



FRUITA PLANNING COMMISSION
REMOTE/VIRTUAL MEETING
JULY 14, 2020
7:00 P.M.

****Public Link to Meeting****

When: July 14, 2020 - 7:00 PM Mountain Time (US and Canada)
Topic: Fruita Planning Commission Meeting – 7/14/2020

The link to join the meeting electronically will be posted prior to the meeting at <https://www.fruita.org/pc/page/planning-commission-meeting-virtual>. You may also contact the City of Fruita at (970) 858-0786 for information to connect to the meeting.

The following items will be presented at this public hearing of the Fruita Planning Commission for their consideration. The Planning Commission will formulate a recommendation that will be forwarded to the Fruita City Council. Physically disadvantaged persons, who wish to obtain information or need assistance in attending the public hearing, may call (970) 858-0786. The hearing impaired may call Relay Colorado at 1-800-659-2656, or visit our website: www.fruita.org

General Rules

Land use public hearings are similar to a court proceeding. Proper procedures will ensure a fair hearing for all and allow the land use items to be acted on in a timely manner. In the interests of time and to assure a fair hearing for everyone, the following rules will be followed:

1. There will generally be a 15-minute presentation (maximum) by the applicant.
2. Individual speakers will normally be limited to 3 minutes each.
(Additional comments may be submitted in writing.)
3. The applicant will then have a rebuttal time of approximately 5 minutes.

The purpose of a land use hearing is to have the facts of a case presented in a manner that will assist the decision-makers in making a fair, legal, and complete decision. The hearing is a fact-finding forum by unbiased decision-makers. Unruly behavior, such as booing, hissing, cheering, applause, verbal outbursts, or other inappropriate behavior, detract from the hearing and will not be permitted.

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. AMENDMENTS TO THE AGENDA**
None.
- D. APPROVAL OF THE AGENDA**
- E. WITHDRAWN ITEMS**
None
- F. CONTINUED ITEMS**
None
- G. CONSENT ITEMS**

Application # 2020-09
Application Name 506 E. Pabor VRBO
Application Type Conditional Use Permit
Location 506 E. Pabor Avenue
Zone Community Residential (CR)
Description This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Application # 2020-10
Application Name 221 N. Elm VRBO
Application Type Conditional Use Permit
Location 221 N. Elm Street
Zone Community Residential (CR)
Description This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

APPROVAL OF MINUTES: May 12, 2020 Planning Commission meeting

H. HEARING ITEMS:

None

I. OTHER BUSINESS

1. Community Development Activity Reports.
2. Visitors and Guests.
3. Other Business.
 - a. Land Use Code Update
 - i. Chapter 21 Development Agreements
 - ii. Chapter 47 Vested Rights

ADJOURNMENT

RULES OF PROCEDURE

1. THE HEARING IS OPENED BY THE CHAIR OF THE PLANNING COMMISSION

The Chair reads the item on the agenda.

2. THE STAFF PRESENTS THE STAFF REPORT

The Fruita City staff present their reports.

3. THE PETITIONER SUMMARIZES THE PROJECT

The petitioner or his/her representative is asked to present the proposal. Presentations should be brief and to the point but covering all of the main aspects of the project.

4. PUBLIC COMMENTS

People speaking should step up to the microphone and speak clearly, stating their name and address. They should be brief and to the point and try not to repeat what others have said. The Chair asks for those in favor of the item to speak and then those opposed to the item to speak. Any others who wish to speak are then asked to come up to the microphone.

5. REBUTTAL

The Chair asks for the petitioner's rebuttal. During this brief time, the petitioner should address the major questions raised by the public and the Commission.

6. THE HEARING IS CLOSED TO PUBLIC COMMENTS AND THE ITEM IS DISCUSSED

The Chair closes the public hearing to public comments. No further comments from the public are

allowed at this time. The Commission discusses the item and may ask the petitioner, staff, or members of the public to come back to the microphone to answer questions.

7. VOTE

The Chair asks the Commission for a motion on an item. After the motion is seconded, the Chair asks for a discussion on the motion. The motion may be amended and if it is amended, the Commission votes on whether to accept the amendment. After discussion and consideration of any amendments, the Commission votes on the motion. If the motion fails, or if there is a tie vote, another motion may be made and voted on using the same procedure. In addition to recommending an item be approved, approved with conditions or denied, the Commission may also table an item or continue an item to a later date.

8. FOLLOW UP

The Planning Commission's decision is forwarded to the Fruita City Council. Once a project is approved by the City Council it must be revised to reflect all the conditions placed on it by the City Council before documents are recorded and/or building permits are issued. If the project fails to meet the Fruita Land Use Code time limits for final documents, the project approval of the project lapses and the project must be resubmitted.

9. The Planning Commission may also continue a project or deny a project. At the request of the Planning Commission, the City Council may continue a scheduled public hearing to allow the Planning Commission more time to consider or reconsider the application.

A. CALL TO ORDER

Six Planning Commissioners were in virtual attendance. (Justin Gollob, Jesse Fabula, Doug Van Etten, Heather O'Brien, JP Nisley, and Patrick Hummel were present).

B. PLEDGE OF ALLEGIANCE

Dan Caris led the Pledge of Allegiance.

Commissioner Fabula welcomed new Planning Commissioner and City Council Liaison Heather O'Brien.

C. AMENDMENTS TO THE AGENDA

None.

D. APPROVAL OF THE AGENDA

COMMISSIONER O'BRIEN MOVED TO APPROVE THE AGENDA

COMMISSIONER GOLLOB SECONDED THE MOTION

MOTION PASSES 5-0 (DUE TO POOR INTERNET CONNECTIVITY COMMISSIONER VAN ETTEN ABSTAINED FROM THIS VOTE)

E. WITHDRAWN ITEMS

None

F. CONTINUED ITEMS

None

G. CONSENT ITEMS

APPROVAL OF MINUTES

March 10, 2020 Planning Commission meeting

COMMISSIONER NISLEY MADE A MOTION TO APPROVE THE CONSENT AGENDA.

COMMISSIONER GOLLOB SECONDED THE MOTION

MOTION PASSED 2-0 IN FAVOR TO APPROVE THE CONSENT AGENDA (COMMISSIONERS FABULA, VAN ETTEN, O'BRIEN, AND HUMMEL ABSTAINED FROM THE VOTE BECAUSE THEY WERE NOT IN ATTENDANCE AT THE LAST MEETING)

H. HEARING ITEMS

Commissioner Fabula explained how the virtual meeting was going to be run and how the public could participate in the meeting by raising their hand, being called on, being unmuted, and then giving their testimony. He then explained how the meeting would be run in general terms.

Application #:	2020-06
Application Name:	Lithic Arts Building
Application Type:	Site Design Review
Applicant:	RDC Labs, LLC
Location:	158 S. Park Square
Zone:	Downtown Mixed-Use (DMU)
Description:	This is a request for approval of a Site Design Review application. The proposed plan is to convert the existing building into multiple tenet spaces and remodel the exterior portion of the building.

Commissioner Fabula read the description of the first hearing item to the audience.

Commissioner Hummel disclosed that his architecture consultancy was hired by RDC Labs, the owner of 158 S. Park Square during November 2019 to complete for them a schematic design and an existing conditions survey. He continued that they received condensed versions of the narrative and design as part of the planning commission packets. He said that now since the project is moving forward through city planning and subsequent construction document phases, the design contact has been shifted to Chamberlain Architects. He said that with himself, the design architects and Daniel Gardner will be giving this application’s presentation. He continued that in addition, he responded to Staff’s round 1 review comments which are also included in their packets. For these reasons and in order to maintain the commission’s impartiality, he requested his video and microphone to be disabled during this application’s hearing and voting process. He thanked Commissioner Fabula.

Commissioner Fabula confirmed that Mr. Caris would handle those virtual meeting logistics.

Mr. Caris confirmed this. He added that he had received direction from the city attorney that in order to recuse oneself from a video public hearing that muting their line and turning off their video would suffice for the purposes of the discussion.

Commissioner Nisley disclosed that he did valuation work when the property owner acquired the property. He said that he did not have an ongoing relationship with them, and it was not a conflict of interest for him to vote on the proposed project.

Mr. Caris felt that it would be appropriate to ask the other commissioner members if the reasoning that Commissioner Nisley just gave suffices for the rest of the group and they feel that he can maintain his impartiality throughout the rest of the discussion.

Commissioner Fabula asked if there were any other Commissioners that had a thought on whether Commissioner Nisley should participate in this hearing item.

Commissioner O’Brien asked Commissioner Nisley to explain his relationship and length of time was.

Commissioner Nisley said that when they went to acquire the property, they retained him to do evaluation services to be sure that their purchase price at the time of acquisition was reasonable. He continued, the relationship lasted two weeks and they had not had any other discussions since then. He said that he did not know that this was a project in process until he saw it in his packet.

Commissioner Fabula asked if there were any other comments from the Commissioners. There were none. He said that he did not have any problem with Commissioner Nisley participating and he wanted to move forward including him.

Mr. Caris said that the decision was the Planning Commission's prerogative but because there is no ongoing relationship with a direct financial gain to the project the services that were acquired were specific to the appraisal for the acquisition not for the construction of the potential project. He felt that there was a distinct difference between the two and as long as there are no objections from the Planning Commission, he thought it would be appropriate to proceed.

Mr. Dan Caris, Planning and Development Director, gave the Staff presentation. He entered his Power Point into the record.

Slide 1 – Introduction

Slide 2 – Background

- There are 2 types of Site Design Review procedures:
 - Administrative Site Design Review.
 - Administrative process.
 - Site Design Review with Adjustment.
 - Public hearing process. (Planning Commission & City Council)
 - This application is proposing modifications to the exterior portion of the building. The primary building material (metal) is considered legal non-conforming, meaning it was legally established but doesn't currently meet the regulations contained in the Design Standards section (17.11.030) of Land Use Code.
- The proposed application intends to keep the building as is with some additional elements incorporated into the design which require approval from the City Council after a recommendation from the Planning Commission.
- Because of this, the application is considered a Site Design Review with Adjustment.

Slide 3 – Background

- The existing structure is approximately 12,207 square feet and was originally constructed in 1998 for a True Value Hardware store and was converted in 2006 into what was recently the Fruita Health Club.
- The Fruita Health Club relocated in 2018 leaving the building vacant except for a small second story apartment at the south end of the building.

Slide 4 – Surrounding Land Uses and Zoning

- The subject property is surrounded by both residential and commercial land uses.

- The subject property is completely surrounded by Downtown Mixed-Use (DMU) zoning with the exception of Circle Park to the northwest.

Slide 5 – Adjustments Requested

- Overall Form - Section 17.11.030 (B) (3) (a)
 - Architectural elements address all sides of a building.
 - Materials and Color - Section 17.11.030 (B) (9)
 - Building materials to be: brick, stone, adobe, adobe brick, slump block, stucco, split block, painted or natural wood.
- Mechanical Equipment - Section 17.11.030 (B) (11)
 - Rooftop mechanical units be screened and not visible from the street.

Mr. Caris pulled up images of the project on the screen. He showed what the building currently looked like. He then showed images of what the applicants were proposing.

Slide 6 – Legal Notice

- Postcards = 4/24/2020
- Paper = 4/24/2020
- Property = 4/24/2020

He added that due to having to transition to a virtual hearing Staff generated a letter that was sent out to all of the property owners that were within the 350 feet buffer. He said that they wanted to make sure that they understood that there was a way for people to participate in the public hearing process and could give their feedback. It had all of their information on it including email address and gave a detailed description of what this meeting was going to look like. He said that seeing several attendees, their efforts were successful, and they did the same thing for the subsequent hearing items that were being heard.

Slide 7 – Review Comments & Public Comments

- Review Comments:
 - The applicant has responded to Staff comments which were included with the Staff Report.
- Public Comments:
 - No written public comments have been received by staff at this time.

Slide 8 – Staff Recommendation

- Because the development meets or can meet the intent of all applicable city regulations and policies, Staff recommends approval of application 2020-06.
- City Council: Tuesday, June 2, 2020

Mr. Caris concluded his presentation.

Commissioner Fabula thanked him and invited the applicants to make a presentation.

Mr. Daniel Gartner, Project Manager for Chamberlain Architects introduced himself and said that he was going to represent the owners for this hearing. Mr. Gartner shared his screen with the audience. He said that the goal of the project was to renovate and rehabilitate the building to be a useful part of the South Downtown area. He said it is an existing metal building that doesn't

comply with the aesthetic goals that the City has established for downtown but it is existing and the goal is to make the best of what is there and try to integrate it as much as they can into the downtown community within the confines of the existing building. He continued, that one of the things that they wanted to point out is that it is an Agrarian type building, these metal buildings are traditionally used in agriculture. He said that they would like to build on that and modernize it and make it a little bit eclectic, funky, and interesting for the downtown area. He continued that there were three areas that were not compliant with the level 1 Design Standard. He said it included the non-development in the alley, he pointed out on his image that north was towards the bottom of the page and showed the parking lot and where the circle was. He said that the west side of the building was not going to be developed at this time and it was their thought that they would develop the exterior façade of the west side that faces the alley at the time the tenant is determined, it may need more windows or doors. When it is developed it would be consistent with what they are doing with the other faces of the building. Another exception they asked for is the materials and colors on the outside of the building. He said that Level 1 Design Standards did not seem intended for the remodeling of metal buildings. They are more geared toward the vertically oriented masonry facades. He said that what they have and what the photos he showed revealed was horizontally oriented building with a gabled roof and exterior metal panels. He did not think that stucco or horizontal bends of masonry would make it fit in to the context of downtown any better than it currently does. He said that they would like to juxtapose some new interesting forms and materials that would be more relational to the existing metal building type and energize the south area of downtown. He continued that they were trying to do that with a variety of forms and materials. They are trying to break up the north façade, which is one of the two main facades with lots of different glass patterns, in addition they have some cedar boards which are part of the palate of materials that are approved in the Design Standards. They are getting rid of the low-slung soffit that was covering up the whole second floor area and adding a balcony. It would raise the entry opportunity for a more inviting, dynamic north façade which is the façade that faces the circle and is primary from the parking lot. He said that the shipping containers are the other major intervention that they are proposing, and they relate to the Agrarian style of construction with the ribbed metal components, but they also provide opportunities for signage and vertical elements. They are set at a bit of an angle to allow a contemporary intervention to the building. It also creates an enlivened façade. They felt the materials helped to modernize the building and this is compliant with the guiding principles in the Land Use Code that say that they should be drawing on the historical elements of the Fruita building scape and allow for contemporary interpretations. They feel that this is an appropriate contemporary interpretation of the historic elements. He continued, the last important modification to the standards that they were asking for is the consideration for not screening the rooftop units. The rooftop units are currently located to serve what was the health club, they can be used in their spread-out pattern to provide heating, ventilating and air conditioning to the different tenants. He said that to screen the rooftop units would require a fairly burdensome structural reevaluation of the building. The way that metal buildings are designed is for the load that is the original load of the building. The original roof top units and per the code in 1998 when the building was built. Those parameters determined the size of all of the roof structure, the roof members, bracing, the lateral supports, all of the structure of the building was created based on those parameters and also complied with the codes at the time for snow and wind load and seismic code requirements. If they were to add screens for the rooftop units it would add load and they don't know how close the existing design was to the maximum allowed. He said

that in order to figure that out they would have to re-engineer the building, or reverse engineer it. And then he asked if that would comply with current code? They are not trying to comply with the code in place in 1998 which they were, and they would need to comply with 2018 codes which are much more stringent. He said that this could lead to some burdensome modifications to the existing building. The owners are trying to rehabilitate the building into something vibrant and part of downtown but not completely destroy its character and start over. They are trying to use what is there as best they can. The building has the rooftop units that are not compliant with the currently adopted level 1 Design Standards. They are hoping that the overall effect of the building is cool and interesting enough that people are not noticing the rooftop units. He concluded his presentation.

Commissioner Fabula thanked him for the presentation and moved into the public participation part of the meeting. He then gave instructions to the audience on how to participate. He said that they would be talking about only 2020-06 Lithic Arts Building. He explained that they could raise their hand or press *9 if they were listening in on a phone.

Angela Akridge who lives on Cedar Court spoke. She said that she loves the Lithic Bookstore and she was curious why they are calling this the Lithic Building?

Commissioner Fabula said that all questions would be taken and once the public comment portion was done the questions would be addressed.

Commissioner Fabula asked if there were any other comments. There were none. Commissioner Fabula moved into rebuttal with the applicant.

Mr. Gartner said that the reason it is called the Lithic Arts Building is because the Lithic is the primary tenant. He explained that it is a tentative name and there may be more conversation moving forward.

Commissioner Fabula closed that portion of the public hearing and moved into Commissioner discussion.

Commissioner Gollob said that when he was looking at this with the design, the three main exceptions that they were looking at form, material, and mechanical, the first two seemed more difficult and expensive obstacles to overcome. He said he did not love the metal, but he understands what it would take to overcome that. He continued that the third was the screening of the mechanical equipment his initial reaction was what it would really take? He said that the architect's explanation made sense. He asked if they had thought of other ways and if you could not screen them, did they look at ways to obscure them? Whether it is with color or landscaping like trees that would grow tall. Are there other alternatives than just erecting a screen which would take extensive engineering?

Commissioner Fabula thanked him.

Commissioner Fabula said that he walked by the building and looked at it as it was today, and he appreciated new development in the community. He understood that you have what you have to

work with and it is great that they were able to meet a lot of the standards in the first part of the packet and he is ok with the few exception items. He said that there was a comment about the lighting, and he wanted Mr. Gartner to speak about what the lighting would look like on the north side of the building and if it would shine in people's eyes as they drove around Circle Park.

Commissioner Van Etten said he was happy to see something happening with the building. He said that Aspen Street 9 years ago when he moved here was terrible for vacancies. He has been watching since then and they fill up and then go vacant again. He said it is exciting to see something that is going to experience some redesign to try to bring it more in line with what the City wants the downtown area to look like, but not make it so onerous in requirements that a local business can't be the primary tenant there.

Commissioner O'Brien said that the presentations were perfect. She said that she wondered why they were not going to do the west alleyway, but Mr. Gartner explained that well. She commented on the metal aspects of the building and understood that it would be difficult to work with. She appreciated the thoroughness of the explanations.

Commissioner Nisley said he agreed with what has been said and glad to see that the property will be redeveloped for usability by local tenants compared to some of the alternatives for this property. He questioned the west side access that was being held for future tenants. He wanted to know about the sidewalks and other landscape elements that are put in place today to bring up the appeal on that side or is all of that going to happen once tenants are found?

Commissioner Fabula asked if there were any other comments from Staff?

Mr. Caris said that there were no further comments from Staff. He said that a procedural element that he wanted to mention was that when people write code language specifically for design standards, Mr. Gartner was correct that the focus on the brand new vertical construction and redevelopment of spaces come with unique challenges. He continued is that part of the reason we have a Planning Commission and a Council is to decipher whether or not the aesthetic look and feel meets the intent. He said that when you read the guiding principles for the level 1 Design Standards it is to create that feel and to provide a multitude of commercial opportunities and economic development because it didn't fit specifically into the standards of what would be required to build a brand new facility and go vertical on a vacant lot in downtown was part of the reason why the justification was written the way it was in the Staff Report. It was to lean heavily on those guiding principles that were part of the community process at that point in time.

Commissioner Fabula thanked him. He asked Mr. Gartner to address the questions posed by the Planning Commissioners.

Mr. Gartner said he wanted to respond to the comments he wrote down and they included the question about if consideration had been made for painting or otherwise obscuring the rooftop units. He thought that was a great idea. He said that there will be new rooftop units because the old ones are not going to work good enough. They can be painted to blend in with the roof and he felt that this made a lot of sense. As for the trees on the east side, there will be some trees. Generally speaking, the landscaping over on the Mulberry Street side will be xeric. They are not

expecting that to be overgrown with a huge amount of landscaping but there will be some and he expects it to help obscure parts of the building. Whether the trees get big enough to mitigate the visibility of the rooftop units is unclear, but it is possible. He thought they were both good ideas. He talked about the lighting on the north side. He said the light fixtures will be cut off type light fixtures and they will shine light no further than the property line. He added that they should not be shining in the eyes of anyone driving around the circle. He responded to the comment about the west side and whether there was going to be landscaping or sidewalks on the alley. He said that the goal is to have that in the future but it is important when phasing a project like this one not to do too much in the first phase that you might regret in the later phase. He said that there is a sense of commitment to develop the west side in a nice way but with the input of the tenants that would be there is the right way to do it. They are going to aim to do that development of the alleyway when that phase comes around.

Commissioner Fabula thanked him and asked for any further comment from the Commission.

COMMISSIONER GOLLOB MADE A MOTION TO APPROVE APPLICATION #2020-06 SITE DESIGN REVIEW WITH ADJUSTMENTS FOR 158 S. PARK SQUARE

COMMISSIONER NISLEY SECONDED THE MOTION

MOTION PASSES 5-0 (COMMISSIONER HUMMEL RECUSED HIMSELF FROM THE VOTE)

Commissioner Hummel was brought back into the meeting.

Commissioner Fabula introduced the next hearing item.

Application #:	2020-07
Project Name:	Cider Mill Estates Subdivision
Application:	Preliminary Plan
Representative:	Kim Kerk Land Consulting & Dev., LLC
Location:	960 Stone Mountain Drive
Description:	This is a request for approval of a Preliminary Plan application for 37 new residential detached lots over approximately 13.25 acres.

Commissioner Fabula read the description of application # 2020-07 Cider Mill Estates Subdivision.

Henry Hemphill introduced himself and said that he would be giving the staff presentation on this application. He entered a Power Point presentation into the record. He also mentioned that they did receive written public comments regarding this application, and they had been included in the Planning Commission packets and were available to the public. He said that they had not received any other public comments since then.

Slide 1 – Introduction

Slide 2 – Surrounding Areas

- Single family detached dwelling units.
- Multiple zoning types surround the subject property.
 - Community Residential
 - Community Services & Recreation
 - Large Lot Residential
 - Planned Unit Development
 - Rural Residential
 - South Fruita Residential
 - Unincorporated Mesa County (AFT zoning)

Slide 3 – 2019 Aerial Photo

Mr. Hemphill pointed out all of the residential areas surrounding the property. He mentioned that there was a subdivision underway currently near completion called Garden Estates. He showed the access points from Apple Lane, Santa Ana Drive and Stone Mountain Drive

Slide 4 – Site Plan

- Zoned Large Residential (LLR).
- 37 total lots over approximately 13.25 acres (2.8 du/acre).
- Lot sizes range between 10,000 - 12,500 square feet.
- 3 total filings.
- Filing 1 = 13 lots Filing 2 = 11 lots Filing 3 = 13 lots.
- Access points from Apple Lane, Stone Mountain Drive, and Santa Ana Drive.

Slide 5 – Land Use Code Requirements

- **Section 17.15.070 (C) of the Land Use Code states that at a public hearing in accordance with Section 17.05.070, the Planning Commission shall evaluate the Preliminary Plan application according to the Sketch Plan criteria in Section 17.15.060(C) and also the following criteria:**
 1. Adequate resolution of all review comments; and
 2. Compliance with conditions of approval on the Sketch Plan if any

Mr. Hemphill said that there was no Sketch Plan submitted therefore this criteria was not applicable.

Slide 6 – Land Use Code Requirements

- **Section 17.15.060 (C) states, at a public hearing in accordance with Section 17.05.070, the Planning Commission shall evaluate the Sketch Plan application according to the following criteria:**
 1. Conformance to the City of Fruita’s Master Plan, Land Use Code, Design Criteria and Construction Specifications Manual and other city policies and regulations;
 2. Compatibility with the area around the subject property in accordance with Section 17.07.080;
 3. Adequate provision of all required services and facilities (roads, bicycle and pedestrian facilities, parks, police protection, fire protection, domestic water, wastewater services, irrigation water, storm drainage facilities, etc.);

4. Preservation of natural features and adequate environmental protection; and
5. Ability to resolve all comments and recommendations from reviewers without a significant redesign of the proposed development.

Mr. Hemphill brought up the Fruita in Motion Comprehensive Plan and said that there were some themes that he felt were really important to this application. He said that efficient development was important and that the City of Fruita encourages infill over sprawl in development within the existing city limits and urban growth boundary. He said it would reduce the demand for infrastructure and city services, supports community connectivity, and encourages a thriving downtown core. He said that this subdivision is within the city limits for a number of years, it appears to support community connectivity and does not require an extension of the city limits, no annexation or anything else. He continued that making a connection to Stone Mountain Drive in the first filing would strengthen the support of this application with regard to efficient development. He said that with the way that this application utilizes the capacity and function of a stormwater and water quality detention pond and irrigation vault from the Garden Estates Subdivision. He said that Garden Estates was nearing completion and they are proposing to utilize those two elements. He said that Staff was recommending that Stone Drive be constructed in the first filing. He spoke about connectivity theme. He added that it is easy for vehicles, cyclists, and pedestrians to get around Fruita and to visit local destinations. The City of Fruita offers safe, intuitive, and well connected on- and off-street trail networks for pedestrians and cyclists. With some modifications to the proposed subdivision, the Cider Mill Estates subdivision can meet this Plan Theme. The modifications include but are not limited to, the incorporation of pedestrian trails and adequate resolution of the City's comments with regards to street connectivity and safety. As long as the streets and trails are designed in a safe manner, this portion of the Master Plan can be met. He took the audience back to the site plan for reference. He said that trails had not been incorporated into the plan yet, but the applicants know that this is a requirement of the Land Use Code.

Mr. Hemphill talked about conformance to the Land Use Code. He said that the property was zoned Large Lot Residential and added that the property was surrounded by residential uses with Community Residential and South Fruita Residential zones. He said that Large Lot Residential has a minimum lot size of 10,000 square feet and a maximum density of 3 dwelling units per acre. He said that according to Section 17.07.060 (I) of the Land Use Code this has been met. This application is proposing lot sizes between 10,000 – 12,500 square feet with an overall gross density of just under 3 dwelling units per acre. Although expressed in Staff's review comments it should be noted that Section 17.29.030 (B) states that public trails be required in all developments. Staff recommends the proposed subdivision be revised to meet this section of the Land Use Code.

With regards to the Stone Mountain Drive connection, Section 17.43.030 (C) of the Land Use Code states, "Residential streets should be designed to discourage fast movement of vehicular traffic and incorporate traffic calming measures where appropriate." Staff is recommending that modifications be made to this connection to avoid such a straight thoroughfare.

Mr. Hemphill continued, the applicant and property owner understand that irrigation shares must be provided and that the Land Use Code requires that 1 – 1.5 irrigation shares be provided per irrigated acre. It should be noted that the City of Fruita does not maintain private irrigation systems, however, it is important to the City of Fruita that irrigation systems have the necessary capacity and function to adequately serve those who utilize this irrigation service. With some changes, the proposed development can be in conformance with the city's Master Plan, Land Use Code, and all other city policies.

Mr. Hemphill addressed compatibility with the surrounding area. He said that it was surrounded by similar land uses which are single family residential types. There was nothing proposed that would be incompatible with that according to the Land Use Code. He gave the example of a shopping center next to single family detached residential dwelling units.

Mr. Hemphill spoke about having adequate provision of all required services and facilities such as roads, bicycle and pedestrian facilities, parks, police protection, fire protection, domestic water, wastewater services, irrigation water, storm drainage facilities, etc. He said that staff was requesting pedestrian and bicycle facilities which would be trail connections and/or open space. He said that there was an understanding that irrigation water was going to be provided and it is Staff's recommendation and a requirement of the Land Use Code that there is adequate water shares and that the facilities function adequately to serve those tying into it. In addition to storm drainage facilities they want to make sure that the stormwater runoff and all state and local laws regarding stormwater and detention are met. He addressed domestic water and fire protection, the fire department had received public comments, adequate fire hydrants and adequate water lines to serve the facilities. He said that this all appears to be met with some conditions and comments which should be resolved with the final plat application.

Mr. Hemphill moved on to preservation of natural features and adequate environmental protection. He said that Staff was not recommending any natural features be preserved in this case. He added that adequate environmental protection through the construction process, Staff was recommending strongly that sedimentation, weed, and dust control be required as part of the construction process.

Lastly, Mr. Hemphill discussed the ability to resolve all comments and recommendations from the reviews without a significant redesign of the proposed development. He said that it appeared to Staff that adequate resolution of all review comments can be accomplished without a major redesign. He said that a major deviation would include an increase in the number of lots or density or deviations to street standards, sewer lines or water lines and coming back through the process would be required. If they decreased the number of lots and increased open space, it would be considered a minor deviation.

Slide 7 – Legal Notice

- Postcards = 4/24/2020 (350-foot radius around the subject property)
- Paper = 4/24/2020
- Property = 4/24/2020 (signs posted at Stone Mountain Drive and South Maple Street)

shown with the star)

Mr. Hemphill added that in order to be transparent with the public to let them know that the meeting was going to be held virtually an additional letter was sent out informing them of the meeting format. He felt this was successful due to the public comments and responses.

Slide 8 – Public Comments & Review Comments

- Public Comments:
 - Written public comments were received by staff prior to the completion of this presentation and were included with the Staff Report.
- Review Comments:
 - All review comments received are included with this Staff Report. All review comments must be adequately resolved with the Final Plat application.

Slide 9 – Staff Recommendation

- Staff recommends approval of application 2020-07, Cider Mill Estates Preliminary Plan, with the condition that all review comments and all issues identified in the Staff Report are adequately resolved with the Final Plat application.
- FRUITA CITY COUNCIL: JUNE 2, 2020

Mr. Hemphill concluded his presentation.

Commissioner Fabula thanked him and he moved into the applicant's presentation.

Ms. Kim Kerk introduced herself and said that she was the developer's owner representative and she owns Land Consulting and Development in Grand Junction. She said that Mr. Robert Jones of Vortex Engineering was also there as a representative and that he was part of their design team for Cider Mill Estates.

Ms. Kerk said that this was a Preliminary Plan application that is located at 960 Stone Mountain Drive. She said it was Large Lot Residential zoning which they propose 37 lots and 3 filings. The total site area is 13.25 acres which yields a proposed density of 2.56 dwelling units per acre. Large Lot Residential allows for 10,000 square foot minimum lot size and a maximum density of 3 dwelling units for single family homes. She added that the parking requirements would be 3 per unit for single family homes and she said that they can meet or exceed that requirement. She said that Garden Estates which is the development to the east of the proposed Cider Mill is almost done with infrastructure and their proposal with this project is to have shared irrigation facilities and a shared detention pond. She said that they are working through a lot of those details and Mr. Jones can speak to questions that people may have about that. She added that they have acquired 15 shares of irrigation water for the subdivisions and working through those details as well. She said that this would create 2 HOAs, Garden Estates and Cider Mill Estates and in her experience and in quite a few projects she has done combined CC&Rs that create the process and the expense and very detailed in explain how the two subdivisions can work and live together with shared irrigation and shared detention. She added that other community services such as medical, library, recreational; Dinosaur Journey, Colorado River State Park, retail sales and other services are all available in Fruita. She said that the utility providers have the capacity and willingness to provide services and all services during construction they will be sure that

they meet or exceed all of the standards and specifications. Ms. Kerk continued in addition there is an 8' wide 1090' long gravel pedestrian trail on the east side of Garden Estates adjacent to the Murray Drain and that creates a pleasant option to the neighborhood and promotes connectivity and interaction between Cider Mill Estates, Garden Estates, and Adobe View North subdivisions. She said that they have done some extensive research and have submitted to the City of Fruita in regards to traffic studies, soil studies, and the basic information required right now that shows that they can or will meet the City of Fruita requirements for this subdivision. Ms. Kerk concluded her presentation.

Commissioner Fabula thanked Ms. Kerk for her presentation and moved the hearing into the public comment portion of the meeting. He reminded the audience how they could participate for this particular hearing item.

Mike gave public testimony and said that his house was located at the end of the subdivision. His concern was the straight road, Santa Ana Drive, he asked if there was going to be any kind of sidewalk? The rest of his concerns were inaudible.

Commissioner Fabula thanked him for his testimony and asked if anyone else would like to comment.

There were no more comments

Commissioner Fabula repeated Mike's comment, he said that he wanted to learn about how Santa Ana Drive, what the calming features were going to be to keep the traffic slow and he was asking about if there were going to be any sidewalks on either side. He asked Mike if that was what his questions were.

Mike said it was.

Commissioner Fabula asked the applicant for rebuttal.

Mr. Robert Jones of Vortex Engineering co-representing the applicant answered the question. He said that presently there was no traffic calming that is being proposed on Santa Ana Drive as it is a shorter section of road. He continued that the staff original design that was submitted with this application showed sidewalk on the north side of Santa Ana Drive. He continued that Staff had commented in the Preliminary Plan phase that sidewalk be added to the south side as well. He said he would be happy to answer any questions that the commission had.

Commissioner Fabula thanked Mr. Jones and closed the public comment section and open Commissioner dialogue.

Commissioner Gollob asked about page 4 of the Kim Kerk Land Development Consulting submission it stated that this project would be constructed in 1 filing. He said that he was 3 filings, is this a disconnect or change in plans? He also had a comment on the trails piece. His concerns were raised in the Staff report. He said that the lack of trails, some options were given and he would like to know what the developer is thinking about that moving forward. He also

brought up speeding on Stone Mountain Drive. He said it was a long road and that he saw that they were going to accommodate this. He felt that this is something that needs to be addressed. He also mentioned Mr. Jones' comments about Santa Ana Drive. He thought it was more about traffic calming, but also there was a late addition to public comments that was included in the packet. Although related, they are less concerned about calming than about noise. He is interested in knowing what they will be doing to address that citizen's concern about noise. He said the citizen talked about a privacy fence, will one be erected, if so, who is responsible for that? They also asked if it was necessary to have a 4th entrance. He wondered if that road is necessary.

Mr. Caris suggested that Commissioner Gollob's questions be answered at this time, but it was up to the Commission to decide whether they wanted to do it then or later.

Commissioner Fabula said that he had similar questions that Commissioner Gollob touched on and wanted the applicant to answer those then.

Mr. Jones said in terms of the filing question, after receiving comments and an evaluation of this they did pull the filing line, filing 1 to the north such that filing 1 would only encompass those far northern 6 lots and the construction would end in filing 1 at the point of curvature at the knuckles that they saw on the east and west side. He continued that originally the developer had contemplated completing this in 1 filing. He said that they could all understand recent events in the country have negated that and given some sort of pause as to what the economy will be like. He said that this was a revised filing plan that was worked out which also would negate that initial connection to Apple Lane on the east side of the project as they only had 6 homes accessing to the north in Stone Mountain. He addressed the trails piece. He said that they did evaluate the trails and connections that were requested by Staff and believed that they could reasonably accommodate those providing a mid-block corridor and a connection on the southeast corner which would connect to a trail system that was partially developed by the Garden Estates development. He addressed the Stone Mountain piece. He said that was also evaluated. The southern stub to the property to the south will be relocated to the west and that Western Loop Drive will connect in that area where Mr. Caris was indicating. He then addressed noise. He said that he is a little uncertain as to what comments about noise were from adjacent neighbors. This project like any other subdivision with single family homes obviously would have noise. He said that he was not certain what the developer is being asked to do in terms of mitigating noise. He said that he did not have that comment or letter or email from the neighbor immediately in front of me or ready. He said that if it could be read back maybe he could provide a better answer to that.

Mr. Gollob asked if it would be appropriate if he read it.

Mr. Caris confirmed it would.

Mr. Gollob read the comment. "I would like same information on the proposed new road Santa Ana extension into the Cider Mill Subdivision. Will a privacy fence be erected on the north side of the proposed road to shield current homes on the south side of Beech Avenue? Who will be responsible for the cost? Is it really necessary to have 4 entrances to handle 37 homes into the

Cider Mill Subdivision?" He said that it was from a community member and he would like a response from the developer.

Mr. Jones thanked him. He said that presently there is no privacy fence proposed adjacent to Santa Ana Drive. He said in terms of the comment about 4 access points being needed, no. However, he believed that the City of Fruita had the desire to promote interconnectivity between some of its collector streets such as 17 ½ Road as well as interconnectivity to Stone Mountain and Garden Estates. He said that he hoped that this answered his question relative to the neighbors' concerns.

Commissioner Gollob said that it answered those questions and he thanked him.

Commissioner Fabula thanked Mr. Jones. He asked Commissioner Van Etten if he had any comments or questions that he wanted addressed.

Commissioner Van Etten said that he had the same concern about traffic calming on Stone Mountain Drive. He wanted to get it clarified that the plan would be to run Stone Mountain Drive straight through this neighborhood and then when it hit the southern boundary of the neighborhood to then jog it one lot to the west and that jog would be a form of traffic calming?

Mr. Jones said that this was correct.

Commissioner Van Etten thanked him. He said that the only other question he had was about anticipated home sizes and is any consideration being given to ways to maintain viewsheds for people that may choose to live in a single level house but surrounded by two-story houses. Is there a ratio of ranch style to two-story houses planned for the neighborhood or certain lots designated for single story or two-story houses? He said that one of the great elements of this location is the currently unobstructed view of the Monument in the distance.

Mr. Jones said that the developer has not shared what individual home prices may be within this development and nor have they allocated whether or not they are going to be single story versus two story homes constructed in any sort of ratio. He said the developer is reserving the right to develop underneath of the current codes which does permit two story dwelling units.

Commissioner Van Etten thanked him.

Commissioner Fabula asked Commissioner O'Brien if she had any comments or questions.

Commissioner O'Brien asked to see the map again. She asked if that little jog to the side the only traffic calming that is going to be erected? If so, does that suffice with the Staff's recommendation?

Mr. Jones said that basically what you are turning Stone Mountain Drive into is a stop condition at the southern end such as there would be a three way stop causing traffic to come to a complete stop, make a right hand turn and to another stop condition and a left hand turn if you wanted to

traverse to the south. He said it did meet the intent of what Staff was getting at with their comments so that they do not have that long straight way on Stone Mountain Drive.

Commissioner O'Brien said that her next question was more procedural. She said that this presentation would be repeated to City Council in the June 2 meeting, correct?

Mr. Caris confirmed this.

Commissioner O'Brien continued, the recommendations that the Staff has made is the expectation that the designer makes those adjustments prior to the June 2 City Council meeting so the City Council hears what those adjustments will be? Can City Council approve things with the Staff's recommendations or without the Staff's recommendations and then the designer goes about the process of making those adjustments?

Mr. Caris said that in this instance they have an application where the developer design representative has agreed with some of the comments that they posed, specifically for Stone Mountain. That design change was something that they were willing to agree upon, changes to the filing plan they were willing to agree upon. They made those design changes to make sure that the development still worked. He said that this was not the expectation of every application but that is the back and forth nature during the actual land development application process prior to getting to City Council. He said that sometimes you see them respond to those comments with a new layout. As for the technical elements Mr. Caris said that the City Engineer Sam Atkins was on the meeting and he can talk about the access locations, how many there are, and is the traffic calming complying with their design specifications that are adopted to the documents outside of the Land Use Code.

Commissioner Fabula said that they would appreciate Mr. Atkins answers.

Mr. Atkins said that between engineering and public works and their review of this layout Stone Mountain and Kaley are both residential collector roads. He said that those are capable of between 1,000 – 3,000 vehicles per day. All these other streets are local other than Maple and Pine that would be the minor collectors. He said that what they did was transition Stone Mountain which is a local street at the subdivision and hopefully that helped with some of the traffic calming. Staff felt that if they moved in line with the western road, not necessarily an offset, to the western leg. They would still have the T intersection at the south end so there would be a stop condition there, you would have a stop condition at Kaley. It would not be just a continuous flow through the neighbors to the north and to the south. He said that Santa Ana was always proposed as access. That is how it was platted when it there was going to be a school there. He thought that most of the people in the southern half of the subdivision, if they were heading west they are going to take Santa Ana and they are going to hit Maple Street and that is going to relieve some of that stress. He continued; it is not that these roads are going to be at capacity, but it is going to get the traffic to the collectors instead of putting all of that in these local streets.

Commissioner Fabula thanked him.

Commissioner Nisley he said that the revised site plan considers a lot of the Staff comments. He asked if Staff was satisfied with the changes that had been made in the revision?

Mr. Hemphill said that he felt that the revisions do adequately take into consideration most of those comments other than the open space requirements that they also recommended. He added that it does not necessarily take up a lot of space and what Mr. Jones referred to is that they felt that they could meet that requirement without a major redesign. He thought that what was presented to the Planning Commission and the public along with Mr. Atkin's comments those have been addressed adequately enough to move forward with the exception of a few.

Mr. Caris said that by moving the project forward and making a recommendation, it is not necessarily suggesting that those items would be complied with, they are conditions of approval on the application. They will need to be rectified from any of the review agencies, even the ones outside the city. Even if not all those are clearly discussed they are conditions of approval on the application that would require the applicant to comply with them. There has not been objection from the representatives specific to those elements that they have talked about he feels that they agree to make those modifications to move the project forward.

Commissioner Hummel commented on potential views on this site. He agreed with Commissioner Van Etten and said that they do not have many of these lots left that could have potential to really utilize some of those great views on the south part of Fruita. He wondered if this plan could maximize of units on particular lots, having some kind of curved streets and a variety of housing sizes would really add to the way this space is experienced. If somehow they were related to views you could get, he thought that this would be a really move to recreate a relatively static subdivision into something that was more forward looking and envelope pushing than how many units they can fit on this 13.25 acres. Those were his takeaways from the project.

Commissioner Fabula thanked him and called on Commissioner Gollob.

Commissioner Gollob wanted clarification regarding the citizen email. He asked if Santa Ana Road was platted regardless? To provide connectivity not to provide a 4th entrance into the development.

Mr. Atkins said that this was correct. He added that they were proposing a full local road where there will be curb, gutter, and sidewalk on both sides.

Commissioner Gollob asked about the noise from the extra traffic.

Mr. Atkins said that he anticipated in the future that the Henry property may develop and there may be driveways attached to that road and it would be like any other road that are local.

Commissioner Gollob thanked him.

Commissioner Fabula asked if the applicants had any further comments or clarifications, they would like to make

Mr. Jones said that he did not and that they appreciated the Commission’s consideration of this application and that some of the comments that have been provided, they have attempted to work with Staff to come up with a very nice project incorporating those elements that Staff has suggested and they are excited to bring this project to fruition for the City of Fruita. He respectfully requested approval of this Preliminary Plan of Subdivision as it had been presented.

Commissioner Fabula thanked him. He asked Mr. Hemphill if they moved forward and vote to approve this, he wanted to be sure that the applicant would be working with Staff to resolve the review comments and issues that had been identified. If the resolution were minor, they would not see it come back to the Planning Commission. If the resolution of the comments was major, then they would see it again.

Mr. Hemphill said that if there was major change like additional lots, they would see it again. If it went to less lots and added incorporated some open space and trails, then they would not unless there was a major deviation. He said that Commissioner Fabula was correct.

Commissioner O’Brien asked if she were to vote yes then she is voting that the Staff recommendations are going to be folded into the designers plans.

Commissioner Fabula said that she was correct, and he added that language in the motion would include all review comments and issues identified in the Staff report are adequately resolved. He said that the Staff would work through the issues and work out what the resolutions look like. He asked Mr. Hemphill that if they are not able to work out resolutions would you explain what would happen?

Mr. Hemphill said that if they are not able to meet the review comments then the project stops. Normally with the review comments they are typically able to respond to them in a fashion that meets the Land Use Code, the Construction Specifications Manual, and provide safety to those around here. He said that there was nothing outstanding in the review comments that would make this project not doable.

Commissioner Fabula asked for a motion.

COMMISSIONER FABULA MADE A MOTION TO APPROVE THE CIDER MILL ESTATES SUBDIVISION PRELIMINARY PLAN APPLICATION #2020-07 ASSUMING THAT ALL REVIEW COMMENTS AND ISSUES IDENTIFIED IN THE STAFF REPORT ARE ADEQUATELY RESOLVED WITH THE FINAL PLAT APPLICATION

COMMISSIONER O’BRIEN SECONDED THE MOTION

MOTION PASSES 6-0

Commissioner Fabula introduced the next Hearing Item.

Application #: 2020-08
 Project Name: Sycamore Street

Application: Right-of-Way Vacation
 Representative: Pabor Serenity LLC; Dane Griffin
 Location: North Sycamore Street
 Description: This is a request for a Right of way (ROW) Vacation of the eastern eight (8) feet of North Sycamore Street between East Columbine Avenue and East Pabor Avenue.

Commissioner Fabula read the introduction to the Hearing Item.

Mr. Henry Hemphill, Staff Planner, gave the Staff presentation. He entered his Power Point presentation into the record as an exhibit. He mentioned that they did receive written public comments from neighboring property owners which have been included in the Planning Commission packets. He said that they did receive written public comments after the Planning Commission packets after the Planning Commission packets were completed and submitted to the Planning Commissioners. He said that they have been sent to all of the Planning Commissioners on Monday morning.

Slide 1 - Introduction

Slide 2 – Description

- The request is to vacate the eastern 8 feet from East Pabor Avenue to East Columbine Avenue.
- The right-of-way is currently 60 feet in width and was created by the Fruita 1st Addition Plat in 1905 (reception #56174).
- It should be noted that this section of right-of-way is designated as a local residential street which has 44 feet of right-of-way with 28 feet of asphalt with curb/gutter and sidewalk on both sides.
- Collector roads that have 60 feet of right-of-way would have 44 feet of asphalt with curb/gutter and sidewalks on both sides and typically function like North Pine Street or Aspen Avenue.

Slide 3 – Surrounding Land Uses & Zoning

- Surrounding land uses consist of single family residential and surrounding zoning consists of Community Residential (CR).

Slide 4 – City Utility Map

- The map shows City utilities only (sewer and irrigation).
- Other utility providers have been made aware of this application and have had an opportunity to comment. From comments provided, there does not appear to be any issues.

Mr. Hemphill showed the audience where each of the lines were on the map.

Slide 5 – Review of applicable Land Use Code Requirements

- **Section 17.13.080, Vacation of Public Right-of-Way, of the Land Use Code (2009, as amended) states that the City Council may approve the vacation of a public right-of-**

way, after recommendation by the Planning Commission, upon finding that the vacation will not:

1. Create any landlocked parcels;
Mr. Hemphill elaborated that it was a portion of the right of way not the whole thing.
2. Negatively impact adjacent properties;
3. Reduce the quality of public services to any parcel of land; and

Mr. Hemphill said that public services are provided by the City of Fruita and outside agencies such as Ute Water and Excel Energy. He said that through the review process it allows outside agencies to analyze where their utilities are in relation to the subject property and the vacation thereof and make recommendations if there were issues. There were no objections to this application.

4. Be inconsistent with any transportation plan adopted by the city.

Mr. Hemphill pointed out that the subject right-of-way is not specifically shown on an adopted transportation Master Plan. It does not appear that there is a need to retain the current 60 feet. As long as there is up to 44 feet available, this street section will meet the local residential street standards.

Slide 6 – Legal Notice

- All Legal Notice regarding this application was accomplished in accordance with Section 17.01.130 of the Fruita Land Use Code.
- Postcards = **4/24/2020**
 - 18 days prior to Planning Commission
- Paper = **4/24/2020**
 - 18 days prior to Planning Commission
- Property = **4/24/2020**
 - 18 days prior to Planning Commission

Mr. Hemphill said that an additional letter was sent out informing the public that the meeting would be held virtually and contained information on how to attend the meeting.

Slide 7 – Review Comments & Public Comments

- All review comments received have been included with the packet.
 - There were no issues from utility providers.
 - Written public comments have been received and are included with the packet.
 - Additional written comments were received by Staff after the packets were completed. These comments were sent to all the Planning Commissioners and are entered into the record.

Slide 8 – Staff Recommendation

- Vacation of this portion of right-of-way will not be in violation of any local or state law because it does not create any landlocked parcels, does not negatively affect adjacent properties, does not reduce quality of public services and does not violate the city's master plan.
- Staff recommends approval of application 2020-08 with the condition that all review comments and issues identified in the Staff Report be adequately resolved prior to the recording of the Ordinance to vacate the right-of-way.

Mr. Hemphill reiterated that the condition of approval would that they reserve 8 feet as a utility easement, and they would like that to happen a long with the ordinance to vacate.

- City Council = Tuesday, June 2, 2020.

Mr. Hemphill concluded his presentation.

Commissioner Fabula thanked him and invited the applicant to speak.

Dane Griffin introduced Scott Sorenson with Austin Civil Group who spoke on behalf of the applicants.

Mr. Sorenson thanked everyone for the opportunity to present. He wanted to reiterate some of the highlights that Mr. Hemphill covered in his presentation. Mr. Sorenson pulled up an aerial photo of the Sycamore vacation area. He said it was between Pabor and Columbine Avenue. He said that currently there is 60 feet of right of way which was created by plat in 1905. He continued that this request is to vacate the eastern 8 feet of it. He showed the audience that the map showed the utility lines, the right of way area and what the 8 feet looked like. He said it was not to scale but it did show the area of request. He said City sewer ran right down the middle of identified 60 feet of right of way. He said what is not shown is a 6-inch Ute Water main that extends from Pabor north to approximately the north edge of 909 Pabor Avenue. He said that they talked with Ute Water and got information on that line. In addition, they got a boundary and topo survey of the property and all of the right of way that exists in this section to better identify what improvements are there and to make sure this vacation did not impact anybody. He said that the City of Fruita Street Classifications and Traffic Control Plan identified this portion of Sycamore Street as a residential street and according to the Street and Driveway Standards in the City of Fruita Design Criteria Construction Manual, residential streets have 44 feet of right of way. He said that this was 28 feet of asphalt with curb, gutter, and sidewalk on either side. He said that like Mr. Hemphill mentioned, 60 feet provides the 44 feet. He said that you can see the surrounding area, this stretch of Sycamore does not justify a collector street section, it does not carry that amount of traffic therefore a collector street is not needed and a local, residential street is more fitting. He said that by not vacating the right of way two things can happen. The first is you build a larger road which will generate potentially more traffic and higher speeds across this section. The second is the actual residential street does get built and then it becomes 8 feet of no man's land right of way that is required to be maintained by the City. When this no man's land is created, it creates maintenance issues that may fall back on the adjacent property owners to take care of it. There are maintenance concerns with those kind of situations. He thought it would be more appropriate to build the 44 feet and have the right of way be vacated to provide the necessary right of way width. He referred back to the Staff Report and Mr. Hemphill's presentation identified no landlocked parcels are created with the right of way vacation. He said that all 3 properties that are affected by this right of way vacation can access either Pabor Avenue or Columbine Avenue. He continued that the vacation would not affect any quality of public service from utilities, the sanitary sewer line would fall within right of way, the 6 inch Ute Water main will continue to fall within right of way, and any dry utilities, whether it is Excel, Spectrum, will fall within either the multipurpose easement that will be created as the vacation. He said that this hit the highlights of this vacation request. He mentioned a couple of comments from City Staff, Mr. Hemphill said that the 8 foot right of way

would be turned into an 8-foot multipurpose easement to encumber any utility services. In addition, there was a request to provide corner clips at the intersections of Pabor Avenue and Columbine for future ADA corner ramps. He said that this could be accommodated and will be provided in the legal description and exhibit of the right of way vacation. He said that this was the extent of the request by the applicant.

Commissioner Fabula thanked him and moved into the public comment portion of the meeting. He reminded the audience on how they could participate by either raising their hand or pressing *9 on the telephone.

Mr. Tracy Garcher at 260 N. Cedar Court just east of the proposed right of way introduced himself. He also introduced his neighbor Dan Ray at 263 N. Cedar Court who was also on the phone. He wanted to let them know that he appreciated the work of the Staff. He said that the number one focus for the reason he was calling in was the letter talking about vacation got their attention because they recognize the need for mobility. He did not know what that meant and wanted to make sure that artery there that is currently is a little bike trail remain open and absolutely is. He said that he appreciated the mobility. What he wanted to talk a lot about that was not represented in the letter or that much tonight was the last comment all of the materials. He said that on page 80ish of the attachments talked about addition to the current 60 feet, they talk about the future development and the need for 8 feet of vacated space to be able to assist with the development of that infill property. He said that he got it, he did not think himself or his neighbor Dan are against development of 945 E. Pabor. The problem was that they lived there for over 20 years, both of them, and this is at least the second owner that had serious ambitions to develop it and it all boils down to something and they do not feel like why they moved into this neighborhood should be based on the profits that somebody trying to develop that property can make if they have to pinch it down by a house or two. He says that because they included it in the report and a lot of this stuff seems to be hinging on this stuff. He said that there needs to be some consideration of the existing homeowners and what their property values are going to be if that is going to be developed. He said that it was a pretty small parcel to cram 9 houses in and he did not know what that is going to do to what they have currently in their neighborhood. He thought that the comment that the developer that spoke earlier talked about 8 feet of no man's land, he said that this was a scare tactic. right now, there is fence over that stuff. It is a 10-foot bike trail. He felt that if they were going to talk about stuff like that, his expectation is to keep it real and they talk about the real impacts are. His biggest concern is that you all are trying to make a big decision to vacate and make a long-term decision on this street without considered that development. He said this because what if that needs to be the main entrance to that development for safety and for fire and everything else, does it need to be 60 feet and if they pinch it down now to 44 feet, does that preclude a lot of things in the future? It feels to them that they are getting the cart ahead of the horse. He felt that what he said captures his big comments and he appreciated everyone's patience. He gave credit to the Planning Commission for doing a great job and it made him have a different perspective on the development in Fruita. They earned his respect and he appreciated it.

Commissioner Fabula thanked him.

Angela Akridge who lives at 265 N. Cedar Court gave testimony. She wanted to thank them for doing the virtual meeting and felt it was very inclusive. She said that she was new to Fruita for 2 years now. She said as it relates to this agenda item, she did not know what vacation meant, she said that she thought it should be contingent upon the developer's plan with and without the vacation. She said that she was not a city bureaucrat and did not know the ins and outs of right of way. She wanted to understand the big picture so she could assess the pros and cons of the decisions that are made. She said that she assumed that they are talking about public property, she did not know. She said that the agenda packet was helpful, but it did not include information for laypersons. She asked if they could sell the right of way? She admitted to being a biker so she is not opposed to narrow streets just as the developer said it could reduce speeders. Will it have a four way stop at Columbine? She said it was a route to the middle school and her son will be traveling it. Who will be paying for the four way stop, the developer's row? She said it is currently open space and operates as a wide public trail for bikes and dog walking. She said it was their peaceful connection to downtown and a backdoor for downtown residents to get to Salt Wash. Can they use the ditch trail to the west instead if the trail in question goes away because it is now sidewalks? Is the road a done deal are we definitely going to put it there if they give this right of way or is it going to end up somewhere else in the middle of the property as a cul de sac? She said that her property backs up against this future development and it is her backyard view with the gorgeous Monument backdrop her only selfish thought is that she prays that it does not boast an HOA vinyl fence. As a long-term resident, irrespective of her residence she is looking forward to the new Sycamore development. As she saw it the development will bring more neighbors, it brings more playmates for her son, more patrons for the small businesses and she is pleased about the prospect for additional property tax revenue, she is big on the money thing. Are they going to give away this public asset for free if it is a public asset? She wanted to know if they were going to charge fair market value for the right of way. She asked if there was a risk of development if they did not give this gift? She wanted this information adding that there are lots that could be done with money. She talked about a plant demonstration garden here in town and that it was not free to maintain. The bike park in town that is frequented by kids and adults that is not free to maintain. She said she would love to see the town convert the skate park into a streetscape park for teens that cannot drive to Grand Junction. She said that Fruita needed more money and felt that they should be charging for public assets to gain more amenities. She said that they should charge for it and it is reasonable to ask. She said that the current roadway that they were talking about it being used as a walking trail, it is open space and it is not free. She said that Fruita had value and it does not seem right to just give it away.

Commissioner Fabula thanked her for her comments.

Jacob Franck at 909 E. Pabor spoke. He said that this affected him quite a bit. He had something to say about the last comment about how having this bigger road might a better thing. He said that the neighborhood there on East Pabor frequently run into the issue of people going down Pabor going 70 miles per hour in a 25. He mentioned that the developer said that having a narrower road, they want to do what they can to congest things a little bit so that the people are not encouraged to speed down there. He said that alone would deter that a bit. He added that he did not look at the packet and did not know if the road was going all the way through, if it is, it would definitely would help to be narrower to prohibit people from feeling the urge to go much faster than what is necessary by any means. He said that there are a lot of children right there.

Little ones that are learning how to run around 2 years old. He said that he thought that would be great. He believed the bike path that everyone uses, the City has known that that was going to be a road and that has been the plan for years, it sounds that they are trying to basically give those 3 properties 8 more feet which they have already been taking care of with weeds and general upkeep.

Commissioner Fabula thanked him.

Scott raised his hand to speak but was unable to contribute. There were attempts to chat with him, but it was unsuccessful. A neighbor, Brandi, tried to help her neighbor give testimony.

Adrienne Withrow who lives at 910 E. Pabor, Scott's wife wanted to reiterate what the previous person, Jacob Franck, said regarding the traffic situation on Pabor and how this street will affect it. She said that they have incredibly high rates of speed on this road, the increase of traffic was a concern to them all as well as the future of the bike path if that is going to be maintained or kept. She talked about the traffic and the children going in and out and families on bikes off of the bike path. She said that the future of the bike path was one of their big concerns.

Commissioner Fabula thanked her and closed the public comment portion of the meeting. He said that he had a lot of notes from the community members that had called in. He asked for rebuttal from the applicant.

Mr. Griffin responded that he heard a lot of concern from Tracey and Dan about the property values and emergency access and the width of the street. He said that the property value with the development, this application does not for the development. He continued that they will be applying for a minor subdivision after this. He said that whether this goes through or not they will be submitting the application. He said it was hard to get into that when that was not the focus of the meeting tonight. He said that as a real estate agent his experience is that new properties only increase older properties' values. The intent would be to build homes in that vacant land which will in turn increase the values of the properties around it as it historically does. He addressed the width of the right of way. He had a question for Staff, for Cedar Court that has 12 houses right there and it looks like it is only a 44- 46 foot right of way itself. He said that this was along the same lines as that, what they were asking for is 44 versus 60. He said that 60 feet was established in 1905 not recently and he did not think it was necessary and he did not think anyone thought it was necessary to have that wide of a right of way for this area. He said that this is what he had for Tracey and Dan's comments. He addressed Angela's comments. He said right now it is a bike trail from the parent's aspect, from the City plat it is a right of way. He said that technically it is a street although not an improved street it is unimproved so right now, they have bike path in lieu of a street. He added that whether it was done now or a year from now or 10 years from now, that will become a street and it happens that they want to do that. He addressed who pays for the street. He said that this was going to be determined as the whole development process went on but impact fees and how that development is done will essentially pay for a lot of street taxes. The taxes generated from the development which is not associated with this application will help pay for that street, will help bring income to the City of Fruita as well. He did not have any idea about the sale of the property, so he left that up to the City of Fruita. He said that her main concern was the development. He said that developments bring

money into the City of Fruita, they do not take money out. He added that she was concerned about bringing money into the City of Fruita and that is what this development would do. He then addressed Scott's concerns. He said again the bike path is a bike path now but it is technically a right of way so it will be street whether they do it or someone else does it, it will be a street at some point. He said the street would have sidewalk and their development that they are planning on doing will also have a connector to Pabor with a bike path within that. They are going off onto a whole other conversation but that is all he had for now. He thought that it would be a good idea that they as a developer do a neighborhood meeting before they submit the development application and everybody in that area that has concerns about the development or has questions can get together and talk person to person or if COVID allows it or maybe Zoom or whatever they needed to do. He felt that they were getting off on a different tangent here on something that is completely separate which is a development and try to focus on what they were after right now which is 8 feet of right of way.

Commissioner Fabula thanked Mr. Griffin for his comments. He confirmed that he was the applicant and Scott Sorenson was helping him with the application.

Mr. Griffin and Mr. Sorenson confirmed this.

Commissioner Fabula moved the meeting into Commissioner discussion.

Mr. Caris pointed out some procedural components. He said that two fundamental concepts is that when a right of way vacation takes place the property that is being vacated, it automatically reverts back to the adjacent property owner. They don't have the ability to go and sell other right of way that was dedicated by plat to other individuals as a property sale nor would it be all that likely considering the fact that it would not be buildable. He continued that the other element that if this road project was a City project, what would the City build as part of a capital project if they were going to connect that section from Columbine to Pabor? He felt that this was fundamental to the request and has been part of the conversation between Mr. Atkins and Mr. Sorenson. He asked Sam to elaborate on this and explain it.

Mr. Atkins said that as a legal matter the right of way was dedicated by plat from a property owner and when you are vacating right of way, it reverts back to the property owner that is there. He continued that usually when you are doing these, it could be on one side or the other. He said that technically that meant that they could only vacate 8 feet to get to their half street section and not push all the 44 feet onto the west. He said that the adjacent property owner would be eligible to vacate 8 feet on the west side of the right of way as well to get down to that 44 feet. He said that the 44 feet that they have been talking about is their local street section. It is capable of handling up to 1000 vehicles per day which is well in excess of what you will see here. He said that the pedestrian trail was installed as a temporary trail. He said it is asphalt and all those asphalt trails that they put in, the ones that are on Fremont Street, the little connectors that have not been developed yet were done in asphalt so that they could get that connection more south for the pedestrians and bikes up and to the point that they construct a roadway facility. He said that this is where it stands. He continued that as this property develops, they will be forcing access off this secondary road and not on Pabor which is a much safer condition. He said that they want to limit their accesses on the collector roads and Pabor is one of those. By providing

access internally to the subdivision off of this new alignment, it will create a safer condition. It also creates those driveways for 909 and others. He said that if they were constructing this road as a City project it would be 44 feet right of way width, 28 feet of asphalt. They have reserved the entire section for utilities at this point so that they could get the utilities in there, but they have no need for the full right of way width.

Mr. Caris asked Mr. Atkins to talk about how it aligns to the north with the condition out there with curb, gutter and walk on one side of the street and absent on the western side of the street.

Mr. Atkins responded that without true survey of where it fell, if they are just looking at the aerial view, it aligned very well centered on that right of way. He elaborated that there were various circumstances that were similar where there is a slight offset, but they don't want an extreme offset so that the opposing traffic is headed at each other. He pulled up the map view of the property and they zoomed in on the intersection of North Sycamore and East Columbine. He talked about the sidewalk on the east side north of there, he said that they would be proposing to have sidewalk on both sides. Just as that is their standard street section now, that could connect to the west over the Independent Ranchman's ditch at some future date. They would want that sidewalk connection on both sides of the street as a standard street section.

Commissioner Fabula asked Mr. Atkins if that would also include a bike lane?

Mr. Atkins replied no. He said it was just a local street, you could park on both sides of the street and still traverse the street. He said that it was like any new subdivision street. He did not anticipate there being a high volume of traffic on that road. He continued that there was other connectivity east and west and if you are coming up and trying to get to Columbine you most likely went up Pine Street and took a left on Columbine. If you are coming up Maple, you are probably coming up to Columbine there and cross. He did not see a tremendous amount of cut through traffic.

Commissioner Fabula moved the meeting into Commissioner discussion.

Commissioner Fabula said that what was most important to him was the bike access. He said that the community sees that as an easy way to get to Salt Wash Park. He continued that if this became a street, they would still maintain that access.

Commissioner Gollob said that it had become clear to him that a decision was made in 1905 and the community had utilized the use of this land for a bike path. He continued that taking that resource away for the neighbors he could understand why that would be a reason to be on the call. On the other hand, they have the responsibility for landowner's rights and what rights come with they have. He said he is stuck between a community interest that is tied back to 1905 and a 2020 development plan and landowner's rights. The biggest question he had was under 2020 standards the road that is going to build there and the road that is north of it, Sycamore Street, you would build that as a 44 foot road, there is no reason to put a 60 foot road in?

Mr. Atkins said that he was correct. The 60 foot right of way is Maple, Pine and Ottey, all the big collectors are the 60 foot right of way. He added that they have an unsafe condition with

those two driveways there. He said that if you are on the trail and then you end up with these shared driveways for the first two houses that flank the south end of that trail. It is almost like the way the trail was at the park north of Ottley where you had the one house that had the driveway. Someone is on the concrete trail and all of a sudden you have a car coming down the trail. He added that if the trail were meant to be there it would be the full length and that cuts off the access to those two houses.

Commissioner Gollob asked if in Fruita is there a street that would be a hybrid 44 foot with an adjacent bike trail where that could be built into it where they still maintained the 60 but 44 foot is the road and the 8 feet that they were talking about for public interest, connectivity to the parks that there would be a bike trail next to it? Is there an example of that in Fruita that could be modeled here?

Mr. Atkins said that he did not have an example of that. He said that he thought the problem was when they start talking north and south of there, they did not have that condition. He added that the reality is there is going to be so little traffic that they were providing that bicycle facility on the street.

Commissioner Gollob asked if in instances of where they run into this issue, is this what you are seeing in this plan here. Is this standard practice? He continued that in the 1905 plan they platted a larger road than what we need today, they are going in and building a narrower road. He wanted verification that it was standard practice or a legal requirement to then see that right of way back to the landowner, the 8 feet on each side in this case?

Mr. Caris said that this was correct, it would revert back to the property owners that are touching that right of way line because in the past they were a part of that dedication happening which was private property at one point in time. He continued that this was a town site plat and that this is creating the dynamic that they are living within today. He added that given that there are driveway locations that are currently taking access off of the trail, the fact that they had minor collectors with 60 feet of right of way that they don't actually allow in today's street standards for driveway locations to be taken off of those. He said that if it was a 60 foot right of way and they were building that entire road, that property to the west would not be able to subdivide because they would not allow them to have driveway locations off of that long skinny lot that runs along the frontage of Sycamore between Columbine and Pabor. As far as the question about this being common practice, Mr. Caris said that downgrading and classification is a practice typically is part of a broader community discussion. He said that the one that he heard this evening was that it is not in opposition to the road being built, it is there a want for an alternative section that is not the standard 28 feet of asphalt with curb, gutter and sidewalk on both sides of the street. He thought that was what he was hearing.

Mr. Atkins agreed. He said that if they had the whole corridor all the way up to Ottley, that might be different, but all of that is already built north and south of this section of road.

Mr. Caris added that the discussion was really about the west 8 feet.

Commissioner Gollob commented on when the road is built does the fact that they downgraded to a 44-foot road, did it automatically trigger a vacation of the right of way? Was the 8 feet their first priority or is it up to the City to determine uses for that 8 feet? Once the road is downgraded is the 8 feet that they were discussing automatically the first step of vacation of that land or are there other alternatives to that 8 feet?

Mr. Caris asked if the alternative was retaining that 8 feet and then using it? He said that they preserved the right for a utility corridor. He added that this happens all the time. He said that a plain blanket vacation that does not preserve the right for other multipurpose easements, utility, or irrigation, that is more uncommon. He said that they are not turning this into a 44 right of way, they are turning this into a 52 foot right of way. It is only 8 feet on the eastern side of that section, but they would allow the ability on the other side of the right of way for that to happen in the future. He said that this was not a part of this application. He added that there was some flexibility what you would do to the west but what would make sense from a circulation standpoint.

Mr. Atkins added that centering that road within the center of the 60 foot right of way and making it 44 makes perfect sense in this case.

Commissioner Gollob talked about what the application for the development will be and he agreed with him. He wanted to encourage Mr. Griffin to think about green space and working with the neighborhood to maintain as much of that connectivity within his development as possible. He understood that this was a different conversation, but he was thinking about satisfying multiple needs moving forward.

Commissioner Van Etten had some follow up comments to Mr. Atkins comments. He talked about the comment about very little traffic on this kind of road which effectively makes it a de facto bike route in his opinion. He asked Mr. Atkins about the road to the north and the road to the south is built out to 44 foot right of way?

Mr. Atkins said that the right of way is wider. He said it is not 28 feet of asphalt like they were proposing, he said it was more like 30. He also added that it varies, it is not the same to the north as it is to the south.

Commissioner Van Etten said that what there is, is fairly similar.

Mr. Atkins added that it was fairly similar to the effectiveness of 28 feet.

Commissioner Van Etten asked if there were a road developed and the west side 8 feet could be used as a bike path, is that something that might be feasible? How does that get paid for?

Mr. Atkins said it was possible, but he did not know what its purpose would be when you have a road there.

Commissioner O'Brien said that change is always difficult, and she is an avid cyclist and has been down that bike path many times and she appreciated the neighbors and how it is a calm

place to take your kids or dogs. A place that you do not have to ride on 17 ½ or 18 Roads. She did not know if they could say that there will not be a lot more traffic because it is going to go all the way through. She added that there might be more people than just those in the newer subdivision who will utilize it because now it will be more of a thoroughfare. She gave the example of this. She appreciated the neighbors and their concerns. She asked herself every time she biked through there why is this bike path here? It is very short. Then she looks at the big lot of land and thought that as soon as someone develops that this will probably become a road. She added that rules and codes have changed, and landowners have rights. Their ability to bike down that road will not stop and if there are sidewalks on both sides people's ability to walk their dog they are on sidewalks and that is safer. She said change is difficult, but it is pretty straight forward to her.

Commissioner Nisley said that his concerns for the vacation were preserving the corridor for mobility which they would have a roadway that makes sense. They will still have access from downtown to Salt Wash. His other concern was if the right of way would be adequate to support the development or if they give away the 8-foot section now if they will run into issues. He continued that based off of what Mr. Atkins said that would not be an issue. He said that he did not have concerns with the project. As far as the City selling a portion of the right of way, he does right of way evaluation and determining what that is worth. He wanted everyone to keep in mind that they were talking about 4900 square foot section of land. He said that the cost to the City to figure out what it is worth and go through the process might not be financially feasible. He said that he did not have any concerns with the vacation.

Commissioner Hummel said that he was curious to know what the square foot per proposed unit was.

Mr. Griffin said that the City of Fruita requirements were 7000 square feet minimum per lot. He said that they range to just over 7000 square feet to up to 7750 square feet. He said that with the addition of the lot 9 which has the existing house at 945 E. Pabor. That lot would be over 10,000 square feet. That existing house would have a very large lot. He said that as a quick fact 945 E. Pabor was the original owner of 160 acres of land right there in the City of Fruita. He said that this land used to belong to this property. He added that they were restoring the original house and trying to maintain a little bit of the City of Fruita historic values. They were going to keep it a nice development.

Commissioner Hummel said that he was more interested in the individual units themselves. He wanted to know what additional value future homeowners would get out of that extra 8 foot of right of way.

Mr. Griffin said that there was no inherent value that the homeowners are going to get out of the 8 feet. He said that it does not really impact the overall value of the house, it would only impact a couple of the lots on the west side of the development. The properties are going to range from mid-400's up into the 500's. He said square footages will likely be around 2000-2500 square feet. He said that they did not have plans designed quite yet so that is subject to change. He said that they will be high value pieces of property.

Commissioner Hummel said he was trying to find out if there is any way to add some kind of creative value to those spaces with the addition of the 8 foot. If it could be utilized for something more than just an extra car garage or something he said he would like to encourage them to think about that if this is improved to look at creative ways to make use of that extra 8 feet that is more than your standard cookie cutter type of whatever is the trend of the time. He added that the property owner on the west side did not provide any comment but there was a question about infill development and how that might not be feasible. He also talked about the statement in the application that addressed Land Use zoning criteria that would be limited by not gaining the 8 feet and he was curious of what that may be. What would the City of Fruita not be getting in terms of land, Land Use Code that they would be getting otherwise?

Mr. Sorenson touched on this question. He said that Mr. Griffin was going to move forward whether the 8 feet was vacated or not. They have a great plan moving forward. Some of these lots become, not in this situation but others, narrow in width. He continued, most folks have a trailer, ATV that they like to park alongside their house and what this does is it allows these lots to be a little bit wider so you can get a nice home and have a little bit of space for people to keep that stuff off of the street. He said that even though 8 feet did not sound like a lot of land width, in this particular situation it carries across that land and allows some nice lots to be developed that provide that space for folks with their toys. If a 44 foot right of way street is what should go in there based off of the Fruita Land Classification Map, then why not allow that additional 8 feet be utilized in development? He said that if things weren't utilized to their intent it becomes a no man's land where that responsibility may fall back on the homeowner, all of a sudden he thinks that this is right of way and not his responsibility and I don't own that land. So might as well utilize the land the right way it is supposed to be used. That is what they are trying to do here, build an adequate street or get to a right of way that meets the street section and then allow these infill developments that the reason why they are still vacant is because there is always challenges with them. There needs to be some ways to make these things work and develop Fruita that you all in the community want to see. He continued, that the vacation of the right of way does not impact if you are going 44 feet you will still have a bike path even if it goes under 44. By vacating there is no impact to the path. Folks can still utilize the 44 feet as a thoroughfare on their bike as walking. He thinks that by vacating, it allows the street to get built the way it has been intended to get built and it also lets infill development move forward and develop some of these lands that are sitting in the core of the community.

Commissioner Fabula thanked him for his comments. He asked some of the questions that a was submitted as a public comment. This question was from Stu. Obviously, this application was for one side of this right of way, why are we not doing both sides at the same time?

Mr. Hemphill said that this application was initiated by a property owner and not the City. He said that the gentleman that made the comment can request that vacation similar to what Mr. Griffin has requested. He added that following the proceedings of this, that is an option for him, but it is not a project that is initiated by the City at this time.

Mr. Caris said that a property owner can request for a modification to a certain section of the entire code. They have a property right to apply for a vacation of right of way. That is part of their process rights and their property rights.

Commissioner Fabula asked if they moved forward and approved it, they are not going to take that right away from that property owner on the west side, right?

Mr. Caris said that it would really be giving it back to the property owners not taking it from them. He added that there was surveying work and exhibits and all those things that are associated with that the City was not prepared to place any resources to generate that right of way vacation on the west side. If so happens that the property owner on the east side generated that.

Commissioner Fabula said that quite a few public comments had to do with traffic on Pabor and the speed of traffic on Pabor. He said that this was not the topic that they were discussing today however one of the comments asked about stop signs. Can you tell us where stops signs were planned to be with regard to the potential road?

Mr. Atkins said that there would be a stop sign at Pabor and if Columbine ever went through there could be a four way stop there. If this gets constructed up to North Sycamore, then there would be a stop sign on Columbine and Sycamore would likely go through up to Ottley.

Commissioner Fabula said that Angela asked if they could use the irrigation canal as a path for bikes. He said he knew the answer to that but asked if anyone would like to answer this for her.

Mr. Atkins said that GVIC claims that as their property and they do not want anyone using it for pedestrian or bicycle traffic.

Commissioner Fabula brought up a comment made by Mr. Garcher. He wanted to know how they could make this decision without talking about the land development that is going to follow.

Mr. Caris said that this right of way vacation request needed to stand on its own merits. It has to make sense for the overall circulation as all of the local roads, collector roads interact with that. That cross section whether it is the crossing over the canal to East Columbine. He continued that getting this connection built is a big deal from the standpoint that it will disperse some school traffic from Fruita Middle School. They will have less people going on Maple and more people using East Columbine if that gets punched through. It does move traffic. As far as the subdivision, the reality of that situation is that they have a completely different set of approval criteria for a subdivision and a completely different set of approval criteria for a right of way vacation. To afford everybody the right sense of due process that they owed those applications have to stand on their own merits and individual decisions need to be made as a result of whether or not those approval criteria can be met or you think they can be met.

Commissioner Fabula felt that they had addressed all on his list from the community members that had reached out. He asked if any of the Commissioners had any further comments or items that they wanted to double check on?

Commissioner Gollob said that one thing that kept resonating with him was in some ways this issue is being discussed as if this was a giveaway to the land owner for development's sake versus this is a decision that affords the land owner his legal rights to retain that vacation given

the actions of the City. He said that it was important to him to know that this is standard practice when these decisions are made because there has been a lot of discussion how this is being done for development's sake. He asked Mr. Caris to touch on this.

Mr. Caris said that the fact that the right of way vacation should or should not happen really should not depend on the Griffin's project. They hear a lot of subdivision applications that never get built. He said that this piece of ground has had several layouts associated with it throughout the course of time that never actually happened. There should not be any predication associated whether or not this is for somebody else. This is public right of way; it is well within their right to request a vacation. He thought that what he heard is that they want them to study how that road could be constructed and wanted them to go back to the drawing table. If they had the money to go build Sycamore tomorrow and this project did not exist what would they build. He said that they would be 28 feet of asphalt with curb, gutter, and sidewalk on both sides of the street and that 8 feet would go back to the property owners.

Commissioner Gollob said that this was clear from Mr. Atkins. It was 1905 versus 2020. His question was more along the lines if this was standard practice? This vacation of the land back to the homeowners because the narrative is that this is being done for development's sake and not necessarily because it is the best decision or the standard practice. He said that he was trying to balance the landowner's rights versus the neighboring community's interests.

Mr. Caris said that this was a standard practice. He said that there were arguments on both sides and that they were active buyers of right of way when they did not get enough at some point in time. This is an infill parcel with a lot of homes that have been built on both sides of this future road that in the next several decades that condition will make sense. It is a standard practice a lot of times they are initiated by the City for a specific project, but a lot of times right of way vacations take place in order to combine larger parcels and readjust right of way alignments. That is where they are more commonly used. He added that if you have several quarter sections of acre with a planned collector going through it that was platted 80 years ago and the City is no longer allowed those north, south, east, west connections to be on a quarter mile alignment they have to shut that right of way which means it needs to be vacated. He said that happens by plat of subdivision and through this process.

Commissioner Gollob he wanted to reiterate what he said in his last comment and what Commissioner Hummel also reiterated. He said that he looked forward to looking at developer community neighborhood creative solutions if they could find themselves to where they can find some harmony with this development.

Commissioner Fabula said that he agreed with Commissioner Gollob's point they are always excited when they hear applicants volunteer to do a neighborhood meeting. They always encourage everyone to do that whenever they are willing to do it. He asked if there were any other comments.

There were none.

Commissioner Fabula asked for a motion.

COMMISSIONER NISLEY MADE A MOTION TO APPROVE THE VACATION OF RIGHT OF WAY AS APPLICATION #2020-08 ON SYCAMORE STREET

COMMISSIONER VAN ETTEN SECONDED THE MOTION

MOTION PASSES 6-0

I. OTHER BUSINESS

1. Election of Officers

COMMISSIONER VAN ETTEN NOMINATED COMMISSIONER FABULA FOR THE POSITION OF CHAIR

COMMISSIONER GOLLOB SECONDED THE MOTION

MOTION PASSED 6-0

COMMISSIONER HUMMEL NOMINATED COMMISSIONER GOLLOB FOR THE POSITION OF VICE CHAIR

COMMISSIONER FABULA SECONDED THE MOTION

MOTION PASSED 6-0

2. Community Development Activity Reports.

Mr. Caris gave the Planning Commissioners an update on the Land Use Code update. Mr. Hemphill spoke about the 2020 Census and the numbers.

Adjournment 10:42 pm

Respectfully submitted,

Kelli McLean

Planning Technician, City of Fruita



**Planning & Development Department
Staff Report
July 14, 2020**

Application #: 2020-09
Application Name: 506 E. Pabor VRBO
Application Type: Conditional Use Permit
Property Owner: JJW Holdings LLC; Jeremiah Windscheffel
Location: 506 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:

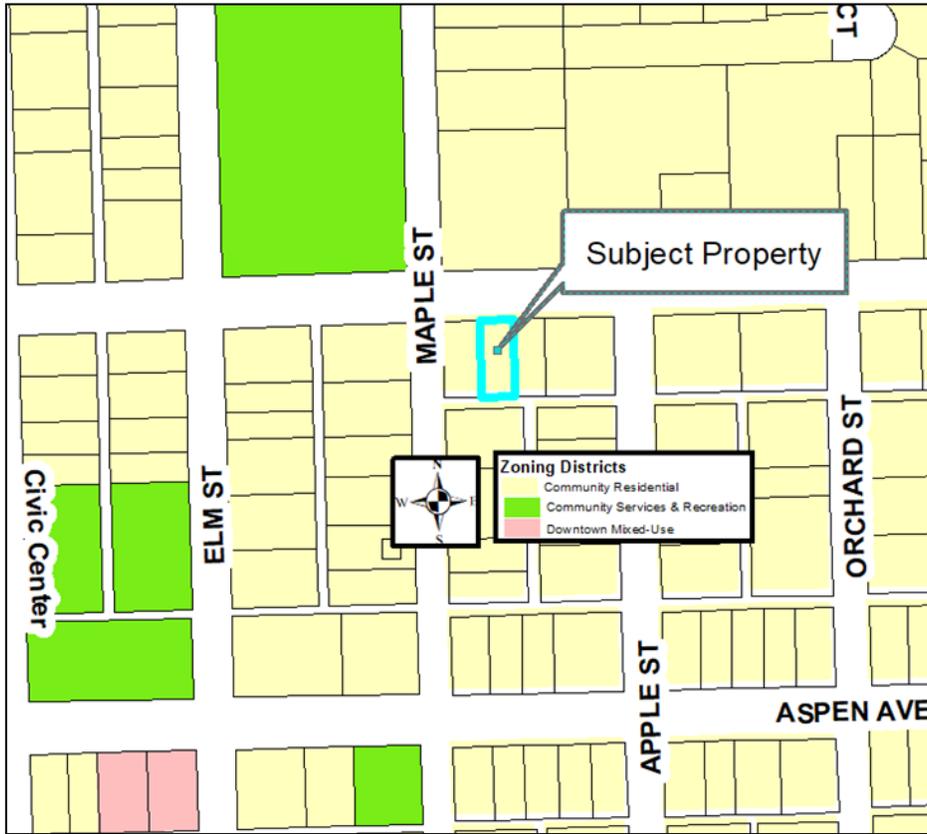
The subject property contains an 880 square foot detached single-family dwelling unit on an approximately .14-acre lot located on East Pabor Avenue. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 bathroom. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

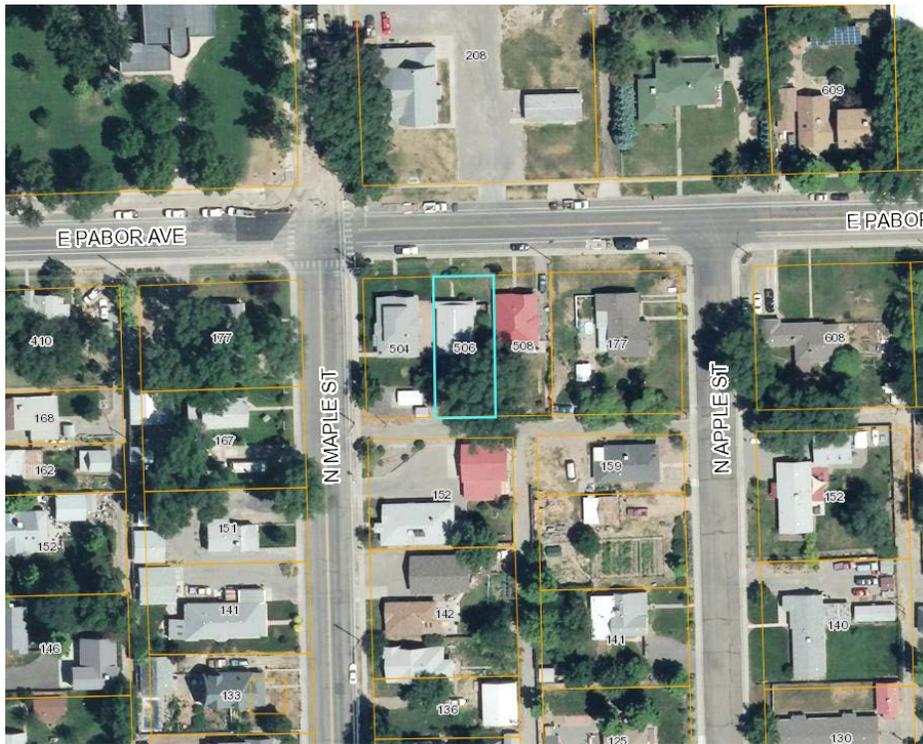
Surrounding Land Uses and Zoning:

Surrounding zoning consists mostly of Community Residential and Community Services & Recreation. Fruita Middle School is to the northwest and the Fruita Civic Center is the southwest of the subject property. Land uses surrounding the subject property include mostly single family detached dwelling units with the Fruita Christian Church and the Fruita Middle School to the north and northwest.

LAND USE/ZONING MAP



2019 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 house contains 2 bedrooms and 1 bathroom. This criteria has been met.

- 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 are aware that the kitchen and dining facilities may only serve the guests. The project narrative addresses this criteria stating “The kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed.” This criterion can be met.

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

This criteria is considered as being met at this time.

- 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.

The Sign Code requires that signs be reviewed in conjunction with the Conditional Use Permit. There was no indication from the applicant in the submittal documents that would indicate a proposed sign. Thus, no signage is being proposed. If a sign were to be proposed, there would need to be an amendment to this Conditional Use Permit. Amendments to CUP's require hearings by both the Planning Commission and City Council. This criteria is not applicable because no sign is being proposed at this time.

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

It appears that this property has at least 2 off street parking spaces. The project narrative says that the subject property has a large parking area with a garage in the back of the home with room for 3 or more vehicles. No screening is recommended by Staff. This criterion has been met.

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

The dwelling unit was originally constructed in 1975 according to the Mesa County Assessors website. The subject property does not appear to have any outstanding building permits. This criterion has been met at this time.

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

It doesn't appear that the subject property is subject to any covenants, conditions or restriction (CCR's). This criterion is not applicable.

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 can be compatible with surrounding land uses. Compliance with the regulations for vacation rentals should allow this use to coexist with other existing houses in the area without having a disproportionate or severe impact on the neighborhood. This criterion can be met.

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

Use of the single-family dwelling unit for a vacation rental is not expected to endanger the public health or safety. The project narrative states that the home has CO2 detectors, smoke alarms, and fire extinguishers already on site. This criterion can be met.

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

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

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

Legal Notice:

	Y	N	DATE
Postcards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06/24/2020
Paper	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06/24/2020
Property	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06/24/2020

NOTICE OF PUBLIC HEARING

The Fruita Planning Commission will hold a **VIRTUAL** public hearing **Tuesday, July 14, 2020 at 7:00 p.m.** Details on how to access this meeting will be found at www.fruita.org. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on **Tuesday, August 4, 2020 at 7:00 p.m.** We are unsure at this time whether this meeting will follow a virtual or in person format. Please check www.fruita.org for more details. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

Application #	2020-09
Application Name	506 E. Pabor VRBO
Application Type	Conditional Use Permit
Location	506 E. Pabor Avenue
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Physically disadvantaged persons who wish to obtain information or need assistance in attending the Public Hearing, may call (970) 858-0786, the hearing impaired may call Relay Colorado at 1-800-659-2656, or visit our website: www.fruita.org

Review Comments:

- Lower Valley Fire District requested that a fire extinguisher, carbon monoxide detector and smoke detector/fire alarms must be in place.

- Conditions of approval by Staff:
 1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
 2. Maintain a current City of Fruita business license.
 3. Limited to 2 bedrooms.
 4. All bedrooms shall contain fire and carbon monoxide alarms.
 5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
 6. Compliance with all laws and regulations as applicable.

Public Comments:

No written public comments have been received regarding this application at this time.

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 all review comments are met before the business becomes operational.

<p><u>Fruita Planning Commission:</u> July 14, 2020</p>
<p><u>Fruita City Council:</u> August 4, 2020</p>



168 N. Mesa St. Fruita, Co. 81521

970-858-3133 970-858-7189 fax

dpippenger@lvdfire.org

Office of the Fire Marshal

June 3, 2020

Fruita Planning Department
325 E. Aspen Avenue
Fruita, CO 81521

Re: Comments for 2020-09-506 E. Pabor VRBO

1. Fire extinguisher, carbon monoxide detector and smoke detector/fire alarms must be in place.

Richard Pippenger
Fire Marshal

Kelli McLean

From: Darrell Bay <darrell.bay@mesacounty.us>
Sent: Friday, June 5, 2020 2:55 PM
To: Kelli McLean
Subject: Re: 2020-09 506 E. Pabor VRBO

MCBD has no objections
Thanks

Darrell Bay
Building Official
970-244-1631

On Fri, May 29, 2020 at 12:26 PM Kelli McLean <kmclean@fruita.org> wrote:

Good Afternoon,

Please send us your review comments for project #2020-09 506 E. Pabor VRBO by Friday, June 19. I have included a link below for your convenience.

<https://www.fruita.org/cd/page/2020-09-506-e-pabor-vrbo>

Thank you!

KELLI MCLEAN

PLANNING TECHNICIAN

CITY OF FRUITA

970-858-0786





LAND DEVELOPMENT APPLICATION

Project Name: VRBO 506 E Pabor
 Project Location: 506 E Pabor
 Current Zoning District: _____ Requested Zone: _____
 Tax Parcel Number(s): 2697-171-05-003 Number of Acres: .14
 Project Type: Vacation Rental - House

Property Owner: JJW Holdings LLC Developer: _____
 Property Owner: Jeremiah Windscheffel Contact: _____
 Address: 1880 L rd. Address: _____
 City/State/Zip: Fruita CO 81521 City/State/Zip: _____
 Phone: 970 234 0673 Fax: _____ Phone: _____ Fax: _____
 E-mail: jeremiah4@alpineclassy.com E-mail: _____

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

Owner Rep: _____ Engineer: _____
 Contact: _____ Contact: _____
 Address: _____ Address: _____
 City/State/Zip: _____ City/State/Zip: _____
 Phone: _____ Fax: _____ Phone: _____ Fax: _____
 E-mail: _____ E-mail: _____

This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.

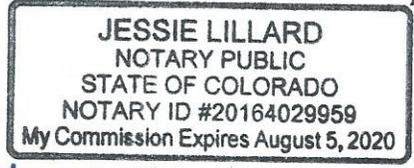
The above information is correct and accurate to the best of my knowledge.

Jeremiah Windscheffel _____ 5/19/2020
 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)



The foregoing instrument was acknowledged before me this 14th day of May, 2020

My Commission expires: August 5, 2020 Notary Public J. Lillard

Project Narrative

506 E. Pabor Vacation Rental

Proposed Use: Short term vacation rental

I, Jeremiah Windscheffel am the Managing Member for JJW Holdings LLC and would like to respectfully request approval of a short-term vacation rental conditional use permit for 506 E. Pabor, tax parcel number 2697-171-05-003. This property is just a few blocks from downtown and would be a popular destination for tourists looking to spend time in Fruita.

The home was built in 1975, it is 880 sf with 2 bedrooms and one bath. The Kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed. The home has CO2 detectors, smoke alarms, and fire extinguishers. It sits on .14 acres with a nicely manicured lawn with no debris visible and will continue to be properly maintained. It has a large parking area with a garage in the back of the home with room for 3 or more vehicles. The home is accessed from the alley off N. Maple and has quick access to downtown, Hwy 50, and 1/70. Traffic in this area is consistent with a downtown residential area and we anticipate no additional impact due to the usage change.

This request is in line with the existing neighborhood and Fruita's current development plan. It will offer guests easy access to downtown, restaurants, stores, community events, and local attractions.

Please see the attached site plan and feel free to reach out to me with questions or concerns, 970-234-0673. Thank you in advance for consideration of a conditional use permit.

Sincerely,

Jeremiah Windscheffel

E Pabor Ave

E Pabor Ave

E Pabor Ave

ple St

N Maple St

N Maple St

N Maple St

30'

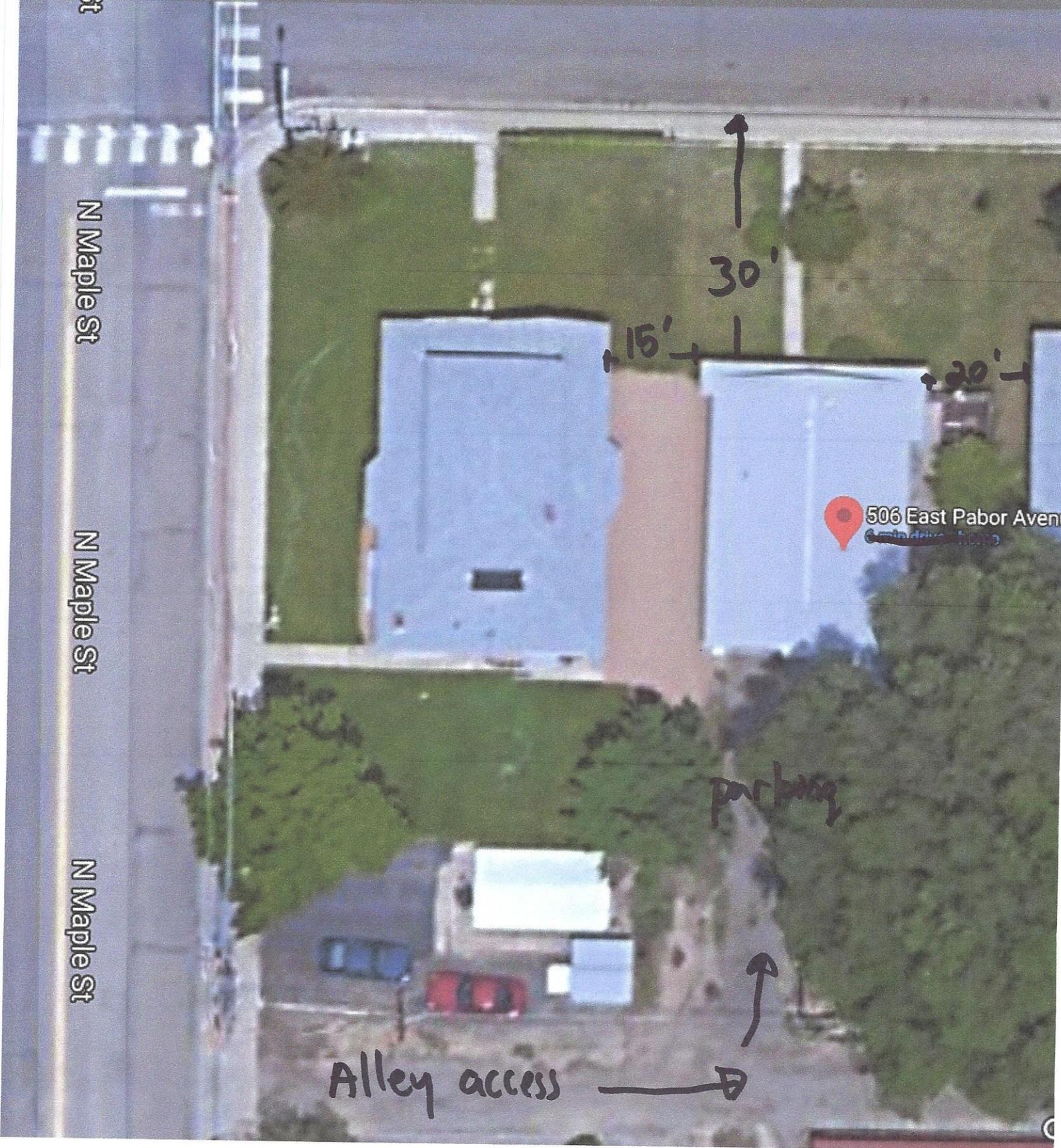
15'

20'

506 East Pabor Avenue
6 min drive home

parking

Alley access





**Planning & Development Department
Staff Report
July 14, 2020**

Application #: 2020-10
Application Name: 221 N. Elm VRBO
Application Type: Conditional Use Permit
Property Owner: JJW Holdings LLC; Jeremiah Windscheffel
Location: 221 N. Elm Street
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:

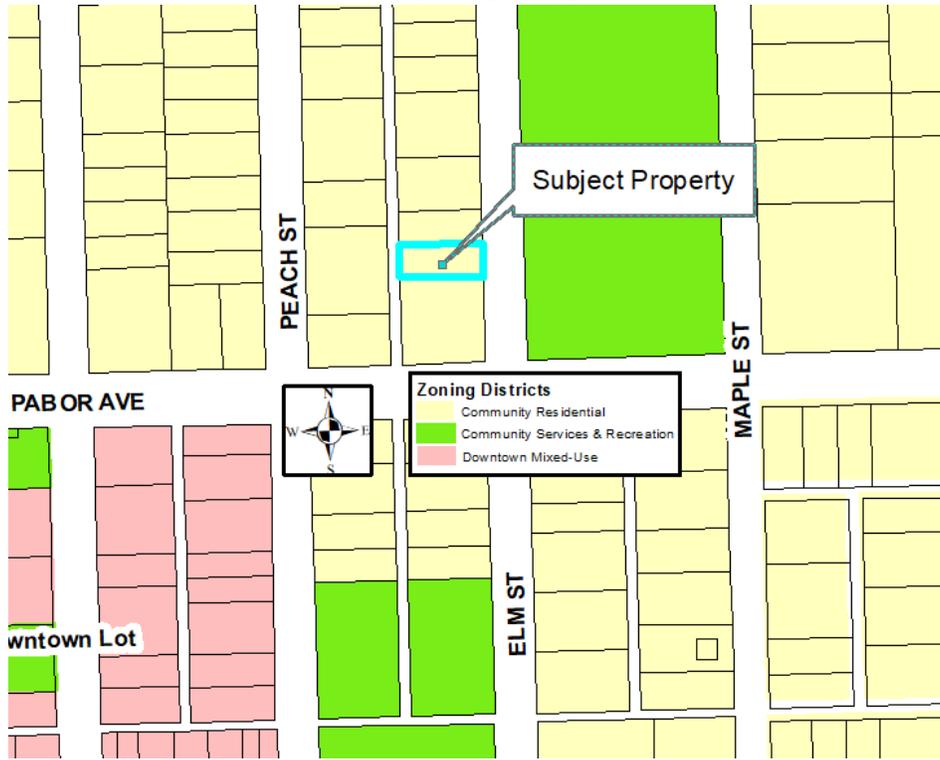
The subject property contains a 979 square foot detached single-family dwelling unit on an approximately .14-acre lot located on North Elm Street. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 bathroom. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

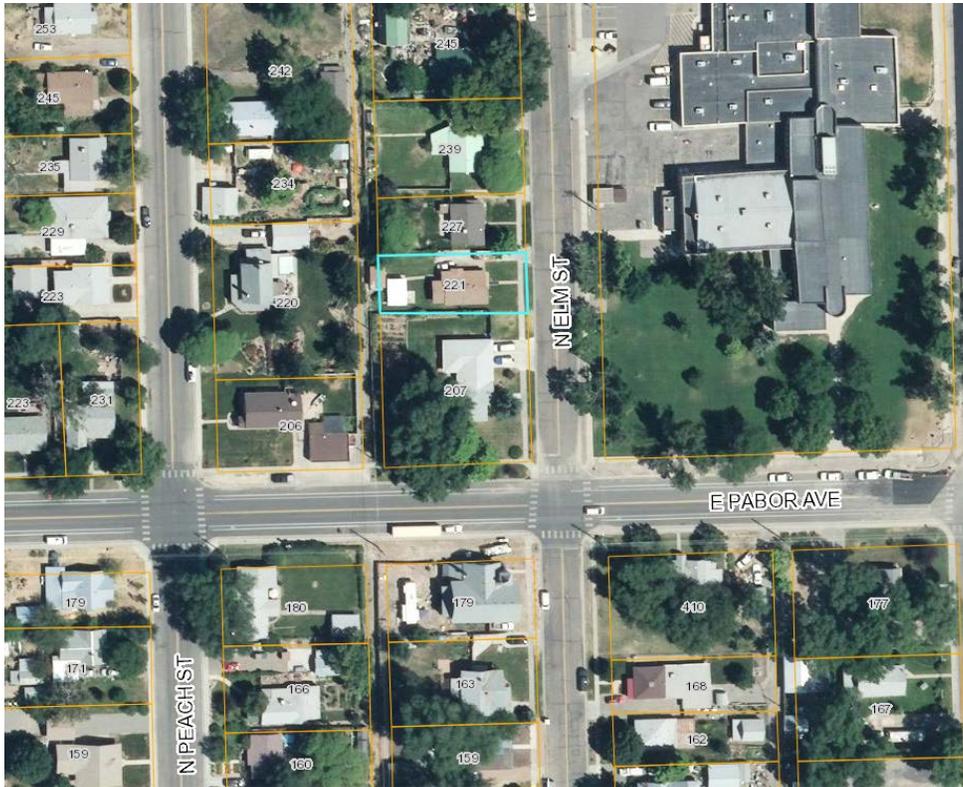
Surrounding Land Uses and Zoning:

Surrounding zoning consists mostly of Community Residential, Downtown Mixed Use and Community Services & Recreation with Fruita Middle School and the Fruita Civic Center close by. Land uses surrounding the subject property include mainly single family detached dwelling units.

LAND USE/ZONING MAP



2019 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 house contains 2 bedrooms and 1 bathroom. This criteria has been met.

- 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 applicant is aware that the kitchen and dining facilities may only serve the guests. The project narrative addresses this criteria stating “The kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed.” This criterion can be met.

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

This criteria is considered as being met at this time.

- 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.

The Sign Code requires that signs be reviewed in conjunction with the Conditional Use Permit. There was no indication from the applicant in the submittal documents that would indicate a proposed sign. Thus, no signage is being proposed. If a sign were to be proposed, there would need to be an amendment to this Conditional Use Permit. Amendments to CUP's require hearings by both the Planning Commission and City Council. This criteria is not applicable because no sign is being proposed at this time.

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

It appears that this property has at least 2 off street parking spaces. The project narrative states that there is a large parking area on the side of the home with room for 3 or more vehicles This criterion has been met.

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

The dwelling unit was originally constructed in 1957 according to the Mesa County Assessors website. The property owner has pulled permits to replace the roof, the windows, the HVAC, an electrical upgrade, and interior remodel. The work being completed by the property owner doesn't appear to be completed at this time. Staff recommends that approval of this application be contingent upon receiving a Certificate of Occupancy. This criteria can be met.

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

It doesn't appear that the subject property is subject to any covenants, conditions or restriction (CCR's). This criterion is not applicable.

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 can be compatible with surrounding land uses. Compliance with the regulations for vacation rentals should allow this

use to coexist with other existing houses in the area without having a disproportionate or severe impact on the neighborhood. This criterion can be met.

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

Use of the single-family dwelling unit for a vacation rental is not expected to endanger the public health or safety. Staff recommends that all guest bedrooms contain carbon monoxide and smoke alarms. This criterion can be met.

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

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

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

Legal Notice:

	Y	N	DATE
Postcards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/24/2020
Paper	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/24/2020
Property	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/24/2020

NOTICE OF PUBLIC HEARING

The Fruita Planning Commission will hold a public hearing **Tuesday, July 14, 2020 at 7:00 p.m.** at the Fruita Civic Center, 2nd Floor Council Chambers, 325 E. Aspen Avenue. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on **Tuesday, August 4, 2020 at 7:00 p.m.** at the Fruita Civic Center, 2nd Floor Council Chambers. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

Application #	2020-10
Application Name	221 N. Elm VRBO
Application Type	Conditional Use Permit
Location	221 N. Elm Street
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Physically disadvantaged persons who wish to obtain information or need assistance in attending the Public Hearing, may call (970) 858-0786, the hearing impaired may call Relay Colorado at 1-800-659-2656, or visit our website: www.fruita.org

Review Comments:

- Lower Valley Fire District requested that a fire extinguisher, carbon monoxide detector and smoke/fire alarms must be in place.

- Conditions of approval by Staff:
 1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
 2. Maintain a current City of Fruita business license.
 3. Certificate of Occupancy be issued before the business becomes operational.
 4. Limited to 2 bedrooms.
 5. All bedrooms shall contain fire and carbon monoxide alarms.
 6. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
 7. Compliance with all laws and regulations as applicable.

Public Comments:

No written public comments have been received regarding this application at this time.

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 all review comments are met before the business becomes operational.

<p><u>Fruita Planning Commission:</u> July 14, 2020</p>
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<p><u>Fruita City Council:</u> August 4, 2020.</p>



168 N. Mesa St. Fruita, Co. 81521

970-858-3133 970-858-7189 fax

dpippenger@lvdfire.org

Office of the Fire Marshal

June 3, 2020

Fruita Planning Department
325 E. Aspen Avenue
Fruita, CO 81521

Re: Comments for 2020-2020---10-221 N. Elm VBRO

1. Fire extinguisher, carbon monoxide detector and smoke detector/fire alarms must be in place.

Richard Pippenger
Fire Marshal

Kelli McLean

From: Darrell Bay <darrell.bay@mesacounty.us>
Sent: Friday, June 5, 2020 2:11 PM
To: Kelli McLean
Subject: Re: 2020-10 221 N. Elm VRBO

Kelli,
MCBD has no objections.
Thanks

Darrell Bay
Building Official
970-244-1631

On Fri, May 29, 2020 at 12:33 PM Kelli McLean <kmclean@fruita.org> wrote:

HELLO,

PLEASE SEND US YOUR REVIEW COMMENTS FOR PROJECT 2020-10 221 N. ELM VRBO NO LATER THAN FRIDAY, JUNE 19. THANK YOU!

<https://www.fruita.org/cd/page/2020-10-221-n-elm-vrbo>

KELLI MCLEAN

PLANNING TECHNICIAN

CITY OF FRUITA

970-858-0786





LAND DEVELOPMENT APPLICATION

Project Name: 221 N. Elm VR80
 Project Location: 221 N. Elm
 Current Zoning District: _____ Requested Zone: _____
 Tax Parcel Number(s): 2697-172-08-013 Number of Acres: .14
 Project Type: Vacation Rental - Home

Property Owner: JJW Holdings LLC Developer: _____
 Property Owner: Jeremiah Windscheffel Contact: _____
 Address: 1880 E rd. Address: _____
 City/State/Zip: Fruita CO 81521 City/State/Zip: _____
 Phone: 9702340673 Fax: _____ Phone: _____ Fax: _____
 E-mail: jeremiah@alpineglassgj.com E-mail: _____

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

Owner Rep: _____ Engineer: _____
 Contact: _____ Contact: _____
 Address: _____ Address: _____
 City/State/Zip: _____ City/State/Zip: _____
 Phone: _____ Fax: _____ Phone: _____ Fax: _____
 E-mail: _____ E-mail: _____

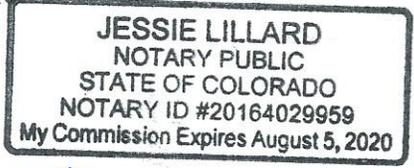
This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.
The above information is correct and accurate to the best of my knowledge.

Jeremiah Windscheffel  5/19/2020
 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)



The foregoing instrument was acknowledged before me this 19th day of May, 2020
 My Commission expires: August 5, 2020 Notary Public J. Lillard

Project Narrative

221 N. Elm Vacation Rental

Proposed Use: Short term vacation rental

I, Jeremiah Windscheffel am the Managing Member for JJW Holdings LLC and would like to respectfully request approval of a short-term vacation rental conditional use permit for 221 N. Elm, tax parcel number 2697-172-08-013. This property is just a few blocks from downtown and would be a popular destination for tourists looking to spend time in Fruita.

The home was built in 1957, it is 979 sf with 2 bedrooms and one bath. The Kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed. The home has CO2 detectors, smoke alarms, and fire extinguishers. It sits on .14 acres with a nicely manicured lawn with no debris visible and will continue to be properly maintained. It has a large parking area on the side of the home with room for 3 or more vehicles. The home is accessed off of Elm and has quick access to downtown, Hwy 50, and 1/70. Traffic in this area is consistent with a downtown residential area and we anticipate no additional impact due to the usage change.

This request is in line with the existing neighborhood and Fruita's current development plan. It will offer guests easy access to downtown, restaurants, stores, community events, and local attractions.

Please see the attached site plan and feel free to reach out to me with questions or concerns, 970-234-0673. Thank you in advance for consideration of a conditional use permit.

Sincerely,

Jeremiah Windscheffel



221 North Elm Street
6 min drive - home

18'
parking

22'
f

N Elm St

N Elm St

N Elm St





FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA PLANNING COMMISSION
FROM: PLANNING & DEVELOPMENT DEPARTMENT
DATE: JULY 14, 2020
RE: LAND USE CODE UPDATE – CHAPTERS 21 & 47

BACKGROUND

The purpose of this coversheet is to provide the Planning Commission background information on proposed Land Use Code text amendments. Currently, the planning team has been working on changes to Chapters 21 (Subdivision & Development Improvements Agreements) and 47 (Vested Rights). It is the staff's position that these chapters are relatively straightforward and encompass land use best practices that align with neighboring jurisdictions. In the meantime, Design Workshop is working towards completing an audit of the current Land Use Code. We will be making those drafts available to the working group, Planning Commission and City Council prior to the amendment process commencing.