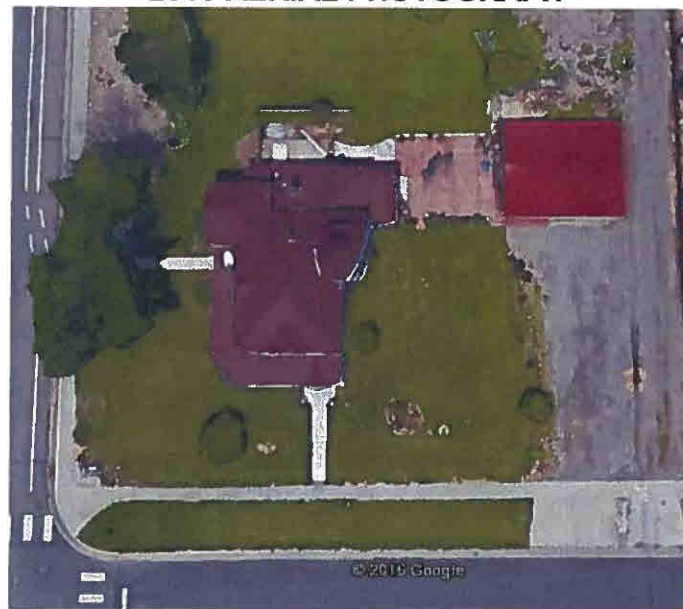
Surrounding Land Uses and Zoning:

Properties north of Pabor Avenue are zoned CR. The properties south of Pabor Avenue are zoned Downtown Mixed-Use (DMU) and Community Services & Recreational (CSR). The Lower Valley Fire Department is located directly to the south in the CSR zone. Uses to the south in the DMU zone are a wide mix including single family houses and commercial uses including bars, banks, offices, and other retail sales and service uses. The uses to the north are primarily single family residential dwelling units with an apartment building located directly to the east.

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 Mesa County Assessor, this home contains 4 bedrooms and 1 ½ 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 there will be "low to normal use of residential utilities."

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, and if anything the residential character will be enhanced. The goal of the applicants is "To enhance the small town atmosphere of the Fruita community, while providing an upscale vacation rental for our visitors."

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 by two parking spots in the detached garage and two spaces available in the driveway.

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

A building inspection will be required before the business becomes operational to ensure that the building complies with the City's adopted 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 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 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.

According to Section 17.13.40.C of the Land Use Code, a Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:

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 wide mix of land uses existing and permitted in the DMU and CSR zone to the south. Compliance with the regulations for vacation rentals should allow this business to coexist with other existing houses and the

apartment building in the area without having a disproportionate or severe impact on the neighborhood. 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. A building inspection will be required to ensure that the house meets the minimum requirements of the adopted Building Codes. According to the project narrative the applicants, "Mike and Kristy Driver live and work in Fruita, so if issues arise we are close and available to handle them personally." 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:

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. No conditions of approval are recommended.

Fruita Planning Commission: June 14, 2016

Fruita City Council: July 5, 2016



LAND DEVELOPMENT APPLICATION

Project Name: Sagebrush House Vacation Rental
 Project Location: 107 E Pabor Ave, Fruita, CO 81521
 Current Zoning District: City of Fruita Requested Zone: _____
 Tax Parcel Number(s): 2697-172-06-015 Number of Acres: 0.35
 Project Type: Vacation Rental Property

Property Owner: Mike Driver Developer: _____
 Property Owner: Kristy Driver Contact: _____
 Address: 1853 K Road Address: _____
 City/State/Zip: Fruita, CO 81521 City/State/Zip: _____
 Phone: 970-904-5708 Fax: _____ Phone: _____ Fax: _____
 E-mail: mikejldriver@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: Owners 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.

Kristy Driver

Name of Legal Owner

Signature

Date

4/29/2016

Mike Driver

Name of Legal Owner

Signature

Date

29 Apr 2016

Name of Legal Owner

Signature

Date

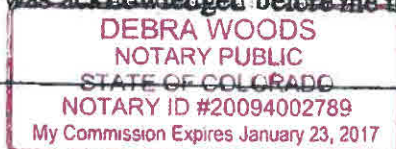
STATE OF COLORADO)

) ss.

COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 29th day of April, 2016

My Commission expires:



Debra Woods
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, Mike JL Driver, 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: Sagebrush House Vacation Rental

Address of subject property: 107 E Pabor Ave, Fruita CO 81521

Tax Parcel Number(s): 2697-172-06-015

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: _____

Property Owner Signature: _____

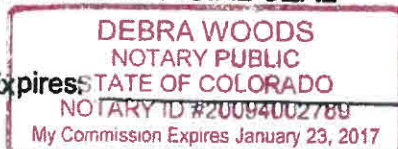
STATE OF COLORADO)

COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 29th day of April, 2016
by MIKE AND KRISTY DRIVER (Property Owners name(s)).

WITNESS MY HAND AND OFFICIAL SEAL

My Commission Expires:



Notary Public: _____

Debora Woods

**CITY OF FRUITA
CITY ENGINEER REVIEW SHEET**

PROJECT: Driver VRBO
107 E. Pabor Ave.

Petitioner: Mike & Kristy Driver

Reviewer: Sam Atkins

REVIEW STAGE: ☐ Sketch Plan ☐ Preliminary Plan ☐ Final Plan
(Check One) **VRBO/Site Plan**

REVIEW COMMENTS

General: Petitioner is requesting the use of an existing building on the property for VRBO type use at 107 E. Pabor Ave.

Summary of Recommendations:

Engineering recommends approval of application.

City of Fruita
Conditional Use Permit
107 E Pabor , Fruita, CO 81521
"Sagebrush House" Vacation Rental

Project Narrative

Goal: To enhance the small town atmosphere of the Fruita community, while providing an upscale vacation rental for our visitors.

Project Description: Providing upscale residential lodging for vacationing families not wanting hotel type accommodations.

Project Compliance, Compatibility and Impact:

- **Use:** Single Family Home on .35 acres will allow families of 2 to 6 adults. A unique place to vacation in the downtown area. Rentals will range from 3 to 90 days.
- **Parking:** Parking allows for 2 cars in the garage and 2 in the driveway keeping with the upscale vacationing theme and increasing the values of the surrounding homes in the neighborhood.
- **Utilities:** Low to Normal use of residential utilities used including cable, water, sewer and weekly trash pick up. This is typically less than full time residential use.
- **Exterior:** The property will be perfectly maintained to attract high-end vacationing families including lawn, bushes, trees and other curb appeal landscaping.
- **Effects:** Downtown rental properties provide vacationers close proximity to restaurants, bars, shopping and events without driving. This also prevents additional parking problems during large events and more attendance to City activities.

Safety and Issues:

- The owners are Mike and Kristy Driver who live and work Fruita, so if issues arise we are close and available to handle them personally.
- Neighboring Homeowner will know how to contact us in case of any issues.
- Rentals are limited to those over the age of 25 and must have a valid credit card to book the home. This home will not be available for parties or events.
- A list of Noise Regulations will be posted at the home for all vacationing families.
- With the age and historic value of this house, the renters will be required to take extra care and caution during their stay.

107 E Pabor, Fruita, CO 81521

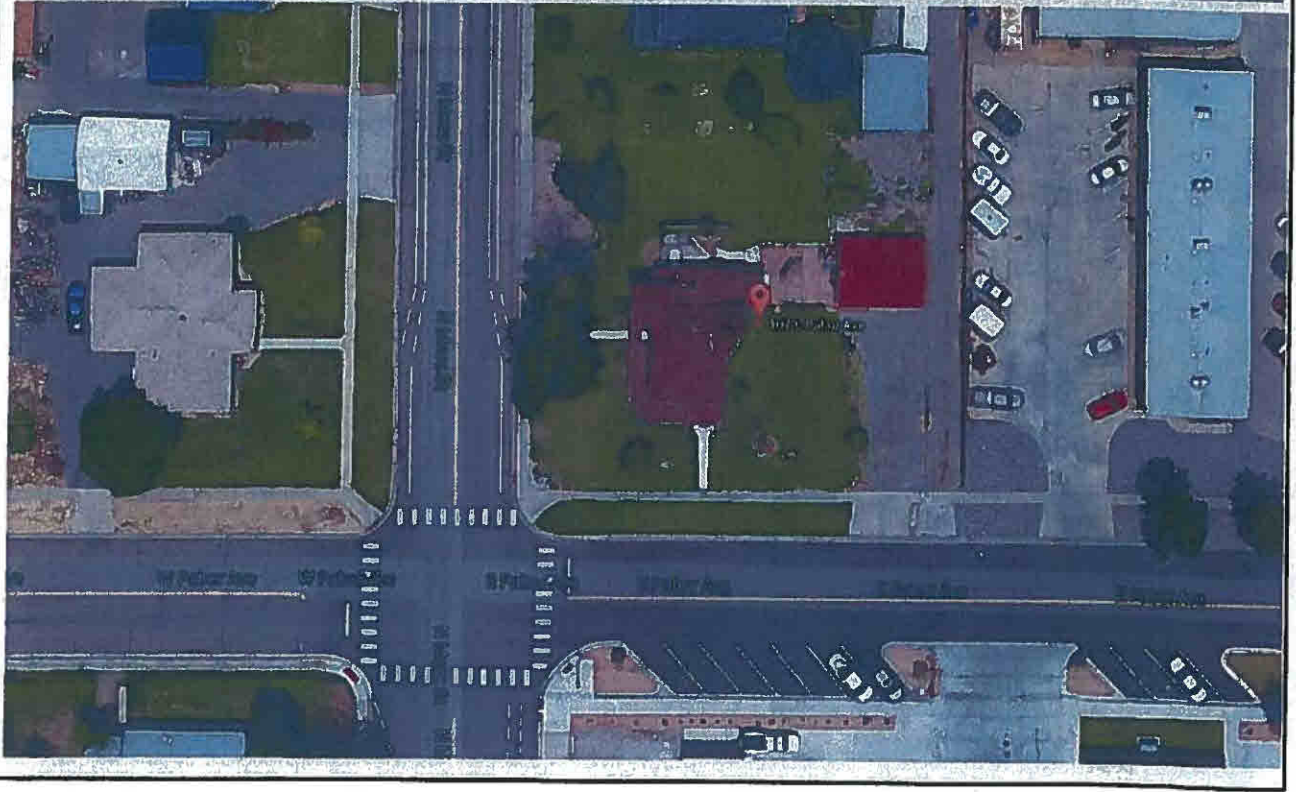
"Sagebrush House"

Site Plan

Overhead View: Large Private Lot

Home Features: Exterior View

1906 Historic Home with large yard with detached Garage and additional parking in driveway





FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Community Development Department

DATE: July 5, 2016

RE: Mesa Grand, Minor Subdivision
(Application #2016-08)

BACKGROUND

This is a request for a Minor Subdivision approval to subdivide two lots into four lots total. The subject property consists of two 3-acre lots abutting each other and located between River Road and Cipolla Road. The applicants request approval to subdivide these two lots into four 1.5 acre lots.

These lots are currently used for agricultural purposes and contain no buildings. Paved public roads and all necessary utilities are in the roads abutting these properties.

At the June 14, 2016, Planning Commission public hearing, the project was on the consent agenda and was recommended for approval by the Planning Commission by a vote of 5-0.

Minor Subdivisions are normally reviewed and approved by staff. The applicants for this subdivision have requested vested rights. All projects requesting vested rights must be approved by the City Council through the public hearing process. After approval, a vested rights notice is published in the local newspaper as required by both state and city laws. A vested right is defined as the right to undertake and complete a development and use of property under the terms and conditions of a site specific development plan. A Minor Subdivision is classified as a site specific development plan.

FISCAL IMPACT

This Minor Subdivision should create a positive fiscal impact on the City.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This Minor Subdivision meets or can meet all approval criteria and standards of Fruita's Land Use Code (2009, as amended). The Land Use Code (along with other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implement the City's goals and policies as outlined in the City's Master Plan including the Fruita Community Plan.

OPTIONS AVAILABLE TO COUNCIL

1. Deny the proposed Minor Subdivision.
2. Approve the proposed Minor Subdivision with or without conditions.

RECOMMENDATION

Staff recommends that the City Council move to approve the Mesa Grand Mesa Minor Subdivision with the condition that all review comments and issues identified in the Staff Report are adequately resolved before the plat is recorded.



**Community Development Department
Staff Report
May 25, 2016**

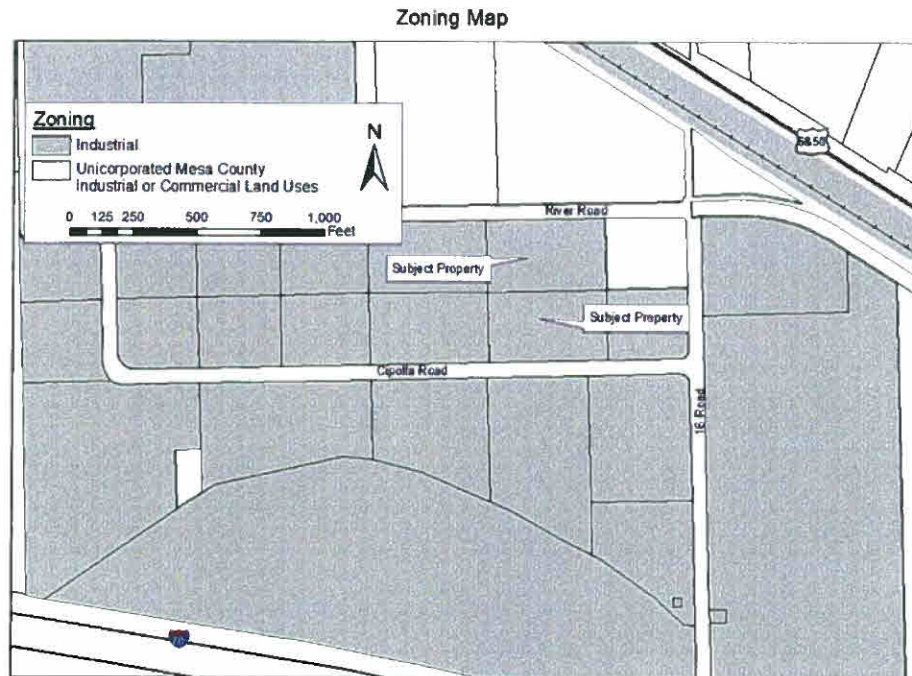
Application #: 2016-08
Project Name: Grand Mesa Subdivision - Lots 2 & 13
Application: Minor Subdivision
Property Owner: Mesa Grand LLC
Representative: Vortex Engineering, Inc., Robert W. Jones II
Location: 1591 River Road and 1588 Cipolla Road
Zone: Industrial (I)
Request: This is a request for Minor Subdivision approval to subdivide two lots into four lots total.

Project Description:

The subject property consists of two 3-acre lots abutting each other and located between River Road and Cipolla Road. The applicants request approval to subdivide these two lots into four 1.5 acre lots.

These lots are currently used for agricultural purposes and contain no buildings. Paved public roads and all necessary utilities are in the roads abutting these properties.

Surrounding Land Uses and Zoning:



AERIAL PHOTOGRAPH



Review of Applicable Land Use Code Requirements:

The proposed subdivision is classified as a Minor Subdivision by Section 17.15.040, Classification of Subdivisions and General Procedures, of the Land Use Code (2009, as amended) because only two new buildable lots are to be created and all required public facilities and service are in existence and available to serve each lot. No new public infrastructure is required to be constructed for this subdivision.

There are no specific approval criteria that must be considered for Minor Subdivisions but all City requirements must be met. No reviewer expressed a concern regarding this Minor Subdivision application and it appears that all city requirements can be met.

The lot sizes meet the dimensional standards of Chapter 7 of the Land Use Code. Fourteen foot wide multi-purpose easements are required adjacent to all roadways and these easements are shown on the plat. These easements should be labeled multi-purpose easements and the plat should accurately indicate which easements are established already, and which easements are to be dedicated with the plat.

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.

Although the lots proposed are smaller than the other lots in the area, the entire area is zoned for industrial land uses and lot sizes should not create any concerns with compatibility. The lot sizes proposed meet the minimum requirements of the Code.

It should be noted that there is an annexation agreement that affects the subject properties. This agreement was approved by the Fruita City Council through Ordinance 2011-05, and recorded with the Mesa County Clerk & Recorder in Book 5153, at Page 881. The public improvements required by the annexation agreement have been completed as required.

Development of the individual lots in this subdivision will require Site Design Review approval and will be subject to an additional cost for provision of sewer service as outlined in section 4.1.1 of the annexation agreement. Impact fees that will affect the development of the individual lots include a Transportation

Impact Fee and a Drainage Impact Fee. These fees are based on proposed development for the individual lots and will be calculated through the Site Design Review process. As per Section 4.4 of the annexation agreement, there is an opportunity for reimbursement to the developer of the infrastructure (Mesa Grand) of collected Transportation Impact Fees. This reimbursement also will be calculated through the Site Design Review process.

Review Comments:

All review comments received are included with this Staff Report. All review comments must be adequately resolved before the plat is recorded. No reviewer expressed a significant concern regarding the proposed subdivision.

Public Comments:

No written public comments have been received regarding this application.

Staff Recommendation:

Because the proposed subdivision meets or can meet all city requirements for Minor Subdivisions, staff recommends approval of the proposed Grand Mesa Subdivision - Los 2 & 13 Minor Subdivision with the condition that all review comments and issues identified in the Staff Report be adequately resolved before the plat is recorded.

Planning Commission: June 14, 2016

City Council: July 5, 2016

Ute Water Conservancy District

Date: 20 April 2016

Review Number	2016-08
Review Name	Mesa Grand Minor Subdivision (lot 2 and 13)

- No objection.
- ALL FEES AND POLICIES IN EFFECT AT TIME OF APPLICATION WILL APPLY.

If you have any questions concerning any of this, please feel free to contact Ute Water.

David Priske P. E.

Engineering Department, Ute Water

Jim Daugherty

New Services Coordinator, Ute Water

PHONE OFFICE 242-7491

FAX 242-9189

EMAIL jdaugherty@utewater.org

Henry Hemphill

From: Tim Ryan [tim.admin@gvdd.org]
Sent: Tuesday, April 05, 2016 9:46 AM
To: Henry Hemphill
Subject: RE: Project for your review

Henry,

GVDD observes no issues with this minor subdivision plan

Cordially,

Tim Ryan

From: Henry Hemphill [mailto:hhemphill@fruta.org]
Sent: Tuesday, April 05, 2016 8:55 AM
To: Tim Ryan; jdaugherty@utewater.org; scott.hendricks@xcelenergy.com; gvic@sprynet.com; arthur.valdez@charter.com; Sam Atkins; Ken Haley; Mark Angelo; ed@sandslawoffice.com
Subject: Project for your review

Review Agencies,

The link below is the project application for your review. Attached is a review sheet with due date. Other information was submitted with this project but is not appropriate to post on our web site.

Send comments to hhemphill@fruta.org

Any questions, just send me an email or call the office.

<http://www.fruita.org/cd/page/2016-08-mesa-grand-minor-subdivision-lot-2-and-13>

Henry Hemphill
City of Fruita
Planning Tech.
970-858-0786
hhemphill@fruta.org
www.fruita.org/cd

CITY OF FRUITA
CITY ENGINEER & PUBLIC WORKS REVIEW SHEET

PROJECT: Mesa Grand Minor Subdivision

Petitioner: Mesa Grand LLC, Wenke Thoman

Engineer (Civil): Vortex Engineering, Inc. (James Atkinson)

Surveyor: Polaris Surveying (Pat Click)

Reviewer: Sam Atkins

Date: April 21, 2016

REVIEW TYPE: ☒ Minor Subdivision ☐ Major Subdivision
(Check One) ☐ Lot line Adjustment ☐ Final Plat
 ☐ Site Design Review ☐ Conditional Use Permit
 ☐ Other: PUD Guide Amendment

REVIEW COMMENTS

1. General: This application is for the split of 2 existing Industrial Lots into 4 Lots.

2. Composite Site/Utility Plan:

- a. Since the use for these lots have not been identified, please remove the proposed water and sewer services. The location and size of the services will be determined and constructed as part of the Site Plan process for each lot.

3. Impact Fees:

Note: Impact fees referenced within this section will not apply to this subdivision but will be applied to the lots created within this subdivision at the Site Plan Application.

17.19.090 Public Parks, Open Space, and Trails Dedication/Fee: Not applicable to non-residential development.

17.19.100 School Land Dedication: Not applicable to non-residential development.

17.19.130 Transportation Impact Fee: The transportation impact fee for commercial uses shall be a base rate of \$1,589 multiplied by the factors for each use per unit (usually per 1000 sf floor). This impact fee will be implemented at the Site Plan approval.

17.19.140 Chip and Seal Impact Fee: Not applicable when new public streets are not being constructed.

17.19.150 Drainage Impact Fee: Impact fee calculated as indicated by the following:

The drainage fee calculation is as follows:

$$\text{Drainage Fee} = \text{Base Value} * (C_{100d} - C_{100h}) * A^{0.7}$$

CITY OF FRUITA CITY ENGINEER & PUBLIC WORKS REVIEW SHEET

The base value for 2016 is \$17,058;
C100d = Developed Rational Runoff Coefficient;
C100h = Historic Rational Runoff Coefficient;
A = Area in Acres;

The drainage fee will be implemented at the Site Plan approval.

Use Tax: A use tax of 3% of the valuation of the building structure (addition) will be charged based on the IBC Code as shown on the Fruita Use Tax Table and due at time of building permit application.

The above fee structure is based on the fees in effect through 2016. Fee factors and rates may change in subsequent years.

RECOMMENDATION: The Public Works Department and Engineering Department recommend approval of this Site Plan upon satisfactory response to the comments above.



Attorney at Law
Edward P. Sands

450 West Avenue
Suite 204
Rifle, Colorado 81650

Telephone: 970-625-1075
Facsimile: 970-625-3989
Email: ed@sandslawoffice.com

MEMORANDUM

TO: Henry Hemphill, City of Fruita Planning Technician
FROM: Edward P. Sands, Fruita City Attorney
DATE: June 7, 2016
SUBJECT: Review of Draft Plat for the Mesa Grand Subdivision

Pursuant to your request, I have now reviewed the Revised Draft Final Plat for the Mesa Grand Minor Subdivision – Lot 2 & 13 Minor Subdivision Pabco Industrial Park Filing NO. 2. My comments are as follows:

1. An error exists in the "header" and the "title block" in the right hand corner since they do not contain the same language. The "header" should be identical to the title block in lower right hand corner. Please have the applicant's surveyor revise accordingly.
2. A typographical error exists in the title of the Certificate of Ownership and Dedication. The words "and Dedication" should be added after the words "Certificate of Ownership". Please have the Applicant's surveyor revise accordingly.
3. All subdivision and development plats that include a dedication to the City are required to have a "Subordination by Lienholders Certificate" if there is a lien against the property. Multi-purpose easements are shown as being dedicated to the City, therefore this Plat will require such a certificate. Additionally, a Notary certificate will need to be inserted below the Subordination by Lienholders Certificate. Please have the Applicant's surveyor revise accordingly.
4. A Certificate of Taxes Paid is now required by the City of Fruita on all subdivision and development plats submitted to the City for recording. Please have the applicant's surveyor add the following:

CERTIFICATE OF TAXES PAID

I, the undersigned, do hereby certify that the entire amount of taxes and assessments due and payable as of _____ upon all parcels of real estate described on this Plat are paid in full.

Serving Western Colorado Since 1980

Dated the _____ day of _____, A.D., 2014.

Treasurer of Mesa County, Colorado

In all other respects, the Draft Final Plat appears satisfactory as to legal form.

If you or the applicant have any questions, comments or concerns regarding the comments contained in this memorandum please do not hesitate to contact me.

LOWER VALLEY FIRE PROTECTION DISTRICT

168 N. Mesa

Fruita, CO. 81521

Phone: (970) 858-3133 Fax: (970) 858-7189

April 6, 2016

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

**Application: 2016-08
Applicant: Vortex Engineering
Application Name: Mesa Grand Minor Subdivision (Lots 1 & 2)
Application Type: Minor Subdivision
Location: 1591 River Road & 1588 Cipolla Road.
Zone: Limited Industrial, Research and Development (LIRD)**

Review Comments are for division of lots only.

1. No comments.

**Richard Pippenger
Fire Marshal**

Henry Hemphill

From: Hendricks, Scott [scott.hendricks@xcelenergy.com]
Sent: Wednesday, April 06, 2016 6:54 AM
To: Henry Hemphill
Subject: RE: Project for your review
Attachments: Review Sheet.pdf

Henry,
Application #: 2016-08
Applicant: Vortex Engineering
Application Name: Mesa Grand Minor Subdivision (Lots 2 & 13)
Application Type: Minor Subdivision
Location: 1591 River Road & 1588 Cipolla Road
Zone: Limited Industrial, Research and Development (LIRD)

I have reviewed this project and have no objections at this time

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. Any and all existing & 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

From: Henry Hemphill [mailto:hhemphill@fruita.org]
Sent: Tuesday, April 05, 2016 8:55 AM
To: Tim Ryan; jdaugherty@utewater.org; Hendricks, Scott; gvic@sprynet.com; arthur.valdez@charter.com; Sam Atkins; Ken Haley; Mark Angelo; ed@sandslawoffice.com
Subject: Project for your review

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.

Review Agencies,

The link below is the project application for your review. Attached is a review sheet with due date. Other information was submitted with this project but is not appropriate to post on our web site.

Send comments to hhemphill@fruita.org

Any questions, just send me an email or call the office.

<http://www.fruita.org/cd/page/2016-08-mesa-grand-minor-subdivision-lot-2-and-13>

Henry Hemphill
City of Fruita
Planning Tech.
970-858-0786
hhemphill@fruita.org
www.fruita.org/cd



LAND DEVELOPMENT APPLICATION

Project Name: Mesa Grand Subdivision - Lots 2 & 13
 Project Location: 1591 River Road
 Current Zoning District: Limited Ind. Research & Devel. Requested Zone: No Change
 Tax Parcel Number(s): 2693-124-02-002 Number of Acres: 3.00
 Project Type: Minor Subdivision

Property Owner: <u>Mesa Grand, LLC</u>	Developer: <u>Mesa Grand, LLC</u>
Property Owner: _____	Contact: _____
Address: <u>2517 Pierce Avenue</u>	Address: <u>2517 Pierce Avenue</u>
City/State/Zip: <u>Grand Junction, CO 81505</u>	City/State/Zip: <u>Grand Junction, CO 81505</u>
Phone: <u>(917) 519-8771</u> Fax: _____	Phone: <u>(917) 519-8771</u> Fax: _____
E-mail: <u>thomanw@imhna.com</u>	E-mail: <u>thomanw@imhna.com</u>

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: <u>Vortex Engineering, Inc.</u>	Engineer: <u>Vortex Engineering, Inc.</u>
Contact: <u>Robert W. Jones II</u>	Contact: <u>Robert W. Jones II</u>
Address: <u>2394 Patterson Rd., Ste 201</u>	Address: <u>2394 Patterson Rd., Ste 201</u>
City/State/Zip: <u>Grand Junction, CO 81505</u>	City/State/Zip: <u>Grand Junction, CO 81505</u>
Phone: <u>(970) 245-9051</u> Fax: <u>(970) 245-7639</u>	Phone: <u>(970) 245-9051</u> Fax: <u>(970) 245-7639</u>
E-mail: <u>rjones@vortexeng.us</u>	E-mail: <u>rjones@vortexeng.us</u>

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.

Walter B Thoman

Name of Legal Owner

Signature

Date

Industrial Mineral Holdings, Inc Walter B Thoman Feb 12, 2016

Name of Legal Owner

Signature

Date

STATE OF New York)
) ss.
 COUNTY OF New York)

The foregoing instrument was acknowledged before me this 12th day of February, 2016.

My Commission expires: _____

WILLIAM S. STERNS, III
 Notary Public, State of New York
 No. 31-4927255
 Qualified in New York County
 Commission Expires March 21, 2018

W. S. Sterns III
 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, Mesa Grand, LLC - Wenke Thoman, 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: Mesa Grand Subdivision - Lot 2 & 13

Address of subject property: 1591 River Road & 1588 Cipolla Road

Tax Parcel Number(s): 2693-124-02-002 & 2693-124-02-013

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: Wenke B Thoman

Property Owner Signature: _____

New York
STATE OF ~~COLORADO~~
COUNTY OF ~~MESA~~ New York

The foregoing instrument was acknowledged before me this 12th day of February, 2016
by WENKE B. THOMAN (Property Owners name(s)).

WITNESS MY HAND AND OFFICIAL **WILLIAM S. STERNS, III**
Notary Public, State of New York
No. 31-4927256
Qualified in New York County
Commission Expires March 21, 2018
My Commission Expires: 3/21/18 Notary Public: William S. Sterns

**General Project Report
For
Mesa Grand Subdivision – Lot 2 & 13
Minor Subdivision**

Date: March 29, 2016

Prepared by: James C. Atkinson, P.E.
Vortex Engineering, Inc.
2394 Patterson Rd., Ste. 201
Grand Junction, CO 81505
970-245-9051
VEI # F16-004

Submitted To: City of Fruita
Community Development Department
325 E. Aspen Avenue
Fruita, Colorado 81521

Type of Design: Minor Subdivision

Applicant: Mesa Grand, LLC
Attn: Wenke Thoman
Grand Junction, CO 81505

Property Address: 1591 River Road 1588 Cipolla Road
Fruita, CO 81521 Fruita, CO 81521

Tax Schedule No.: 2693-124-02-002 2693-124-02-013

I. Introduction/Site History

A. Property Location

The sites are located 1591 River Road and 1588 Cipolla Road, in the City of Fruita, Colorado. The sites are located near various commercial and vacant land uses.

By legal description, the property is described as

SITUATED IN THE SE1/4 SE1/4 SECTION 12 TOWNSHIP 1 NORTH, RANGE 3 WEST OF THE UTE MERIDIAN, MESA COUNTY, COLORADO and being more particularly described as follows:

Pabco Industrial Park, Filing No. 2, Lot 2 & 13

Please reference Exhibit 'A' – Vicinity Map within this report for further information.

B. Description of Property

The property is approximately 6.00 acres in size. The site is vacant property.

The topography of the site is relatively flat with a slight overall gradient to the southwest. A Topographical and Boundary Survey was completed by Polaris Surveying. Lincoln – DeVore, Inc. completed a soils investigation for the development.

C. Purpose of General Project Report & Proposed Application

Mesa Grand, LLC is proposing a Minor Subdivision of Lot 2 & 13 that is 6.00 acres located at 1591 River Road and 1588 Cipolla Road, into four (4) lots of equal size (approximately 1.50 acres each).

Surrounding Land Use/Zoning

LAND USE – The following Land-uses surround the subject property:

- **North – Manufacture/Processing Business**
- **South – Vacant land & Manufacture/Processing Business**
- **East – Manufacture/Processing Business**
- **West – Vacant Land**

ZONING – The subject property is currently zoned by City of Fruita as Limited Industrial, Research & Development (*LIRD*). Within a ½ mile radius of the subject property, properties are zoned by Mesa County and the City of Fruita as:

- **North – Mesa County - PUD**
- **South –City of Fruita – Limited Industrial, Research & Development**
- **East – Mesa County - PUD**
- **West – City of Fruita – Limited Industrial, Research & Development**

II. Existing Drainage Conditions

A. Major Basin Characteristics

This area of Mesa County consists of commercial land and vacant land uses.

The site generally drains from Northeast to the Southwest and then flows south to the Colorado River. There is two (2) drop inlet one (1) on the North side of River Road and one (1) on the south side of Cipolla Road that goes into a 12" PVC storm drain which takes some of the stormwater from River Road, Cipolla Road and conveys it to the South along an existing easement to a Grand Valley Drainage District drain ditch which flows East to West then drains into the Colorado River.

B. Site Characteristics

As stated above, the property is approximately 6.00 acres in size. The site slopes from the northeast to the southwest, with slopes averaging 0.7 percent.

The drainage patterns of the property, includes a combination of sheet flow drain pans and swale flow. The Lot 2 & Lot 13 cover type for the site is grass vegetation and weeds.

III. Proposed Drainage Conditions

A. Design Criteria & Approach

As expected in most developments, conversion and development of this property from bare ground to a commercial area will, if directly discharged, increase the stormwater runoff, both in peak rates and volumes. Direct discharge from the River Road and Cipolla Road to a street inlet will be conveyed to the south into the Grand Valley Drainage District drainage ditch on the Northerly side of Lot 22, said drainage ditch flows from East to West and drains into the Colorado River. Runoff from Lot 2 & Lot 13 is sheet flow across the lot and into collector swales at property lines directed to the south and eventually the Colorado River.

IV. Results and Conclusions

A. Direct Discharge

An overall drainage study for the Pabco Industrial Park was prepared by W.H. Lizer & Associated in December 2007, and January 2009. The drainage concept presented in the approved report for Lot 2 & Lot 13 indicated direct discharge from the lot into adjacent drainage swales along the rear property line. Lot 2 & Lot 13 is designated as being part of sub-basin A.2 of the original report. The maximum Q for the Basin was identified as 5.97 cfs contained in an earthen swale with a water depth of approx. 0.9 feet. There is no detention provided in the in the development since the property is at the low end of the drainage basin with discharge to the Colorado River.

V. General Performance Standards

Every development and change in land use in the City of Fruita must meet the General Performance Standards found in Section 17.07.070 of the *Code*. The review of the General Performance Standards found in Section 17.07.070 is as follows:

A. Neighborhood Impact

1. Is the project compatible with surrounding land uses?

The Pabco Industrial Park Filing 2 – Lot 2 & Lot 13 Minor Subdivision and is compatible with the surrounding areas, hence it **MEETS** this General Performance Standard, with the entire area zoned as LIRD.

2. **Is the project's scale, height & bulk of buildings consistent with that of the surrounding development?**

The Lot 2 & Lot 13 Minor Subdivision is based on the height and bulk standards of the surrounding and other development. The project's scale, height & bulk of buildings will be consistent with that of the surrounding development; hence it **MEETS** this General Performance Standard.

3. **Does the project comply with City of Fruita historic preservation design standards if the building is on the state or national register of historic places?**

This criterion is **NOT APPLICABLE** since no historic buildings exist on the subject property.

4. **If the project is a multi-family development is it within ¼ mile of a neighborhood commercial area and a City or School District 51 park/playground?**

This criterion is **NOT APPLICABLE** since no Single Family or other residential homes on the subject property.

B. Transportation and Traffic

1. **Is the project consistent with the City of Fruita street standards?**

This criterion is **NOT APPLICABLE** since there will be no street constructed for the minor subdivision on the subject property.

2. **Does the project have an adequate pedestrian bicycle network?**

This criterion is **NOT APPLICABLE** since there will be pedestrian bicycle network being constructed or impacted for the minor subdivision on the subject property.

3. **Is the proposed road network and road standards consistent with the City of Fruita Road Classification map and City of Fruita street standards?**

The streets have already been developed in the Pabco Industrial Park – Filing 2 and are standard Streets and comply with the City of Fruita Street standards. This **MEETS** this Performance Standard.

This subdivision **MEETS** the Transportation and Traffic General Performance Standard.

C. Wastewater

1. **Will the project connect to the City of Fruita wastewater system?**

Yes. The development will be served by the existing the sanitary sewer main. This **MEETS** the Performance Standard.

2. **If the sewer connection involves over-sizing does the developer propose a recapture agreement or an assessment district?**

This criterion is **NOT APPLICABLE**.

3. Will the project discharge other than domestic wastewater?

No other type of sanitary sewer discharge, other than domestic wastewater, is to occur. This **MEETS** this General Performance Standard.

D. Water

1. Does the project have adequate fire flow as determined by the Lower Valley Fire Department?

The proposed subdivision of Lot 2 will be connected to the exiting 8" main located on the north side of River Road and Lot 13 will be connected to the existing 8" main located on the south side of Cipolla Road. This subdivision **MEETS** this General Performance Standard.

2. Does the project have sufficient domestic water to serve the proposed development?

The project is to connect to the existing 8" main located in the north side of River Road and south side of Cipolla Road. This subdivision **MEETS** this General Performance Standard.

3. If the water service requires over-sizing does the developer propose a recapture agreement or assessment district?

This criterion is **NOT APPLICABLE**.

This subdivision **MEETS** the water General Performance Standard.

E. Drainage

1. Does the project meet the City of Fruita Drainage standards as defined in the City of Fruita Design Standards for new construction?

This development plan has direct discharge for the subject property within the previously designed and approved master drainage study. The prior submittal of the Stormwater Management/Drainage Plan was approved, this development **MEETS** this General Performance Standard.

2. Does the project comply with the Grand Valley Drainage District standards if it is on or adjacent to their drainage systems?

The Stormwater Management/Drainage Plan was previously submitted and approved by the City of Fruita and Grand Valley Drainage District of the original submittal and development of Paco Industrial Park. This development **DOES MEET** this General Performance Standard.

The proposal **MEETS** the Drainage General Performance Standard.

F. Flood Hazard

1. Does the project adequately address potential Federal Emergency Management Agency regulations and the Fruita flood hazard and meet the flood plan regulations?

According to the Mesa County GIS, the subject property is located in Zone X, which is outside the boundaries of a 500 year floodplain. Hence, no FEMA, Fruita flood hazard, or floodplain issues are applicable to this project.

This development **MEETS** the Flood Hazard General Performance Standard.

G. Irrigation

- 1. Does the project provide adequate irrigation water for the proposal including shares of water, method of delivery to each lot and method of draining water from each lot?**

This development **MEETS** the Irrigation Water General Performance Standard as previously submitted and approved by the City of Fruita.

H. Fire Protection

- 1. Does the project have adequate fire flow as determined by the Lower Valley Fire Dept. & does it meet the other requirements of the fire department with regard to access, cul-de-sac radius, ect?**

It is not anticipated that Fire Flow will be an issue with this development. The project will be connected to the existing 8" main located in the North side of River Road and south side of Cipolla Road that serves the development. Access to the property is off of River Road and south side of Cipolla Road a City of Fruita public right-of-way. This development **DOES MEET** this General Performance Standard.

This development **MEETS** the Fire Protection General Performance Standard.

I. Historic Preservation

- 1. Does the project involve the demolition, remodel or reconstruction of a structure or site that is on the national or state register of historic places or eligible for nomination to either of these registers?**

This criterion is **NOT APPLICABLE** since no historic buildings exist on the subject property.

J. Noise, Dust, and Odor

- 1. Does the project comply with federal and state air emission standards?**
- 2. Does the project comply with state noise statues?**
- 3. Does the project minimize disturbance of the natural ground cover, or replacement of the natural ground cover with alternative ground cover or pavement?**
- 4. Have erosion and sedimentation controls been proposed during and after Construction?**

This criterion is **NOT APPLICABLE** since this is a subdivision of Lot 2 & Lot 13 since no construction is being performed to create any Noise, Dust and Odor General Performance Standard.

K. Natural Features and Environmental Protection

- 1. Does the development preserve natural features to the largest extent possible including existing trees, natural vegetation, hills, rock out-croppings, bluffs, stream & washes, river floodplains, wetlands, etc.?**

No natural features such as hills, rock out-croppings, bluffs, stream & washes, river floodplains, and wetlands are found on the subject property. This development **MEETS** this General Performance Standard.

VI. Public Benefit & Development Schedule/Phasing

This development appears to be an excellent opportunity and should serve an important community service in this area.

VII. Conclusion

We respectfully request your approval of this Minor Subdivision of Pabco Industrial Park Filing No. 2 – Lot 2 & Lot 13.

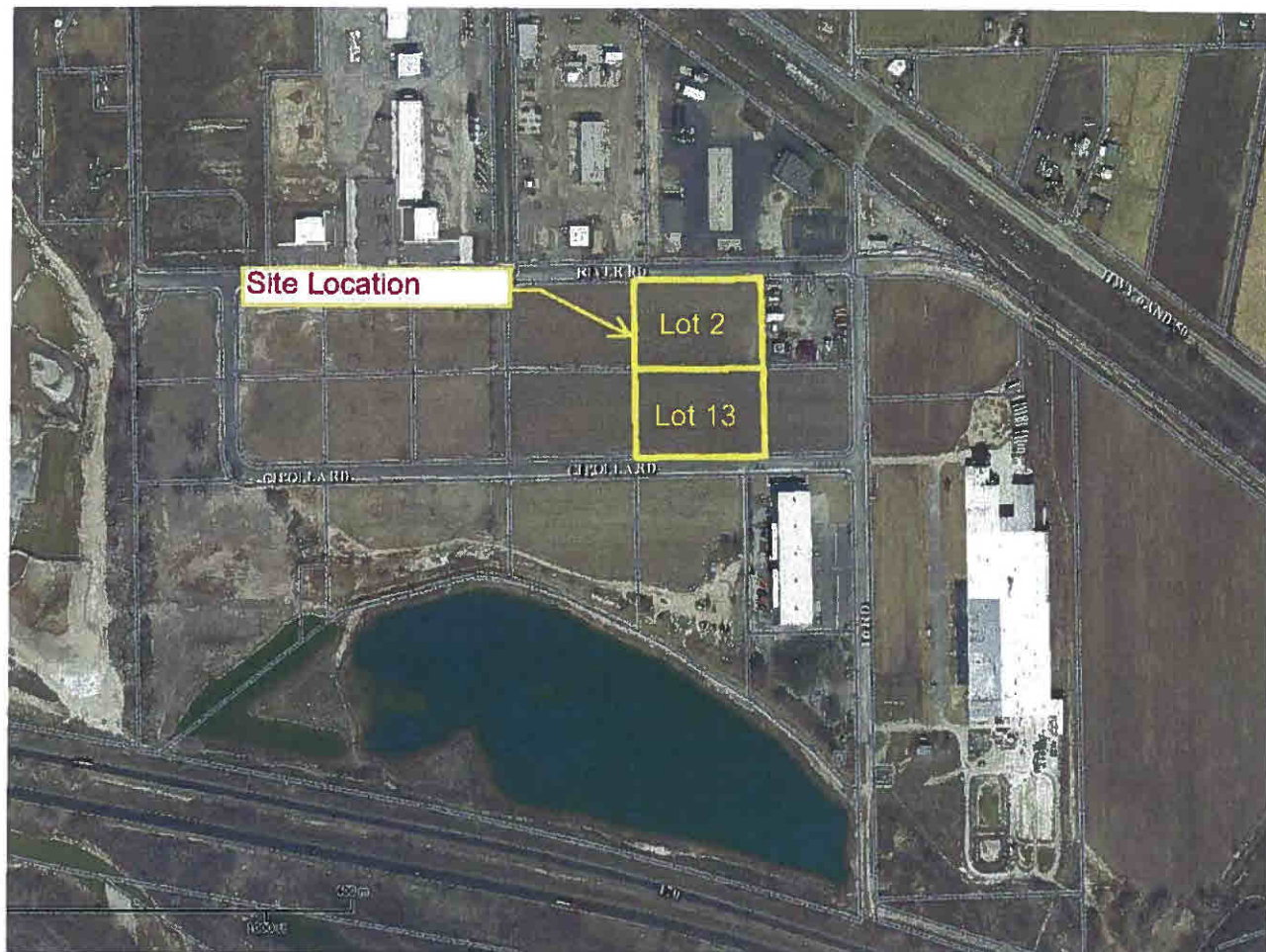
VIII. Limitations/Restrictions

This report is a site-specific report and is applicable only for the client for whom our work was performed. The review and use of this report by the City of Fruita, affiliates, and review agencies is fully permitted and requires no other form of authorization. Use of this report under other circumstances is not an appropriate application of this document. This report is a product of Vortex Engineering & Architecture, Inc. and is to be taken in its entirety. Excerpts from this report may be taken out of context and may not convey the true intent of the report. It is the owner's and owner's agent's responsibility to read this report and become familiar with recommendations and findings contained herein. Should any discrepancies be found, they must be reported to the preparing engineer within 5 days.

The recommendations and findings outlined in this report are based on: 1) The site visit and discussion with the owner, 2) the site conditions disclosed at the specific time of the site investigation of reference, 3) various conversations with planners and utility companies, and 4) a general review of the zoning and transportation manuals. Vortex Engineering & Architecture, Inc. assumes no liability for the accuracy or completeness of information furnished by the client or municipality/agency personnel. Site conditions are subject to external environmental effects and may change over time. Use of this report under different site conditions is inappropriate. If it becomes apparent that current site conditions vary from those reported, the design engineering should be contacted to develop any required report modifications. Vortex Engineering & Architecture, Inc. is not responsible and accepts no liability for any variation of assumed information.

Vortex Engineering & Architecture, Inc. represents this report has been prepared within the limits prescribed by the owner and in accordance with the current accepted practice of the civil engineering profession in the area. No warranty or representation either expressed or implied is included or intended in this report or in any of our contracts.

EXHIBIT 'A'
SITE LOCATION MAP



A Replat of Lots 2 & 13

PABCO Industrial Park Filing No. 2

Minor Subdivision

1591 River Road

Fruita, Colorado 81521

Prepared By

VORTEX
ENGINEERING, INC.

2394 Patterson Rd. Suite 201
Grand Junction, CO 81505

(970) 245-9051



VICINITY MAP

LEGEND	
	EXISTING CONTOUR
	PROPERTY BOUNDARY
	OLD PROPERTY BOUNDARY
	BUILDING ENVELOPE
	PROPOSED LOT LINE
	EASEMENT
	EX. EDGE OF ASPHALT
	ROAD-OF-WAY
	PROPOSED WATER LINE
	EXISTING WATER LINE
	PROPOSED IRRIGATION
	EXISTING FENCE
	PROPOSED ASPHALT
	PROPOSED CONCRETE
	PROPOSED STONE/GRANITE
	BRIDGE DIRECTION
	TOP CORNER SPOT ELEVATION
	PROPOSED SPALL/REIN. ELEV.
	PROPOSED P. CURE-IN-PAV
	PROPOSED FIRE HYDRANT
	PROPOSED WATER VALVE
	PROPOSED WATER METER
	PROPOSED IRRIGATION RESER.
	PROPOSED IRRIGATION VALVE
	PROPOSED FIRE CLEANOUT
	PROPOSED DRY UTILITIES (BY OTHERS)
	EGTC

SHEET NUMBER	SHEET TITLE
C1.0	COVER SHEET
C1.1	COMPOSITE SITE / UTILITY PLAN

NOTES

- THIS DRAWING REFERENCES AN IMPROVEMENT SURVEY PLAT COMPLETED BY POLARIS SURVEYING, REVISOR: FEBRUARY 15, 2016.
- EXISTING USE = VACANT
- PROPOSED USE = RES.
- PROPERTY ZONED = CITY OF FRUITA LIMITED INDUSTRIAL, RESEARCH & DEVELOPMENT (LIRD)
- MINIMUM BUILDING SETBACKS (PRINCIPAL/ACCESSORY)
FRONT = 20'
REAR = 20'/10'
SIDE = 20'/10'
- MAXIMUM BUILDING HEIGHT: 30'/70' FEET
- PROPERTY APPLICANT: MESA GRASS, LLC
GRAND JUNCTION, CO 81505
- PROPERTY AREA: 133,293.6 S.F. (3.06 AC.)
- GEOTECHNICAL INVESTIGATION PERFORMED BY LINCOLN DERRICK INC. REFER TO REPORT DATED APRIL 12, 2007.
- THIS PLAN IS THE SOLE PROPERTY OF VORTEX ENGINEERING, INC. (V.E.I.) AND IS NOT TO BE UTILIZED WITHOUT WRITTEN CONSENT FROM V.E.I.

LOCATION OF UTILITIES SHOWN HEREON
WAS PROVIDED BY OTHERS. CONTRACTOR
MUST VERIFY LOCATION OF ALL EXISTING
UTILITIES PRIOR TO CONSTRUCTION.



Know what's below.
Call before you dig.
Colorado 811
1-800-822-1987
co811.org

ACCEPTED FOR CONSTRUCTION FOR ONE YEAR FROM THIS DATE
SIGNATURE OF THESE PLANS HAS NOT RECEIVED THE REQUIRED CERTIFICATION, AS THE DESIGNER HAS NOT COMPLETED
THE 10% OF PLANS DESIGN CHECKS AND SUBMITTALS PERFORMANCE REVIEW.

DATE OF DESIGN CHECKING DESIGN REPRESENTATIVE

VORTEX
ENGINEERING, INC.
CONSTRUCTION MANAGEMENT, UTILITY MARKING
2394 Patterson Road, Suite 201
Grand Junction, CO 81505
Phone: (970) 245-9051
Fax: (970) 245-9051

R.W. JONES II
PROFESSIONAL ENGINEER
100-0000000000000000

FOR REVIEW - NOT FOR CONSTRUCTION

Cover Sheet
A Replat of Lots 2 & 13
PABCO Industrial Park Filing No. 2
1591 River Road,
Fruita, Colorado 81521

PROJECT NO: P18-004
DATE: 8/25/18
SCALE:
SHEET

C1.0

MESA GRAND SUBDIVISION

BEING A REPLAT OF
LOTS 2 AND 13 PARCO INDUSTRIAL PARK FILING NO. 2
PLAT BOOK 13, PAGE 96
SITUATED IN THE SE 1/4 SECTION 12
TOWNSHIP 1 NORTH, RANGE 3 WEST OF THE UTE MERIDIAN
COUNTY OF MESA, STATE OF COLORADO

CERTIFICATE OF OWNERSHIP

KNOW ALL MEN BY THESE PRESENTS that GRAND MESA, LLC is the 100% owner of record of that real property situate in the SE 1/4, SE 1/4 Section 12, T.1N, R.3W, Ute Meridian, Mesa County, Colorado as demonstrated at Book 4343, Page 528, Reception Number 2361281 of the Mesa County Clerk and Recorder's Office, said owner does hereby plat said real property under the name and style of Mesa Grand Subdivision and described more particularly as follows:

Lots 2 and 13 in PARCO Industrial Park Filing No. 2 as recorded in Plat Book 13 at Page 96 of the Mesa County Clerk and Recorder's Office, City of Grand Junction, County of Mesa, State of Colorado.

Said parcel contains 6.00 ACRES.

Said Owners have by these presents laid out, platted and subdivided the above described real property, and designated the same as MESA GRAND SUBDIVISION, in the County of Mesa, State of Colorado.

All Multi-Purpose Easements to the City of Fruita for the use of City approved utilities and public service providers as perpetual easements for the installation, operation, maintenance and repair of utilities and appurtenances including but not limited to electric lines, cable tv lines, natural gas pipelines, sanitary wastewater lines, storm sewers, water lines, telephone and telecommunications lines, and also for the installation and maintenance of traffic control facilities, street lighting, landscaping trees and grade structures.

All easements include the right of ingress and egress on, over, under, through and across by the beneficiaries, their successors or assigns, together with the right to trim or remove interfering trees and brush, provided, however, that the beneficiaries of said easements shall utilize this same in a reasonable and prudent manner. Furthermore, the owners of lots or tracts hereby platted shall not overburden said easements by erecting or placing any improvements thereon which may prevent reasonable ingress and egress to and from easement.

Said owners hereby acknowledge that all liabilities or encumbrances, if any, associated with the interests of this plat have been represented herein.

IN WITNESS WHEREOF, said owner has caused their name to be hereunto subscribed this _____ day of _____, A.D. 2018.

by: _____
Robert King for Mesa Grand, LLC.

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, A.D. 2016, before me the undersigned officer, personally appeared _____ and acknowledged that they executed the foregoing Certificate of Ownership and Dedication for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto affix my hand and official seal.

My Commission Expires: _____

Notary Public

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO }
COUNTY OF MESA } ss

This plat was filed for record in the office of the Clerk and Recorder of Mesa County, Colorado, at _____ o'clock _____ m., on this _____ day of _____, 20____ and was recorded at Reception No. _____

Drawer No. _____ and Fees _____.

Clerk and Recorder

Deputy

PLANNING COMMISSION CERTIFICATE

This Plat approved by the City of Fruita Planning Commission the _____ day of _____, 20____.

Chairman

TITLE CERTIFICATE

Plat and title to such lands is vested in LEGACY II, LLC free and clear of all liens, taxes, and encumbrances.

EXECUTED this _____ day of _____, 2016

By: _____
Title Examiner

CITY COUNCIL CERTIFICATE

This plat approved by the City Council of the City of Fruita, Colorado, this _____ day of _____, 2016, for filing with the Clerk and Recorder of Mesa County, Colorado, and for acceptance of dedication to the City of public dedications shown herein, subject to the provision that approved in no way obligates the City of Fruita for financing or construction of improvements on said lands, streets, or easements dedicated to the City except as specifically agreed to by the City Council of the City of Fruita. Further, said approval in no way obligates the City of Fruita for maintenance of public improvements until construction of said improvements has been completed in accordance with the City of Fruita's specifications and the City of Fruita has agreed to accept said improvements. This approval does not guarantee that the size, soil conditions, sub-surface geology, ground water conditions or flooding of wet lot shown herein are such that a planning clearance, building permit, or any other required permit will be issued. This approval is with the understanding that all expenses including material improvements for all utility services, paving, grading, landscaping, curbs, gutters, stormwater, road lighting, road signs, other traffic control devices, flood protection devices, drainage structures, and all other improvements that may be required shall be the responsibility of the owner designated herein and not the City of Fruita, unless otherwise specifically agreed to in writing by the Fruita City Council.

CITY OF FRUITA, COLORADO

By: _____
Mayor

Witness my hand and seal of the City of Fruita, Colorado

ATTEST:

City Clerk

NOTES

1. OWNERSHIP, RECORDED RIGHTS-OF-WAY, AND EASEMENT INFORMATION WAS DONE WITHOUT USING A CURRENT TITLE POLICY.

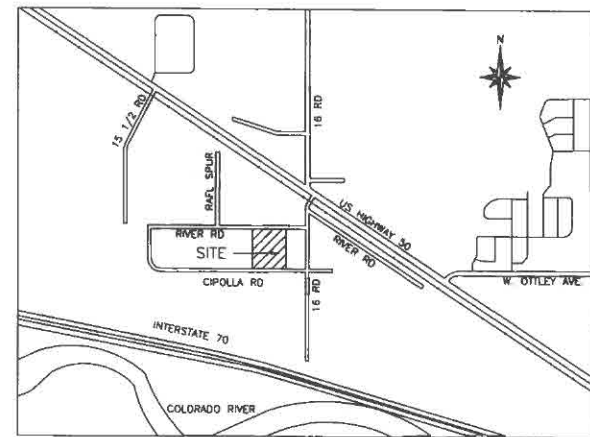
2. BEARINGS WERE BASED ON THE EAST LINE SE 1/4, SECTION 12, T1N, R3W, UTE MERIDIAN. THE BEARING USED NORTH 43.1° E IS BASED ON GPS OBSERVATIONS WHILE USING THE MESA COUNTY SURVEY INFORMATION MANAGEMENT SYSTEM.

3. ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

4. THIS PLAT IS BASED ON THE DEED AS RECORDED IN BOOK 4343 AT PAGE 528, OF THE MESA COUNTY RECORDS.

LAND USE SUMMARY

LOTS	6.00 ACRES	100%
TOTAL	6.00 ACRES	100%



ABBREVIATIONS AND SYMBOLS:

N	NORTH
S	SOUTH
E	EAST
W	WEST
T	TOWNSHIP
R	RANGE
BLM	BUREAU OF LAND MANAGEMENT
MCSD	MESA COUNTY SURVEY MARKER
ROW	RIGHT OF WAY
SIMS	SURVEY INFORMATION MANAGEMENT SYSTEM
PLS	PROFESSIONAL LAND SURVEYOR
#	NUMBER
GPS	GLOBAL POSITIONING SYSTEM
HA	HORIZONTAL ANGLE OF A HORIZONTAL CURVE
RA	RADIUS
L	LENGTH
CLO	GENERAL LAND OFFICE

SURVEYOR'S CERTIFICATION:

I, Patrick W. Click, do hereby certify that I am a registered land surveyor licensed under the laws of the State of Colorado, that this Plat is a true, correct, and complete Plat of the MESA GRAND, as laid out, platted, dedicated and shown herein, that each Plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, staked upon the ground in compliance with the Title 38, Article 51, C.R.S., as amended, and all other regulations governing the subdivision of land.

EXECUTED this _____ day of _____, 2016

COLORADO REGISTERED LAND SURVEYOR PLS #37904

MESA GRAND SUBDIVISION SITUATED IN THE SE 1/4 SECTION 12 TOWNSHIP 1 NORTH, RANGE 3 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO		
JOB #: 2016012 DATE: 3/24/2016 POLARIS SURVEYING PATRICK W. CLICK P.L.S.	DRAWING NAME: Mesa Grand DRAWN BY: DM	FIELD WORK: SL 3194 MESA AVE, JR GRAND JUNCTION, CO 81504 PHONE/FAX (970)434-7938

MESA GRAND SUBDIVISION
BEING A REPLAT OF LOTS 2 AND 13 PABCO INDUSTRIAL PARK PLUNG No. 2
PLAT BOOK 13, PAGE 96
SITUATED IN THE SE $\frac{1}{4}$ SE $\frac{1}{4}$ SECTION 12 TOWNSHIP 1 NORTH, RANGE 3 WEST OF THE UTE MERIDIAN
COUNTY OF MESA, STATE OF COLORADO

RIVER ROAD
60' ROW PLAT BOOK 13, PAGE 96

LOT 3
PABCO INDUSTRIAL PARK
PLUNG No. 2
BOOK 13, PAGE 96
RECEPTION # 1304377

LOT 1
65308.55 SQUARE FEET
1.50 ACRES

LOT 2
65293.04 SQUARE FEET
1.50 ACRES

LOT 1
PABCO INDUSTRIAL PARK
PLUNG No. 2
BOOK 13, PAGE 96
RECEPTION # 1304377

LOT 12
PABCO INDUSTRIAL PARK
PLUNG No. 2
BOOK 13, PAGE 96
RECEPTION # 1304377

LOT 3
65330.65 SQUARE FEET
1.50 ACRES

LOT 4
65339.02 SQUARE FEET
1.50 ACRES

LOT 14
PABCO INDUSTRIAL PARK
PLUNG No. 2
BOOK 13, PAGE 96
RECEPTION # 1304377

CHORD BEARING-N44°45'17"W
L=31.21'
CHORD-28.21'
R=20.00'
Δ=89°42'00"

CL 30' UTILITY, IRRIGATION & DRAINAGE EASEMENT
PLAT BOOK 13, PAGE 96

10' UTILITY EASEMENT
PLAT BOOK 13, PAGE 96

10' UTILITY & IRRIGATION EASEMENT
PLAT BOOK 13, PAGE 96

CIPOLLA ROAD
60' ROW PLAT BOOK 13, PAGE 96

FOUND MESA COUNTY SURVEY MARKER AS DESCRIBED
FOUND 1.5 INCH ALUMINUM CAP LS 11980
FOUND No. 5 REBAR WITH YELLOW PLASTIC CAP LS 14113
SET No. 5 REBAR WITH 2 INCH ALUMINUM CAP PLS 37904
ALL FOUND AND SET CORNERS FLUSH WITH GROUND ELEVATION UNLESS OTHERWISE NOTED

16 ROAD
BOOK 4336 PAGE 770

FOUND WGSN 1277
3 INCH BRASS CAP
SE CORNER SECTION 12
TIN, PLIN, UTE MENDON
FLUSH WITH ASPHALT

MESA GRAND SUBDIVISION
SITUATED IN THE SEW SEW SECTION 12
TOWNSHIP 1 NORTH, RANGE 3 WEST OF THE UTE MERIDIAN
COUNTY OF MESA, STATE OF COLORADO

JOB #: 2016012 FIELD WORK: SL
DATE: 3/24/2016 DRAWING NAME: 1591 RIVER ROAD DRAWN BY: CM
POLARIS SURVEYING
PATRICK W. CUCK P.L.S.
3194 MESA AVE., #B
GRAND JUNCTION, CO 81504
PHONE/FAX (970)434-7035



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Community Development Department

DATE: July 5, 2016

RE: Resolution 2016-21, A Resolution of the Fruita City Council setting a hearing date to determine the eligibility of approximately 6.73 acres of property located at 1062 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures.

(Aspen Village Annexation, Application #2016-14)

BACKGROUND

McCurter Land Company LLC, the owner of approximately 6.73 acres of property located at 1062 18 Road, submitted an application to annex the property. Staff has reviewed this annexation request and finds that the property meets city and state laws that must be met to find a property eligible for annexation.

The property has at least 1/6th of its perimeter contiguous with existing city limits and it is within the city's Urban Growth Boundary. Urban development surrounds the property on all sides and is identified for urban development by the city's Master Plan.

This finding of eligibility is the first step in the annexation process. The second step is to annex the property and designate a city zoning district. The Planning Commission will be considering this annexation at their July 12, 2016, public hearing. A Preliminary Plan for a 22 lot, single family residential subdivision for the property has been submitted and will be reviewed along with this annexation request. Final annexation typically takes place with approval of the final plat or site plan for the property.

FISCAL IMPACT

Annexation of property requires that the City provide it with City services (such as police protection and sewer service). The cost of providing services varies with each

annexation. This Resolution is to set a hearing date to find the property eligible for annexation which does not create a fiscal impact.

Staff is continuing to review the annexation to determine if it meets all of the city's approval criteria that must be considered for annexations, including fiscal impacts.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The city's primary goal is to protect the health, safety and welfare of the city's residents. Annexation ensures that the city has some control over development which might otherwise occur outside the city limits and drain city resources and infrastructure. This step in the annexation process simply finds the property eligible or ineligible for annexation.

Staff is continuing to review this annexation request to determine more clearly whether or not the annexation meets all of the city's goals and objectives.

OPTIONS AVAILABLE TO COUNCIL

1. Approve Resolution 2016-21, A Resolution of the Fruita City Council setting a hearing date to determine the eligibility of approximately 6.73 acres of property located at 1062 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures.
2. Deny the Resolution.

RECOMMENDATION

Staff recommends that the Council approve Resolution 2016-21, A Resolution of the Fruita City Council setting a hearing date to determine the eligibility of approximately 6.73 acres of property located at 1062 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures.

RESOLUTION 2016-21

**A RESOLUTION OF THE FRUITA CITY COUNCIL SETTING A
HEARING DATE TO DETERMINE THE ELIGIBILITY OF 6.73 ACRES OF
PROPERTY LOCATED AT 1062 18 ROAD TO BE ANNEXED TO THE CITY OF
FRUITA AND TO CONSIDER INITIATION OF ANNEXATION PROCEDURES
(Aspen Village, Application #2016-14)**

WHEREAS, the City of Fruita has received a petition for annexation of property into the city limits of Fruita which is signed by 100% of the property owners of the property requested to be annexed, and

WHEREAS, the property to be annexed is described and shown on attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE FRUITA CITY COUNCIL to hold a public hearing on August 2, 2016 at 7:00 p.m., at the Fruita City Hall, 325 E. Aspen, Fruita, Colorado, to determine if the real property described and shown on Exhibit A complies with Colorado Revised Statutes 31-12-104, 105 and 106 and is eligible for annexation and to consider the adoption of a Resolution to initiate procedures to annex said real property to the City of Fruita.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 5th DAY OF JULY**

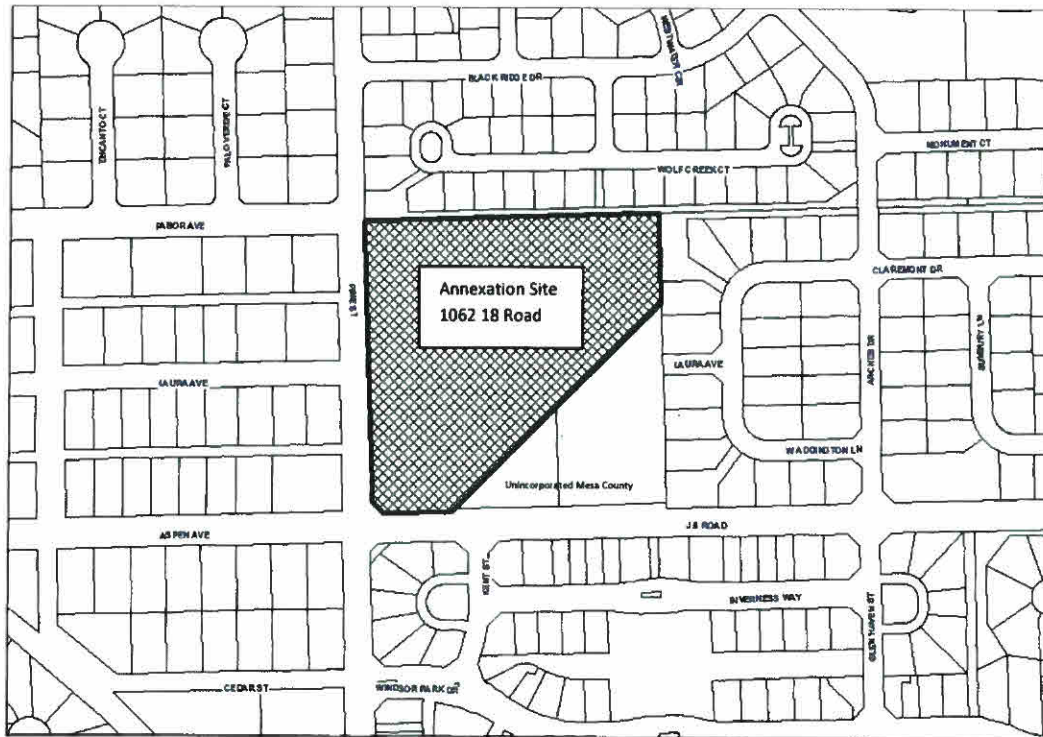
ATTEST:

City of Fruita

Margaret Sell, City Clerk

Lori Buck, Mayor

Exhibit A



Attached Legal Description

All of the NW1/4 of the SW1/4 of the NW1/4 of Section 16, Township 1 North, Range 2 West of the Ute Meridian;

EXCEPT a triangular piece of land located in the Southeast Corner of said NW1/4 of the SW1/4 of the NW1/4 of

Section 16, Township 1 North, Range 2 West of the Ute Meridian described as beginning at the Southeast Corner

thereof;

thence West 475 feet along the South boundary line of the said tract;

thence Northeasterly in a straight line 667 feet to a point on the East boundary line of the said tract;

thence South along said East boundary line to the Point of Beginning;

AND EXCEPT that parcel conveyed in instrument recorded in Book 3879 at Page 292;

AND ALSO EXCEPT that parcel conveyed in instrument recorded in Book 4158 at Page 948.

County of Mesa, State of Colorado



AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Community Development Department

DATE: July 5, 2016

RE: Resolution 2016-22, A Resolution of the Fruita City Council setting a hearing date to determine the eligibility of approximately 7.33 acres of property located at 965 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures.

(Adobe View North Annexation, Application #2016-12)

BACKGROUND

Adobe View Development Company LLC, the owner of approximately 7.33 acres of property located at 965 18 Road, submitted an application to annex the property. Staff has reviewed this annexation request and finds that the property meets city and state laws that must be met to find a property eligible for annexation.

The property has at least 1/6th of its perimeter contiguous with existing city limits and it is within the city's Urban Growth Boundary. Urban development is adjacent to the property on the south and northeast, and the surrounding area is identified for urban development by the city's Master Plan.

This finding of eligibility is the first step in the annexation process. The second step is to annex the property and designate a city zoning district. The Planning Commission will be considering this annexation at their July 12, 2016, public hearing. A Preliminary Plan for a 34 lot single family residential subdivision for the property also has been submitted and will be reviewed along with this annexation request. Final annexation typically takes place with approval of the final plat or site plan for the property.

FISCAL IMPACT

Annexation of property requires that the city provide it with city services (such as police protection and sewer service). The cost of providing services varies with each

annexation. This Resolution is to set a hearing date to find the property eligible for annexation which does not create a fiscal impact.

Staff is continuing to review the annexation to determine if it meets all of the City's approval criteria that must be considered for annexations, including fiscal impacts.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The city's primary goal is to protect the health, safety and welfare of the city's residents. Annexation ensures that the city has some control over development which might otherwise occur outside the city limits and drain city resources and infrastructure. This step in the annexation process simply finds the property eligible or ineligible for annexation.

Staff is continuing to review this annexation request to determine more clearly whether or not the annexation meets all of the city's goals and objectives.

OPTIONS AVAILABLE TO COUNCIL

1. Approve Resolution 2016-22, A Resolution of the Fruita City Council setting a hearing date to determine the eligibility of approximately 7.33 acres of property located at 965 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures.
2. Deny the Resolution.

RECOMMENDATION

Staff recommends that the Council approve Resolution 2016-22, A Resolution of the Fruita City Council setting a hearing date to determine the eligibility of approximately 7.33 acres of property located at 965 18 Road to be annexed into the City of Fruita and to consider initiation of annexation procedures.

RESOLUTION 2016-22

**A RESOLUTION OF THE FRUITA CITY COUNCIL SETTING A
HEARING DATE TO DETERMINE THE ELIGIBILITY OF 7.33 ACRES OF
PROPERTY LOCATED 965 18 ROAD TO BE ANNEXED TO THE CITY OF FRUITA
AND TO CONSIDER INITIATION OF ANNEXATION PROCEDURES
(Adobe View North, Application #2016-12)**

WHEREAS, the City of Fruita has received a petition for annexation of property into the city limits of Fruita which is signed by 100% of the property owners of the property requested to be annexed, and

WHEREAS, the property to be annexed is described and shown on attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE FRUITA CITY COUNCIL to hold a public hearing on August 2, 2016 at 7:00 p.m., at the Fruita City Hall, 325 E. Aspen, Fruita, Colorado, to determine if the real property described and shown on Exhibit A complies with Colorado Revised Statutes 31-12-104, 105 and 106 and is eligible for annexation and to consider the adoption of a Resolution to initiate procedures to annex said real property to the City of Fruita.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 5th DAY OF JULY**

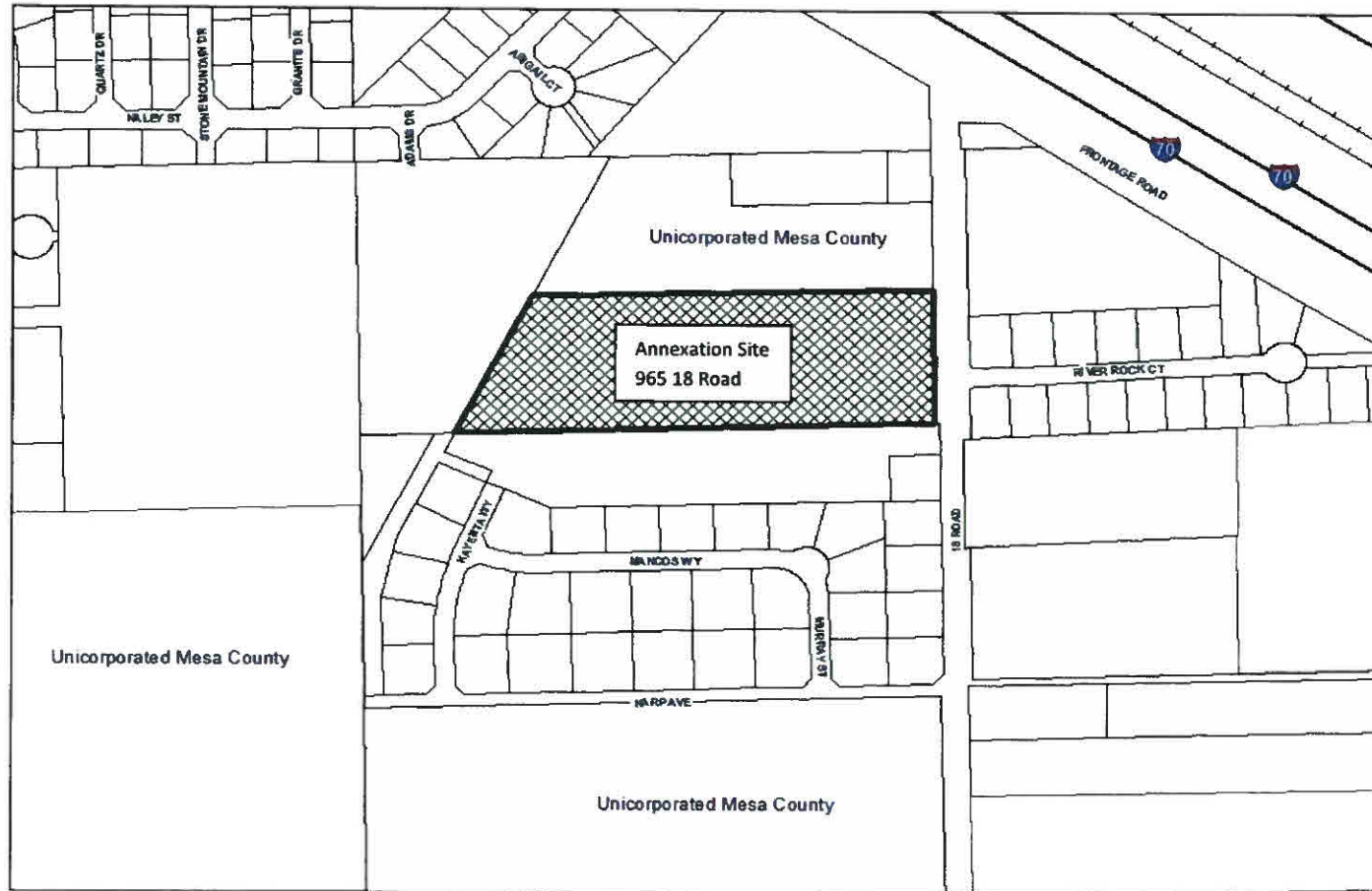
ATTEST:

City of Fruita

Margaret Sell, City Clerk

Lori Buck, Mayor

Exhibit A



All that certain portion of the S½ N½ SE¼ NE¼ of Section 20, Township One North, Range Two West of the Ute Meridian, in the City of Fruita, County of Mesa, State of Colorado as described at Reception Number 2579937 in the Office of the Mesa County Clerk and Recorder, said portion being more particularly described, as a result of survey, by the following perimeter:

Commencing at a Mesa County Survey Marker for the E1/4 Corner of said Section 20, from whence a Mesa County Survey Marker for the N1/16 Corner of said Section 20 bears N00°24'42"E for a distance of 1319.56 feet; thence N00°24'42"E for a distance of 659.78 feet to the point of beginning; thence S89°55'37"W, on the northerly line of Adobe View Subdivision, as recorded in Plat Book 19 at Pages 396-397 in the Office of the Mesa County Clerk and Recorder, for a distance of 1145.67 feet to the centerline of the Murray Drain; thence continuing on said centerline for the following five courses and distances:

1. N29°08'04"E for a distance of 69.15 feet;
2. N25°07'39"E for a distance of 102.84 feet;
3. N27°32'11"E for a distance of 31.30 feet;
4. N30°28'41"E for a distance of 92.84 feet;
5. N29°34'59"E for a distance of 79.13 feet;

thence N89°55'58"E for a distance of 970.08 feet to a point on the easterly line of said Section 20; thence S00°24'42"W for a distance of 329.77 feet to the beginning.

Containing approximately 8 acres.

This legal description written by Jodie L Grein PLS-38075 for Rolland Consulting Engineers 405 Ridges Blvd. Suite A, Grand Junction, Colorado 81507.



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: TURE NYCUM, PARKS AND RECREATION DIRECTOR
DATE: JULY 5, 2015
RE: RESOLUTION SUPPORTING A GREAT OUTDOORS COLORADO
CONNECT INITIATIVE GRANT APPLICATION FOR THE KOKPELLI
TRAIL CONNECTION OF THE RIVERFRONT TRAIL

BACKGROUND

The Monument View section of the Riverfront was dedicated this September 5th 2014 and has been extremely well received and used. There is now over 15 miles of contiguous concrete Riverfront Trail from Fruita, through Grand Junction and making its way towards Palisade. Currently, the City of Fruita is in the final stages of construction for the Little Salt Wash Trail, a one mile section of trail that extends north from the James M Robb Colorado River State Park, travels underneath I-70, Union Pacific Railroad, highways 6 and 50 and terminates near the Fruita Community Center. The trail dedication is scheduled for July 20th at the upcoming Colorado Riverfront Concert.

Attempting to capitalize on the positive momentum generated from both the Monument View Section of the Riverfront Trail and the Little Salt Wash Trail section, the City of Fruita is working towards constructing the Kokopelli Section of the Riverfront Trail. This will be a 4.5 mile stretch of trail from the newly constructed Little Salt Wash Trail in Fruita to the Loma community and Kokopelli Trail system. Once at the Kokopelli Trail system, bicyclists have the opportunity to ride the Kokopelli Trail for 120 miles to Moab, Utah.

Easements, right-of-way and land acquisitions have been made along the stretch of the Kokopelli Section and design work is underway. The City's Engineering Department is designing the trail from the Little Salt Wash Trail to 15 Road or the Waste Water Reclamation Facility while SGM has been retained to design the trail from 15 Road west to highway 139. Permitting by the Colorado Department of Transportation and the Bureau of Land Management are in process. Staff anticipates having design work and permitting completed in late 2016 or early 2017.

In 2008, the City of Fruita completed a land swap with Colorado State Parks for 85 acres on the north side of I-70 with the intent of putting this trail section in place. In the land swap agreement, a multi-model trail was identified as an amenity to place on this property. This land was further identified in the Parks, Open Space and Trails Master Plan as an area for future recreational amenities.

The initial trail alignment and cost estimates have been created. Complete build-out of a 10' concrete trail along the 4.5 miles with bridges and other amenities is estimated to cost approximately \$3.47 million dollars. CDOT has provide the City with a Transportation Alternative Grant of \$160,000 and the City has allocated \$40,000 in 2015 to pay for design costs of the structures and underpasses of the trail for the section of trail from 15 Road to highway 139. The design of the trail from Little Salt Wash to 15 Road is being completed in-house by City Engineering staff. This is an estimate project savings of \$120,000. In 2017, the City would allocated an additional \$100,000 for construction costs, the Riverfront Foundation has graciously partnered with the City and will provide \$160,000 and the land owners of Greenway Business Park have donated \$10,000 for construction as well as they are in the process of gifting a 32 acre lake to the City which is adjacent to the Kokopelli Trail Section.

In 2015, the City applied for a \$1.0 million dollar Paths to Parks GOCO Grant which was not awarded to the City. However, in 2015, the City of Fruita in conjunction with the Riverfront Commission and it's other partners applied for and received a Colorado the Beautiful: 16 in 2016 dedication from the State of Colorado and the Governor's Office. While there is no monetary award with this designation, it will hopefully elevate the Colorado Riverfront Trail chances for state grant funding when applied for.

In early 2016, the City submitted a concept paper for a Great Outdoors Colorado, Connect Initiative grant which was accepted and an initiation to apply for the Connect Initiative was extended to the City of Fruita. In addition to this GOCO grant request, city funding and other donations, staff identified additional grants to apply for to help get to the goal of \$3,470,000 for trail construction. This summer the City applied for a Department of Local Affairs grant for the \$1,200,000. Award notification is expected in late summer to early fall.

A resolution is attached for your approval. The resolution is an application requirement by GOCO for the Connect Initiative grant opportunity. Also attached for your reference is the concept paper submitted earlier this year and the maps of the connection points on the east and west termini of the trail.

<u>FISCAL IMPACT</u>	
	<p>The City of Fruita has allocated Capital Improvement Project funds for development of the Kokopelli section of the Riverfront Trail. In the 2016 Budget, \$40,000 of Conservation Trust Fund dollars were allocated to the project and will be used for design services along with \$160,000 in funds obtained from the CDOT Transportation Alternatives Program. In 2016, an additional \$100,000 will be allocated for the construction of the trail. The Riverfront Foundation has also pledge \$160,000 and Mesa Grand LLC has pledge \$10,000 towards construction of the project. A Grant request from the DOLA for \$1.2 million has also been made in 2016. These funds total \$3,470,000 and will be used for GOCO grant match and eventual construction of Kokopelli Section. The GOCO grant request is \$2,000,000.</p>
<u>APPLICABILITY TO CITY GOALS AND OBJECTIVES</u>	
	<p>Developing Trail inside and outside of Fruita is identified as a Council Goal in 2014. The Parks Open Space and Trails Master Plan (adopted in 2009) identify the completion of the Riverfront Trail as a high priority.</p>
<u>OPTIONS AVAILABLE TO THE COUNCIL</u>	
	<ol style="list-style-type: none"> 1. Pass and adopt the resolution as written. 2. Modify the resolution and pass as amended. 3. Do not pass and adopt the resolution.
<u>RECOMMENDATION</u>	
	<p>Staff recommends that this resolution be adopted as written.</p>

RESOLUTION 2016-23

A RESOLUTION OF THE FRUITA CITY COUNCIL SUPPORTING AN APPLICATION FOR A CONNECT INITIATIVE GRANT FROM THE STATE BOARD OF THE GREAT OUTDOORS COLORADO FOR CONSTRUCTION OF THE KOKOPELLI SECTION OF THE COLORADO RIVERFRONT TRAIL

WHEREAS, the City of Fruita supports the Great Outdoors Colorado Grant Application for the construction of the Kokopelli Section of the Colorado Riverfront Trail; and

WHEREAS, John Hickenlooper, Governor of Colorado, has designated the Colorado Riverfront Trail as Colorado the Beautiful, 16 in 2016 Trail; and

WHEREAS, the Monument View section of the Riverfront Trail was opened in September of 2014 connecting the communities of Fruita and Grand Junction; and

WHEREAS, the City of Fruita is completing the Little Sash Wash Trail an important connector for the community and eastern terminus of the future Kokopelli Section of the Colorado Riverfront Trail; and

WHEREAS, the City of Fruita recognizes that opening of the Monument View section and the Little Salt Wash Trail have created great momentum for additional trail connectivity in the Lower Valley; and

WHEREAS, the development of the Kokopelli Section will connect the communities of Fruita with Loma; and

WHEREAS, the development of the Kokopelli Section will connect Fruita with hundreds of thousands of acres of McInnis Canyon National Conservation Area, and

WHEREAS, Fruita citizens and visitors will have non-vehicular/non motorized access to these vast parklands, including the Kokopelli Trail system which travels 120 miles from Loma to Moab, Utah; and

WHEREAS, developing trail is an effort to become the trails capital of the world, identified as a goal in 2014 by City Council, and

WHEREAS, providing connectivity of trails inside and outside the city is critical; and

WHEREAS, this trail section is identified in the City of Fruita's Parks, Open Space and Trails Master Plan as a high priority; and

WHEREAS, the Riverfront Foundation has pledged \$160,000 to be used as grant match towards in conjunction along with funds allocated by the City of Fruita, and

WHEREAS, the City of Fruita is requesting \$2,000,000 from Great Outdoors Colorado, to construct the Kokopelli Trail section of the Riverfront Trail; and

NOW, THEREFORE IT BE RESOLVED BY THE FRUITA COUNCIL THAT:

- Section 1:** The City Council of the City of Fruita strongly supports the application and has appropriated matching funds for a grant with Great Outdoors Colorado.
- Section 2:** If the grant is awarded, the City Council of the City of Fruita strongly supports the completion of the project.
- Section 3:** The City Council of the City of Fruita authorizes the expenditure of funds necessary to meet the terms and obligations of any Grant awarded.
- Section 4:** The project site is owned by City of Fruita and will be owned by City of Fruita for the next 25 years.
- Section 5:** The City Council of the City of Fruita will continue to maintain the Kokopelli Trail section in a high quality condition and will appropriate funds for maintenance in its annual budget.
- Section 6:** If the grant is awarded, the City Council hereby authorizes the City Manager to sign the grant agreement with Great Outdoors Colorado.
- Section 7:** This resolution to be in full force and effect from and after its passage and approval

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRUITA,
COLORADO THIS 5th DAY OF JULY, 2016.**

ATTEST:

CITY OF FRUITA

Margaret Steelman, City Clerk

Lori Buck, Mayor

The map displays the Riverfront Trail in Fruita, Colorado, with various sections highlighted in different colors and line styles. The trail starts at the Loma Boat Ramp and runs through Fruita, ending at the Blue Heron Boat Ramp. Key locations include Fruita, Fruita Visitor Center, Walter Walker Wildlife Sanctuary, and Grand Junction. The map also shows major roads like I-70 and US-163, and landmarks like Little Park and Lake. The trail is divided into several sections, each with a specific completion status and length.

Legend

Riverfront Trail STATUS

- Existing
- Future RF Trail
- Proposed
- Proposed - Fruita
- Proposed Alternate R
- I-70 Only

Roads

- <all other values>

CLASS

- INTERSTATE; STATE HIGHWAY; US HIGHWAY

Trail Sections:

- KOKOPELLI CONNECTION**
TRAIL - 4.5 MILES
- MONUMENT VIEW SECTION PH 2**
COMPLETED 2014
1.4 MILES
- MONUMENT VIEW SECTION PH 1**
COMPLETED 2012
2.8 MILES
- MONUMENT VIEW SECTION PH 3**
COMPLETED 2014
4.2 MILES

APPLICANT INFORMATION (ELIGIBLE ENTITY)

Name: City of Fruita		
Mailing Address: 325 Aspen Avenue		
Applicant Contact Name: Ture Nycum		Title: Parks and Recreation Director
Telephone: 970-858-0360 x6400	Email: tnycum@fruita.org	Are you the Primary Contact? Yes
DO you currently have an open GOCO grant? If yes, please provide grant number(s): Yes, 11435		

PARTNER INFORMATION (IF APPLICABLE)

Name: Riverfront Commission and Foundation		
Mailing Address: P.O. Box 2477, Grand Junction, Colorado 81502		
Partner Contact: Michele Rohrbach		Title: Coordinator
Telephone: 970-683-4333	Email: michele.rohrback@mesacounty.us	Are you the Primary Contact? Yes

PROJECT INFORMATION

Project Title: Kokopelli Section of the Riverfront Trail	
Grant Request (\$2,000,000 max.): \$2,000,000	Total Project Cost: \$3,300,000
Percent of overall match (% of total project cost): 13.3% of total project costs, 22.5% of grant request (land donation currently being appraised)	Percent of Cash match (% of total project cost): 7.5% of total project cost, 12.5% of grant request
County of Service: Mesa	City (please include cross streets): Fruita

Kokopelli Section of the Colorado Riverfront Trail

1. **SCOPE:** The Colorado Riverfront Trail (CRT) is a regional trail system extending from Riverbend Park in Palisade on the east side of the Grand Valley through Grand Junction and terminating near the Loma community on the west side of the Grand Valley. To date, almost 23 miles of the CRT have been constructed with an estimated 10 miles of trail still needing constructed for full build-out. Given the importance of the CRT to the Grand Valley, Governor Hickenlooper has designated it as a *Colorado the Beautiful: 16 trails in 2016*.

The communities of the Grand Valley (over 100,000 residents) joined together in 2014 to complete a significant portion of the Riverfront Trail between Fruita and Grand Junction. The Monument View section (named for its views of the Colorado National Monument) was dedicated in September 2014 and has been heavily used and extremely well received. A tremendous amount of momentum has been created since the Monument View section was constructed and the Riverfront Trail partners are eager to capitalize on the public support.

The Kokopelli section of the CRT is an undeveloped 4.5 mile stretch of trail heading west from the Lower Little Salt Wash Trail (currently under construction and partially funded by a GOCO State Trails grant) in Fruita to the community of Loma, near the world famous Kokopelli Trail system in McInnis Canyons National Conservation Area (NCA). This section of trail is the missing link between the Riverfront Trail and the Kokopelli Trail system (see description of this area in Question #2) which connects to the existing 120-mile trail that terminates in Moab, Utah.

The Kokopelli section of the CRT is broken into two phases for design and funding purposes; however, the City of Fruita intends to construct the entire Kokopelli section as one construction project. Phase I extends west from the Lower Little Salt Wash Trail in Fruita along the north side of I-70 for approximately two miles and terminates at the City of Fruita's Waste Water Reclamation Facility (WWRF) on 15 Road. Easements and rights-of-way have been secured along this stretch; however, the City is working with land owners to amend easements and accept land donations to create greater flexibility in the trail alignment. There is one water crossing at the Big Salt Wash where a pedestrian bridge will be constructed. A trail head will be developed at Fruita's WWRF to provide mid-section access for trail users as well as waterfowl hunters on the Colorado River.

Phase II of the project starts at the City's WWRF and curves around an oxbow of the Colorado River. The trail will remain on City of Fruita's property for a mile and a quarter where it will then enter into CDOT right-of-way at Reed Wash. A pedestrian bridge will be constructed over Reed Wash and will cross I-70 along Reed Wash under the existing I-70 bridge. The concrete trail will extend on the south side of I-70 to Hawkeye Road where trail users can then cross the road and access a single track, soft surface trail that will travel west to the Loma Interchange and on to the Kokopelli Trail system access road. Sections of the trail near the Reed Wash crossing are planned to include flood protection measures and seasonal trail closure as necessary since this section may potentially be under water for approximately a month and a half during the Colorado River's high run-off season (late spring and early summer). During the design process, we will look at options to build a retaining wall to allow river water to back up higher than the trail surface to lessen seasonal closure times. Permitting by the Colorado Department of Transportation will be required on the western portion of the trail (at Reed Wash and the Loma interchange).

Matching design and construction standards from other CRT segments, the Kokopelli section will be a 10' wide concrete surface. In addition, a soft-surface, single track trail will be built alongside the concrete trail, allowing for variety of trail and user experience. Concept plans and cost estimates have been created and complete build-out will cost an estimated \$3.3 million dollars. The City does not intend to use GOCO funds to assist with land or easement acquisitions/modifications.

2. **ACCESS:** The Colorado Riverfront Trail is the spine of the Grand Valley's regional trail system. The Kokopelli section of the CRT will connect the Loma area to Fruita and the greater Grand Valley with a non-motorized trail. In reverse, the Kokopelli Trail system which is part of McInnis Canyons National Conservation Area (NCA) and home to world-renowned mountain biking and outdoor recreation will be accessible to the

greater Grand Valley via this trail section. In 2014, over 62,500 visitors were counted at the Kokopelli Trailhead in McInnis Canyons NCA.

The Kokopelli Trail system in McInnis Canyons NCA near Loma is an international destination for mountain bikers, hikers, trail runners and other outdoor recreation enthusiasts and as such has a significant economic impact to our community. Current access to McInnis Canyons NCA is by vehicle only unless bicycle riders use Highways 6/50 and 139 (bicycles are not allowed on I-70). These routes are unsafe and not conducive to non-motorize access to the Kokopelli Trail system. The Kokopelli Trail system is a 5 mile drive west from Fruita on Interstate 70 and the proposed Kokopelli section of the CRT would be the only non-vehicular link to the NCA.

The Kokopelli section will provide local residents, families, and visitors the ability to ride their bicycle or hike to and from the City of Fruita and the Kokopelli Trails system. And while it may sound daunting, many families and youth ride the 120 mile Kokopelli Trail from Loma to Moab. This is typically a 2-3 day biking and camping adventure. It's a wonderful experience for families to bond and for youth to experience the great outdoors. In addition, many families and youth (local and visiting) enjoy day rides on the Kokopelli Trails, especially Rustlers Loop which is a beginner trail with signage that educates riders on trail etiquette and environmental protection.

The Kokopelli section starts in the hub of activity of Fruita, providing residents and visitors easy access to the trail section. Downtown Fruita, the Fruita Community (Recreation) Center and the Colorado Welcome Center are all a half mile from the Kokopelli section and the James M Robb Colorado River State Park which has camping and other recreational facilities is a quarter mile away via the Lower Little Salt Wash Trail. The Kokopelli section is also located near a host of other lodging options for Fruita visitors - 3 hotels, 1 motel and an RV campground where they can jump on to this trail section and start their outdoor adventures.

The City of Fruita is exploring the possibility of a public/private partnership on the 85 acres the City owns and where the Waste Water Reclamation Facility is located. A local business owner has proposed to construct and manage camping grounds (primitive to full service sites) at this location as well as create an events area for a variety of activities including moto-cross, equestrian and bicycle. This business venture would allow campers the ability hike/ride to the McInnis Canyons and Kokopelli Trail system (there is currently no camping near this trail system) as well as into town from their camp site.

3. **NEED:** The CRT in the Grand Valley has been designated by the Governor Hickenlooper as one of the **16 trails in 2016** - *'These 16 priority trail segments will fill gaps in our statewide trail system, connect communities, and visitors to important amenities to promote active, outdoor recreation.'* The CRT aptly meets the Governor's definition as the trail will connect the Palisade, Grand Junction, Fruita and Loma communities to a world class outdoor recreation area in McInnis Canyons, NCA. The Kokopelli section also fills one of the three remaining gaps in the Riverfront Trail.

While the rest of Colorado is enjoying economic growth and prosperity, the western slope and Fruita in particular are still struggling economically. The oil and gas industry which Fruita relied on has not returned to economic levels seen since 2008. Sales and use taxes collected in 2015 were 6 percent lower than in 2014. If it weren't for tourists descending on Fruita due in large part to its reputation as a mountain biking destination, the economic impacts would be more severe. Fruita's economy is transitioning more and more to tourism based. Capitalizing on the area's natural outdoor recreation resources has become a focal point in reviving and maintaining Fruita's economy. The Kokopelli section of the Riverfront Trail will further enhance Fruita's ability to develop its economy.

The City of Fruita has been making efforts to attract new outdoor recreation business and industry to its community. The Greenway Business Park is a planned development (lots are developed and have all the necessary infrastructure; sewer, water, power, fiber, etc.) in Fruita for light industrial and manufacturing and the Kokopelli Section traverses the business park. This will allow employees in the Greenway Business Park to take lunchtime walks to downtown, ride to the Kokopelli Trails after work, or commute to work via the trail.

The Greenway Business Park landowners have contributed financially to the trail project and intend to donate a 25 acre lake and shoreline to the City in 2016. The land is currently being appraised for its value and will be used as match for the grant application. The acquisition of this property will provide flexibility in trail alignment and provide additional recreational opportunities along the trail route. We believe the addition of this trail section will help attract new business and spur the local Fruita and Grand Valley economies.

4. **URGENCY:** The Grand Valley opened an 8-mile Monument View section of CRT in late 2014. This has been met with tremendous support and is receiving great use. The City of Fruita would like to capitalize on this success and momentum. As time goes by the CRT will become engrained in resident's sub consciousness and the high level of support and excitement to continue building and completing more trail may wane. It's best and easiest to capitalize on the already favorable momentum rather than having to rebuild that momentum as years pass.

After a four year process to secure permits with the Union Pacific Railroad and the Colorado Department of Transportation, the Lower Little Salt Wash trail is currently under construction and is planned to be completed in May of this year. This trail section is the eastern terminus of the Kokopelli section of the CRT and will provide non-motorized connectivity to both north and south Fruita. Trail users will have the ability to access the trail at the Fruita Community (Recreation) Center on the north side of Fruita and at the James M Robb Colorado River State Park on the south side of Fruita. Completion of the Lower Little Salt Wash Trail will provide further momentum for the Riverfront Trail.

The Kokopelli section of the CRT has many supporters, including the Riverfront Commission and Foundation, the other communities in the Grand Valley, local businesses and land owners. These entities have come together in one manner or another and have donated funding and/or supported the trail section publicly. Easements and right-of-way agreements are in place and the intergovernmental agreement for trail maintenance with Mesa County, Palisade, Grand Junction and Fruita is being redrafted and approved. The timing and support to construct this trail section is now.

5. **PLANNING:** The City of Fruita adopted a Parks, Open Space and Trails (POST) Master Plan in December 2009. The development of this plan went through an extensive public process including multiple public meetings and various presentations to gather information on the community's needs for improved and additional parks, trails and open space areas. Trails and in particular the CRT, rated as a high priority. The Kokopelli section of the Riverfront Trail is identified and called out as a proposed trail in the POST Master Plan.

A landowner near the western-most (at the Loma I-70 Exit) section of this Kokopelli section has expressed concern/opposition to a trail near their land. Concept plans have been developed so that the trail remains on City of Fruita property and Colorado Department of Transportation right-of way. The trail would be adjacent yet separate from the land owner in the Loma area and is currently being designed to go under I-70 at Reed Wash thus minimizing impacts to the landowner and addressing their concerns.

To determine preferred water and interstate crossings at Reed Wash and the Loma I-70 interchange, the City of Fruita commissioned a study in 2011 to provide multiple design alternatives and cost analysis. The alternatives consisted of three separate alignments – utilizing the underpass at Reed Wash, extending the trail on the north side of I-70, and boring a new trail underpass under I-70. The City is planning to utilize the underpass at Reed Wash as it provides the best user experience and is the least expensive and impactful to local landowners.

In 2013, the City of Fruita conducted a bi-annual community survey. Using an Importance-Satisfaction Rating System, Fruita residents identified trails as a high priority but were dissatisfied with them. Researchers extrapolated from the data that the community rated the addition of walking and biking trails as the highest priority. Responding to the community's input for additional trails, City Council set the Kokopelli section of the CRT as a high priority project and top goal in 2014. A final public input meeting is scheduled for April 2016, to solicit additional feedback and address concerns that community members along the trail alignment may have.

6. **PARTNERSHIPS:** Over the years, the development of the CRT has been a partner-lead effort by the Riverfront Commission and Foundation, Mesa County and the Grand Valley Communities. The coordinated effort to construct an additional 4.5 miles of trail west of Fruita is expected to be similarly supported. Showing its strong support for this section, the Riverfront Foundation has pledged \$160,000 towards the construction of the Kokopelli section. In addition, the private land-owners of the Greenway Business Park have donated \$10,000 to the Riverfront Foundation in support of the Kokopelli Section and have agreed to dedicate a lake (reclaimed from a gravel pit) on the southern edge of their property. The Kokopelli section will travel along the southern portion of this lake which will provide future recreational amenities along the trail route.

As part of BLM's nationwide Connecting with Communities initiative, the City of Fruita entered into a MOA with the BLM in 2015 to better coordinate local efforts on public lands. BLM and the City have pledged to mutually assist each other to maintain and develop trailheads, trails, and other outdoor recreational amenities. The BLM, who has oversight of McInnis Canyons NCA is aware and supportive of the Kokopelli section.

Finally, Olsson Associates conducted, free of charge, an aerial survey of the trail section using a new Unmanned Aerial Technology (drone) technology. Olsson Associates has invested approximately \$30,000 in this pilot study / survey work and was able to gather '3-dimensional photogrammetric point clouds, aerial orthos photography, and a movie of the flyover' to assist with design work.

7. **TIMELINE:** The City of Fruita is actively designing the Kokopelli section and intends to start construction in August of 2017. A CDOT Transportation Alternatives Program (TAP) grant in the amount of \$160,000 was awarded to the City of Fruita in 2015 for trail design and for purposes of executing the grant, the trail design has been segmented into two phases. Phase I of the project will be from the Lower Little Salt Wash Trail to 15 Road where the City's Waste Water Reclamation Facility is located. This phase is being designed by in-house staff. Phase II of the trail project will run westward from 15 Road to the terminus in Loma. A Request for Qualifications was issued and submissions from designers have been made and are currently under review. The CDOT TAP grant will be used to fund phase II design work. The City anticipates having 30 percent design completed in August and full design completed in December of 2016.

Please note that all landowners are aware of the trail project and all easements and right-of-way acquisitions have been made to allow for the Kokopelli section to be constructed.

- LSC NORTHWEST COLORADO LLC (Fruita Industrial Park) – No Further Action Needed.
- BACHMAN DRILLING & PROD SPECIALITIES INC (East of Sooner Ct) – No Further Action Needed.
- CITY OF FRUITA ROW (Sooner Ct ROW) – No Further Action Needed.
- DIVISION OF PARKS & OUTDOOR RECREATION (Between the end of Sooner Ct and 16 Rd) – In the process of performing a land swap with Colorado Parks and Wildlife at the City's WWRF.
- MESA GRAND LLC (Through PABCO business park) – In the process of accepting a land donation from private landowners. Will allow for greater flexibility in the alignment of the trail.
- OLDCASTLE SW GROUP INC (The gravel pit) – Working United Sand and Gravel to widen current trail easement to improve and provide design flexibility.
- CITY OF FRUITA (15 Rd. ROW) – No Further Action Needed.
- FRUITA DEVELOPMENT LLC (Just west of 15 Rd.) – Working with land owner to move easement to north side of irrigation pump facility to reduce project costs and create a better alignment.
- CITY OF FRUITA (Wastewater plant) – No Further Action Needed; however, land swap is in process.
- CDOT (I-70 ROW) – Permits will be obtained during design process.

The City of Fruita has had discussions with the Colorado Parks and Wildlife Department to alleviate their wildlife concerns along the trail section. The first concern is in regard to a Bald Eagle's nest located approximately 300 feet north of I-70 and at 15 1/2 Road and is being mitigated by including protective fencing to shield the nest from the trail. The City of Fruita will also comply with CPW requirements to construct the trail outside of Bald Eagle mating season.

The second concern is the potential impact to hunting on Skipper's Island, the land on the south side of the river oxbow at the Waste Water Reclamation Facility (WWRF). To alleviate these concerns, the City will provide

Colorado Parks and Wildlife with land to install three hunting blinds on the north side of the oxbow, thus allowing hunters to shoot in a southerly direction and away from the trail and WWRF. This will also allow CPW to schedule hunters at this location with the creation of permanent hunting blinds.

A third concern (non-wildlife related) was raised by CPW regarding the potential for increased traffic at the Loma Boat Launch site. To mitigate these concerns, the Kokopelli section of the trail will extend past the Loma interchange and will not terminate near the Loma Boat Launch like described in previous grant applications.

8. BUDGET:

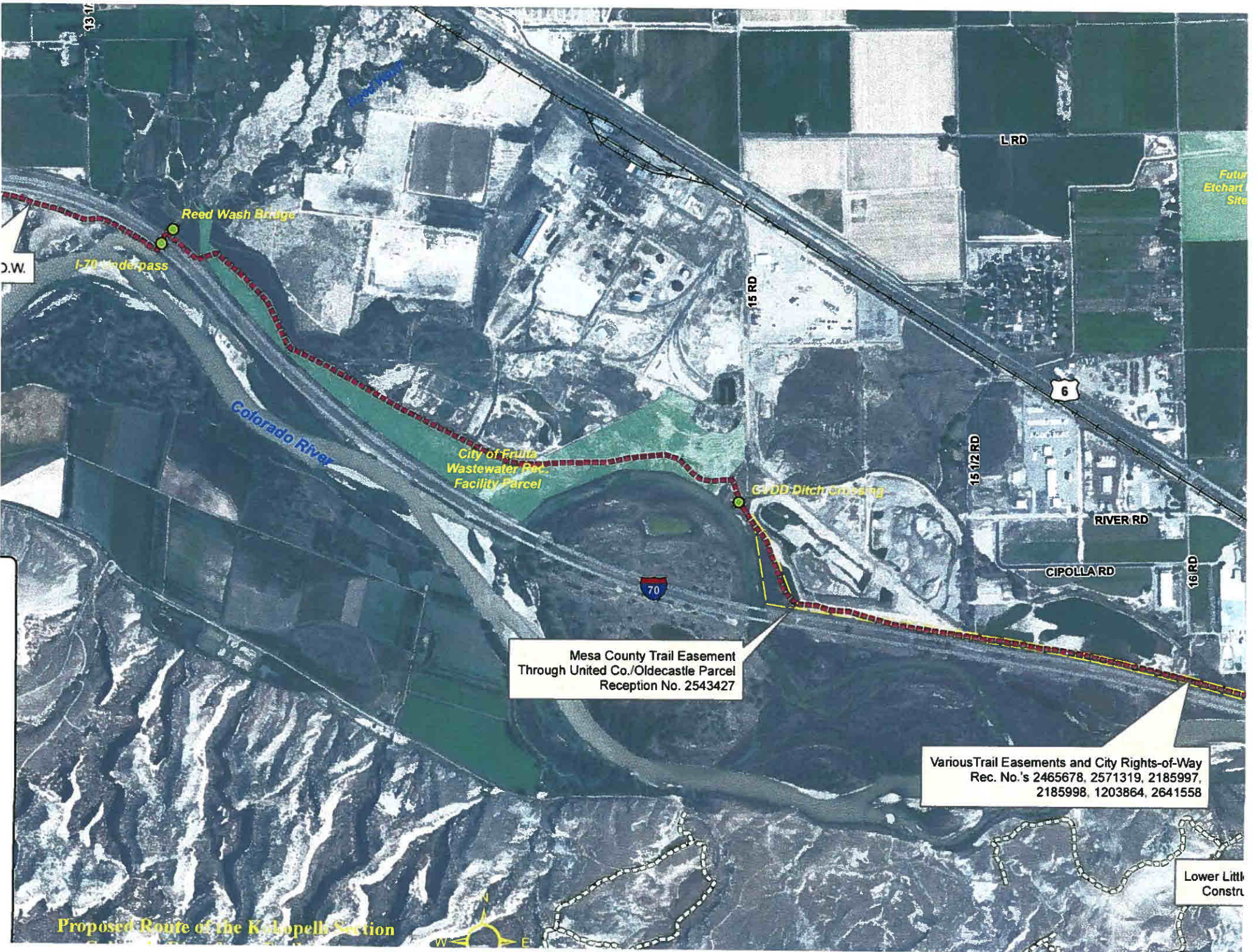
- a. What is the estimated total project cost? \$3,300,000
- b. What is the estimated GOCO grant request? \$2,000,000
- c. How much cash match from applicant, partner, or other funding sources is currently secured? How much is left to secure? What is the timeframe for securing outstanding matching funds?
The City of Fruita has secured cash match in the amount of \$250,000
 - Riverfront Foundation - \$160,000
 - Mesa Grand LLC (PABCO Land Owners/Greenway Business Park) - \$10,000
 - City of Fruita, Capital Improvement Project Funds - \$80,000 (\$40K in 2015 and 2016 respectively)
- d. In-kind/Land Donations: Estimate the value of in-kind contributions.
The City of Fruita has also received In-kind and Land Donations in the amount of \$190,000 with a valuation of land still to be determined.
 - Transportation Alternatives Program Grant - \$160,000
 - Olsson Associates (Aerial Survey Work) - \$30,000
 - Land Donation from Mesa Grand LLC (PABCO Land Owners/ Greenway Business Park) - TBD

The City of Fruita understands that a \$2,000,000 grant award from GOCO along with funds already secured will not cover the estimated project costs. The City is in the process of submitting grant requests to the Department of Local Affairs to help with construction costs. We believe that this project aligns itself with a DOLA grant application as the trail will help provide economic development in the Fruita community – connecting to the Greenway Business Park and the proposed camping area at the City's WWRF. In the event the City of Fruita is unable to fund the full project cost, the City will move forward with constructing Phase I of the trail, Lower Little Salt Wash to the WWRF or 15 Road, and fully utilizing the GOCO Connect Initiative grant.

9. MAPS: See Attached Exhibits

Exhibit A – Colorado Riverfront Trails – The Grand Valley

Exhibit B – Kokopelli Section of the Riverfront Trail Map



D.W.

Reed Wash Bridge

I-70 Underpass

Colorado River

City of Fruita
Wastewater Rec.
Facility Parcel

15 RD

CVDD Ditch Crossing

70

LRD

6

15 1/2 RD

RIVER RD

CIPOLLARD

16 RD

Mesa County Trail Easement
Through United Co./Oldecastle Parcel
Reception No. 2543427

Various Trail Easements and City Rights-of-Way
Rec. No.'s 2465678, 2571319, 2185997,
2185998, 1203864, 2641558

Lower Little
Constru

Proposed Route of the Kolojelli Section





AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Community Development Department

DATE: July 5, 2016

RE: Ordinance 2016-09, 1st Reading, An Ordinance Amending the Official Zoning Map of the City of Fruita by Rezoning Approximately 0.65 Acres of Property Located at 433 and 503 East Aspen Avenue from Community Residential to Planned Unit Development.

BACKGROUND

The subject properties are located at the northeast and northwest corners of the intersection of Aspen Avenue and Maple Street. The property on the east side contains the Sacred Heart church building which is approximately 2,713 square feet in size on the main floor and there is also a basement. The church was built in 1921. The house on the property to the east of the church was built in 1911 and is approximately 1,658 square feet in size. It appears that the house and the church sit on two separate lots. The parish hall for the church sits on the property to the west. The building is approximately 15,660 square feet in size and was built in 1941.

The applicants request a rezone from CR (Community Residential) to Planned Unit Development (PUD) to allow commercial as well as the residential and other land uses permitted in the CR zone. A PUD zone is defined as a zone which allows for modification of the normal use, density, size or other zoning restrictions for a development for the purposes identified in Section 17.17.010 of the Land Use Code (a copy of this section of the Code is attached). As per the project narrative, the reason the rezone is requested is because the church is moving to a property on north 17.5 Road and believes that the zone change to allow for commercial uses "is paramount to the successful completion of the new Sacred Heart church."

A PUD Guide is required to be provided for all PUD zones to identify the requested modifications to otherwise applicable zoning requirements. Because buildings currently exist on the subject properties and no new construction is planned at this time, the PUD Guide for this proposed PUD zone consists of an aerial photograph of the properties and

a list of permitted land uses. The PUD Guide indicates that the listed uses will follow the Land Use Code requirements (building setbacks, building heights, signs, fences, parking, lighting, etc.) for development in the CR or Downtown Mixed Use (DMU) zones including the need for a Conditional Use Permit (CUP) for some uses. The following uses are proposed for this PUD zone *in addition* to the uses already permitted in the CR zone (attached is a list of uses permitted in the CR zone):

- indoor recreation and entertainment, exhibition, and meeting areas less than 10,000 square feet in size
- commercial parking
- general offices, including drive through uses
- medical/dental/vision/massage/chiropractic/hearing clinics
- funeral homes/mortuaries
- food service, restaurant, catering
- general retail sales, indoor operations

Many of the land uses proposed are or could be incompatible with the surrounding historic single family residential neighborhood. All surrounding property is zoned CR and there are no commercial land uses in the area other than the Chamber of Commerce located to the south which is in a Community Services & Recreational (CSR) zone. Contrary to the applicant's statements, there have been no zone changes or changes of land use in this area for many decades. The only change staff can find nearby is the Visual Eyes building one block to the west which replaced a funeral home that had been in operation for over 50 years.

Single family houses on relatively small lots are directly adjacent to the subject properties with no ability for the residential properties to buffer noise, light, traffic, and other impacts typically created by commercial land uses. Additionally, the existing buildings on the subject property cover most of the land so there is no ability to provide a buffer towards residential land uses and almost no off-street parking is available except the gravel areas at the rear of the properties. Although the existing church and related uses cause a lot of motorized traffic impacts to the neighborhood on a regular basis, the characteristics of the traffic generated by a church is significantly different from traffic generated by many of the uses proposed for this PUD zone, including pedestrian traffic.

Commercial uses typically create more continuous traffic than a church use. The behavior of pedestrians coming out of a church is typically different from pedestrians coming out of a commercial use such as an events center, especially with alcohol service. These potential negative impacts reduce the value of the surrounding residential property. Contrary to the project narrative, extending commercial uses into the residential area east of downtown does not create a buffer between residential and commercial land uses.

It should be noted that with this PUD as proposed, if the buildings are demolished, the property could be redeveloped with the uses listed in the PUD Guide which could be even more problematic than commercial uses in the existing buildings.

Based on this information, the PUD zone as proposed is not compatible with the surrounding single family residential neighborhood. Additionally, the PUD zone as proposed is not consistent with the city's Master Plan. With the update to the Fruita Community Plan (FCP) in 2008, this area was not identified for future extension of the downtown commercial area. The Fruita Community Plan (FCP) recommends that the downtown district be expanded to the north, south and west (policy ES 1.5 from the FCP). The subject properties are to the east of downtown.

In December of 2014, the Fruita City Council adopted a more detailed downtown plan with the Civic Center Memorial Park and Downtown Streetscape Improvements Master Plan. This plan also did not identify a community need or desire to extend the downtown commercial area to the east. If commercial uses are permitted on these properties, there is an expectation that more property in the area, especially between the existing DMU zone and the subject properties, also will be rezoned to allow commercial development.

There currently is an overabundance of zoning for commercial uses (the DMU zone) in the downtown area which covers large areas of historic single family residential neighborhoods. This large area of zoning for commercial land uses jeopardizes the residential and historical character of the area by creating a disinvestment incentive for existing single family residential land uses and buildings. Extending more commercial zoning to the east could increase disinvestment in Fruita's historic residential neighborhoods and buildings. Stretching commercial zoning and land uses into a wider area dilutes the power of downtown as a destination while reducing the value of the adjacent residential properties. As pointed out in the last paragraph of the applicant's project narrative, the proposed zone change has the potential to fundamentally change the character of the surrounding neighborhood.

Regarding specific sections of the FCP, policy NH 3.2, Compatibility, states that in determining changes to parcels of land adjacent to existing residential developments, the character of existing neighborhoods will be considered. Policy NH 3.3, Infill, states that the city will follow specific design standards for infill development and redevelopment, with an emphasis on protection of existing residential neighborhood character. Policy NH 3.4, Preservation, states that the city encourages the preservation of our existing residential neighborhoods. Attention should focus on older and historic structures, through renovation and repairs, to maintain these housing options and preserve community character. Where possible, infill and redevelopment projects should minimize effects to these neighborhoods. Additionally, Policy ES 1.16 - Revitalization, recommends targeted redevelopment and revitalization of *existing* areas in downtown (emphasis added).

As indicated by the project narrative, the applicants believe that commercial uses should be permitted to ensure that the existing buildings will not eventually blight the area, and the properties are being marketed for commercial land uses. There is no evidence that commercial uses will prevent the building from being unused and falling into disrepair. There is no guarantee that commercial uses will be successful in these buildings and with higher property taxes for commercial land uses coupled with potential problems with

meeting building codes for commercial uses, the zone change as proposed could accelerate the buildings falling into disrepair. Commercial zoning also provides an incentive to demolish buildings to allow for new commercial construction.

Although almost everyone would like to see the church buildings remain and be used in a way that would not adversely affect the adjacent residential neighborhood, this is a difficult situation. Staff supports some sort of expansion of uses for the unique church building and parish hall, but the house on the east side, which sits on a lot separate from the church, should keep the existing CR zone the same as adjacent single family houses.

Based on the above analysis, staff recommends that the following uses be permitted in the PUD zone for the church and parish hall:

- all uses permitted in the CR zone with only the following uses requiring approval of a CUP:

- public safety and emergency response services
 - other community services
 - basic utilities other than underground facilities
 - telecommunications facilities, towers and support structures
- medical, vision, massage, hearing and dental clinics
- indoor recreation and entertainment (including an events center)
- general offices
- food service, restaurant, catering

No drive-through land uses should be permitted. The PUD Guide should identify that no additional parking will be required for changes of use in the existing buildings. A condition of the PUD zone should require that the buildings remain in substantially the same form (not demolished but certainly able to be maintained and remodeled to meet building codes), or else the uses permitted on the property revert to the uses then permitted in the CR zone. The PUD Guide should clarify that commercial development will follow the design standards for development in the DMU zone's downtown core, and residential development or other uses permitted in the CR zone will follow the development standards for CR zoning, including density of residential development.

To ensure no confusion with the PUD zone, the PUD Guide also should be amended to replace the aerial photograph with a site plan drawing so that when recorded, the site plan is legible.

At the June 14, 2016, Planning Commission public meeting, many members of the church spoke out in favor of the rezone. Surrounding residents and property owners also were in attendance but were not in favor of the rezone. Residents and property owners voiced concerns about the negative affect the zone change could have on their neighborhood. The Planning Commission voted 5-0 to approve the zone change as recommended by staff (as identified above).

The only written comments received are from Fruita's Historic Preservation Board identifying concerns about the negative affect the zone change could have on this historic residential area and the historic buildings.

FISCAL IMPACT

The rezone from CR to PUD has the potential to reduce property values in this neighborhood. With the recommended conditions of approval, the potential negative impacts may be reduced. Fiscal impacts can be further evaluated when/if a development application is submitted to change the use of the subject property.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This rezone could be considered to be in compliance with the approval criteria identified in the Land Use Code that must be considered for rezone requests as detailed in the Staff Report. The Land Use Code (along with other regulatory documents) implements the City's goals and policies as outlined in the City's Master Plan including the Fruita Community Plan.

OPTIONS AVAILABLE TO COUNCIL

1. Approval of Ordinance 2016-09, 1st Reading, An Ordinance Amending the Official Zoning Map of the City of Fruita by Rezoning Approximately 0.65 Acres of Property Located at 433 and 503 East Aspen Avenue from Community Residential to Planned Unit Development, with or without amendments
2. Denial of the proposed Ordinance

RECOMMENDATION

Staff recommends that the City Council move to publish a synopsis of

Ordinance 2016-09, 1st Reading, An Ordinance Amending the Official Zoning Map of the City of Fruita by Rezoning Approximately 0.65 Acres of Property Located at 433 and 503 East Aspen Avenue from Community Residential to Planned Unit Development

for the City Council public hearing on August 2, 2016.



**Community Development Department
Staff Report
June 8, 2016**

Application #: 2016-07
Project Name: Sacred Heart Church
Application: Rezone
Property Owner: Bishop of Pueblo
Representative: Lance Stewart
Location: 503 East Aspen Avenue & 433 East Aspen Avenue
Existing Zone: Community Residential
Request: This is a request to rezone the subject properties from Community Residential (CR) to a Planned Unit Development (PUD) zone to include commercial as well as residential land uses.

Project Description:

The subject properties are located at the northeast and northwest corners of the intersection of Aspen Avenue and Maple Street. The property on the east side contains the Sacred Heart church which is approximately 2,713 square feet in size on the main floor and there is also a basement. The church was built in 1921. The house on the property to the east of the church was built in 1911 and is approximately 1,658 square feet in size. It appears that the house and the church sit on two separate lots. The lot containing the church appears to be approximately 60 feet wide and 125 feet deep (7,500 square feet). The lot containing the house is approximately 50 feet wide and 125 feet deep (6,250 square feet). The parish hall for the church sits on the property to the west. The building is approximately 15,660 square feet in size and was built in 1941. The building occupies two equal size lots encompassing a total of approximately 14,500 square feet. This information is from the Mesa County website.

The applicants request a rezone from CR to PUD to allow commercial as well as the residential and other land uses permitted in the CR zone. A PUD zone is defined as a zone which allows for modification of the normal use, density, size or other zoning restrictions for a development for the purposes identified in Section 17.17.010 of the Land Use Code. A PUD Guide is required to be provided for all PUD zones to clearly identify the requested modifications to otherwise applicable zoning requirements.

Because buildings currently exist on the subject properties and no new construction is planned at this time, the PUD Guide for this proposed PUD zone consists of an aerial photograph of the properties and a list of permitted land uses. The PUD Guide includes the requirement that the listed uses follow the Land Use Code requirements (building setbacks, building heights, signs, fences, parking, lighting, etc.) for development in the CR or Downtown Mixed Use (DMU) zones including the need for a Conditional Use Permit (CUP) for some uses. The following uses are listed in the PUD Guide:

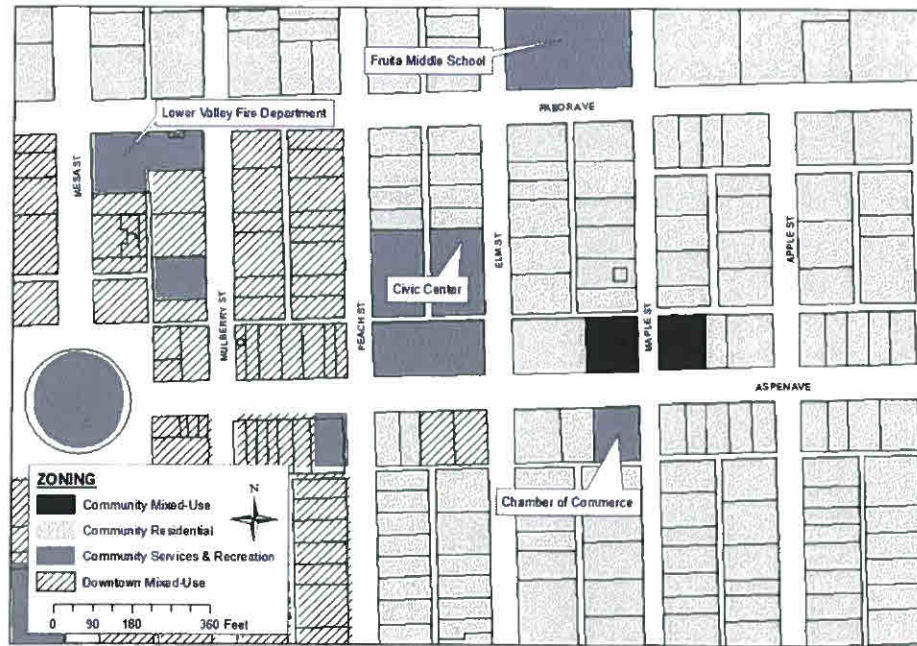
- all uses permitted in the CR zone [attached is a list of these uses]
- community services and government offices
- daycare/childcare/senior care
- indoor recreation and entertainment, exhibition & meeting areas less than 10,000 square feet in size
- commercial parking
- general offices, including drive through uses
- educational institutions
- medical/dental/vision/massage/chiropractic/hearing clinics
- funeral homes/mortuaries
- food service, restaurant, catering
- general retail sales, indoor operations

As per the project narrative, the reason the rezone is requested is because the church is moving to a property on north 17.5 Road and believes that the zone change to allow for commercial uses "is paramount to the successful completion of the new Sacred Heart church."

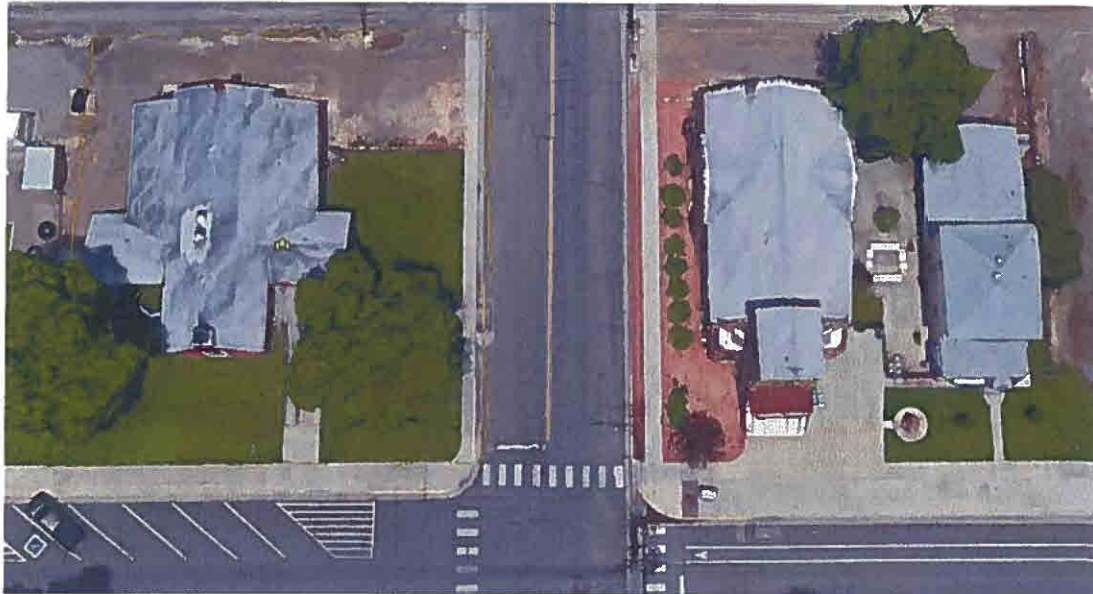
Surrounding Land Uses and Zoning:

The subject property is surrounded on all sides by Community Residential (CR) zoning with the exception of the Chamber of Commerce property diagonally across the street to the south which is zoned Community Services & Recreation (CSR) and is owned by the City of Fruita. Land uses surrounding the subject property are all detached single family residential dwellings with the exception of the Chamber of Commerce and the Fruita United Methodist Church directly to the west of the parish hall property.

LOCATION AND ZONING MAP



2015 AERIAL PHOTOGRAPH



Review of Applicable Land Use Code Requirements:

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

- 1. The proposed amendment is compatible with surrounding land uses, pursuant to Section 17.07.080, and is consistent with the city's goals, policies and Master Plan; and**

Many of the land uses proposed are or could be incompatible with the surrounding historic single family residential neighborhood. All surrounding property is zoned CR and there are no commercial land uses in the area other than the Chamber of Commerce located to the south which is in a Community Services & Recreational (CSR) zone. Single family houses on small lots are directly adjacent to the subject properties with no ability for the residential properties to buffer noise, light, traffic, and other impacts typically created by commercial land uses.

Additionally, the existing buildings on the subject property cover most of the land so there is no ability to provide a buffer towards residential land uses and almost no off-street parking is available except the gravel areas at the rear of the properties. Although the existing church and related uses cause a lot of motorized traffic impacts to the neighborhood on a regular basis, the characteristics of the traffic generated by a church is significantly different from traffic generated by many of the uses proposed for this PUD zone, including pedestrian traffic.

Churches and other religious institutions are permitted in all zones, including all residential zones because by their nature, they are oriented toward families and individuals and serve the neighborhood they are part of. They provide part of the societal/cultural anchor that helps define a neighborhood and, therefore, are considered mostly compatible with residential land uses.

Commercial uses typically create more continuous traffic than a church use. The behavior of pedestrians coming out of a church is typically different from pedestrians coming out of a commercial use such as an events center, especially with alcohol service. These negative impacts reduce the value of the surrounding residential property. Contrary to the project narrative, extending commercial uses into the residential area east of downtown does not create a buffer between residential and commercial land uses.

It should be noted that with this PUD as proposed, if the buildings are demolished, the property could be redeveloped with the uses listed in the

PUD Guide which could be even more problematic than commercial uses in the existing buildings.

Based on this information, the PUD zone as proposed is not compatible with the surrounding single family residential neighborhood.

The requested PUD zone is not consistent with the city's Master Plan. With the update to the Fruita Community Plan (a major component of the city's Master Plan) in 2008, this area was not identified as a future extension of the downtown commercial area. The Fruita Community Plan (FCP) recommends that the downtown district be expanded to the north, south and west (policy ES 1.5 from the FCP). The subject properties are to the east of downtown. In December of 2014, the Fruita City Council adopted a more detailed downtown plan with the Civic Center Memorial Park and Downtown Streetscape Improvements Master Plan. This plan also did not identify a community need or desire to extend the downtown commercial area to the east.

There currently is an overabundance of zoning for commercial uses (the DMU zone) in the downtown area which covers large areas of historic single family residential neighborhoods. This large area of zoning for commercial land uses jeopardizes the residential and historical character of the area by creating a disinvestment incentive for existing single family residential land uses and buildings. Extending more commercial zoning to the east could increase disinvestment in Fruita's historic residential neighborhoods and buildings. As pointed out in the last paragraph of the project narrative, this zone change has the potential to fundamentally change the character of the surrounding neighborhood.

The proposed rezone would have the effect of stretching downtown commercial area to the east into a single family residential neighborhood. Creating additional commercially zoned land in a residential area does not contribute to the success of downtown, but could hinder its success. Stretching commercial uses into a wider area dilutes the power of downtown as a destination while potentially reducing the value of the adjacent residential.

As identified above, commercial uses in close proximity to single family residential land uses creates problems of compatibility. Policy NH 3.2, Compatibility, states that in determining changes to parcels of land adjacent to existing residential developments, the character of existing neighborhoods will be considered. Policy NH 3.3, Infill, states that the city will follow specific design standards for infill development and redevelopment, with an emphasis on protection of existing residential neighborhood character. Policy NH 3.4, Preservation, states that the city encourages the preservation of our existing residential neighborhoods.

Attention should focus on older and historic structures, through renovation and repairs, to maintain these housing options and preserve community character. Where possible, infill and redevelopment projects should minimize effects to these neighborhoods. Additionally, Policy ES 1.16 - Revitalization, recommends targeted redevelopment and revitalization of *existing* areas in downtown (emphasis added).

As indicated by the project narrative, the applicants believe that commercial uses should be permitted to ensure that the existing buildings will not eventually blight the area, but there is nothing to prevent the buildings from being demolished to allow for new commercial construction. There is no evidence that commercial uses will prevent the building from being unused and falling into disrepair. There is no guarantee that commercial uses will be successful in these buildings and with higher property taxes for commercial land uses coupled with potential problems with meeting building codes for commercial uses, the zone change as proposed could accelerate the buildings falling into disrepair. As indicated by the project narrative, the property is being marketed for commercial purposes.

Although most everyone would like to see the church buildings remain and be used in a way that would not adversely affect the adjacent residential neighborhood, this is a difficult situation. Staff supports some sort of expansion of uses for the unique church building and parish hall, but the house on the east side, which sits on a lot separate from the church, should keep the existing CR zone the same as adjacent single family houses.

Regarding land uses, staff recommends, based on the above analysis, that the following uses be permitted in the PUD zone for the church and parish hall:

- all uses permitted in the CR zone with only the following uses requiring approval of a CUP:
 - public safety and emergency response services
 - other community services
 - basic utilities other than underground facilities
 - telecommunications facilities, towers and support structures
- medical, vision, massage, hearing and dental clinics
- indoor recreation and entertainment (including an events center)
- general offices
- food service, restaurant, catering

No drive-through land uses should be permitted. The PUD Guide should identify that no additional parking will be required for changes of use in the existing buildings. A condition of the PUD zone should require that the

buildings remain in substantially the same form (not demolished but certainly able to be maintained and remodeled to meet building codes), or else the uses permitted on the property revert to the uses then permitted in the CR zone. The PUD Guide should clarify that commercial development will follow the design standards for development in the DMU zone's downtown core, and residential development or other uses permitted in the CR zone will follow the development standards for CR zoning, including density of residential development.

To ensure no confusion with the PUD zone, the aerial photograph should be amended to exclude the house on the east side, and pictures of the church and parish hall should be included as part of the PUD Guide.

With these recommended changes/conditions on the PUD zone, staff believes that the approval criteria for a zone change can be met.

- 2. The land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Master Plan; or**

There does not appear to be an error in zoning the property Community Residential. The first Fruita Land Use Code or Zoning Code that staff has been able to locate is from the 1960s. The subject properties have had a residential zone since that time. The existing CR zone is consistent with the Fruita Master Plan. This approval criterion is not applicable.

- 3. The area for which the amendment is requested has changed substantially such that the proposed zoning better meets the needs of the community; or**

It could be argued that there have been substantial changes to this area since the original establishment of the residential zone in the 1960s. This criterion has been met.

- 4. The amendment is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions and is consistent with the city's goals, policies and Master Plan; or**

There is no comprehensive revision of the Official Zoning Map. This criterion is not applicable.

- 5. The zoning amendment is incidental to the annexation of the subject property and the proposed zoning is consistent with the city's goals, policies, and Master Plan.**

This criterion is not applicable because the properties are already in the city limits.

Based on the review of the approval criteria, it appears that the proposed zone change can meet the applicable approval criteria if the issues identified above are adequately resolved.

Section 17.17.030 of the Land Use Code requires that the recommendations of the Planning Commission to the City Council and decisions by the City Council concerning a proposed Planned Unit Development be based on the following criteria:

1. Conformance to the Fruita Master Plan.

As explained above under the criteria for a rezone, the PUD rezone as proposed does not conform to the Fruita Master Plan. With changes as recommended, a PUD zone could be considered to be in general conformance to the Fruita Master Plan.

2. Consistency with the purposes as set out in Section 17.17.010.

Section 17.17.010 of the Land Use Code sets out eight general purposes of PUD zoning. In a nutshell, the purpose of PUD zoning is to allow modifications to zoning requirements in order to allow development that is better than what would result from the application of a non-PUD zone. This proposed PUD zone would allow more land uses than would otherwise be permitted in the current CR zone, but not the wide variety of uses permitted in the zones that allow commercial development. With modifications to the proposed PUD Guide as identified above, a PUD zone could be consistent with the purposes of PUD zoning.

3. Conformance to the approval criteria for Subdivisions:

This approval criterion is not applicable because there is no subdivision proposed. The existing lots are too small for further subdivision under the current Land Use Code requirements.

4. Where the applicant proposes one or more Adjustments to the standards of this Title, consistency with the Adjustment criteria set forth in Section 17.11.020.B is required.

An Adjustment is an exception to the Chapter 11 Design Standards of the Land Use Code. The design standards pertain to development in the zones that allow areas of commercial development which are the General Commercial (GC) zone, the DMU zone, and the Community Mixed Use (CMU) zone. Although somewhat unclear, it appears that the PUD Guide

intends for commercial development to follow the Chapter 11 design standards. No new development is proposed at this time, so no Adjustments to design standards are necessary.

With changes to the PUD Guide as identified above, the approval criteria for PUD zones can be met.

Review Comments:

All review comments received are included with this Staff Report. No reviewer had a significant concern regarding the proposed zone change.

Public Comments:

The only written public comment received at this time is from the City's Historic Preservation Board which is included with this staff report.

The applicants held a neighborhood meeting on February 9, 2016. According to the applicants, an invitation to a neighborhood meeting was sent to everyone in the public notification area (all property owners within 350 feet of the subject properties). The invitation letter and the minutes for this meeting are attached.

Staff Recommendation:

Staff recommends approval of the proposed PUD rezone with the condition that all review comments and issues identified in the staff report are adequately resolved before the second reading of the ordinance required for a zone change.

Fruita Planning Commission: (May 10, 2016)

Fruita City Council: (June 7, 2016)

Uses permitted in the Community Residential (CR) zone:

Residential

- Dwelling, single family attached and detached
- Dwelling, multi-family (limited)
- Manufactured and Mobile homes and parks (with approval of a CUP)
- Accessory dwelling units,
- Home occupations
- Childcare home/daycare home
- Small group home
- Large group home (with approval of a CUP)

Community Services and Government Offices

- Public building uses (with approval of a CUP)
- Museums, art galleries, opera houses (with approval of a CUP)
- Public safety and emergency response services (with approval of a CUP)
- Other community services (with approval of a CUP)
- Childcare/daycare center (with approval of a CUP)

Institutional and Civic Uses

- Cemetery
- Golf or driving range (with approval of a CUP)
- Parks, lakes, greenways, trails
- Other parks and open space areas (with approval of a CUP)
- Religious institutions
- Boarding schools (with approval of a CUP)
- Elementary schools
- Secondary schools
- Underground utility service facilities
- All other basic utilities (with approval of a CUP)
- Utility corridors (with approval of a CUP)

Commercial Uses

- College, trade or vocational schools (with approval of a CUP)
- Community swimming pool (with approval of a CUP)
- Riding, roping, equestrian area (with approval of a CUP)
- Health club (with approval of a CUP)
- Bed & Breakfast (limited to 4 guest rooms and requires approval of a CUP)

Industrial

- Commuter bus stops
- Telecommunications facilities, towers and support structures (with approval of a CUP)

LAND DEVELOPMENT APPLICATION

Project Name: Sacred Heart Church
Project Location: 503 E Aspen Ave: 433 E Aspen Ave.
Current Zoning District: CR-Community Residential Requested Zone: PUD
Tax Parcel Number(s): 2697 171 05 951 Number of Acres: .32 + .36
Project Type: Re-use 2697-172-10-952

Property Owner: Bishop of Pueblo Developer: _____
Property Owner: _____ Contact: _____
Address: 101 N. Greenwood St. Address: _____
City/State/Zip: Pueblo, CO 81003 City/State/Zip: _____
Phone: 719 544 9861 Fax: 719 225 8750 Phone: _____ Fax: _____
E-mail: ebishop@dioceseofpueblo.org 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: Lance Stewart Engineer: _____
Contact: Lance Stewart Contact: _____
Address: 1312 L 9th Rd Address: _____
City/State/Zip: Loma CO 81524 City/State/Zip: _____
Phone: 970 623 0126 Fax: _____ Phone: _____ Fax: _____
E-mail: lstewart4530@outlook.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.

Bishop of Pueblo
Name of Legal Owner

T. H. H. H.
Signature

12/23/15
Date

Name of Legal Owner

Signature

Date

Name of Legal Owner

Signature

Date

STATE OF COLORADO)
COUNTY OF MESA) ss.

The foregoing instrument was acknowledged before me this 22nd day of December, 2015.

My Commission expires: November 4, 2018

Judith M. Waits
Notary Public

Sacred Heart Catholic Church

PUD Zone Change Application Project Narrative

- **Project description:** Zone change from CR to PUD
- **Location:** 433 and 503 E. Aspen Avenue
- **Acreage:** .67 acres
- **Proposed permitted uses:**
 - All uses as permitted in the Community Residential zone
 - Community Services & Government Offices
 - Daycare/Childcare/Senior care
 - Indoor Recreation & Entertainment, exhibition & meeting areas less than 10,000 square feet in size
 - Commercial parking
 - General Offices, including drive through
 - Educational Institutions
 - Medical/Dental/Vision/Massage/chiropractic/ Hearing Clinics
 - Funeral Homes/Mortuaries
 - Food Service, Restaurant, Catering
 - General Retail Sales, Indoor Operations

These permitted uses include the conditional uses permitted with approval of a Conditional Use Permit and the supplemental zoning regulations and standards. Also, any other permitted use deemed appropriate by the Community Development Department but not specifically listed in the Zoning Table.

- No phasing is intended since the properties are built out currently. To accommodate potential future changes in use, density and dimensional standards, signage, design, landscaping, parking and lighting standards for the CR or DMU zones would be applied, depending on the requested use.
- Recapture is not intended for this application. However, depending on a particular permit application, a determination may need to be considered for future changes in use.
- Density bonuses could be considered by the Community Development Department in the future as changing conditions may provide.
- No credit against impact fees is requested for this application. Future changes in use would possibly be subject to impact fees required in the Land Use Code.

History: The Sacred heart Church has been a landmark in Fruita since its construction in 1921. The church and the catholic congregation have been integral to the development of Fruita for over a century. For the first forty five years the 150 seat facility, with its full basement, served the needs of the community well. In the 1960s it became apparent that the growing membership required additional space for meeting, educational and administrative purposes. In 1966 the Church purchased the facility at 433 E Aspen to serve as a parish hall and office.

Today, once again, the congregation has out grown the facilities and is in the process of building a new church on 17.5 road, which will enhance the entire Fruita area.

Need: Any successful building project relies on a well structured funding plan. As is the case with the new Sacred Heart Church, a significant element of the funding plan includes the sale of the church and parish hall on Aspen Avenue. While it is hoped that another faith community can acquire the facility, nearly two years of searching has yet to yield a viable purchaser.

In November, 2015, a party approached the realtor for the church with a secure offer. The party intended to use the facility as a small events center for primarily weddings and family gatherings. A use, which at first glance would seem to fit in well with the neighborhood, would not create additional adverse impacts and would preserve the stately building. Upon checking with the Community Development Department the party was informed that the use was not specifically listed in the table of uses, and they should submit an application for a PUD zone change, which if approved may allow for the use. Upon further investigation by the Realtor of possible allowed uses, it is evident that a zone change is paramount to the successful completion of the new Sacred Heart church. A zone change is also needed to accomplish the goals of the Fruita Master Plan through a logical transition of properties from CR to Downtown while preserving the character of the neighborhood east of Maple Street.

Compatibility with current standards and planning: A zone change to PUD from CR supports and satisfies the intents of the purposes of the PUD zone and the Fruita Master Plan. While the general purpose of the PUD Zone is to provide opportunity for development that benefits the community, the more specific purposes are primarily centered on residential mixed use developments. The purpose of this application is not to provide more residences, but to provide for uses for an historic and stately landmark in Fruita in a manner that ensures its structural and aesthetic character and integrity, does not adversely affect or significantly impact the surrounding neighborhood and provides for a logical integration or nexus between the Downtown Zone and the residential neighborhood on Aspen Avenue. Arguably, the character of this neighborhood is slowly changing from strictly residential with the addition of new and planned businesses at the corner of Aspen Avenue and Elm Street, and the long time location of the Fruita Chamber of Commerce. A PUD Zone would serve as a buffer of sorts to residents east of the Church while allowing for transitional development, which over time would benefit Fruita.

The only zoning standard that would be possibly modified with the zone change would be that of off street parking. The code calls for off street parking for most uses other than residential. Currently the neighborhood has existed with on street parking for between 50-80 vehicles for many years. It is envisioned that this situation would not necessarily change, but could be

enhanced with a use utilizing less parking than a church. For any activity requiring additional short term parking there are public lots within one block of the existing property. Zone change conforms to adopted plans and policies.

- Any commercial or business type use would not adversely affect open space or parks as evidenced by the proximity of the community center park to the Downtown.
- Zone change would help to lessen the impact on existing residences for downtown type growth. There wouldn't any anticipated adverse impacts on public spaces or services.
- Access and traffic patterns in the area would not appreciably change.
- No changes, special needs or impacts on utilities are envisioned.
- No adverse impacts are anticipated on public facilities or services.
- No impacts to soils or geology are envisioned.
- No changes or impacts to natural areas or storm water management are anticipated.
- No credits, recapture, or bonuses are requested, but could need to be considered depending on future changes in use.

Conformance with the Fruita Master Plan: The stated vision in the plan is to " **Improve and enhance the small town atmosphere of the Fruita community, while providing high quality services for a growing population and striving for economic development and prosperity**".

The Plan embodies principles of sustainability and quality of growth attainable by enacting policies to achieve several core concepts by focusing on economic, social and environmental values which are the basis for Fruita's policies. The following is a number of quotes from the Master Plan which speak to this rezone project, which will positively address and implement the goals of the Plan:

"Redevelopment projects in Fruita are also outstanding opportunities to promote the city's character. These projects must capture the original styles that reflect Fruita's most signature buildings. The area best suited for this opportunity is Downtown, where some new development is beginning to take place, yet is maintaining its historic foundation through old buildings, street and lot layout, and amenities." East Aspen Avenue to Maple Street is a logical extension of the core business community over time. The size of the church could help buffer residents from redevelopment to the west.

"Preserve and enhance Fruita's small town atmosphere through downtown revitalization, walkable, vibrant neighborhoods, and mixed use commercial centers." Providing for uses in addition to those allowed in the CR zone enhances the neighborhood and fortifies the downtown neighborhood. A deteriorating boarded facility would severely detract from the atmosphere and the neighborhood.

"Encourage economic development that strengthens Fruita's identity and provides diverse employment opportunities." The church properties best and highest use is not residential, but rather an exciting possibility of business and community services that compliments the identity of the Community.

“Protect Fruita’s historic resources, including buildings, agricultural relics, and historically meaningful land.” Goes without saying; the Church has, and could remain a prominent landmark in the community. Many communities provide special use exceptions and exemptions to regulations in order to facility viable cultural buildings and spaces. While it is preferred that the church remain a viable structure, change is inevitable and may actually require the property to be redeveloped to accommodate a future vision for the neighborhood.

“Community Residential. To allow for moderate density single family neighborhoods with the inclusion of other housing types such as attached units (e.g. apartments or townhomes). Building concepts that are found in Fruita’s original neighborhoods such as narrow lots, smaller front yards and garages placed in the back.” This zone change could affect the characteristic of the neighborhood east of Maple Street, in that newer developments over time could promote the consolidation of lots to provide for different housing types or mixed use development.

“CD 1.3 - Historic Character. The historic character of downtown Fruita should be kept authentic and must be reinforced, embodying its identity, values, and energy. The Downtown should take advantage of the historic aspect of town.” Allowing for more varied uses in the PUD zone will help to preserve the existing historic character while providing for a timed logical transition of the subject properties.

“CD 1.9 - Parking. Public parking is vital to the Downtown, and should be achieved using street rights-of-way, reduced parking requirements and surface lots. As the Downtown grows, parking structures should be considered to preserve land for retail space.” Many possibilities exist for use of the subject properties that will not adversely affect the off street parking situation and still support this objective. The parish hall property could actually become a viable location for additional off street parking to support the growing downtown center.

“ES 1.1 - Aspen Avenue. The City of Fruita supports and encourages the revitalization of the historic Aspen Avenue downtown business area and adjacent areas.” Again, the rezoning of the area on East Aspen Avenue will contribute to the success of the downtown over time by providing for additional uses more commercial in nature than presently allowed, while providing the Town with the opportunity to encourage the reuse of a historic building which might otherwise set vacant.

“ES 1.3 - Redevelopment Areas. Identify and prioritize targeted redevelopment areas that would positively contribute to the ambiance and character of downtown; properties may include historic buildings that could be used as entertainment venues, hotels, and retail operations.” While not at this time a targeted redevelopment area, without this zone change the potential is very high that the area will fall into a blight category. Now is the time to provide for additional uses that will hopefully circumvent that eventuality.

“ES 1.5 - Expansion. The downtown district should be expanded to the north, south, and west of the existing boundaries to ensure its sustainability. At a minimum, this would ultimately incorporate Ottley Avenue at the north, Little Salt Walsh on the west, Maple Street on the east, and extend to the

railroad Tracks.” While the church property is situated adjacent to the easterly boundary, it also meets a host of additional criteria that makes it reasonable to include it into the expansion area. The area is irrefutably expanding quicker than any other direction.

“CR 1.3- Prioritization. Prioritize historic buildings in need of restoration that positively contribute to Fruita’s character. This could include projects that meet multiple objectives, such as the Grain Elevator, Circle Park, and the desire to provide other amenities Downtown and other areas.”

Arguably, while the Church is not yet in need of restoration, without this zone change and reasonable allowed uses, it soon will be. Why not now be proactive to ensure that in the future, public dollars like in the case of the Community center will not be required to preserve a part of Fruita’s historic character?

“CR 1.4 - Incentives. Provide Implement new zoning types that support quality growth principles, including the new Community Mixed-Use district. Refine as necessary during upcoming years to ensure an efficient, predictable, and flexible process. Create an incentive program for developers to follow the LEED- Neighborhood Development principles.” The PUD zone at this time is the best tool we have to ensure that East Aspen Avenue transitions in a logical manner.

Nowhere within the Master Plan is a policy stated that the residential neighborhood in the vicinity of the Church is sacrosanct from redevelopment and must remain forever in its current state. The PUD zone will also provide other adjacent properties an opportunity and alternative to realize a highest and best use by expanding the boundaries of the zone. The requested zone change from CR to PUD will definitely satisfy a number of goals of the Master Plan and Section 17.17.010 of the Land Use Code regarding PUDs.

PUD Guide

433 and 503 East Aspen Avenue

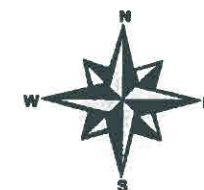
Permitted Uses

- All uses ass permitted in the Community Residential Zone
- Community Services & Government Offices
- Daycare/Childcare
- Medical/Dental/Vision/Massage/Chiropractic/Hearing Clinics
- Educational Institutions
- Indoor Recreation & Entertainment, Exhibition & Meeting Areas Less Than 10,000 Square Feet
- Commercial Parking
- General Offices, Including Drive Through
- Funeral Homes/Mortuaries
- Food Service, Restaurant, Catering
- General Retail Sales, Indoor Operations

These permitted uses include the conditional uses permitted with approval of a Conditional Use Permit and the supplemental zoning regulations and standards. Density and dimensional standards, signage, design, landscaping, parking and lighting standards for the CR or DMU zones will be applicable depending on type of use.



Vicinity Map



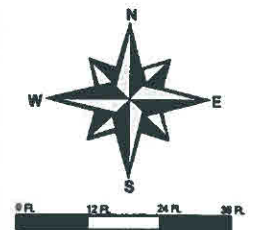
Sacred Heart Catholic Church

503 East Aspen Street
Fruita, CO 81521
Phone: (970) 858-9605
Fax (970) 639-9343

Version 1: 01-10-2016



PUD Site Map



Sacred Heart Catholic Church

503 East Aspen Street
Fruita, CO 81521
Phone: (970) 858-9605
Fax (970) 639-9343

Version 1: 02-28-2016

By: djf

Minutes from neighborhood meeting conducted on February 9, 2016, at 6:30 p.m. fifty-eight invitations were sent out six days in advance to property owners within 350 feet of the subject properties.

The meeting was called to order at 6:50 p.m. to allow ample time for prospective attendees to gather. Mike Yocom, residing at 142 N. Maple Street was the only property owner that attended the meeting. Six members of the Sacred Heart building committee were in attendance to answer questions. Lance Stewart, presented information pertaining to the proposed zone change from CR to PUD. After the presentation the committee members engaged Mr. Yocom in a discussion about the pros and cons of the proposed zone change. Mr. Yocom indicated that he figured that the neighboring properties would begin to be rezoned to allow for other uses, and was surprised that an application had not been submitted to the Town sooner. He is in favor of the zone change and approved of the proposed uses listed in the PUD Guide.

The committee members discussed the outcome of the meeting and concluded that the neighborhood all had more important matters than to attend the meeting, or supported the zone change. The meeting adjourned at 8:15 p.m.

You're Invited

Dear Neighbor;

You're invited to a gathering at the Sacred Heart Catholic Church parish hall on Aspen Avenue on Tuesday, February 9th at 6:30 p.m.

The purpose of this meeting is to provide you the opportunity to respond to an initiative to change the zoning of the church properties to Planned Unit Development (PUD) from residential. This change would allow the buildings to be used for any use listed in the residential zone category plus a few additional uses more commercial in nature. These additional uses could include, but not necessarily limited to, educational facilities, medical and financial offices and small gatherings and events. The change would not provide for uses like liquor stores, gas stations, service garages, hotels or fast food restaurants.

As you may know, the catholic congregation has out grown the facilities on Aspen Avenue and is building a new church on the north edge of Fruita. In order to fund this new facility it is extremely important that the existing properties can be sold. Unfortunately, there is not much demand for a facility ideally suited for worship, or a church that someone would like to make their home. Thus, the need and reasons to change the zoning. The change would provide for more uses that may be suited to the church facilities, are compatible with the unique residential neighborhood and provide a logical transition of the neighborhood to eventually blend into the downtown of Fruita, and provide a buffer for the community to the east of the Church.

Please plan on attending our meeting to learn more about how the PUD could possibly affect you and your property.

Thank you,

**Lance Stewart
Sacred Heart Church Building Committee**

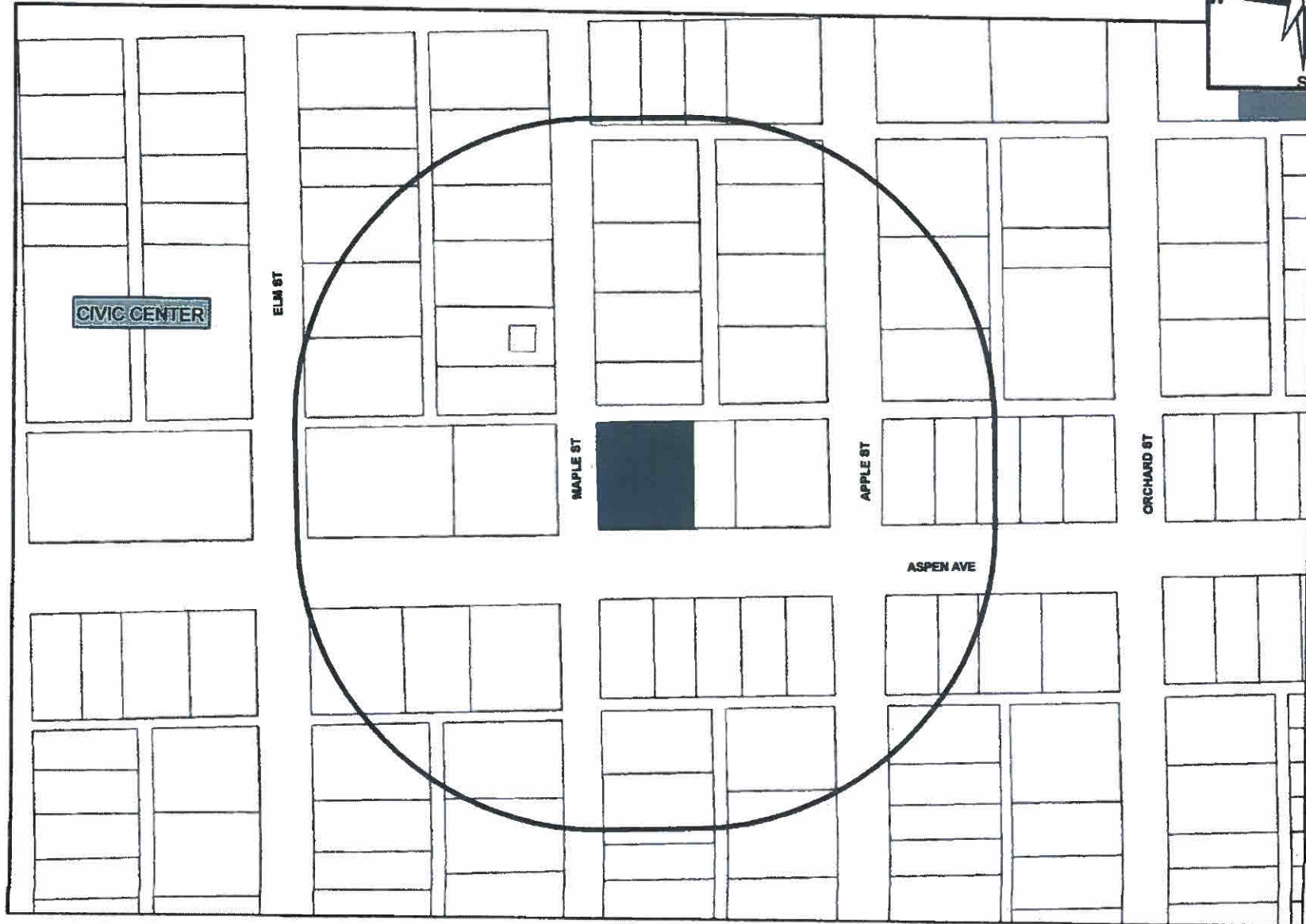
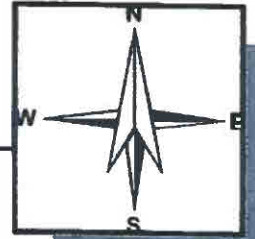
PLEASE
SIGN IN

Name	Address
MIKE Yocom	142 N. MAPLE
Chrysogonus Nwele	503 E Aspen
Dr. Jean Redwick	1140 Marigold Ct.

6 member of the building committee



350 foot buffer around 503 E. Aspen Ave.



0 150 300 600 Feet

**All parcels within the buffer circle would receive a notice by MAIL of a zone change.

OWNER	LOCATION	MAILING	CITY	ST ZIP
BARNES BETTY R	177 N APPLE ST	177 N APPLE ST	FRUITA	CO 81521-2349
BULEN KELLY L	508 E PABOR AVE	508 E PABOR AVE	FRUITA	CO 81521-2327
GRIFFITH THOMAS R	506 E PABOR AVE	506 E PABOR AVE	FRUITA	CO 81521
WATSON BERNADETTE I	504 E PABOR AVE	504 E PABOR AVE	FRUITA	CO 81521-2327
TRIPP NEIL	159 N APPLE ST	159 N APPLE ST	FRUITA	CO 815212349
WILKINSON MARY L	152 N MAPLE ST	152 N MAPLE ST	FRUITA	CO 81521-2317
GONZALEZ RICHARD K		PO BOX 201	FRUITA	CO 81521-0201
YOCOM MICHAEL JAY	142 N MAPLE ST	142 N MAPLE ST	FRUITA	CO 81521-2317
GONZALES DEATRA E	141 N APPLE ST	141 N APPLE ST	FRUITA	CO 81521
HANSON KATHY L	136 N MAPLE ST	136 N MAPLE	FRUITA	CO 81521
GONZALEZ RICHARD	125 N APPLE ST	141 N APPLE ST	FRUITA	CO 81521
SHARP ROBIN LYNN	124 N MAPLE ST	124 N MAPLE ST	FRUITA	CO 81521-2317
KIRBY J D	525 E ASPEN AVE	525 E ASPEN AVE	FRUITA	CO 81521-2307
SACRED HEART CHURCH	503 E ASPEN AVE	433 E ASPEN AVE	FRUITA	CO 81521
GRENZ KATHERINE A	605 E ASPEN AVE	605 E ASPEN AVE	FRUITA	CO 81521-2305
LIZER WAYNE H	611 E ASPEN AVE	611 E ASPEN AVE	FRUITA	CO 81521-2305
KIMBLE CLAY H	617 E ASPEN AVE	617 E ASPEN AVE	FRUITA	CO 81521-2305
EVANS JOSHUA C	625 E ASPEN AVE	625 E ASPEN AVE	FRUITA	CO 81521-2305
MALAN LANA R	130 N APPLE ST	1531 LOWELL LN	GRAND JUNCTION	CO 81506-4003
MORRIS LOYD	152 N APPLE ST	2730 AMBER POND CT	GRANITE FALLS	NC 286308223
HAWTHORNE JERRY JAMES	534 E ASPEN AVE	534 E ASPEN AVE	FRUITA	CO 81521-2308
PETERSON YVONNE M	526 E ASPEN AVE	PO BOX 684	FRUITA	CO 81521-0684
LANSING JOSEPH G	506 E ASPEN AVE	506 E ASPEN AVE	FRUITA	CO 81521-2308
MUDD LOUIS V	126 S MAPLE ST	126 S MAPLE ST	FRUITA	CO 81521-2723
SWIHART BRENDAN	136 S MAPLE ST	136 S MAPLE SR	FRUITA	CO 815212723
BERG RUTH G	141 S APPLE ST	141 S APPLE ST	FRUITA	CO 81521-2702
ANDERSON CHRIS	146 S MAPLE ST	146 S MAPLE ST	FRUITA	CO 815212723
HENDRICKS GUSTAVE O	520 E ASPEN AVE	514 E ASPEN AVE	FRUITA	CO 81521-2308
HENDRICKS GUSTAVE O	514 E ASPEN AVE	514 E ASPEN AVE	FRUITA	CO 81521-2308
MEASE RICKIE W	127 S APPLE ST	127 S APPLE ST	FRUITA	CO 81521-2702
HUMMEL PATRICK	612 E ASPEN AVE	612 E ASPEN AVE	FRUITA	CO 81521
COLLINS ALLEN R	604 E ASPEN AVE	604 E ASPEN AVE	FRUITA	CO 81521
IORE SHAY LYNN	126 S APPLE ST	126 S APPLE ST	FRUITA	CO 81521-2701

BERRY JOHN P	134 S APPLE ST	134 S APPLE ST	FRUITA	CO 81521-2701
READER SHIRLEY J	142 S APPLE ST	377 N PINE ST	FRUITA	CO 81521-2451
COWAN EVAN G	618 E ASPEN AVE	618 E ASPEN AVE	FRUITA	CO 81521
WAREHAM STEVE L	152 N ELM ST	152 N ELM ST	FRUITA	CO 81521-2207
LAFOND IRENE A	167 N MAPLE ST	167 N MAPLE ST	FRUITA	CO 815212318
BROUGHAM WILLIAM P	146 N ELM ST	146 N ELM ST	FRUITA	CO 81521
SCHMIDT CHRIS	132 N ELM ST	132 N ELM ST	FRUITA	CO 81521
GARDNER CHRISTOPHER L	151 N MAPLE ST	151 N MAPLE ST	FRUITA	CO 81521
BUCKLER BRIAN D	162 N ELM ST	1995 CUNNINGHAM CT	GRAND JUNCTION	CO 81507
BLACKWELDER TYLER	123 N MAPLE ST	123 N MAPLE ST	FRUITA	CO 81521
SHAW ROBYN A	133 N MAPLE ST	202 NORTH AVE UNIT 202	GRAND JUNCTION	CO 81501
CHARLES KENT & SANDRA KAY PACHECO LIV TRUST	141 N MAPLE ST	141 N MAPLE ST	FRUITA	CO 81521-2318
FRUITA UNITED METHODIST CHURCH INC	403 E ASPEN AVE	405 E ASPEN AVE	FRUITA	CO 81521-2201
SACRED HEART CATHOLIC CHURCH	433 E ASPEN AVE	433 E ASPEN AVE	FRUITA	CO 81521
DESIMONE PATRICIA A CUSTODIAN	418 E ASPEN AVE	21505 H RD	DELTA	CO 81416
HOLSTEIN BILL F	404 E ASPEN AVE	1390 MONUMENT CT	FRUITA	CO 81521-3053
HARVEY VERONICA DAEHN	124 S ELM ST	124 S ELM ST	FRUITA	CO 81521
SANDER RICHARD L	129 S MAPLE ST	129 S MAPLE ST	FRUITA	CO 81521-2724
PETERS LAURA	139 S MAPLE ST	139 S MAPLE ST	FRUITA	CO 81521
DAVIS TERESA	136 S ELM ST	136 S ELM ST	FRUITA	CO 81521-2601
CITY OF FRUITA	432 E ASPEN AVE	325 E ASPEN AVE	FRUITA	CO 81521
WOLFE HERMAN E	140 N APPLE ST	140 N APPLE ST	FRUITA	CO 81521-2348
BLUE HEAVEN LP		340 HIGHWAY 6 AND 50	FRUITA	CO 81521

Fruita Historic Preservation Board
325 E. Aspen Ave.
Fruita, CO 81521

Fruita Planning Commission
325 E. Aspen Ave.
Fruita, CO 81521

Dear fellow Fruitans:

It has come to our attention that the existing Sacred Heart Catholic Church buildings — the church, the adjacent historic two-story house, and the Parish Hall — and the lots they sit on are being put up for sale to raise funds to complete the church's new building. This comes as no surprise as it has been a part of the church's plan for many years, and it is clearly a necessary step in raising the funds needed.

It is our understanding, though, that the agenda for the next Fruita Planning Commission meeting on May 10th includes a request to consider re-zoning the properties, and then forwarding that recommendation to the Fruita City Council. There are several reasons we oppose re-zoning the properties:

1. The existing Sacred Heart Catholic Church building is a Fruita and Grand Valley landmark. It is the only building of its type that we know of in Mesa County. It is a beautiful and iconic example of its kind, and its very presence enriches Fruita.
2. It is the fourth oldest church building in Fruita. It was constructed of hand-hewn native sandstone in 1921 and 1922 to replace the existing St. Malachy Catholic Church, built in 1890 in Cleveland.
3. Likewise, although nowhere near as old, the Parish Hall is a very attractive and iconic structure that enhances Fruita through its existence.
4. There are no other commercial properties on that block or on any adjacent blocks. The area is zoned residential, and rezoning these lots as anything other than residential could result in reduced property values for adjacent homes and properties unless they, too, are re-zoned. This could further result in a slow flight away from the rezoned parcels(s) and a hollowing-out of residential downtown Fruita.
5. The buildings are ill-suited for many if not most commercial ventures, and before any new businesses go into them, they must be certified as conforming to current building and fire codes. This could require cost-prohibitive remodeling that, coupled with other structural oddities that their original designs and purposes necessitated, could simply make it more cost-effective for a developer to raze the buildings and replace them with others that are purpose-built. This threat to the continued existence of the buildings is multiplied by the presumably greater taxes on them after re-zoning.
6. Re-zoning might usher in the beginning of a long-term decline in the maintenance of the buildings even if they are not razed, due to the realization on the part of future buyers of the costs of maintenance, taxes, and re-modeling needed to meet building and fire codes.

It would be our preference that the lots not be re-zoned; however, should that be the Fruita Planning Commission's recommendation to the Fruita City Council, we encourage that a restriction be placed on the re-zoning resolution, namely that the buildings themselves must remain intact because of their architectural and historical significance and their importance to Fruita's character.

Thank you for your consideration of this matter.

Fruita Historic Preservation Board
May 2, 2016

LOWER VALLEY FIRE PROTECTION DISTRICT

168 N. Mesa

Fruita, CO. 81521

Phone: (970) 858-3133 Fax: (970) 858-7189

April 6, 2016

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

2016-07	Sacred Heart Church
Application:	Zone Change
Applicant:	Lance Stewart
Location:	503 East Aspen
Zone:	Community Residential

Review Comments are for zone change only:

No objection to changing zone to a PUD.

Richard Pippenger
Fire Marshal

Ute Water Conservancy District

Date: 20 April 2016

Review Number	2016-07
Review Name	Zone Change for 503 E. Aspen

- **No objection.**
- **ALL FEES AND POLICIES IN EFFECT AT TIME OF APPLICATION WILL APPLY.**

If you have any questions concerning any of this, please feel free to contact Ute Water.

David Priske P. E.

Engineering Department, Ute Water

Jim Daugherty

New Services Coordinator, Ute Water

PHONE OFFICE 242-7491

FAX 242-9189

EMAIL jdaugherty@utewater.org

Henry Hemphill

From: Hendricks, Scott [scott.hendricks@xcelenergy.com]
Sent: Wednesday, April 06, 2016 7:10 AM
To: Henry Hemphill
Subject: RE: Projects for your review

Henry,

Application #: 2016-07
Application Name: Sacred Heart Church
Applicant: Lance Stewart
Application Type: Zone Change
Zone: Community Residential
Location: 503 E. Aspen Avenue

I have reviewed this project and have no objections at this time

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. Any and all existing & 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

From: Henry Hemphill [mailto:hhemphill@fruita.org]
Sent: Tuesday, April 05, 2016 12:31 PM
To: Hendricks, Scott; jdaugherty@utewater.org; daniel.roussin@state.co.us; arthur.valdez@charter.com; Dick Pippenger; Mark Angelo; ed@sandslawoffice.com; darrell.bay@mesacounty.us
Cc: Dahna Raugh
Subject: Projects for your review

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.

A re-submittal of a Site Design Review for Fruita Liquor Mart.

- <http://www.fruita.org/cd/page/2015-10-fruita-liquor-mart>

A request for a zone change at 503 E. Aspen Avenue.

- <http://www.fruita.org/cd/page/2016-07-zone-change-503-e-aspen>

Attached are formal review sheets with due dates on them as well.

Please email comments to hhemphill@fruita.org

Thank you for your time!

Henry Hemphill
City of Fruita
Planning Tech.
970-858-0786
hhemphill@fruita.org
www.fruita.org/cd

Fruita Planning Commission

Tuesday, May 10, 2016

A. CALL TO ORDER

Chair Doug Van Etten called the meeting to order at 7:05pm. Members in attendance were: Mike Joseph, Janet Brazfield, Doug Van Etten, Dave Karisny, and Heidi Jo Elder. Keith Schaefer was absent.

There were about 50 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

Dave Karisny- I make a motion that we approve the agenda as written.

Mike Joseph- I second.

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

5 yes votes; motion passes

E. WITHDRAWN ITEMS

None.

F. CONTINUED ITEMS

None.

G. CONSENT ITEMS

Doug Van Etten read the applications as follows and asked if any of the public or planning commissioners would like to take any of the items off the consent agenda. No items were pulled off the consent agenda.

Application #: 2016-08
Applicant: Vortex Engineering, Inc.

Application Name: Mesa Grand Minor Subdivision (Lots 2 & 13)
Application Type: Minor Subdivision with Vested Rights
Location: 1591 River Road (lot 2) & 1588 Cipolla Road (lot 13)
Zone: Limited Industrial, Research and Development (LIRD)
Description: The applicant has requested vested rights for this minor subdivision. State Law and the Fruita Land Use Code require a public hearing for applications wanting vested rights.

Application #: 2016-09
Applicant: Rick and Tona Goering
Application Name: Great Divide Villa
Application Type: Conditional Use Permit
Location: 1950 Timber Falls Drive
Zone: Adobe Creek Ranch 2, PUD
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). A Conditional Use Permit is required to have a Bed and Breakfast in this PUD zone.

Application #: 2016-10
Applicant: Mike and Kristy Driver
Application Name: Sagebrush House Vacation Rental
Application Type: Conditional Use Permit
Location: 107 E. Pabor 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.

Approval of the minutes
May 10, 2016 Planning Commission meeting

Mike Joseph- I make a motion to approve the consent agenda as written.

Janet Brazfield- I second.

5 Yes votes; motion passes.

H. HEARING ITEMS

Doug Van Etten read the hearing item as follows.

Application #: 2016-07
Application Name: Sacred Heart Church
Applicant: Lance Stewart
Application Type: Zone Change
Zone: Community Residential
Location: 503 E. Aspen Avenue & 433 E. Aspen Avenue
Description: This is a request for a zone change from a Community Residential zone to a PUD zone. The Fruita Land Use Code requires a public hearing for all zone change requests.

Doug Van Etten asked that the applicant identify himself and conduct his presentation.

Lance Stewart- My name is Lance Stewart and I am representing the Sacred Heart Church Parish for this application for a zone change from community residential to a planned unit development zone. Since this isn't a very elaborate or complicated development project, I don't have a lot of pretty graphics to look at. I will just give you a very short presentation that will include the background of the projects, express our need for the proposed PUD zone, present the limited uses that we are suggesting, and address any of the comments that staff or the audience may have.

As you probably know our church is one of the oldest churches in Fruita and it was built in 1921. It does have many historic values as pointed out by staff and the historic preservation board and the community at large. Our Parish has out grown that facility and we are in the process of building a new facility on 17 ½ Road. Also, the neighborhood that our church is currently located in is in transition. The current zone of the church right now (community residential) is quite limiting which is why we are looking at this application to request a PUD zoning, primarily to help with the re-use of the property and to sell the property so that we can move forward with our new church project. Also, after the first couple of conversations we have had with the Planning Director, it was highly recommended to pursue the Planning Unit Development zone which would give the most opportunities possible for the re-use of the property. What we are basically asking for is everything allowed in a Community Residential zone as well as including commercial parking, general offices including drive-thrus, educational institutions such as religious schools or charter schools, medical, dental and vision offices, funeral homes and mortuaries, food services and restaurants and catering, general indoor retail uses. We are satisfied to work with planning staff on allowed uses identified in the Staff Report.

We conducted a public outreach meeting to collect the neighborhoods input. We invited all property owners within a 350 foot radius and only one individual attended the meeting and he enthusiastically supported the change. We are delighted that the Fruita Planning Department is recommending approval of this application, with only a couple of minor changes (as pointed out in the Staff Report). We would like to request that the opportunity for funeral homes and mortuaries be added back into allowed uses. It seems that the only written opposition of the application was the Historic Preservation Board. At this time we do request that you approve our application with conditions presented by staff to the town council for final action. I believe, and hope you also agree, that through our application narrative we have presented a realistic assessment of current and future direction of growth along Aspen Avenue and how our application will actually benefit a logical transition of land use by allowing for only a few select commercial type uses. Our goal is to provide for more uses to benefit the sale of our property while not creating an undo adverse impact on the neighborhood and would support the future vision and growth of Fruita.

Dahna Raugh- This is a request of a rezone of three separate properties. The Parish Hall at 433 Aspen Avenue, the Church building at 503 Aspen Avenue and the house building that is directly east of the Church building. Mesa County Assessor's office shows the house and Church building (503 Aspen Avenue) as being on one lot but there is an underlying subdivision that shows it as two lots.

Dahna explained what uses are allowed in the current Community Residential zone. She went through the approval criteria for a rezone to a Planned Unit Development and explained that there seems to be some compatibility issues with the requested uses by the applicant and the current residential zoning uses that surround the property.

Dahna pointed out that the Fruita Master Plan does not appear to strongly support the rezone to commercial uses in this area. The Master Plan recommends that the character of existing neighborhoods be taken into consideration when considering a zone change request with an emphasis on preserving existing residential neighborhoods. Dahna also pointed out that the Master Plan also says it is especially important in this area because of its historic and unique character of Fruita and recommends that attention be paid to the older and historic neighborhoods to maintain housing options and to preserve Fruita's community character.

Dahna and staff completely understand the difficulty that property owners run into with trying to figure out what to do with an old church building that doesn't want to be used as a church anymore. So Staff is recommending that the land uses be limited to what is presented in the Staff Report (pages 6 and 7). Dahna goes on to read the limited land uses

that would be allowed (shown in the Staff Report) for the Parish Hall (433 Aspen Avenue) and the Church building (503 Aspen Avenue) but not for the house at 503 Aspen Avenue. Dahna pointed out that the PUD guide should be clear about parking requirements when the land use changed from a church to something else. There is no room for parking so it should be clear the additional parking would not need to be required. Also, the PUD guide should require that the buildings should remain in substantially the same form they are now or else the property will revert back to community residential zoning. The design standards applicable to commercial development of the downtown zone should apply to this property even though there is not going to be that much development to the building. However it highlights fencing, signs and some other details that might be important. And community residential standards should apply for residential land uses on these properties.

With these issues resolved, staff believes that this PUD zone could mostly meet the approval criteria for the rezone.

Dahna then highlights the approval criteria of the rezone stated in the Staff Report and shows that the only one it could possibly meet is that the area has changed such that the change better meets the needs of the community.

Dahna talked about how the Master Plan didn't support commercial uses going east on Aspen Avenue past Elm Street and talked about the updated downtown streetscape improvement plan that was adopted in late 2014 and that the plan also showed no commercial uses going east on Aspen Avenue past Elm Street.

Because the rezone request can meet the approval criteria for a rezone and the approval criteria for a PUD zone, Staff recommends that the proposed rezone be approved with the condition that the issues in the Staff Report are adequately resolved before the second reading of the ordinance. The second reading is expected to happen the first week in August.

PUBLIC COMMENTS: (names were difficult to hear so some names are not included)

Kelly Wilkinson (514 E. Aspen Avenue and 520 E. Aspen Avenue) and also represented the property at 535 E Aspen Avenue (JD and Marilyn Kirby). Kelly and her family moved to Fruita in 1999 knowing the affects of the Church and the traffic it created. Kelly explained that they knew when to expect increased traffic with the Church and the increased traffic with the festivals the City holds each year. With the potential change in land use for the Church properties, she and other neighbors are afraid of the increased consistency of traffic parked near or blocking driveways and the increased risk of alcohol

related incidents that could happen if the zoning were to change. She also pointed out as mentioned in the Staff Report, that the change in land use could become incompatible with the existing historic residential homes in the area. She said this area was not pointed out in any of Fruita's long range plans as being used for a commercial land use. She also is concerned with the potential of home values being decreased with the change in land use. She and her family felt distressed when reading the project narrative when it said the church felt the neighborhood needed to change into something similar to the downtown area. And felt there was a lack of regard from the church for the families that live nearby. She also feels that the Church's financial need to complete their new church building is greater than the needs of the families that this zone change will effect.

Louis Mudd (126 S. Maple Street)- Louis agrees a lot with what Kelly Wilkinson had to say and he agrees that the project does not meet the current or long range plans for the City of Fruita. The people that live nearby will be directly affected by this change, and will only benefit the Church. He believes the Church wants a rezone to increase their property value at the expense of the neighborhood. He also stated that it is not fair to the neighborhood for an entity like the Church to have total disregard of the families that live nearby when the church is going to leave the community at the expense of the neighborhood.

Helen Sue Whitney (506 E Aspen Avenue) - has lived in the community for 10 years and knows that she will not be able to drive a lot anymore (she is 71 years old). So she bought the house at 506 E. Aspen Avenue knowing that she would be surrounded by residential homes. After hearing about this project, she was very upset. She thought she was going to be in a lovely community that was going to prepare itself for the future. It looks to her, that the Church doesn't have enough money to finish their new Church building on 17 ½ Road and wants to sell their old church (503 E Aspen Avenue and 433 E Aspen Avenue) at the expense of the neighborhood.

Greg Dahl (member of the community and member of this Church) - Says we (the Sacred Heart Church) will move out of the community to our new building (on 17 ½ Road) with or without the sale of the old Church building. Said that if the project doesn't get approved, the building could sit there and said who knows what could happen once it is vacated. Said "...what is worse letting something new and unique come into the City and use the building or let the building crumble."

Renter of 520 E. Aspen Avenue (didn't get his name) - He has just started a new family and has a 4 month old son. With having such a young family, he feels that the residential character of the neighborhood will decrease substantially. The reason they want to live in Fruita and especially at 520 E. Aspen Avenue, is the historic and residential character. He does not want to see that go away. He is afraid with the increase in traffic and possibilities of alcohol related businesses so close. He cares about his family and wants to make sure they are safe.

Amy Weslick (Fruita citizen and member of the Sacred Heart Church) - "All we want is to be able to sell the building so that we can finish our church." Said they don't want a liquor store there. They are not suggesting that a bar open up there. All they are suggesting is a little change

so that the Church can sell the building. She doesn't believe that one little church having such a little change will do anything to destroy Fruita and turn it into Denver.

Evan (a member of the Sacred Heart Church) - Said that the Sacred Heart Church cannot afford financially to maintain two campuses. Said that once the new Church is complete the old buildings will be vacated and not be maintained due to costs. Evan showed pictures of historic buildings in Grand Junction and Palisade that are rundown and not maintained and said this is what the Church will look like if the Church isn't able to sell the buildings.

Bob (a member of the Sacred Heart Church) – Bob talked about how he has asked citizens of Fruita what they think is good growth (growth rates). Said that people think an ideal growth rate is 5%. With Fruita's population at about 12,000 right now and a growth rate of 5% for 14 years, Fruita's population would be about 24,000. In 28 years, we would have almost 100,000 people. Said if in 28 years with that growth rate, Fruita will not look the same as it does now and says that the Church is trying to look ahead and help with the change. Said that he thinks the Church is doing its best to try and maintain the neighborhood character for as long as possible.

Catharine Mudd (126 S Maple Street) – Wants the residential character to maintain the same but understands that growth will happen. She also said that there are many communities in Colorado that have maintained the historic residential character of their towns and that the people making decisions, be mindful of the neighborhood and surrounding character.

Whitney Rink (New resident of Fruita and member of the Sacred Heart Church) – Her and her husband moved here from Castle Rock, CO. She wants to see this project to be talked about and resolved in a civil manner.

John (Chair of the Parish Council of the Sacred Heart Church) – “At this point the old church will be vacated shortly after Labor Day of this year (2016). Once we vacate that property, it will not be maintained to any extent. The water and electricity will be shut off and the only maintenance of any kind will be weed control. Beyond that, the property will sit. I think this is a heavy responsibility on your part (planning commissioners), because you have to decide whether or not you want a vacant property that could potentially sit with no activity for 5, 10, 15, 20 years, as opposed to acting on the request of a PUD which would allow for the sale of this particular property. I don't believe that with even the change in zoning as a Parish Council that we would even approve of a business that would be incompatible with the community. There is a deep respect with the history of the Church building and with the particular location of the building. We are not a group of irresponsible people who are simply going to take advantage of a sale simply for our own benefit.”

REBUTTAL:

Lance Stewart- Pointed out that there was a lot of emotional public input and Lance wishes the public would have attended the neighborhood meeting that was held to get a better understanding of what the Church is trying to accomplish. He wants to ensure the people in attendance that live

nearby that the Church's intentions are not to disregard the values of the neighborhood. He also pointed out the uses applied for would need to go through a Conditional Use Permit so that the potential projects could be stopped.

PLANNING COMMISSION:

Mike Joseph- Noticed that staff and the applicant have worked hard together on this application. Mike understands that this property will be difficult to sell, so understands the desire for a zone change application. Mike thinks the City has done a fair job in trying to reach a compromise in limiting some of the uses that the applicant has asked for. Mike went over the uses that the applicant asked for and the uses highlighted in the Staff Report just for clarification and there was some discussion between him and Dahna about the uses, just for clarification. Mentioned that he noticed the applicant wanted funeral homes and mortuaries added back into the allowed uses in the Staff Report and asked Dahna why it was taken off but she couldn't remember why it was eliminated from the allowed uses. Mike feels that the uses allowed in the Staff Report represent a good compromise and hasn't heard anything from the public comments that would change his mind.

Janet Brazfield- Janet also wanted to clarify the uses allowed to be sure she understood everything correctly. She understands that all uses in a Community Residential zone would be allowed and that a Conditional Use Permit would need to be applied for on most other commercial uses. Janet was wondering if someone wanted to buy the property and turn it into a 3 to 4 1 bedroom condos. Janet feels that an event center of some sort would be great in the City of Fruita and wondered if that would be allowed in this PUD zone. Janet would hate to see the Church building vacant for a long period of time and feels that that would be bad for the downtown area as well.

Dave Karisny- Dave wanted to clarify what Staff is supporting and what the applicant is proposing. Dave pointed out that most limited uses that would be allowed according to the Staff Report would need approval of a Conditional Use Permit. At which a Conditional Use Permit application does need to go through a public hearing process. Dave gave some examples that would need a Conditional Use Permit, such as an event center. Dave believes that the limited uses highlighted in the Staff Report shows that the City was being mindful of the surrounding neighborhood. Dave noticed that the applicant wants the funeral homes and mortuaries and staff is recommending that be taken out (see Staff Report).

Heidi Jo Elder- Heidi agrees with Dave Karisny and points out that Staff did a get job in trying to be mindful of the surrounding area and working with the applicants as best as possible.

Doug Van Etten- Do we have anything further? Can we get a motion please?

Janet Brazfield- Mr. Chair, I recommend approval of the proposed PUD rezone with the condition that all review comments and issues identified in the Staff Report be adequately resolved before the second reading of the ordinance required for a zone change.

Dave Karisny- Second.

Doug Van Etten- We have a motion and a second.

5 Yes Votes; motion passes.

I. COMMUNITY DEVELOPMENT ACTIVITY REPORT

There was a discussion about the relocation of the boat ramp off of Highway 340 from the east side to the west side. This was a question asked at the last Planning Commission meeting by Doug Van Etten.

Dahna highlighted that the Planning Department was getting very busy and there will be more Public Hearings coming up for the next few months.

J. VISITORS AND GUESTS

Mel Mulder got up to say how he missed being on the Planning Commission and is excited in hopes of being reappointed by City Council for another term on the Planning Commission.

Adjournment at 8:40pm

Respectfully submitted,

Henry Hemphill
City of Fruita Planning Technician



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, CITY CLERK/FINANCE DIRECTOR

DATE: JULY 5, 2016

RE: DISCUSSION AND POSSIBLE ACTION TO CONSIDER A MOTION TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) (CITY MANAGER ANNUAL EVALUATION WITHOUT THE CITY MANAGER PRESENT)

BACKGROUND

The City Council has reason to convene in Executive Session to discuss a personnel matter. To convene in executive session, state law requires that a motion with specific language requesting the executive session be passed with 2/3 of the governing body voting in the affirmative for said motion.

FISCAL IMPACT

N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES

N/A

OPTIONS AVAILABLE TO THE COUNCIL

N/A

RECOMMENDATION

It is the recommendation of the Fruita City Staff that the Council:

MOVE TO MEET IN EXECUTIVE SESSION TO DISCUSS ISSUES RELATED TO PERSONNEL MATTERS UNDERSTANDING THAT DISCUSSIONS OF SUCH ISSUES IN EXECUTIVE SESSION ARE SPECIFICALLY PERMITTED BY THE STATE'S OPEN MEETING LAW CRS 24-6-402(4)(F).

ANNOUNCEMENT NO. 1

***ANNOUNCEMENT TO BE MADE BY CHAIRMAN
AT THE BEGINNING OF THE EXECUTIVE SESSION
(MAKE SURE THE TAPE RECORDER IS TURNED ON;
DO NOT TURN IT OFF DURING THE EXECUTIVE SESSION
UNLESS SO ADVISED BY LEGAL COUNSEL.)***

It's July 5, 2016 and the time is _____. For the record, I am the Mayor, Lori Buck. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session are the following persons:

_____.

This is an executive session for the following purpose:

To discuss issues related to personnel matters understanding that discussions of such issues in executive session are specifically permitted by the State's open Meeting Law CRS 24-6-402 (4) (e).

I caution each participant to confine all discussion to the stated purpose of the executive session, and that no formal action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.

ANNOUNCEMENT NO. 2

***ANNOUNCEMENT TO BE MADE BY THE CHAIRMAN
BEFORE CONCLUDING THE EXECUTIVE SESSION
(WHILE THE TAPE RECORDER IS STILL ON)***

I hereby attest that this recording reflects the actual contents of the discussion at the executive session and has been made in lieu of any written minutes to satisfy the recording requirements of the Open Meetings Law.

_____ I will have the Deputy City Clerk retain the recording for a 90-day period.

***OR
(if Executive Director was the
subject of the session and
was not present at the session)***

_____ I will retain the tape in my possession for a 90-day period.

The time is now _____, and we now conclude the executive session and return to the open meeting.

(turn off tape and return to open meeting)