

**FRUITA CITY COUNCIL
REGULAR MEETING
JULY 5, 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, Kyle Harvey, Ken Kreie, and Joel Kincaid. Councilors Dave Karisny and Lou Brackett were excused absent. Mayor Buck called the meeting to order at 7:00 p.m.

3. AGENDA – ADOPT/AMEND

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

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

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

Mayor Buck read the Proclamation and Family Health West President and CEO Mark Francis accepted it.

Mr. Francis thanked all the citizens of Fruita for the opportunity that Family Health West (FHW) has had over the years. He said that FHW has always been a family ever since the early days of the farmers in their beet trucks actually creating the hospital itself and making sure that it had services to provide.

Mr. Francis said that FHW hopes to see many different changes happen over the next few years and that they will continue to provide services through the direct devotion of the 500 plus employees at Family Health West. He noted that about half of FHW employees live in Fruita and the other half live in the greater Grand Valley.

Mr. Francis stated that FHW appreciates the partnership and support of the City of Fruita and they hope to have the opportunity to work with the City on more projects in the near future.

Mayor Buck said that the list of services that FHW provides is quite impressive. She added that part of having a great community is having a great medical facility as well as good schools.

B. PROCLAMATION – PROCLAIMING JULY 2016 AS PARKS AND RECREATION MONTH IN THE CITY OF FRUITA TO BE ACCEPTED BY TOM CASAL, CITY OF FRUITA RECREATION SUPERINTENDENT

Councilor Kreie read the Proclamation and Tom Casal accepted in on behalf of the Parks and Recreation Department of the City of Fruita.

Mr. Casal thanked the Council for their continued support of the Parks and Recreation Department. He noted that the Fruita Community Center just had the busiest month ever since its opening.

5. PUBLIC PARTICIPATION

Mr. Richard Sander, 129 S. Maple, said that what he would like to see someday for Fruita is a bridge that goes all the way across the highway, the railroad and the service road to connect north Fruita and south Fruita. He said he had spoken to the previous City Manager, Clint Kinney, who said it would cost the City millions to accomplish that and that there were other issues involved.

Mr. Sander said he still thought it would be a wonderful thing for the City.

6. CONSENT 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 THE 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 THE 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**

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 FOUR YES VOTES.**

7. PUBLIC HEARINGS

A. COMMUNITY DEVELOPMENT DIRECTOR DAHNA RAUGH

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**

Mayor Buck explained the public hearing process for the audience.

The applicant, Lance Stewart, 1312 L 7/10 Rd., Loma, stated that he was presenting the application for a zone change from Community Residential to Planned Unit Development for his parish properties.

Mr. Stewart stated that his presentation would include the following:

- A brief background on the project
- Expressing the need for the project
- Presentation of the limited proposed PUD uses
- Addressing staff concerns and report comments
- Addressing any questions from the City Council

Mr. Stewart stated that one of the oldest churches in Fruita is the Catholic Church. It was built in 1921 and the Parish Hall (the house) preceded it 1911. He said that the properties have historic values that have been pointed out by the Historic Preservation Board and they contribute to not only the well-being of the community at large, but also to the economic development of the community.

Mr. Stewart continued that the Parish has been growing since the day it was created and the congregation has outgrown facilities on a couple of occasions, so the church is expanding into a new church at the end of Maple Street where it meets 17 ½ Road.

Mr. Stewart said that the neighborhood in which the church is located arguably has been in transition since the first building was constructed on Aspen Avenue. Over the decades, the neighborhood has changed from a commercial/residential mixed use to more residential and now back again to a varied level of mixed use again.

Mr. Stewart noted that the current zoning is Community Residential (CR), which while providing for a number of uses, limits the opportunity for the parish to sell the properties to a potential client or customer that may be able to put the buildings to a more satisfactory use than what might otherwise occur. He added that what he and the parish were suggesting would preserve the values of the community and the neighborhood.

Mr. Steward said that it is their goal to provide for only a few additional uses to help facilitate the reuse of the properties. He said that the parish is cognizant and does recognize the values espoused by neighboring residents and that they believe the zone change will actually protect property values and preserve the neighborhood in a manner that is consistent with current planning objectives, much more so than the presence of a potentially vacant building that may eventually aid a developer to seek a full commercial classification.

Mr. Stewart continued that in the discussions with the Fruita Planning Department, it was highly recommended that the parish pursue this particular avenue in order to provide for additional opportunity for the properties.

He said that the various uses that the parish is requesting for inclusion were compiled with sensitivity to the values of the neighborhood and transitioning changes along Aspen Avenue away from residential and the preferred overall vision of the Master Plan. Mr. Stewart said that the Planned Unit Development uses that they requested are:

- All the uses within the CR zone including community services and government offices, daycare, childcare, and senior care
- Indoor recreation and entertainment
- Exhibition areas less than 10,000 square feet in size
- Commercial parking
- General offices
- Educational type institutions
- Religious and charter schools
- Facilities associated with the delivery of medical care services
- Funeral homes and mortuaries
- Food services
- Restaurant and catering
- General retail sales indoor operations

Mr. Stewart said that the facilities are ideally suited for all of the above uses. He continued that he hoped the Council would agree that the uses would have far less impact on the adjacent residences than those allowed under a blanket commercial zone.

Mr. Stewart stated that the zone change process provides opportunities for public involvement and review. After providing longer than normal posting of the property, information was sent out to all property owners within a 350-foot radius of the property, comment was requested from numerous entities, and there were no adverse comments returned to the Planning Department. In fact, Mrs. Raugh had stated that only positive comments were received. Mr. Stewart said this was the same response the church had received at the public outreach meeting they conducted. All property owners within the 350 foot radius were invited to attend that meeting, but unfortunately, only one individual attended the meeting. Mr. Stewart said that while being the lone attendee, he was enthusiastic and in support of the zone change.

Mr. Stewart said that written comments were submitted to the Planning Department by the Historical Preservation Board and the letter was included in the Council packet.

Mr. Stewart continued that at the Planning Commission public hearing, four neighbors presented concerns about the zone change, primarily centered on the potential for an increased presence of inebriated individuals in the area who might possibly be associated with activities where alcohol can be served. Mr. Stewart noted that for 90 years, there has already been a precedent in that building. He said that in addition, the effect that expanded activities might have on property values was also discussed. He offered that there are emotional arguments on both sides of the issue, but often the effects of a viable and vibrant property with the opportunity for expanded uses not allowed in the CR zone has a much more positive effect on property values than does a vacant, blighted property.

Mr. Stewart said that his parish is encouraged that the Planning Department is recommending approval of the zone change with only a couple of changes to the table of approved uses. The Planning Commission unanimously approved the application with suggested amendments.

Mr. Stewart said that they would like to request that the opportunity for funeral homes and mortuaries remain in the approved uses under the PUD classification.

Mr. Stewart then requested that the City Council approve the application as amended by the Planning Commission and set the matter for a second reading.

He said that he hopes that the Council would agree that through the application narrative, the church has presented a realistic assessment of the current and future direction of the growth along Aspen Avenue, which is a major street in the community and how the application will actually benefit a logical transition of land uses by only allowing for a few select uses more compatible with the neighborhood than what might otherwise occur.

Mr. Stewart concluded by saying that his goal is to provide for more uses to benefit the sale of the property while not creating undue adverse impacts on the neighborhood and that this supports the future vision and growth of Fruita.

Community Development Director Dahna Raugh gave staff's presentation. She pointed out that there were three separate properties involved; the parish hall at the northwest corner, the church building at the northeast corner and the house that sits next to that. She displayed the properties on a map on the overhead projector. Mrs. Raugh stated that the church and the house have the same address but actually sit on two separate lots.

The current zoning is Community Residential, which allows mainly single-family residential land uses and a few multi-family residential land uses, as well as a host of other commercial types of land uses that are considered institutional land uses that are more or less compatible with residential.

Mrs. Raugh stated that the applicants are requesting the Planned Unit Development zone to allow for more uses on the property so that the property will be more saleable. There are several

approval criteria that must be considered for a rezone request: the first one requires that the rezone be compatible with what exists in the area, and that it is consistent with the City Master Plan. There are no commercial zones or land uses next to the subject properties. The closest commercial use is the Chamber of Commerce Building directly to the south, which is in a Community Services and Recreational zone.

Mrs. Rough continued that single-family land uses surround the subject property for the most part and they sit on fairly small lots, so there is no way to buffer any impacts from the subject property to those residential uses. Also, on the subject property, the buildings take up most of the land area, so there is no way to buffer any impacts between the proposed commercial and the adjacent residential land uses.

Mrs. Rough said she knows that it has been said that there have been changes in this area, but there really have been no significant changes in the area for many decades. She said the only closest change that she could find was the funeral home that was torn down and an eye doctor's building was built there instead (on the corner of Peach Street and Aspen).

Mrs. Rough said that many of the commercial uses that could land in the PUD zone could create problems for the surrounding neighborhood because of the inability to screen any impacts and also because of the total lack of parking. She said the church has created a big parking impact to the neighborhood for decades, but certainly pedestrian traffic for a church has a very different characteristic than pedestrian traffic for commercial businesses. Mrs. Rough continued that commercial traffic is typically much more continuous and the behavior of the pedestrians typically is a bit different between the two different uses.

Mrs. Rough said there is definitely an issue of compatibility with the PUD zone as proposed. She said that the other part of the first approval criteria is that it should be compatible with the City's Master Plan, of which a major portion of is the Fruita Community Plan adopted in 2008. In the Master Plan, it talks about expanding the downtown to the north, south and the west, but it doesn't talk about expanding it to the east. Mrs. Rough pointed out that the subject property is to the east of the area identified in the Master Plan for downtown.

In December of 2014, the City Council adopted the Civic Center Memorial Park and Streetscape Improvements Master Plan, which was a more detailed look at the downtown. That plan also did not recommend going east with the downtown improvements for commercial activity.

The Master Plan recommends that the character of the existing neighborhoods be taken into consideration when considering zone changes, with emphasis on preserving existing residential neighborhoods. This is especially important in this area because it is an historic and unique residential area in Fruita as pointed out by the Master Plan and additionally, the Master Plan points out that attention should be paid to the older and historic structures to maintain housing options and preserve community character.

Mrs. Rough said that staff absolutely understands the difficulty in how to reuse a big church building and the related parish hall building.

Mrs. Rough referred to Page 6 of the staff report that lists what staff is recommending for land uses permitted in the Planned Unit Development zone. Staff's recommendations are as follows:

- All uses that are currently permitted in the Community Residential zone with only the following uses requiring the approval of a Conditional Use Permit:
 1. Public safety and emergency response services (e.g., fire station)
 2. Other community services (e.g., public works yard)
 3. Basic utilities other than underground facilities
 4. 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

Mrs. Rough said that staff believes that these are the land uses that potentially have the least amount of negative impacts to the surrounding residential neighborhood. She added that because they are big buildings that don't lend themselves very easily to new uses in a residential type of way, the zone change includes the house on the east side, but staff recommends that the house not be included in the zone change because it is a house, just like those around it.

Mrs. Rough continued that the Planned Unit Development Guide needs to clearly state that no parking is required for any new uses of the property because obviously, there isn't any. Additionally, staff recommends that one of the conditions of the PUD zone be that the buildings remain substantially in the format that they are now and not demolished to be redeveloped, but certainly that they may be maintained and remodeled such that they can meet the building codes for offices and other types of uses. If the buildings were to be demolished, staff recommends that the zoning revert back to the Community Residential zone.

Mrs. Rough stated that there are four other approval criteria that must be considered for a zone change. One of them is whether or not there is an error in the zone and staff does not believe this is applicable because the property has been zoned Community Residential or something very close to it for the past 50 plus years. Another approval criteria is whether the rezone is part of a comprehensive rezone of a much larger area, which Mrs. Rough said is not the case because the City isn't doing any comprehensive rezones currently. A third approval criteria is whether the zoning is part of an annexation. The subject property is not part of annexation; the properties have been part of the City of Fruita for more than 100 years. The last approval criteria is (that Mrs. Rough said she believes can be met) is that the area has changed such that the rezone better meets the needs of the community. Mrs. Rough stated that the old church building has been there since 1921 and the parish hall has been there since the 1940s and she believes that there's probably been some changes in the area in the past 50-70 years to justify that that the area has changed enough to support a rezone to allow commercial uses.

Mrs. Rough stated that staff believes that the approval criteria for rezoning has been met, but with a Planned Unit Development zone, there is a whole other set of criteria: compliance with the Master

Plan, compatibility with the area, criteria involving subdivisions (not applicable here), criteria regarding the adjustment to the requirements of the Code (Mrs. Raugh said it doesn't look like any adjustments are being requested), and that the Planned Unit Development zone should meet the purposes of the PUD zoning.

Mrs. Raugh continued that the Chapter of the Code that deals with Planned Unit Development has nine different categories and although she couldn't point to any specific one exactly, but overall, the intent of a Planned Unit Development zone is to produce or allow a development that would be better than what would result from a strict application of a non-PUD zone.

Mrs. Raugh said that allowing commercial uses in the area under the downtown zone or a commercial zone could certainly present a compatibility and problem issue for the surrounding neighborhood, but as a PUD zone, a lot of the uses that could be problematic can be taken out. She said this is why that the PUD zone would be better than a straight commercial zone and it meets that requirement of the Code.

Mrs. Raugh continued that staff has received no written public comments, but they did receive a letter from the Historic Preservation Board pointing out their concerns about compatibility, concerns with the historic nature of the properties and the concern that with the zone change, it could hasten somebody tearing the buildings down in favor of a much bigger development under a different zone.

At the Planning Commission public hearing, several members of the neighborhood spoke out with concerns regarding how the zone change could affect the neighborhood. There were also many members of the church in the audience who all spoke in favor of the rezone for the church. The Planning Commission recommended approval of the zone change with the recommendations provided by staff.

Mrs. Raugh said that because it appears that the rezone can meet the approval criteria that must be considered, staff is recommending approval with some changes. This concluded staff's presentation.

Mayor Buck asked the Council if they had any questions.

Councilor Kreie asked if the Council was approving a group of potential uses that aren't currently allowed and if those potential uses would be approved administratively or by the Planning Commission or by the City Council.

Mrs. Raugh responded that a PUD development zone is like any other zone; if somebody shows up at the Planning Department and said that they wanted to build a retail store at the subject property, staff would just give them the application packet for a Site Plan. The Site Plan is turned into staff, which is then reviewed by reviewing agencies and then it is administratively approved and the Council never sees it. She added that the applicant would also need a business license and evidence from the building department that the project meets the building codes. Mrs. Raugh said that the only time the Council or the neighborhood would only see the application was if it was a specific

use that requires a Conditional Use Permit (Conditional Use permits are required to be approved by the Council at a public hearing).

Mayor Buck noted that at the Council workshop session, Councilor Karisny stated that he was under the impression that all of the uses listed in the staff report were under a Conditional Use Permit and not just the four under the first bullet (see list above). She asked if the other Planning Commission members understood it the same way.

Mrs. Rough responded that she had asked the other Planning Commission members a question: that if it was approved as proposed, would an applicant need a Conditional Use Permit to open a restaurant? She said she couldn't find any of the other Planning Commission members that misunderstood it the way that Councilor Karisny did. Mrs. Rough added that certainly requiring a Conditional Use Permit for all of the items in the list would give the neighborhood and the Council opportunity to comment, but then that makes it hard to start a business where the applicant would have to go through a public hearing process to find out if it would even be allowed.

Mayor Buck pointed out to the Council that if they thought this was something that should be required (a Conditional Use Permit for all uses), that they could require it.

Councilor Kreie asked if someone came to staff with a proposed use, would staff have any power to require any further conditions that wouldn't be put on normally. Mrs. Rough said that staff makes suggestions all the time to try to avoid potential conflicts, but does not have any legal requirement that they follow those suggestions.

Mayor Buck asked the Council if there were any further questions. Hearing none, she opened the public hearing on the First Reading of Ordinance 2016-09.

Richard Sander, 149 S. Maple Street, said that he was going to miss all the wonderful church members that come to church every Sunday and Wednesday and Saturday nights and that it has been an addition to the neighborhood that he really wished wasn't leaving. He continued that he spoke to someone connected with the church about it and also to Mrs. Rough and the only portion that seemed significant to him was that he would prefer that the house be excluded from the sale of the church building; in other words, he would like to see the properties separated so that the house could become a residential premises separate from any commercial development.

Mayor Buck stated that she heard that staff's recommendation was that the house not be included in the PUD rezone; that the house would remain Community Residential. Mrs. Rough confirmed that this was staff's recommendation, but the church had asked that the house be included in the PUD rezone.

Greg Dahl, 496 Logan Lane, stated that he was a member of the Catholic Church and a member of the community, in which he tries to be very involved. He said that there are a lot of issues with the PUD zone and the needs of the church and the community, but to sum it up, he thought it was something that was very important for the community to allow to happen because if it wasn't, the reuse of the building would be squashed. Mr. Dahl continued that some people are saying that it is all about the income for the church, but that there are resources out there for the church to handle

the church they are building without the sale of the property. He said that if the PUD zone is not allowed to move forward, the building(s) will just sit there and nothing will happen.

Mr. Dahl said it is a beautiful church and is close enough to downtown that the City should allow some activity to happen there, to allow what staff has recommended so the property can be enjoyed for many years to come. He said if the City doesn't, he feels that everyone will be disappointed at the outcome.

Dave Fox, Chairman of the Sacred Heart Catholic Church Building Committee, said that the members of the church are very proud of it; it has been there a very long time. In 2006-2007, they undertook a study to see if the church could be expanded because the church was growing, but the study concluded that there was no way to expand due to the way the structure was built and the way the land lays. He said that the church has grown so much that the members are ready to push on and build a new facility, which is what they are doing right now.

Mr. Fox continued that the church members want to remain proud of the facility because it is so nice. He added that there are incredible things that can be done with old structures; turning them into restaurants or offices and he thinks this could be real amenity for the City of Fruita.

Mr. Fox added that he has been heavily involved in the finances being on the Building Committee, which is very concerned that the church will have to maintain both facilities but won't have enough cash if they are not able to sell the old properties.

Mr. Fox also said the church does not want to see the old properties go into misuse; they want to see something really unique go in there and he believes that there are opportunities for that. He displayed a few photos (on the overhead projector) of boarded up buildings such as the Grand Junction Depot on First and Pitken, and old vacant train station in Palisade and White Hall in Grand Junction, which burned down after it was vacated. Mr. Fox said these are the things he doesn't want to see happen to the Sacred Heart Catholic Church.

Colleen Nycum, 1674 Fowler Drive, said she had a question for staff. She asked why it was decided or if it had not yet been determined that the church properties would not be allowed for funeral homes or mortuaries or if those uses were included in the list of allowed uses. Mrs. Raugh responded that the decisions in the staff report are a group effort; they weren't solely made by her or even two people, there are a group of staff people talking about it. Staff discussed how the different land uses could affect the neighborhood and specifically with a funeral home/mortuary, there was a concern that if it were a very popular funeral home/mortuary that would have a lot of business, there would be issues with funeral processions in a near-downtown setting. Another factor was simply what she called the "ick factor" being right next door to people's houses. Mrs. Raugh said these were the only two issues she could recall that staff discussed.

Mrs. Nycum stated that as a Catholic Church, they have a lot of funerals there already, so she wasn't sure that it would change that much. She added that the parishioners at Sacred Heart love Fruita; they don't want to see anything bad happen to the buildings or to the downtown area because they care about the City of Fruita. She said they also care about the neighbors and have talked to lots of them and that a lot of them are on board with selling the properties that would fit the new

uses. Mrs. Nycum urged everyone to understand that the church was not just trying to sell the properties to get them off their hands because that is not what they are all about; most of the parishioners live in Fruita and they all love, care and take pride in the community.

Bill Holstein, 1390 Monument Court, stated that he is also the owner of 404 E. Aspen. He said the reason that he and his wife bought the house on Aspen was because they didn't want to see it torn down. Mr. Hollstein said he would hate to see the church properties abandoned with broken out windows and he would like to see it remain a historical property like the one he owns on Aspen.

Judy Fox, parishioner at Sacred Heart, said that she was very much in agreement with what she had been hearing; that the parish loves the beautiful church and they want to see something incredible done with it to add to the Fruita Community. She continued that the church believes that the request that they have made is the best way to make that happen and the suggestions from staff are good ones. Ms. Fox said that the church is looking for economic viability for the building and that the church could be one more of all the wonderful things that Fruita has going for it.

Hearing no further comments from the public, Mayor Buck closed the public hearing and asked the applicant for a rebuttal.

Mr. Lance Stewart said he thought it had been summed up by all those who spoke already. He closed in saying that the church's interests and goals are transparent; there have been many public meetings and they want to work with the community to keep the building viable, one that will hopefully be around for another 100 years. Mr. Stewart thanked the City Council for its support.

Mayor Buck referred back to the Council.

Councilor Kincaid asked if there was any parking behind the church in the alley. Mrs. Rough responded that there was a small gravel area behind the church that could be considered parking for about 6 to 7 vehicles. Councilor Kincaid asked about the parking at the other building. An audience member (unidentified) stated that there were about 6 to 10 parking spots there. Councilor Kincaid noted that there were approximately 16 parking spots for both properties.

Councilor Kincaid asked how much approximate parking would be required for a restaurant the same size of the subject properties. Mrs. Rough responded that the Land Use Code requires parking at the rate of one space for every 200 square feet of floor area, but she wasn't familiar with the floor plan of the church. Mr. Stewart stated that the Assessor's records show that the building is 3,600 square feet. Councilor Kincaid concluded that this would require 18 parking spots.

Mr. Stewart responded that the issue of parking had been discussed quite a bit with staff in the past and he could show that throughout the downtown area, especially in the restaurant and bar trade, there are very few establishments that have the number of requisite parking spaces on the street or on the property that they actually own. He continued that the church attempts to provide spaces usually through public use and extra parking that the public pays for such as the parking lot at the Fruita Civic Center. Mr. Stewart said he believes this is why the staff report does not require any additional parking spaces.

Mayor Buck asked (in an effort to squash some rumors) what (if any) covenants were being attached with the sale of the church. Mr. Stewart responded that one of the members of the church who is a realtor might be able to address that in a better fashion, but he didn't believe there were any CCRs or anything of that nature attached to the church property.

Mayor Buck asked Mr. Stewart to verify that the church didn't get a full-price offer from an outside entity and denied it. Mr. Stewart responded that there have been potential prospects that have looked at the building and talked about a multiple use facility to provide for some event-type activities such as funerals, weddings, bar mitzvahs and educational purposes; those types of things that are more non-denominational in nature. He continued that the church has suggested that the prospect(s) go to the City Planning Department to see if the proposed uses would be allowed and some concerns were presented to the prospect, so they backed off. Mr. Stewart said this is one of the reasons that the whole process was precipitated for the rezone.

Councilor Bonar stated that he had been sitting on the City Council for over 8 years and prior to that he spent a year on the Planning Commission and in those 9 years, he has participated in the hearings for a significant number of PUD requests. He said that it had been his understanding through all of those that the PUD was a request for a specific exception to the existing zoning for a specific purpose. Councilor Bonar continued that to his recollection, the City of Fruita has never approved a PUD for a non-specific purpose. He asked Mrs. Raugh if his memory served him correctly.

Mrs. Raugh confirmed that Councilor Bonar was correct in that statement.

- **COUNCILOR BONAR MOVED TO DENY THE PROPOSED ORDINANCE 2016-09 BECAUSE IT DOES NOT COMPLY WITH THE CITY'S MASTER PLAN, WHICH DOES NOT PERMIT DEVELOPMENT GOING TO THE EAST AND SPECIFICALLY BECAUSE IT IS A PLANNED UNIT DEVELOPMENT (PUD) REQUEST FOR A NUMBER OF PURPOSES AND THE CITY DOES NOT APPROVE PUDS FOR A NON-SPECIFIC PURPOSE. COUNCILOR KINCAID SECONDED THE MOTION. COUNCILOR KREIE VOTED NO. THE MOTION PASSED WITH THREE YES VOTES.**

Councilor Bonar stated that at such time that there was a specific purpose involved, the City Council could hear the PUD request again, but he didn't think this was the proper process.

Mayor Buck stated that she had been on the City Council for 10 years and she had never seen an application for a PUD come through for a non-specific use. She added that it is a slippery slope that makes the Council nervous because it opens the door for any property at any location in the City that doesn't have any tie-in to the Master Plan to do the same thing, which really throws predictability out the door for the people that buy properties around that location. Mayor Buck said she didn't want to set that precedent, although she understands where the church is coming from and their not wanting it to go into disrepair and making sure that it is open for a use that is attractive to everyone. She continued that she thinks that is what the Council needs to see; what that use is specifically and what the very specific impacts are that the use will have to the neighborhood.

Mr. Stewart responded that he was a bit confused because after reading the Land Use Code concerning zoning, he did not see any language that said a PUD zone classification is only used for a specific use. He said he did read that one of the purposes of the zone is primarily for large developments that are multi-uses, either a new annexation or a completely redeveloped area that is going to be considered for a number of uses, which was not the case for the Sacred Heart Church.

Mr. Stewart continued that staff at no time ever suggested to him that he had to apply for one singular use and if that were the case, he would have come back with the specific use of an event-type center, which is what started the whole process.

Mr. Stewart asked the Council if they were suggesting that if this is the direction the church wants to go, that they would need to start the process all over again?

Mayor Buck said she would almost rather see the application come through as a Conditional Use Permit than a PUD zone change because that seemed a more appropriate way to do it. She asked if the Council and/or staff wanted to weigh in on that.

Councilor Bonar agreed with Mayor Buck.

Mrs. Raugh responded that it would be more appropriate with the zone change because a Conditional Use Permit is for a conditional use, which is a use that because of its varying characteristics, cannot be properly classified as a permitted use in a specific zone. She said it depends where exactly in that zone it might be located to determine whether it is appropriate or not. Mrs. Raugh stated that the applicant is then stuck with whatever conditional uses are listed in the Land Use Code, and that an event center is not a conditional use in the Community Residential zone. She continued that it would need to be in a zone that allows an event center as either a permitted use or as a conditional use.

Mayor Buck asked if the process that the Sacred Heart Church just went through is the only way that an events center could happen.

Mr. Raugh responded that it is the only way that she knows of that it could happen under the current rules and regulations. She added that the concern is that the applicant would have to run an application for just one use back through the system so that it will go in front of the Council again in two or three months just looking at the one land use.

Mr. Stewart stated that this is what they basically will be asking for.

City Clerk/Finance Director Margaret Sell stated that if that was the use (an events center) that the Council was looking at permitting, they could include that in a motion to allow that specific one use only in the PUD zone.

Mrs. Raugh noted that per Robert's Rules of Order, one of the people that voted in favor of the motion can ask that the question be reconsidered.

Councilor Bonar said he would question whether it was an appropriate part of the process to select a particular use out of the list of uses recommended by staff without having a staff report that details the potential impact of that particular use and the other ramifications of such for a full consideration. He continued that generally speaking, if the applicant had said that they wanted a PUD zone for an events center on this specific property, staff would have prepared a report that addressed all of the specific impacts and relevant considerations for an events center on that property and the surrounding neighbors would have been informed that this is what was being considered by the Council.

Councilor Bonar said he had an issue with the process, but not with what the church was asking for.

Mrs. Raugh responded that the Council could consider that the applicants had a list of all the different uses they would like as part of the PUD and staff analyzed the list and recommended a much smaller list. She continued that it sounded like the Council might be comfortable with a much smaller list than that; a list that is so small that it might only have one use on it. She said if that one thing was already in the list, then the public had been notified and there is a staff report that details the issues because staff had already considered it as one of the items on the list. She said if anyone were to look online at all the details, they would see that one use, so she didn't think there was an issue with the process because it had been taken care of.

Mrs. Raugh said that if the Council wanted to reconsider the question and make a different decision, then the process in place for the Council to do that without creating any violations of the City's regulations.

Councilor Bonar pointed out that there were two Council members absent who were not privy to this part of the discussion and he thinks that the Council should not make a decision on something that was not talked about at the workshop session.

Mayor Buck said she agreed with that statement, but said that the thing that concerned her was that an events center is kind of big deal, and although she thought that would be fine, she would still like to attach a Conditional Use Permit to it in some way because for an applicant to show up at the counter and ask for a permit for an events center and have it administratively approved, the Council wouldn't have any control over what is going on regarding the impacts to the neighborhood. Mayor Buck added that it was important for the application to come back through for an events center and there would be neighborhood input for however that events center is going to be used. She said she did agree that since 1/3 of the Council was absent, perhaps the application should be continued and the applicant shouldn't have to go through the whole process again.

Mr. Stewart suggested that the Council reconsider Councilor Bonar's motion and move to continue the matter to the next City Council meeting to give the absent Councilors the chance to discuss it at the July workshop meeting. He also requested that people didn't get too hung up on the terminology of "events center," because that sounds like something that might be in downtown Denver when it is a term that was coined through the planning process and not by the prospect that approached the church. He continued that the types of uses that the prospect primarily wanted to utilize the facility for are the same types of uses that the church has always been used for. Mr.

Stewart noted that any type of liquor permit would have to go before the Council for approval, so there would be control over that. Mr. Stewart requested that the Council consider his comments.

Councilor Kincaid said he thought that the process and generalities on the application just don't fit with a PUD.

- **COUNCILOR KINCAID MOVED TO RECONSIDER THE LAST MOTION MADE BY COUNCILOR BONAR. COUNCILOR HARVEY SECONDED THE MOTION. COUNCILOR BONAR VOTED NO. THE MOTION PASSED WITH THREE YES VOTES.**
- **COUNCILOR KREIE MOVED TO CONTINUE THE PUBLIC HEARING ON ORDINANCE 2016-09 TO THE AUGUST 2, 2016 COUNCIL MEETING. COUNCILOR KINCAID SECONDED THE MOTION. THE MOTION PASSED WITH FOUR YES VOTES.**

Mr. Stewart asked if the Council had any direction for him since he was the representative on the application. Mayor Buck said she thought the Council had the information they need; there was just two Council members missing that probably need to be privy to what was discussed.

Mr. Stewart said he would work with Mrs. Raugh and would see the Council on August 2nd.

Mayor Buck pointed out that it is not normal to have two people absent on the City Council, but that it is summertime when people take vacations.

8. ADMINISTRATIVE AGENDA

There were no administrative items on the agenda.

9. CITY MANAGER'S REPORT

City Manager Mike Bennett was not present at the meeting. Acting City Manager Margaret Sell had no report for the Council.

10. COUNCIL REPORTS AND ACTIONS

A. COUNCIL REPORTS AND ACTIONS

COUNCILOR KINCAID

Councilor Kincaid reported that at the Museum of Western Colorado (MWC) board meeting the previous week, they discussed how they did some partial roof repairs and now are working on getting a grant to do the rest of the repairs. The board has \$15,000 or \$20,000 set aside for the work and is trying to find a matching grant to complete the rest of the roof all at once and before the end of this year.

Councilor Kincaid noted that the MWC would be giving the Council a presentation at the July workshop session, but he would be absent from the meeting. The MWC will give an update on an upcoming feasibility study for consolidating all their assets in Fruita. The study will analyze whether or not there will be enough visitor traffic in Fruita. Last year, Dinosaur Journey saw 58,000 visitors, the Visitor's Center in Fruita had 168,000 and the Colorado National Monument had a little over half a million people. Councilor Kincaid said that the board is really being pushed to move to one location.

Councilor Kincaid noted that the MWC had another 6.5 acres donated to them adjacent to Riggs Hill. The challenge all along for the MWC is how to maintain all the different properties that they own effectively.

Councilor Kincaid added that Dinosaur Journey is by far the MWC most profitable location.

Councilor Kincaid said he had two people ask him about what the City Police do about illegal fireworks in city limits. Mayor Buck noted that something was mentioned about it in the Daily Sentinel's *You Said It* column.

Councilor Kincaid said that one of the people that asked him about the fireworks lives in Comstock and the other one lives in Orchard Ridge. One person has two county officers that live on their street as well as a state trooper, but they don't do anything about the fireworks. There is also a Fruita City officer that lives within a block of the Comstock Subdivision.

City Clerk/Finance Director Margaret Sell stated that she would get some information about that for the City Council.

Councilor Kincaid added that one person told him that the fireworks were still going off at 1:00 in the morning. Mrs. Sell asked if the person called the Fruita Police Department and Councilor Kincaid said the person probably didn't because from his own personal experience, he once called the police on his neighbors after he went out and talked to them. They were drunk and shooting fireworks that were spreading hot ashes all over but by the time the police arrived, the neighbors were done and it was all over with. Councilor Kincaid said he knows that fireworks in city limits are illegal, but he would like to know what the Police Department's policy on them is.

COUNCILOR KREIE

Councilor Kreie stated that he hasn't yet met with the Downtown Advisory Board because they didn't have a meeting last month.

Councilor Kreie reported that he and City Manager Mike Bennett attended the Colorado Municipal League's (CML's) Annual Conference and he highly recommended it for the other Council members. He also said he would like to go again next year.

COUNCILOR BONAR

Councilor Bonar said that the Historic Preservation Board did not meet the previous night due to the holiday, so they will meet the following Monday.

MAYOR BUCK

Mayor Buck stated that she had coffee with Sara McCarthy with Conservation Colorado and she offered the idea that the City of Fruita draft a letter of support for Xcel Energy's addition of 1GW of renewable energy to their Electric Resource Plan. She said that she asked Sara what kind of subsidies Xcel Energy would be getting, but Ms. McCarthy didn't have an immediate answer.

Councilor Kreie said that the issue raised a lot of questions for him and he felt uncomfortable about supporting something without more information.

Councilor Bonar stated that Ms. McCarthy approached him after the Public Lands Day event and asked if he would sign a letter of support. She had taken it to Grand Junction City Council member Bennett Boeschstein, who said that he was probably the only one on the Grand Junction City Council who would sign it.

Councilor Bonar continued that he read the letter and didn't really want to sign it but told Ms. McCarthy that if she really wanted it to have an impact, she needed the whole City Council to sign the letter, not just individual elected officials. Councilor Bonar suggested that Ms. McCarthy contact Mike Bennett, who received a Statement of Affirmation from her rather than a letter for the Fruita City Council to sign. He continued that the letter was a lot more detailed than the statement, but it still didn't have all the details such as Xcel not looking at rooftop solar as being a major component in achieving their goal. Councilor Bonar said there were some other things that he specifically asked Ms. McCarthy about but she didn't have answers, so he was quite pleased that the Council only signed a letter of Affirmation as opposed to the letter that was originally presented to him.

B. EXECUTIVE SESSION – A REQUEST TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(F) (CITY MANAGER EVALUATION WITHOUT THE CITY MANAGER)

- **COUNCILOR KINCAID MOVED TO MEET IN EXECUTIVE SESSION TO DISCUSS ISSUES RELATED TO PERSONNEL ISSUES UNDERSTANDING THAT DISCUSSIONS OF SUCH ISSUES IN EXECUTIVE SESSION ARE SPECIFICALLY PERMITTED BY THE STATE'S OPEN MEETING LAW C.R.S. 24-6-402(4)(F) . COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH FOUR YES VOTES.**

The Fruita City Council convened in Executive Session at 8:33 p.m. The City Council reconvened into the regular meeting at 9:05 p.m.

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