



FRUITA PLANNING COMMISSION
REMOTE/VIRTUAL MEETING
September 8, 2020
6:00 P.M.

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

When: September 8, 2020 - 6:00 PM Mountain Time (US and Canada)
Topic: Fruita Planning Commission Meeting – 9/8/2020

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- E. WITHDRAWN ITEMS**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**
None

APPROVAL OF MINUTES: July 14, 2020 Planning Commission meeting

H. HEARING ITEMS:

1. Application # 2020-12
Application Name Chapter 21 - SIA & DIA LUC Amendment
Application Type Land Use Code Amendment
Representative City of Fruita
Description This is a request to amend Section 17.21 of the Fruita Land Use Code.

2. Application # 2020-13
Application Name Chapter 47 – Vested Rights Amendment
Application Type Land Use Code Amendment
Representative City of Fruita
Description This is a request to amend Section 17.47 of the Fruita Land Use Code.

I. OTHER BUSINESS

1. Community Development Activity Reports.
2. Visitors and Guests.
3. Other Business.

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

Five Planning Commissioners were in virtual attendance. (Patrick Hummel, Whitney Rink, Jesse Fabula, Mel Mulder, and Justin Gollob were present).

B. PLEDGE OF ALLEGIANCE

Mel Mulder led the Pledge of Allegiance.

C. AMENDMENTS TO THE AGENDA

None.

D. APPROVAL OF THE AGENDA

COMMISSIONER MULDER MOVED TO APPROVE THE AGENDA

COMMISSIONER HUMMEL SECONDED THE MOTION

MOTION PASSED 5-0

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

COMMISSIONER RINK MADE A MOTION TO APPROVE THE CONSENT AGENDA.

COMMISSIONER MULDER SECONDED THE MOTION

MOTION PASSED 5-0 IN FAVOR TO APPROVE THE CONSENT AGENDA
(COMMISSIONERS RINK AND MULDER ABSTAINED FROM THE MEETING MINUTES
BECAUSE THEY WERE NOT IN ATTENDANCE AT THE LAST 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

Mr. Caris gave an update on where they were with the Land Use Code update and where the consultant was with the project and what their timeline was. He spoke about the June Working Group meeting and what came out of that was that they were going to move forward with some initial items, sending out drafts of the Zoning chapter in the code and likely Subdivision PUD's. He said that they were going to have another discussion with Design Workshop in late August or early September. He spoke about Chapter 21 Development Agreements and Chapter 47 Vested Rights. He said that each amendment will need a recommendation from them. Mr. Caris gave a brief description about how they will be going about process with the Planning Commission.

Mr. Wisor talked about the Development Improvement Agreements and Vested Rights sections of the code. He spoke more about Vested Rights and length of them and how it could affect the public. He spoke about how having clarity about time length of Vested Rights is important and streamlining them.

Mr. Caris talked more about the Development Improvement Agreements and how they pertained specifically to the residential speculation. He gave examples of this. He said that the tool is that they hold security in different forms that if those improvements do not get constructed that they have a financial mechanism to complete the project based off of the phase that it is in. Mr. Caris then spoke more about Vested Rights.

Mr. Wisor brought up the state statutes about Vested Rights and conditions to extend that time.

Mr. Caris gave some examples on areas in Fruita with regard to Vested Right

Mr. Wisor mentioned that the Development Improvements Agreements and why they are put in place. He spoke about the transparency and flexibility aspects for Vested Rights.

Mr. Caris said that there were current openings for the Planning Commission and gave a brief update on that.

There was discussion about potential VRBO updates.

Adjournment 8:08 pm

Respectfully submitted,

Kelli McLean

Planning Technician, City of Fruita

DRAFT



**Planning & Development Department
Staff Report
September 8, 2020**

Application #: 2020-12
Project Name: SIA & DIA Amendments
Application: Land Use Code Amendment
Representative: City of Fruita
Request: This is a request to amend Section 17.21 of the Fruita Land Use Code concerning Subdivision & Development Improvements Agreements.

Background:

A Subdivision or Development Improvements Agreement is required when there are infrastructure or utility improvements that are required as part of a development project. The Subdivision Improvements Agreement (SIA) is used for a subdivision when all the improvements are located on the property being developed. The Development Improvements Agreement (DIA) is used for all off-site improvements required to be constructed as part of a development. This would mean that in some cases, the developer would have to enter into two agreements with the City in order to start and warrant construction of improvements. This results in unnecessary time on both the City Staff and the developer on coordinating these two agreements.

These agreements protect the City of Fruita and the public from any undo hardships caused during the construction of the development project. In addition, these agreements hold the developer accountable to complete construction within a timely manner and under the terms of which the project was approved. This section of the code also requires that all improvements agreements go to City Council for approval.

Entering into the SIA or DIA is usually the last step in the development approval process prior to the start of construction and in many cases, there is time lost while waiting for a scheduled City Council meeting. Prior to the agreements being executed, the developer and the associated development application has met all review agency comments and construction design specifications. After construction, the SIA or DIA are required to go to City Council again for a 1st Release of the agreement. This release starts the two (2) year warranty period and has the associated financial guarantee (10% of the estimated cost of construction) with it. Then, at the end of the two (2) year warranty period, the SIA or DIA goes before City Council for a Final Release of the agreement. This release happens because the warranty period expires and the 10% is returned to the developer if there are no issues with the construction.

Changes/Modifications:

The proposed changes do not alter the requirements for the developer nor do they elevate the burden on the developer to construct any public improvements in a timely manner under the terms for which the project is approved. The proposed changes eliminate the need for two agreements and will allow the Planning & Development Director or the City Manager to execute these development agreements. Additionally, this will allow greater flexibility for a development to start construction of improvements without waiting until a scheduled City Council meeting while eliminating the need for these agreements to go before City Council three times.

Minor modifications also include the percentage of the total cost for the performance guarantee from 110% to 125%. This is required to be secured from the time the developer starts construction to the time construction is completed. Depending on the size of the development, the time between starting construction and completion should not exceed one (1) year.

With the changes, the Planning & Development Director or City Manager will have the ability to issue a certificate of completion. This will take the place of the 1st Release portion of the process. Additionally, the same process will apply to the Final Release, allowing the Planning & Development Director or City Manager to issue another certificate that would release the developer from the two (2) year warranty period.

Another minor modification is a change to the percentage to secure a warranty for the required two (2) years based on the total estimated construction costs of the project. For example, if the construction costs are \$500,000, the developer would need to secure 10% of the cost (\$50,000) for the standard two (2) year warranty period.

Design Workshop has compiled numerous examples of other municipalities similar to Fruita and the majority of these communities allow for these types of agreements to be executed by the Planning & Development Director or City Manager. Furthermore, it's uncommon for municipalities to have multiple types of improvement agreements.

Review of Land Use Code Requirements:

Section 17.13.070.B of the Land Use Code (2009, as amended), states that amendments to the Land Use Code may be made upon a finding that the amendment is consistent with the City's goals, policies and Master Plan.

These amendments will decrease the confusion on coordinating the possibility of two separate agreements along with decreasing the potential delay in the amount of time it takes to execute the agreement while waiting for a City Council meeting.

With the recent adoption of the Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan) and to align with the City Council's commitments to review the Land Use

Code to help ensure that the regulations reflect the best promotion of Fruita's Core Services, Staff believes that these amendments meet this criteria.

Review Comments:

No review comments have been received regarding this proposed Land Use Code amendment.

Public Comments:

At this time, no written public comments have been received regarding this proposed Land Use Code amendment.

Legal Notice:

17.01.120 (C) Public Notices

When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

Legal Notice in Paper- August 22, 2020 (17 days prior to public hearing)

Posted Legal Notice- August 18, 2020 (21 days prior to public hearing)

Staff Recommendation:

Staff recommends **approval** of the proposed Land Use Code amendments.

FRUITA PLANNING COMMISSION:

September 8, 2020

FRUITA CITY COUNCIL:

1st Reading (Introduction Ordinance) - September 15, 2020;

2nd Reading – October 6, 2020

Additions shown in *Italics*
Deletions shown in ~~Strikethrough~~

Chapter 17.21
SUBDIVISION AND IMPROVEMENT GUARANTEES AND
DEVELOPMENT IMPROVEMENTS AGREEMENTS

Sections:

- 17.21.010** **General Requirements**
- 17.21.020** **Construction of Improvements**
- 17.21.030** **Schedule of Improvements to Be Constructed**
- 17.21.040** ~~Timetable for Construction of Required~~ ***City Inspections of Improvements***
- 17.21.050** ~~City Inspections of Improvements~~
- ~~17.21.060~~ **Final Approval of Improvements by City Staff**
- ~~17.21.070~~ **060** **Conveyance of Public Improvements**
- ~~17.21.080~~ **070** **Warranty for Public and Other Required Improvements**
- ~~17.21.090~~ ~~Revegetation of Disturbed Areas Required~~
- ~~17.21.100~~ **080** **Performance Guarantee Required**
- ~~17.21.110~~ **090** **Indemnification and Insurance**
- ~~17.21.120~~ **100** **Default; Notice and Termination of ~~Subdivision or Development~~ Improvements Agreements**
- ~~17.21.130~~ **110** **Issuance of Certificate of Compliance**

17.21.010 GENERAL REOUIREMENTS.

An approval of a land development application which requires a ~~subdivision improvements agreement or development improvements agreement~~ does not become effective until a ~~subdivision or development improvements agreement~~ and related documents, setting forth financial arrangements to secure the actual construction of required public or semi-public (shared) improvements required by the ~~city~~ ***City***, has been executed between the property owner and the ~~City Council~~ ***Manager or Community Development Director***. The ~~subdivision improvements agreement or development improvements agreement~~ shall include a guarantee to construct all required improvements together with collateral which shall be sufficient to ensure the completion of the required improvements. With the property owner's written consent, the ~~City Council~~ may enter into a ~~subdivision improvements agreement or development improvements agreement~~ with a developer or applicant who is not the property owner, provided that the agreement(s) ~~shall be~~ ***binding*** on the subject property and ~~shall~~ run with the land.

17.21.020 CONSTRUCTION OF IMPROVEMENTS.

Every ~~subdivision improvements agreement or development improvements agreement~~ shall provide that the applicant, at its sole cost and expense, shall design, purchase, construct and install all elements of all improvements, whether ~~such~~ ***the*** improvements are located within the subdivision or development property

(on-site) or outside of the subdivision or development (off-site). The improvements shall be designed and built in conformance with this Title and other applicable ~~city ordinances, building codes and regulations in effect as of the effective date of the subdivision improvements agreement or development improvements agreement, and the approved for construction drawings.~~ Prior to the commencement of construction of the subdivision or development improvements, ~~the city shall review and approve all drawings and plans.~~ *City ordinances and regulations in effect as of the effective date of the development agreement, unless otherwise provided in the approved plans and specifications. Those improvements shall be designed and approved by a registered professional engineer retained by the developer or applicant. All drawings and plans for those improvements shall be stamped by the engineer. Prior to the commencement of construction of the development improvements, the City shall review and approve all drawings and plans.*

17.15.270 RELATED COSTS - PUBLIC AND OTHER REQUIRED SUBDIVISION IMPROVEMENTS. A subdivider shall provide, at its sole cost, all necessary engineering designs, surveys, field surveys, as built drawings and incidental services, including the cost of updating city mapping related to the construction of the public and other required subdivision improvements.

17.21.030 SCHEDULE SCHEDULE OF IMPROVEMENTS TO BE CONSTRUCTED.

Every ~~subdivision improvements agreement or~~

A. All development ~~improvements agreement agreements~~ shall include a schedule of the required improvements showing in detail the required improvements, ~~the~~ their costs thereof, and ~~make reasonable provision for the completion of said provisions to complete the~~ improvements in accordance with design and time specifications. No work shall be commenced on ~~such~~ those improvements until ~~such time as~~ the schedule of improvements has been ~~is~~ approved by the ~~city~~ City and the required performance guarantee has been ~~is~~ delivered to the ~~city~~ City.

17.21.040 TIMETABLE FOR CONSTRUCTION OF REQUIRED IMPROVEMENTS.

B. Every improvement identified in the ~~subdivision improvements agreement or development improvements agreement~~ shall include a time schedule for the construction and completion of the required improvements. ~~Said~~ The schedule shall provide for a commencement date as well as a date when such improvements will be substantially completed. Under ~~such~~ the schedule, all required ~~subdivision or development~~ improvements shall be completed no later than one (1) year following the start of development, ~~unless otherwise agreed by the City Council.~~

C. Where a developer or property owner is prevented from commencing or completing any of the required improvements within the time periods set forth in the ~~subdivision improvements development agreement~~ due to an unforeseeable cause or ~~development improvements agreement~~ delay beyond the control and without the fault or negligence of the developer or applicant, the times for commencement and/or completion of such improvements may be extended by the ~~City Manager~~ Community Development Director in accordance with Section 17.05.040 in an amount equal to the time lost due to such delay if a request is made in writing to the City by the developer or

applicant.

1. Delays beyond the control of the developer or applicant shall include acts of neglect by the City, fires, floods, epidemics, abnormal weather conditions, strikes, freight embargos or acts of God. Time extensions, however, will not be granted for rain, snow, wind or other natural phenomena at normal intensity within Mesa County.

2. Delays attributable to and within the control of the developer's or applicant's contractors, subcontractors or suppliers are deemed delays within the control of the developer or applicant.

17.21.050040 CITY INSPECTIONS OF IMPROVEMENTS. ~~Every subdivision improvements agreement or development improvements agreement shall provide that the city shall have the right to make inspections~~

The City may inspect and require testing during construction of the required improvements in such reasonable intervals as the responsible city officials may request. Inspection, acquiescence and approval of any inspector of the construction of physical facilities, at any particular time, shall does not constitute an approval by the cityCity of any phase of the construction of such improvements. SuchThe approval shall beis made by the cityCity only after completion of construction of all improvements in the manner set forth in Section 17.21.060. The cityCity also reserves the right to perform or contract for independent quality assurance tests to confirm compliance with cityCity requirements.

17.21.060050 FINAL APPROVAL OF IMPROVEMENTS BY CITY STAFF. ~~Every subdivision improvements agreement or development improvements agreement shall provide that upon~~

A. Upon completion of construction of all required improvements, the responsible city officials shall perform final inspections of the improvements and certify with specificity their conformity or lack thereof whether they conform to the approved plans, specifications and design standards. The subdivision improvements agreement orThe development improvements agreement shall further provide that the property owner or developer shall make all corrections necessary to bring the improvements into conformity with applicable city standards, approved for construction drawings, and the utility, drainage and street improvements plans and requirements of other agencies, as approved. The city shall beCity is under no obligation to provide any wastewater collection service, street maintenance or issue any further planning clearances for building permits or certificates of occupancy, until all suchof those facilities are brought into conformance with conform to the applicable standards, plans and specifications and approved by the responsible city officials.

B. The applicant or developer shall provide all necessary engineering designs, surveys, field surveys, and "as-built" drawings for all public improvements and utility improvements, which shall be subject to review and approval by the City, and any incidental services related to the construction of the improvements, at its sole cost and expense. The legal description of all utility service lines shall be prepared by a registered land surveyor at the applicant's or developer's sole expense. In addition, all expenses incurred by the City in updating the City's base maps shall be paid by the applicant or developer, to the City.

C. All areas disturbed by construction shall be promptly revegetated with native vegetation following completion of such work unless a building permit application has been requested for a particular lot, in which case revegetation shall be provided prior to legal occupancy of such lot. The property owner or developer shall comply with all city regulations concerning dust suppression, drainage and the control of other nuisances. In addition, the applicant or developer shall control all noxious weeds and rodents within such areas to the reasonable satisfaction of the City until conveyed to individual lot owners.

17.21.070060 CONVEYANCE OF PUBLIC IMPROVEMENTS. ~~A subdivision improvements agreement or development improvements agreement shall provide that all~~

All public improvements shall be conveyed to the ~~city~~City or other public entity, as applicable. Upon completion of construction in conformity with the applicable plans, standards, specifications and any properly approved changes, and final approval by the responsible city official, all public improvements shall be conveyed to the ~~city or Colorado Department of Transportation~~City or other public entity, as applicable. Acceptance of said conveyance to the ~~city~~City shall be made by ~~majority vote of the City Council~~Engineer. Following ~~such~~that conveyance, the ~~city~~City is solely responsible for the maintenance of ~~such~~those public improvements, unless otherwise provided for by the agreement, except for any correction work required during the warranty period.

17.21.080070 WARRANTY FOR PUBLIC AND OTHER REQUIRED IMPROVEMENTS.

The property owner or developer shall warrant in the ~~subdivision improvements agreement or development improvements agreement~~ all ~~required improvements~~public improvements constructed by the applicant or developer which are conveyed or dedicated to the City for a period of twenty-four (24) months from the date the City ~~Council~~ accepts ~~such~~the improvements. Specifically, but not by way of limitation, the property owner or developer shall warrant the following:

- A. That the title conveyed shall be good and its transfer rightful; *and*
- B. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; *and*
- C. Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.

~~17.21.090 REVEGETATION OF DISTURBED AREAS REQUIRED.~~ Every subdivision improvements agreement or development improvements agreement shall provide that all city until conveyed to individual lot owners.

D. To secure the warranty:

1. The guarantee of performance provided for in this Section shall remain in effect until the end of the warranty period; or
2. The applicant or developer shall furnish the City with a cash deposit or letter of credit in an amount equal to a percent of the total construction costs as set forth in this Subsection. This security shall guarantee the payment of any reconstruction or repair costs that may be undertaken due to failures occurring during the warranty period. Responsibility for identifying the necessity of repairs or reconstruction of the improvements shall rest with the City.

Percent to Secure Warranty

<i>Total Construction Costs</i>	<i>Percent to Secure Warranty</i>
<i>\$0.00-\$500,000.00</i>	<i>10%</i>
<i>\$500,000.01-\$1,000,000.00</i>	<i>7.5%</i>
<i>\$1,000,000.01 and over</i>	<i>5%</i>

3. *Correction of Deficiencies Under Warranty. Within thirty (30) days or a reasonable extension at the sole discretion of the City Engineer, of notification by the City of the need for repair or reconstruction, the applicant or developer shall correct the deficiencies, satisfactory to the City. Such notification shall be made by certified mail. If the applicant or developer fails to repair or reconstruct the deficiency within the time specified in this Section, the City will make the repair at the developer or property owner's sole expense. The City may then bill the applicant or developer for the cost of the repair or declare the deposit forfeited. All repairs shall have a two (2) year warranty period and shall be guaranteed by the applicant or developer in a manner satisfactory to the City Engineer, including extension of the full warranty guarantee.*
4. *Release of Warranty. Inspection will be made by the City at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be corrected prior to release of the warranty security. Upon satisfactory correction of all deficiencies and completion of the warranty period for the corrected improvements, the City will release the remaining security.*
5. *Default. If the applicant or developer defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the*

City may demand immediate payment on the performance or warranty guarantee. In the case of deposits in escrow or letter of credit, the City may demand immediate payment of a portion of all sums obligated for the performance or warranty of any improvement. In the case of a deed of trust guarantee method, the City may foreclose on the deed of trust and may also retain any sums deposited to obtain a partial release of the deed of trust. All funds received by the City shall be used for any construction, repair or reconstruction necessary to ensure that:

a. All required public improvements are built to specifications necessary to receive final acceptance; and

b. The improvements remain in good condition for the completion of the warranty period. The City may use guarantee funds for the construction, repair or maintenance of required public improvements from the date of initial default until three (3) years after the funds have become available to the City for such use, except that no use shall be made of the funds later than two (2) years after satisfactory completion and final acceptance of the work. Following either: (1) the final acceptance of all public improvements and posting of the warranty security, or (2) successful completion of the warranty period, or (3) the three-year period provided for in this Subsection, the City shall pay to the property owner or developer all guarantee funds which were not used or obligated for the completion of the improvements.

6. Standards May not Be Altered. All provisions of this Section are mandatory and may not be altered by the subdivision agreement. The obligations contained in this Section shall be enforceable by methods of this Land Use Code, as well as by contract.

17.21.10080 PERFORMANCE GUARANTEE REQUIRED.

~~Every subdivision improvements agreement or development improvements agreement shall provide that in order to~~

- A.** *To secure the construction and installation of the public and other required improvements listed in the schedule of improvements for which the applicant or developer is responsible, whether on-site or off-site, including tasks not specifically itemized within the schedule of improvements but which can be reasonably considered necessary for the development and for which the property owner or developer is responsible, the property owner or developer shall furnish the city with: (1) cash to be deposited in an escrow account that is acceptable to the city pursuant to an escrow and disbursement agreement approved by the city; or a cash, letter of credit, cash bond, performance bond, or other security acceptable to the City Attorney to secure the performance and completion of such required improvements, in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of those improvements. (2) an irrevocable letter of credit that is acceptable to the city, or (3) a performance bond issued by*

a surety approved by the city, in an amount equal to one hundred ten (110) percent of the estimated cost of all required improvements.

The purpose of the cost estimate described above in Section 17.21.030 is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and the applicant or developer shall agree to pay the actual cost of all such public and other required improvements. Neither the estimated costs nor the amount of the security establishes the maximum amount of the applicant's or developer's liability.

B. The developer or property owner shall deliver to the city the performance guarantee required by subsection (A) above prior to the recording of a subdivision final plat, or prior to recording of a PUD final development plan, or prior to the issuance of a conditional use permit or planning clearance, as applicable. Unless expressly authorized by the city, work shall not be commenced within the development until the approved security is furnished to the city. No lot within a subdivision shall be conveyed to any third party until the approved security is delivered to the city and the final plat ~~has been~~ recorded in the records of the Mesa County Clerk and Recorder.

C. *Partial Release. Upon completion of improvements, a portion of the guarantee may be released as follows:*

~~E.1. Upon completion of a certain class of improvements, such as wastewater facilities by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security tendered may be reduced by up to one hundred (100) percent of the approved cost for the installation of such class of improvements, upon approval by the city. Upon completion of all of the improvements required by the subdivision improvements agreement or development improvements agreement, and upon final inspection and approval by the city of all such improvements, the City Council shall further authorize a reduction of the amount of the security guaranteeing the required subdivision or development improvements to ten (10) percent of the total~~

actual cost of the improvements.

2. ~~Any~~ Upon completion of portions of the improvements by the applicant or developer, evidenced by a detailed cost breakdown of the completed improvements, and submittal of as-built drawings, a property owner or developer may apply to the City for a release of part or all of the collateral deposited with the City. Upon inspection and approval, the City may authorize the reduction of the amount of any performance guarantee security issued pursuant to the development agreement may be reduced by seventy-five percent (75%) of the approved estimated cost for the installation of such improvements, upon written request of the applicant or developer, and approval by the Community Development Director.
3. Upon completion of all of the improvements required by the development agreement, and upon final inspection and approval by the city of all such improvements, the city shall further authorize a reduction of the amount of the security guaranteeing the required development improvements pursuant to Section 17.21.070(D)(2).

D. *Full Release.* Pursuant to Section 17.21.110, any performance guarantee tendered to the city shall be fully released and discharged ~~only by express action of the City Council~~ by certificate or resolution upon expiration of the twenty-four (24) month warranty period described in Section 17.21.080 and the correction of any defects discovered during such warranty period. ~~In the event that~~ If the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) month warranty period, the city will retain the existing performance guarantee and may require a new performance guarantee and withhold further planning clearances for building permits and certificates of occupancy within the subdivision or development until the new performance guarantee is tendered to the city.

E. Every ~~subdivision improvements agreement or a development improvements~~ agreement shall provide that upon the developer's or property owner's failure to perform its obligations under such agreement and all other applicable plans, drawings, specifications and documents, as approved, within the time periods set forth in the agreement, the city may give written notice to the developer or property owner of the nature of the default and an opportunity to be heard before the City Council concerning such default. If the default ~~has~~ is not ~~been~~ remedied within thirty (30) days of receipt of the notice or of the date of any hearing before the City Council, whichever is later (or ~~such~~ any reasonable time period as is necessary to cure the default provided that the developer or the property owner has commenced in good faith to cure the default), the city may then give written notice to the developer or property owner and any surety on a performance bond, issuer of a letter of credit, or escrow agent that the city, as agent for the developer or property owner, is proceeding with the task of installing and completing the remaining required improvements in whole or in part.

- F. Every ~~subdivision improvements agreement or development improvements agreement~~ must contain a power of attorney whereby the developer or property owner designates and irrevocably appoints the City ~~Manager~~Attorney of the City of Fruita, Colorado as its attorney in fact and agent for the purpose of completing all necessary improvements required by the ~~subdivision improvements agreement or development improvements agreement~~ in the event of a default by the developer or property owner. The agreement shall be recorded in the office of the Clerk and Recorder of Mesa County, Colorado, and shall constitute constructive notice of the agreement and the power of attorney ~~contained therein~~. The agreement and power of attorney ~~contained therein~~ may be enforced by the ~~city~~City pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.
- G. If a substantial amount of time elapses between the time of delivery of the security and actual construction of the improvements, the city may require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.
- H. *In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.*

17.21.110090 INDEMNIFICATION AND INSURANCE.

Every ~~subdivision improvements agreement or development improvements agreement~~ shall require the developer, property owner and any contractor or subcontractor employed by the developer or property owner who performs work within public rights-of-way, easements dedicated to the ~~city~~City, or within other property owned by the city to indemnify and hold harmless the City of Fruita, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by the developer or property owner, its contractors and subcontractors, within city rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, an act, omission, error, professional error, mistake, negligence, or other fault of the developer, property owner, or contractor, and any subcontractor. The ~~city~~City may also require in a ~~subdivision improvements agreement or development improvements agreement~~ that any contractor employed by the developer or property owner to perform work within public rights-of-way, easements dedicated to the city, or within any other property owned by the city to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by contractors and subcontractors pursuant to this section.

17.21.120-100 DEFAULT; -NOTICE; -AND -TERMINATION -OF -SUBDIVISION AND DEVELOPMENT IMPROVEMENTS AGREEMENTS.

In the event of any default or breach by a property owner or developer of a covenant, term, condition or obligation contained in a ~~subdivision improvements agreement or development improvements agreement~~, and if ~~such~~*the* default or breach continues after notice ~~thereof~~ and an opportunity of a hearing as set forth in this Chapter, the ~~agreement~~*City* may be ~~forthwith terminated, at the option of~~*terminate the city* ~~agreement~~. Any declaration of termination of an agreement shall be effective only after and upon a resolution to that effect adopted by the City Council. ~~In the event~~*If* a property owner or developer fails to construct any required improvements in accordance with the terms of a ~~subdivision improvements agreement or development improvements agreement~~, the ~~city~~*City* may suspend approval of the development during which time the property owner or developer shall ~~have no right to~~*not* sell, transfer or otherwise convey tracts or lots within the development or property without the express written approval of the city.

17.21.130/10 ISSUANCE OF CERTIFICATE OF COMPLIANCE.

Upon satisfactory completion of all required improvements, expiration of the applicable warranty period, and compliance with all of the terms of the ~~subdivision improvements agreement or development improvements agreement~~, the ~~city~~*City* shall, upon request, execute a resolution or certificate stating that all improvements have been constructed in compliance with the ~~subdivision or development improvements agreement~~.

Grand Junction Daily Sentinel
734 S 7th St #7737
(970) 242-1313

I, Terry Flanagan, of lawful age, being duly sworn upon oath, deposes and says that I am the Legal Secretary of Grand Junction Daily Sentinel, a publication that is a "legal newspaper" as that phrase is defined for the city of Grand Junction, for the County of Mesa, in the state of Colorado, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
Aug. 22, 2020

Notice ID: ZnPIAHEpdm1G5FMGTuZc
Publisher ID: BW # 68409
Notice Name: SIA & DIA, VESTED RTS LUC LEGAL NOTICE

PUBLICATION FEE: \$30.49

Terry Flanagan

Legal Secretary

VERIFICATION

STATE OF COLORADO
COUNTY OF MESA

Signed or attested before me on this

24th day of August, A.D. 2020.

Diawn Lee Beach
Notary Public

Document Authentication Number
20204014519-493991

My Commission Expires: April 22, 2024

NOTICE OF PUBLIC HEARING
The Fruita Planning Commission will hold a VIRTUAL public hearing Tuesday, September 8, 2020 at 6:00 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, October 6, 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: #2020-12
Application Name: Chapter 21 - SIA & DIA LUC Amendment
Application Type: Land Use Code Amendment
Representative: City of Fruita
Description: This is a request to amend Section 17.21 of the Fruita Land Use Code.
Application: #2020-13
Application Name: Chapter 47 - Vested Rights Amendment
Application Type: Land Use Code Amendment
Representative: City of Fruita
Description: This is a request to amend Section 17.47 of the Fruita Land Use Code.
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.
Published: August 22, 2020.



**Planning & Development Department
Staff Report
September 8, 2020**

Application #: 2020-13
Project Name: Vested Rights Amendments
Application: Land Use Code Amendment
Representative: City of Fruita
Request: This is a request to amend Section 17.47 of the Fruita Land Use Code concerning Vested Rights.

Background:

The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24 of the Colorado Revised Statutes, as amended, which establishes a vested property right to undertake and complete a development and use of real property under the terms and conditions for which it was approved. As well as to establish local control over creation of vested real property rights to the fullest extent permitted by law. In short, election of vested rights allows the development project up to three (3) years from the date of approval to commence under the terms and conditions for which it was approved.

Changes/Modifications:

The proposed changes will allow Staff to administratively approve a vested rights request in accordance with the associated type of development project (Site Design Review, Minor Subdivision, and Major Subdivision) and align with the goal to make many of the development applications a Staff level decision. Additionally, most modifications or changes are meant to align with best practices among other Land Use Codes of communities that are similar in nature to Fruita.

The elimination of Section 17.47.040 which allows a developer or property owner the option to request vested rights later in the review process of a development application through a separate decision of City Council. It is recommended that this language be removed because this language is uncommon in Land Use Codes and to the knowledge of Staff, hasn't ever been used in the City of Fruita.

Also, there is the addition of language that states that forfeiture of vested rights is triggered by the failure of a developer to abide by the terms and conditions contained in the approval of the development project. The addition of this language is very common in other Land Use Codes around the state.

None of the changes or modifications proposed will negatively impact how development applications are reviewed, approved, or conditionally approved by Staff and outside review agencies.

Review of Land Use Code Requirements:

Section 17.13.070.B of the Land Use Code (2009, as amended), states that amendments to the Land Use Code may be made upon a finding that the amendment is consistent with the City's goals, policies and Master Plan.

With the recent adoption of the Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan) and to align with the City Council's commitments to review the Land Use Code to help ensure that the regulations reflect the best promotion of Fruita's Core Services, Staff believes that these amendments meet this criteria.

Review Comments:

No review comments have been received regarding this proposed Land Use Code amendment.

Public Comments:

At this time, no written public comments have been received regarding this proposed Land Use Code amendment.

Legal Notice:

17.01.120 (C) Public Notices

When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

Legal Notice in Paper- August 22, 2020 (17 days prior to public hearing)

Posted Legal Notice- August 18, 2020 (21 days prior to public hearing)

Staff Recommendation:

Staff recommends **approval** of the proposed Land Use Code amendments.

FRUITA PLANNING COMMISSION:

September 8, 2020

FRUITA CITY COUNCIL:

1st Reading (Introduction Ordinance) - September 15, 2020;

2nd Reading – October 6, 2020

Additions show in *italics*
Deletions shown with ~~strikethrough~~

Chapter 17.47
VESTED PROPERTY RIGHTS

Sections:

- 17.47.010 Purpose**
- 17.47.020 Definitions**
- 17.47.030 Applications; Approval by the City**
- ~~17.47.040 Alternative Creation of Vested Property Rights~~**
- 17.47.0540 Establishment of Vested Property Rights; Public Notice and Hearing Required**
- 17.47.0650 Approval of Site Specific Development Plan; Conditions**
- 17.47.0760 Duration and Termination of Vested Property Rights**
- 17.47.0870 Waiver of Vested Property Rights**
- 17.47.0980 Subsequent Regulation Prohibited; Exceptions**
- ~~17.47.10090 Payment of Costs~~**
- 17.47.1010 Other Provisions Unaffected**
- 17.47.1210 Limitations**

17.47.010 PURPOSE. The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, *as amended*, which ~~Article~~ establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site specific development plan, *and to establish local control over creation of vested real property rights to the fullest extent permitted by law.*

17.47.020 DEFINITIONS. The following definitions are for the purposes of administration of this Chapter only and do not apply to other sections of this Code. Unless modified in this Section, the terms used in this Chapter shall have the same meaning as set forth in Section 24-68-102, C.R.S.

- A. A "site specific development plan" means a plan that has been submitted to the city by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right if the landowner wishes said approval to have the effect of creating vested rights ~~pursuant to Sections 24-68-101, et. Seq., C.R.S.~~ The landowner must request vested rights approval in -writing at the time a land development application is submitted. ~~Failure to request vested rights renders the approval not a "site specific development plan" and no vested rights shall be deemed to have been created.~~ The following shall be considered "site specific development plans". ~~if a landowner wishes to have a "site specific development plan" approved:~~

DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
1. Site Design Review pursuant to Section 17.13.020	Site Design Review as approved by City Council <i>Administratively</i>
2. Conditional Use Permit pursuant to Section 17.13.040	Conditional Use Permit as approved by City Council
23. Minor Subdivisions pursuant to Chapter 17.15.	Subdivision final plat as approved by the City Council <i>Administratively</i>
34. Major Subdivisions pursuant to Chapter 17.15	Subdivision final plat as approved by the City Council AND the applicable subdivision improvements agreement as approved by the City Council <i>Administratively</i>
45. Planned Unit Development (PUD), not accompanied by subdivision of land pursuant to Chapter 17.17	Final PUD Plan, any applicable PUD Guide <i>approved by City Council</i> AND the applicable development improvements agreement as approved by City Council
56. Planned Unit Development (PUD) pursuant to Chapter 17.17, accompanied by subdivision of land pursuant to Chapter 17.15	Subdivision final plat together with Final PUD Plan, PUD Guide <i>as approved by City Council</i> AND any applicable subdivision improvements <i>development</i> agreement as approved by City Council

If not indicated above, a "site specific development plan" shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to a Planning Clearance application.

Provided however, the City Council may, by agreement with the applicant, designate an approval step other than those indicated above, or the final approval step, to serve as the "site specific development plan" approval for a specific project.

The following are specifically excluded from, and shall not constitute, a "site specific development plan": variances, subdivision Sketch Plans, subdivision Preliminary Plans, PUD Concept Plans, PUD Preliminary Plans, business licenses, floodway or floodplain permits, franchises, temporary use permits, any Master Plan element, creation of improvement districts, zoning, rezoning other than Planned Unit Developments, final architectural plans, or final construction

drawings and related documents specifying materials and methods for construction of improvements.

- B. "Vested property right" means the right to undertake and complete development and use of property under the terms and conditions of a "site specific development plan."

17.47.030 APPLICATIONS; APPROVAL BY THE CITY.

- A. Except as otherwise provided in this Section, an application for approval of a "site specific development plan" as well as the approval, conditional approval, or denial of approval of a plan shall be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the city. For purposes of this Section, "laws and regulations" includes any zoning, development, or land use law of general applicability adopted by the city as well as any zoning, development or land use regulations that have previously been adopted for the particular parcel described in the plan and that remain in effect at the time of application for approval of the plan. In the event the application for a "site specific development plan" requires review and approval in multiple stages, "application" means the original application submitted at the first stage in any multi-stage process that may culminate in the ultimate approval of a "site specific development plan."
- B. Notwithstanding the limitations contained in subsection (A) above, the city may adopt a new or amended law or regulation when necessary for the immediate preservation of public health and safety and may enforce such law or regulation in relation to applications for "site specific development plans" pending at the time such law or regulation is adopted.

~~**17.47.040 ALTERNATIVE CREATION OF VESTED PROPERTY RIGHTS.** If any applicant desires an approval step, other than as defined in subsection 17.47.020(A) above, to constitute an approval of a "site specific development plan" with the effect of creating vested property rights pursuant to this Chapter and Article 68 of Title 24, C.R.S., the applicant must so request at least thirty (30) days prior to the date of the public hearing on said approval step by the City Council or Community Development Director, as applicable, is to be considered. Failure to do so renders the approval by the City Council or Community Development Director, as the case may be, to not constitute an approval of a "site specific development plan" and no vested property right shall be deemed to have been created by such approval, except in the case of an approval as set forth in subsection 17.47.020(A) above.~~

17.47.0540 ESTABLISHMENT OF VESTED PROPERTY RIGHTS; PUBLIC NOTICE AND HEARING REQUIRED. A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a "site specific development plan", following notice and public hearing, by the city. A vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the "site specific development plan", as approved, including any amendments thereto. A "site specific development plan" shall be deemed approved upon the effective date of the city's legal action, resolution or ordinance relating thereto. Such approval shall be subject to all rights of referendum and judicial review; except that the period of time

permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a newspaper of general circulation within the city, of a notice advising the general public of the "site specific development plan" approval and creation of a vested property right pursuant to this Chapter and ~~Article 68 of Title 24, C.R.S.~~ Such publication shall occur no later than fourteen (14) days following approval.

17.47.60050 APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN; CONDITIONS.

- A. The city may approve a "site specific development plan" upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions, at the option of the City Council following a public hearing, shall result in the forfeiture of vested property rights. This subsection shall be strictly construed.

- B. Terms and conditions imposed or agreed upon may include, without limitation:
 - 1. Future approvals by the city not inconsistent with the original approval;
 - 2. Approvals by other agencies or other governments;
 - 3. Satisfactory inspections;
 - 4. Completion of all or certain phases or filings of a project by certain dates;
 - 5. Waivers of certain rights;
 - 6. Completion and satisfactory review of studies and reports;
 - 7. Payment of fees to the city or other governmental or quasi- governmental agencies as they become due and payable;
 - 8. Payment of costs and expenses incurred by the city relating to the review and approval;
 - 9. Continuing review and supervision of the plan and its implementation and development;
 - 10. Obtaining and paying for planning clearances, building permits, water plant investment fees (taps) and wastewater plant investment fees (taps);

11. Compliance with other codes and laws, including building codes, of general applicability;
12. Construction of on-site or off-site improvements or facilities for the use of future inhabitants or the public at large;
13. Payment of any applicable impact fees; and
14. Dedication or conveyance of public site or parkland, trails, school land, common area or open spaces, with provision for its maintenance; or payment of a fee in lieu thereof, and dedication of necessary easements and rights-of-way.

17.47.0760 DURATION AND TERMINATION OF VESTED PROPERTY RIGHTS.

- A. A property right, which has been vested pursuant to this Chapter ~~and Article 68 of Title 24, C.R.S.~~, shall remain vested for a period of three (3) years. This vesting period shall not be extended by any amendments to a "site specific development plan" unless expressly authorized by the City Council.
- B. Notwithstanding the provisions of subsection (A) above, the City Council ~~is~~ is authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three (3) years where warranted in the light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Such development agreements shall be adopted as legislative acts subject to referendum.
- C. Following approval or conditional approval of a "site specific development plan", nothing contained in this Chapter ~~or Article 68 of Title 24, C.R.S.~~ shall exempt such a plan from subsequent reviews and approvals by the city to insure compliance with the terms and conditions of the original approval, if such further reviews and approvals are not inconsistent with said original approval. *The Community Development Director shall make this determination.*
- D. *The failure of a developer to abide by the terms and conditions contained in a development agreement, site-specific development plan, development agreement, final PUD development plan agreement, annexation agreement, or the provisions of this section shall result in the forfeiture of vested property rights for the subject property.*

17.47.0870 WAIVER OF VESTED PROPERTY RIGHTS. An applicant may waive a vested property right by separate written agreement, which shall be recorded in the office of the Mesa County Clerk and Recorder. Unless otherwise agreed to by the City Council, any landowner requesting annexation to the City of Fruita shall waive in writing any pre-existing vested property rights as a condition of such annexation.

17.47.0980 SUBSEQUENT REGULATION PROHIBITED; EXCEPTIONS.

- A. A vested property right, once established as provided in this Chapter ~~and Article 68 of Title 24, C.R.S.~~, precludes any zoning or other land use action by the city or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in an approved "site specific development plan," except:
1. With the consent of the affected landowner;
 2. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of "site specific development plan" approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
 3. To the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner after approval by the city, including, but not limited to, costs incurred in preparing the site for development consistent with the "site specific development plan", all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property, which is caused by such action.
- B. Establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City of Fruita, including, but not limited to, building, fire, plumbing, electrical, housing, mechanical, and dangerous building codes.

17.47.1090 PAYMENT OF COSTS. In addition to any and all other fees and charges imposed by this Title, the applicant for approval of a "site specific development plan" shall pay all costs incurred by the city as a result of the "site specific development plan" review and approval, including publication of notices, public hearing and review costs, when such costs are incurred apart and in addition to costs otherwise incurred by the city or applicant for a public hearing relative to the subject property.

17.47.1040 OTHER PROVISIONS UNAFFECTED. Approval of a "site specific development plan" shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to the development and use of property.

17.47.1210 LIMITATIONS. Nothing in this Chapter is intended to create any vested property right, but only to implement Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or judicial determination that said Article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective.

Grand Junction Daily Sentinel
734 S 7th St #7737
(970) 242-1313

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Terry Flanagan
Legal Secretary

VERIFICATION

STATE OF COLORADO
COUNTY OF MESA

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Diawn Lee Beach Document Authentication Number
Notary Public 20204014519-493991

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