



FRUITA PLANNING COMMISSION AGENDA

Date: Tuesday, 9.13.2016

Time: 7:00 p.m.

Place: Fruita Civic Center, 2nd Floor Council Chambers, 325 E. Aspen Avenue, Fruita, CO

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. If you have an interest in an item on the agenda, please call (970) 858-0786 or come to the Community Development Department office located at 325 E. Aspen Avenue to review the information in the file. If you have a concern with an item on the agenda, your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter detailing your concerns and submit it to the Community Development Department prior to the meetings. 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.

Each person wishing to speak will raise their hand and be recognized by the Chair and asked to come forward and speak into the microphone stating their name and address. 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**
- D. APPROVAL OF THE AGENDA**
- E. WITHDRAWN ITEMS**
- F. CONTINUED ITEMS**
- G. CONSENT ITEMS**

Application #:	2016-21
Application Name:	Mudd VRBO
Application Type:	Conditional Use Permit
Representative:	Louis and Catharine Mudd
Property Owner:	Louis Mudd
Location:	126 S. Maple 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.

APPROVAL OF MINUTES

August 9, 2016 Planning Commission meeting

H. HEARING ITEMS:

Application #: 2016-20
Project Name: Wicked Wrench
Application: Conditional Use Permit
Property Owner: O'Shane Wilson
Representative: Brad Green
Location: 810 Grand Avenue
Zone: Downtown Mixed Use (DMU)
Request: This is a request for approval of a Conditional Use Permit for a automobile and light truck mechanical repair shop in a Downtown Mixed Use zone.

Other Business

1. Community Development Activity Reports.
2. Visitors and Guests.

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 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.

3. THE STAFF PRESENTS THE STAFF REPORT

The Fruita City staff present their reports.

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.

Fruita Planning Commission

Tuesday, August 9, 2016

A. CALL TO ORDER

Chair Doug Van Etten called the meeting to order at 7:00 pm. Members in attendance were: Janet Brazfield, Doug Van Etten, Keith Schaefer, Dave Karisny, and Heidi Jo Elder. Richard Hctor was excused absent.

There were about 35 people from the public in attendance.

B. PLEDGE OF ALLEGIANCE

Doug Van Etten led the Pledge of Allegiance.

C. AMENDMENTS TO THE AGENDA

None.

D. APPROVAL OF THE AGENDA

Keith Schaefer- I move to approve the agenda

Dave Karisny- I second.

Doug Van Etten- We have a motion and a second for approval of the agenda as written.

6 yes votes; motion passes

E. WITHDRAWN ITEMS

None.

F. CONTINUED ITEMS

Doug Van Etten read the application as follows and put on the record that this application is continued tentatively until September 13, 2016 Planning Commission meeting

Application #: 2016 -22
Project Name: Chapter 7, Zoning, Uses and General Requirements
Application: Land Use Code Amendment
Representative: Dahna Raugh, City of Fruita
Request: This is a request to amend Chapter 7 of the Fruita Land Use Code.

G. CONSENT ITEMS

Doug Van Etten read the following items on the Consent Agenda as follows:

Application #: 2016-18
 Applicant: Brian Young
 Application Name: Orchard House
 Application Type: Conditional Use Permit
 Location: 164 N. Orchard Avenue
 Zone: Community Residential
 Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Application #: 2016-23
 Application Name: Sign Code Amendment
 Application Type: Land Use Code Amendment
 Applicant: City of Fruita
 Description: A request to amend Chapter 41 of the Fruita Land Use Code regarding Signs.

APPROVAL OF MINUTES

July 12, 2016 Planning Commission meeting

Janet Brazfield- I move that we approve the consent agenda as presented.

Mel Mulder-Second.

6 yes votes; motion passes.

H. HEARING ITEMS

Doug Van Etten read the application as follows:

Application #: 2016-19
 Application Name: US Tractor
 Application Type: Site Design Review
 Applicant: Nick Nipple
 Location: 1984 Highway 6 & 50
 Zone: General Commercial

Description: This is a request for approval of a Site Design Review application for retail sales and service of agricultural equipment along with a request for Adjustments of the Design Standards of Chapter 11 of the Fruita Land Use Code.

Scott Van Horn (representative for US Tractor) - Scott handed out information packets with pictures to the Planning Commissioners. We are a John Deere dealer and we currently have 5 locations in Colorado and we would like to have a location in Fruita. The pictures that are in the packet are of our building in Montrose which we are proposing to build here; it will be exactly the same.

Dahna Raugh- This is a request for a Site Design Review and typically Staff reviews and approves these types of applications. But this one is required to come to the Planning Commission for recommendation to City Council for a final decision because they have asked for adjustments. The adjustments are specific to the Design Standards contained in chapter 11 of the Land Use Code. No other section of the Land Use Code, just chapter 11. Chapter 11 of the Land Use Code has more requirements than simply placement and height of the building, it goes into more detail like how do pedestrians come onto the site, how do cars come onto the site, landscaping information, the architecture on the outside of the building and how it effects the public areas. With this particular application, Staff was good with all of it, with one exception. In the packets that you were given for this meeting you will see the building elevations. Chapter 11 of the Land Use Code requires, basically, the finished material on the outside of the building be just about anything but metal. It can be all kinds of things but specifically says metal cannot be used as the primary finished building material. The roof is fine as metal as long as it is not reflective. But the walls are required to be something other than all metal. Metal can be used as an accent material. You can see in the building elevations, it is pretty much an all metal building. The only parts that aren't metal are the windows and the stone along the front of the building. There are some other exceptions that they have requested that Staff absolutely supports. The first, our Code tries to bring the building close to the street as much as possible to give the street a little more visual interest. It also requires that when the building is pushed back from the street that there be a lot more pedestrian amenities. In this case it is a large tractor sales and repair shop. The building is pulled way off the street (Highway 6 & 50). There are no pedestrian accommodations. It didn't seem appropriate to have big sidewalks connecting the building to a high speed traffic highway. They did provide the required amount of landscaping between the building and the street. Again, Staff is in full support of those exceptions. But looking at the building architecture and the fairly plain walls and mostly all metal building, nearby is Fruita Storage which is, I think all metal, and people keep pointing that out to me and yes it does not look very good which is why we have design standards. In 2002, the building that is currently being used as the Cowboy Church and was previously the Twin Crossings furniture store, proposed an all metal building. And back in 2002 the city made them put stucco and other decorative things on the front so that it looked a little bit better than an all metal building. Certainly these things are much more important the closer you get to the city. True Value Hardware Store was required to do something other than an all metal building. Peterbuilt is another example of a building that is more than all metal. The further out to the edges of the city you get the less important it is but it is still

important. So looking at what the city has required of others, Staff believes that the Land Use Code would support metal as a primary finished material but not for the majority of the building. So what Staff is recommending is approval of the project as submitted as long as all the issues identified in the Staff Report and all the review comments are adequately resolved, and I believe the only point that the city Staff and the applicant can't come to agree on is the exterior of the building, the metal. So that is the major question for the Planning Commission, should the adjustments be permitted to allow the building to be constructed as proposed or should no adjustments or some lesser form of adjustments be approved. If all review comments and issues identified in the Staff Report are adequately resolved before a building permit is issued, Staff believes that all of the requirements of the Land Use Code and other City requirements have been met or can be met. We have received no public comments on this application at this time.

Dave Karisny mentioned that the Staff Report says that at least 50% of the building material not be metal. And Dahna said a little less than half can still be metal.

Heidi Jo Elder- Can it be anything other than metal?

Dahna Raugh- It highlights building materials in the Land Use Code, so yes almost anything other than metal.

Doug Van Etten- Does it have to be all sides of the building?

Dahna said the architecture wrap around all sides of the building to respect all property owners around it and not just the part facing the traveling public. Certainly it becomes more important in some areas than others when there is a lot of traffic around the building.

Mel Mulder mentioned there is a duplex in the city that is all metal and wondered why they could have all metal and this building cannot. Dahna said that the design standards of Chapter 11 apply to the Downtown Mixed-Use, General Commercial, and Community Mixed-Use zones.

Keith Schaefer wondered where the city Staff was in the negotiations with the applicants and if the city was going to deny it in its entirety.

Dahna said that is the reason the city Staff is presenting this project to the Planning Commission, is for a recommendation to City Council on whether to grant the applicants the exception for the finished building material.

Keith wanted to know if there had been any compromise between the applicant and the city.

Dahna said that everything in the Planning Commissioners packets show where the city and the applicant are with their discussion on this issue and where the compromise is. City Staff believes that the Land Use Code and the rules and regulations would support almost half the building being metal but not the entire building. Dahna also mentioned that in the applicants' supplemental project narrative, it highlights some additional landscaping or other additions that could try to accommodate the city's concerns. But know where has the Staff and the applicant come to an agreement on the amount of metal finished surfaced material on the building. That is the main issue in front of the Planning Commission tonight.

Janet Brazfield highlighted some of the buildings around town that had to address this certain requirement (building material). She could understand how the back end of the building could be metal just in case of future expansion or something like that but said that if the city is going to make others does it based on the cities rules and regulations then that should apply to all others. The reason the city has a Land Use Code is for reasons like this.

PUBLIC COMMENTS:

Bud Naven 1954 Highway 6 & 50- Was wondering about the traffic concerns this project may produce. How will the City be approaching this concern.

Dahna and the City Staff have been working in conjunction with the Colorado Department of Transportation (CDOT) with traffic on Highway 6 & 50. Highway 6 & 50 is controlled by the Colorado Department of Transportation and not the City of Fruita. The applicants have done a traffic study but Staff is unaware that the traffic study warrants any improvements along Highway 6 & 50.

Bill Saltou 1994 ½ Highway 6 & 50- Emphasized how bad the traffic issue is along Highway 6 & 50 near 20 Road. Wanted to know if the City of Fruita is going to widen the road and put in a traffic light at 20 Road intersections? Bill also had some concerns about the lighting and noise that this new business will create. Does not want to have lights shining into his house and does not want them making noise at all hours of the day.

Dahna mentioned again that the Highway (Highway 6 & 50) is maintained by CDOT. And mentioned again that the traffic study that was submitted shows no upgrades to the road or intersection at 20 Road. Said that there will be more commercial development along 6 & 50 before major improvements will be needed/done. Dahna said that Staff would address the lighting plan and if the light trespasses onto other properties, if it does, this issue will be addressed.

Richard Valdez 1994 Highway 6 & 50- Is concerned with the traffic, noise and lighting this new business will produce.

Joanna Foss 1976 Highway 6 & 50- Very concerned with the traffic that will be generated with this new business. She wanted the applicants to be aware that they have an irrigation line running through the subject property. She does not want that to be messed with and doesn't not want them to build on top of it.

PLANNING COMMISSION COMMENTS:

Dave Karisny made it clear as to why the Planning Commission is hearing this item tonight and highlighted the process of this project. The Planning Commission will make a recommendation to City Council for a final decision based on what is being addressed at this meeting regarding the exceptions requested by the applicant. Dave agrees that Highway 6 & 50 is a busy road and there will be improvements in the future (Highway 6 & 50 control plan can be viewed at CDOT online or in the Planning office).

Dave also talked/highlighted items that have been submitted by the applicants and what the site plan looks like. Dave understands this type of business and understands that there are certain people that will come to this business. Dave told about other buildings that had to comply with the city's rules and regulations and agrees that this business should do at least 3 sides less than 50% metal.

Heidi Jo Elder asked the applicants if they could do other types of building materials like wood or rock or brick or stucco.

Scott Van Horn said that is not cost effective to do the whole building in any of those building materials, mentioned that some of the buildings near the subject property were ugly and that their new building would look much better.

Heidi suggested that the show room area be stucco and the shop portion be left metal due to the use of the shop and maybe future expansion.

Scott Van Horn is open to that suggestion.

Doug Van Etten- I think the point about having a Code so that there are standards, the newer code is in place to create a higher standard. I think that to tell us that Fruita has ugly buildings so now we don't mind coming in here and being an ugly building, doesn't sound like a real nice way to ask for a welcome to the community. Fruita would love to have the business but Fruita has also established a new/higher set of standards. The only

way to deal with this project is the same way we dealt with other projects otherwise, why have a code with standards.

Doug highlighted points made in the applicants Supplemental Narrative. Doug also agrees with the Planning Director's decision on 50% or a little less than 50% of the building be something other than metal.

Mel Mulder knows that the traffic on Highway 6 & 50 and 20 Road is very bad but also emphasized that the highway is owned/maintained/controlled by CDOT. Mel understands the reason the Planning Commission is meeting is due to the exceptions that are being asked for by the applicant. However, other issues do matter. Mel agrees that the city code should be applied to this project.

Janet Brazfield agrees with her fellow Planning Commissioners.

Keith Schaefer believes that middle ground should be negotiated and that asking the applicant do have different siding than proposed due to the size of the building should have some exceptions.

Janet Brazfield- I would recommend approval of US Tractor Site Design Review with adjustments with the condition that all review comments and planning comment issues identified are adequately resolved before a planning clearance for a building permit is issued.

Mel Mulder- Second.

Dave Karisny- Is there any direction on what the sides of the building would look like?

Janet Brazfield- I'm going with Staff's recommendation and Planning commission comments.

5 Yes Votes; 1 No Vote; Motion passes.

Keith Schaefer voted no because he disagrees with a cookie cutter type of standard. He thinks this building is way too big to have to stucco the entire thing. Keith Schaefer is recommending a code change for this issue.

Doug Van Etten read the application as follows:

Application #: 2016-11
Applicant: Travis and Ellen Robinson
Application Name: Robinson Rental
Application Type: Conditional Use Permit
Location: 1424 Niblick Way
Zone: Adobe Falls PUD
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in this PUD zone.

Travis Robinson- I just have a few comments for you guys. This is a request for a B & B in a residential area. We came to the City (Staff) and found out we needed a C.U.P. (Conditional Use permit) in May (2016), we also reached out to the developer and the HOA to tell them this is our plan and please let us know if you have any concerns, we would be happy to address them. The next time I heard from anyone about this was when we received a letter in the mail from Rich Livingston saying that this (B&B) violates section 5 of our covenants, it violates specifically the residential use only no commercial use covenant, which is very broad. My wife and I are excited to have people stay with us, it is not actually a Bed & Breakfast, it is our home that we are sharing. We are very involved in the community. I serve on the Tourism Board, I now realize that is the easy Board. My wife brought the Fruita Monassori, to Fruita. I served on the Fruita Area Chamber of Commerce for a number of years. We own a business in downtown Fruita as well. We are heavily involved in the community, the AirBnB concept I think is great for the community. It brings additional tax dollars to the City. That is how I learned about the CUP, I went to Henry and said that we have done this a few times during the Fat Tire Festival; we think it is really cool how do I pay lodging tax because I think it is a competitor to our hotels. So fast forward ahead, my wife was approached a couple times and told by our neighbors that what you are doing is illegal and you need to stop. We have done our homework in advance to know, currently, Colorado common law states that short term rentals are residential use. The courts in Telluride held this last year and it was reaffirmed in San Miguel county last October. That is what you guys have in front of you, it is just a lawyer blog, someone's opinion but it summarizes what was found last year. That is why I think the letter we received and the neighborhood meetings that were held without us, all they did is whip up a bunch of opposition without ever giving us a chance to talk with them. At the end of the day, using this as a short term rental is in line with our covenants, it is a residential use. We think we have met all the criteria of the CUP. Even though Staff recommended to deny, we would ask that you recommend to approve because our HOA has

a mechanism to stop this and that is, go in and amend the covenants to prohibit short term rentals. That is what the HOA in Telluride is going to do (referring to one of the handouts) to this homeowner when they have their opportunity. So we would like you to approve this and we would like to ask our neighbors to work with us, because we have built a home that we love, that lifted the property values of everyone else in the neighborhood. We built a home to raise our kids in, I am from Fruita, and we plan to be here for a very long time. We simply want to have the right to invite guests into our home if we choose.

Mel Mulder- Do you have record of that conversation you had with the HOA?

Travis Robinson- It was a phone call. But it was around May 8th. It was the weekend after I spoke to Henry and learned that we needed to go through the permitting process. You know you have approved so many of these applications, so my understanding is that this is a pretty simple process. This is a residential use, and unless they amend the bylaws to prohibit short term rentals we want to be able to use it in this fashion.

Dahna Raugh- This is a request for a Conditional Use Permit for a Bed and Breakfast or Vacation Rental by Owner. I am going to go through individual supplemental zoning standards that apply to these land uses and the individual Conditional Use Permit approval criteria, because I know we have another Vacation Rental issue after this hearing item as well so I think it helps both groups. So the first requirement, where the applicable zoning district allows a Bed & Breakfast uses as a conditional use and pretty much every residential land use category in the Land Use Code requires a Conditional Use Permit. It must be a residential dwelling unit that contains no more than 4 guest bedrooms where overnight lodging with or without meals is provided for compensation, so in this case the application meets that requirement. It is a residential house with 4 bedrooms, but they are not using all 4. So that has been met. The second requirement is the kitchen and dining facilities may serve only the residents and guests and shall not be operated or used for any commercial activity other than what is necessary for the Bed & Breakfast, the applicants have stated that they don't intend to use the kitchen facilities for anything but themselves and their guests. The third, the Bed & Breakfast use shall not change the residential character of the dwelling if located in a residential zone or area. The applicants have indicated they have no intention of changing the character of the dwelling unit to anything other than the residential dwelling unit that it is. The fourth, in residential zones there shall be no advertising, display or other indication of the Bed & Breakfast other than a sign that complies with the provisions of the Sign Code. The applicants have stated in their narrative that they will not be doing any advertising on the property. The fifth, a minimum of one parking space per guest bedroom and resident bedroom shall be required, and screening of the parking may also be required. There is definitely at least one car parking space per each guest and resident bedroom. Staff is not recommending any screening, it is basically a big driveway and a big garage. The sixth, the Bed & Breakfast facilities shall comply with all building codes adopted by the City. This house as build in 2014, it received a Certificate of Occupancy and Staff has no reason to believe that it doesn't continue to meet the building codes. We understand that the Building Department (Mesa County Building Department) and the Fire Marshall (Lower Valley Fire Department) that Bed & Breakfasts and Vacation Rentals are held to the same standards of any

other house, nothing special in terms of commercial building code. The seventh requirement, it shall be the responsibility of the applicant to demonstrate that the relevant subdivisions declarations, covenants, conditions and restrictions allow for a Bed & Breakfast use and associated signage. It is the applicant's responsibility to demonstrate that the covenants allow this use, with the letters we have received from the neighborhood and the letter from a Lawyer, I think what the applicant has demonstrated is that this is a very debatable issue. Certainly the residences in the neighborhood that we have heard from think that this is not permitted and certainly the applicant thinks it is permitted. What we have proven is that there is an argument, there is no proof that the HOA and the covenants allow this. It is because of that, and that alone, that Staff is recommending that this application be denied because this one criterion (Supplemental Zoning Standard #7) has not been met. The eighth, where a Bed & Breakfast use is subject to a Conditional Use Permit approval any existing or proposed use in addition to the dwelling unit (like a home occupation or an accessory dwelling unit) is considered part of the Conditional Use review. Staff is not aware of any other conditional type uses on this particular piece of property. There are also four criteria for Conditional Use Permits of any type that have to be considered and should be met for every Conditional Use Permit application. The first, the proposed use shall be consistent with the purposes and provisions of the Land Use Code, the zoning which it is located, and also the City's Master Plan. The Land Use Code is one of the primary documents used to implement the City's Master Plan, and if all the approval criteria for conditional use permits and all the Supplemental Zoning Standards can be met then this application will certainly meet the Master Plan and the Land Use Code and the zoning in which it is located. But again it doesn't meet that one Supplemental Zoning Standard that states that it is the applicants responsibility to demonstrate that there is no issue with the Covenants. So that approval criteria for Conditional Use Permits has not been met. The second, the proposed use shall be compatible with existing and allowed uses surrounding or effected by the proposed use. Staff believes that the proposed Vacation Rental is compatible with everything that is around it as the applicant has stated and as I think everybody knows the City of Fruita has granted many Conditional Use Permits in many different neighborhoods and only once has one been denied and it was for the same issue, it violated the covenants. We don't know of any significant problems in any of the neighborhoods, we do believe these are for the most part very compatible with just about every residential neighborhood in the city. That approval criterion has been met. The third, the proposed use shall not materially endanger the public health and safety, we don't believe using the house as a vacation rental will be a problem for public health and safety. The last approval criteria, public services and facilities should be available and adequate to serve the proposed use, of course it is a house and we don't expect any utility or other service demands to be above and beyond what we would normally find in any other house. This approval criterion has been met. Again, this application for a Vacation Rental meets all the approval criteria except that it looks like it violates the covenants or at least it looks very debatable. So that approval criteria has not been met and therefore, the very first approval criteria for Conditional Use Permits has not been met, it doesn't comply with the Land Use Code. Staff has received a lot of written public comment, all the public comments we received are included in your packets tonight.

PUBLIC COMMENTS:

Denise Hctor 1332 Niblick Way- Denise explained why she and her husband chose to move to Fruita and why they chose to move into a neighborhood with strict covenants. They chose Adobe Falls because they didn't want to be in a neighborhood where people were doing business out of their homes and didn't want strangers in the neighborhood all the time. They chose Fruita for safety and community.

Judith Thornberg 1354 Niblick Way- There were no covenants where she used to live, she read the covenants in Adobe Falls and interpreted them and understood them that there would be no auto repair places close, and no Bed & Breakfasts. There are 2 empty lots next to her and the Robinsons and she could see that if the Robinsons are allowed to use their home as a Bed & Breakfast, then the lots next door will be Bed & Breakfasts.

Mike Milholland 1466 Niblick Way- Travis and Ellen are great people but the main point is the majority, if not all, of the neighborhood is against this application.

Clarence Ehrlich 1406 Kiva Drive- The whole neighborhood is not in favor of this application. Everyone has invested a lot into their homes in this subdivision. In his opinion, the covenants do not allow for this type of use. He feels that if this use is to be allowed, that would set a statement and open the door for more uses just like this. Feels the covenants should protect the homeowners. He doesn't want any friction in the neighborhood.

*Someone talked but I couldn't make out what they were saying.

Rich Livingston- The attorney for the Adobe Falls homeowners association. The existing owners, all of them except the applicant, have executed a petition in opposition. They didn't do that lightly, we had an extensive discussion and talked about all of the applicable issues. And if you read the petition it says "the undersigned, with due respect for individual property rights." All of the owners in Adobe Falls were sincere about that point but as they had their discussions back and forth, over this application, questions came up relative to compatibility of uses. Staff has indicated that they conclude that this is compatible with the existing use. But if you look at the advertisement that is on the internet for this particular property, what it says is brand new casita on golf course. And if you look at the photograph that accompanies the application you can see that they show the home, the casita is behind the home. When you talk about compatible uses and a more traditional Bed & Breakfast, you're not talking about a separate structure that is going to have people coming and going. There is numerous materials online that talks about access by way of lock box and no contact with anybody at the facility. A couple of the residences have testified tonight about their reasoning for coming to Adobe Falls and one of the nice features of a community that we are able to enjoy here in Fruita, is that we are out of the major urban corridors.

Rich Livingston went on to discuss the requirements of the Staff Report and how he interprets how this application does not meet any of the rules and regulations. Strongly recommends denial of this CUP application.

Keith Schaefer- So the developer can change the covenants if they needed to?

Rich Livingston- In theory, yes they can.

Mel Mulder- Are you hired by the HOA for this issue?

Rich Livingston- I am.

Mel Mulder- If the petitioner is to pursue this further, to the courts, would you be representing the HOA?

Rich Livingston- Yes I would be.

Mel Mulder- I think this is an issue for our attorney too.

Janet Elliot 1306 Niblick Way- Janet Elliot was the person the Mr. Robinson reached out to about this particular use at their house, Janet said she was busy and couldn't really understand the questions Mr. Robinson was trying to ask. She feels like the Robinsons did not do their homework and have not approached anyone in the neighborhood.

Ellen Robinson- Ellen addressed some of the comments made by Mr. Livingston. The Robinsons were not invited to the meeting that was held when everyone signed the petition to oppose the application. Ellen knocked on all the doors in the neighborhood and talked with most people in their home. She mentioned that they live on a public golf course with a public trail the surrounds the subdivision and made a point that the neighborhood is fully accessible to the public.

PLANNING COMMISSION COMMENTS:

Janet Brazfield- Mrs. Brazfield talked about the definition of 'residential uses' in covenants based on the laws in Colorado. And says, if you are renting to the public at your home for compensation, this makes it different then residential uses. Agrees with Supplemental Zoning Regulation #7 in the Staff Report.

Mel Mulder- The recommendation of denial to City Council is in order. And believes Mr. Livingston is prepared to go to court with the applicants.

Keith Schaefer- Mr. Schaefer feels that the Conditional Use Permits do nothing for the neighborhood. And feels that this specific C.U.P. application is not an appropriate use in this area.

Dave Karisny- Mr. Karisny talked about how the City of Fruita created a process of controlling the Vacation Rental by Owners back when the code was amended. He discussed how VRBO's have been heard in the past and that most are not in HOA controlled neighborhoods and that it is okay for the Planning Commission to hear what the neighborhood had to say when considering the recommendation to the City Council with their decisions. The intent was to hear what the neighborhood has to say about the applications and not to turn neighbors against one another. With the neighborhoods comments and actions for denial of the application, Mr. Karisny feels the application should be recommended for denial based on the neighborhoods comments.

Heidi Jo Elder- Mrs. Elder agrees with Staff's decision for denial. The applicant has not proven that it is not in violation of the covenants. She thinks that if the Robinsons can prove and talk to the other homeowners and get that changed then bring the application back to Planning Commission and she would be all for the VRBO. But at this moment, she is recommending denial.

Doug Van Etten- Mr. Van Etten is in favor of the C.U.P. application due to the fact that it is the Robinsons private property and they should be allowed to use it in this way and that they should have full use of their property under the law. He thinks all homeowners in the neighborhood would want to use their property in the ways that they want to. The language in the covenants is arguable.

Keith Schaefer- I recommend that we deny this C.U.P. because the representative has not demonstrated that the proposed Bed & Breakfast would not be in violation of the subdivision covenants as required by the Supplemental Zoning Standards of the Land Use Code.

Heidi Jo Elder- Second.

5 Yes votes; 1 No vote. Motion passes.

Doug Van Etten read the application as follows:

Application #: 2016-17
 Applicant: Danny Gene Mitchell Jr.
 Application Name: Mineral House
 Application Type: Conditional Use Permit
 Location: 626 Mineral Court
 Zone: Community Residential
 Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Danny Gene Mitchell Jr. - I own the property at 626 Mineral Court, I want to thank you for your time. We would like to provide housing as a vacation rental for events, bike events in Fruita. We had an opportunity to rent out to some missionaries but we couldn't do so because we hadn't been through this process yet. So that is another reason we wanted to apply for the Conditional Use Permit. We have been to the homeowners association and the HOA distributed letter and emails to the whole neighborhood and did not receive any negative comments.

Dahna Raugh- As far as Staff can tell, this Conditional Use Permit meets all requirements as stated in the last presentation with the Robinson Rental. When Staff was completing the writing the Staff Report, we received a letter in opposition of this request and before the meeting Staff also received three more letters in opposition which you have in front of you. We actually received a letter from the HOA in support of this application that there is no problem with the covenants. Unfortunately, the neighbors do have concerns. That concludes my presentation.

Janet Brazfield- This letter from the HOA states that the board has been working with the other neighbors will add an amendment to the bylaws and covenants. Now in order to do that, it would require the majority of the homeowners. Has that amendment been done? Otherwise it wouldn't meet the supplemental zoning criteria that requires the applicants to show it doesn't violate the covenants.

Dahna Raugh- The city is certainly not asking the Planning Commission or the City Council to sit up here and act as lawyers, reading the covenants and deciding what you think the covenants say. None of us are lawyers. The issue is, does it meet the requirements of the Land Use Code. The applicants need to demonstrate that the relevant subdivisions declarations, covenants, conditions and restrictions allow for a Bed & Breakfast use and associated signage. The letter from the president of the HOA (in the planning commission packets) states "Thank you for presenting your request at the annual meeting in April of 2015. At the meeting there did not seem to be no anyone against it. An email was sent out to homeowners and there has not been any comment. Thus, the

HOA board of Stone Mountain Estates does not have a problem with you making your house at 626 Mineral Court available for short term rental.” Now I do see that it does say “the board with your help working with them will add an amendment to the bylaws and covenants, they trust that the property owners will keep them abreast of the progress of obtaining the documents... the board would like a record only copy of Fruita city approvals.” So to me this says the HOA is in support. So it was Staff’s opinion that the requirement that it is the responsibility of the applicant to demonstrate that there is no violation, this letter shows that there is no violation. Like I said, right when we were finishing up the reports to go out the Planning Commissioners, we received letters from the neighborhood with concerns. And we have received some letters before tonight’s meeting.

Janet Brazfield- My question was, have the covenants been amended in order to allow this?

PUBLIC COMMENT:

Cynthia Mabes (owns 652 Mineral Court)- Her concern is about the safety of the cul-de-sac and the continuing in and out of new people in the neighborhood. There are a lot of kids that live on the cul-de-sac and the safety of the kids is a major concern.

REBUTTAL:

Sabrina Mitchell (the applicants wife) - Wondered if there is any wording in the advertisement that may be a concern to the neighbors. Sabrina wants to make this right with the neighbors and to add some wording in rules for the rentals that could address the concerns of the neighborhood.

PLANNING COMMISSION COMMENTS:

Janet Brazfield- Have (the applicants) made the amendment to the covenants yet?

Sabrina Mitchell- No they have not, the HOA is waiting for documents from the City of Fruita in order to make their decision on the amendment.

Janet Brazfield- Stated that it should be the HOA to change the covenants before they give to okay to the homeowner, and not the other way around.

Dahna Raugh- What is the amendment exactly? Is it an amendment to say it is okay? I think we might be making an assumption that this is a problem and there is some sort of an amendment that needs to happen. But there is no indication as to what type of amendment there will be. To let a Bed & Breakfast be a permitted use or an amendment that actually talks about how a Bed & Breakfast will be operated if it is permitted. Do you guys (applicant and wife) actually know what the amendment is for?

Danny Gene Mitchell Jr. - It is rentals less than 30 days.

Janet Brazfield- So your subdivision only allows rentals 30 days or more?

Danny Gene Mitchell Jr. – Yes.

Keith Schaefer- Based on that, this wouldn't qualify would it?

Janet Brazfield- Exactly, unless it is amended to allow it for less than 30 days.

Mel Mulder- Agrees with Janet. Based on the information we have in the application, this is a legal application and should be recommended for approval.

Keith Schaefer- I think it is important for the people in the audience to understand that this is a Conditional Use Permit, and if they violate any of the conditions it can be pulled. Having said that and based on the information we have, we can move to approve subject to Mrs. Brazfield's comments about the need for the amendment to the subdivisions covenants.

Dave Karisny- Dave made clear what exactly the amendment would actually be, the amendment would be to allow for rentals that are less than 30 days. Mr. Karisny encouraged the applicant to continue the application until a further date when they can get the amendment made or more clarity on the amendment in the subdivision.

Heidi Jo Elder- Mrs. Elder believes that the applicant has proven that the HOA is in support of the short term rental and that with the letter from the HOA in support, this does not violate the covenants.

Janet Brazfield- Mr. Chair, I recommend to not approve the Conditional Use Permit due to not meeting all of the approval criteria for the City of Fruita Code as far as the applicant has stated the HOA allows for rentals over 30 days and not less than 30 days.

Keith Schaefer- I second.

Dave Karisny- If we vote in favor of that motion, we agree to deny the application.

Doug Van Etten- Do we want to deny it or ask the applicant to continue this application to a later meeting to give the applicants and the HOA a chance to address the concerns of the covenants?

Dahna Raugh- The Planning Commission would need approval from the applicant to continue this project to a later time.

Janet Brazfield- Would the applicant be willing to continue this project until a later date?

Danny Gene Mitchell Jr. – Yes.

Janet Brazfield- I would amend my motion to continue this application until a later date to give the applicant time to amend the subdivisions covenants and to talk to their neighbors.

Keith Schaefer- Second

Dahna Raugh- I want to confirm when they want to continue this project until.

Danny Gene Mitchell Jr. – Agrees to continue this application until the October 11, 2016 meeting.

Janet Brazfield- Continue the application to the October 11th meeting and the applicants can ask for a continuance again if that is not enough time.

Danny Gene Mitchell Jr. – Agree.

**The motion is to continue this project until the October 11, 2016 Planning Commission meeting.

6 Yes votes; motion passes to continue the application.

I. COMMUNITY DEVELOPMENT ACTIVITY REPORT

Dahna Raugh talked about some of the applications that were previously heard by the Planning Commission, the Sacred Heart Church rezone in particular. She told the Planning Commission that they withdrew their application and that the Planning Commission may hear the application again in the future.

Dahna mentioned the survey that was email to the Planning Commissioners about old sewer lagoon property.

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

There was a long discussion about the review of the application process. Keith Schaefer has some issues with how the Planning Commission doesn't get to review Site Design Review applications like the Dairy Queen, but the Planning Commission hears all these VRBO's and CUP applications where there is no benefit to the neighborhood and only the homeowner. Dave Karisny encouraged Keith to bring this issue up with the City Council when we (the planning commission) have a joint meeting with City Council to discuss the city's land use application processes.

J. VISITORS AND GUESTS

Whitney Rink was a guest in the audience but she had no comments at this point, she just wants to see what is going on in the City and how everything works in Fruita government

K. PLANNING COMMISSIONER TRAINING

The Planning Commissioner training was decided to be postponed until a meeting with a smaller agenda. It was made clear that this training would be Fruita specific. The training would be more focused on how planning is done in Fruita and the rules and regulations that we follow (Land Use Code and Master Plans).

Adjournment at 9:39pm

Respectfully submitted,

Henry Hemphill
City of Fruita Planning Technician

DRAFT



**Community Development Department
Staff Report
September 7, 2016**

Application #: 2016-21
Application Name: Mudd VRBO
Application Type: Conditional Use Permit
Representative: Louis and Catharine Mudd
Property Owner: Louis and Catharine Mudd
Location: 126 S. Maple 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 1,727 square foot detached single family house and an attached garage with an accessory dwelling unit above on an approximately .22 acre lot located on South Maple Street just south of Aspen Avenue. The accessory dwelling unit (ADU) is approximately 728 square feet and is intended to be used as the vacation rental. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

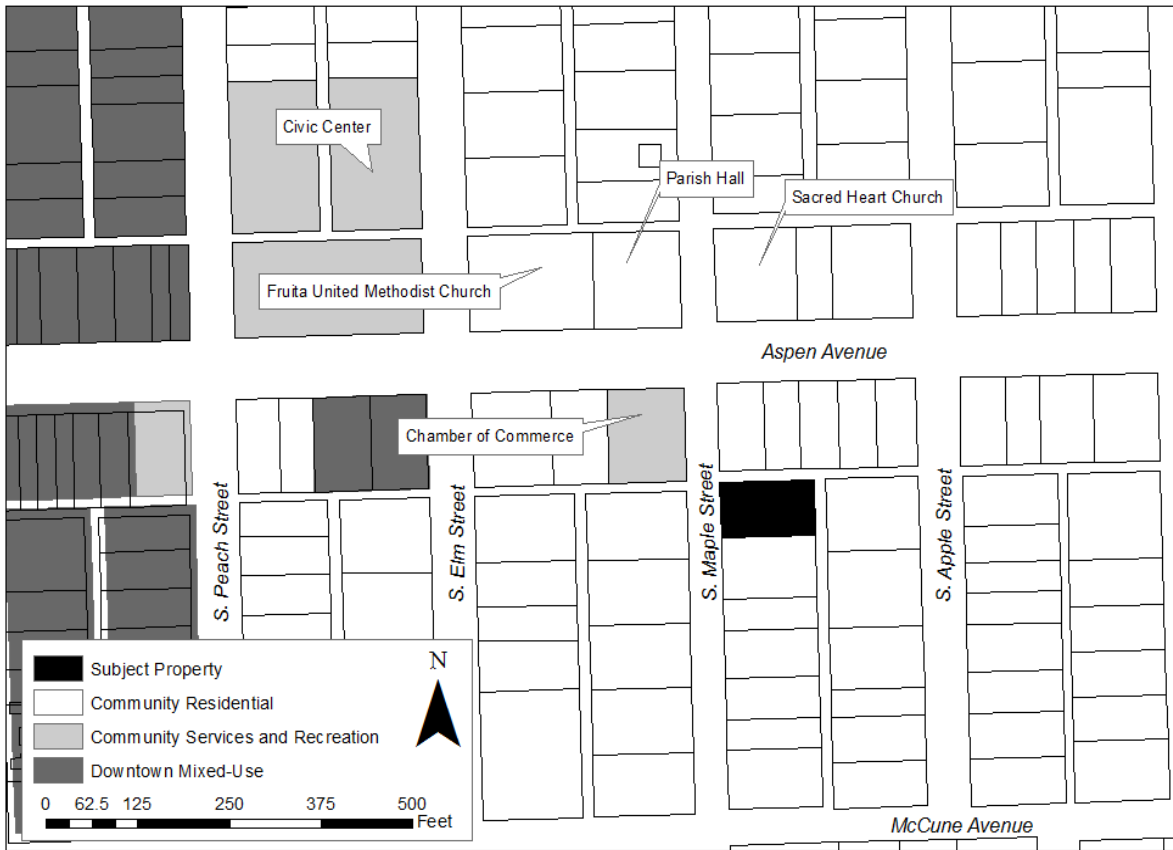
The living space above the detached garage is intended to be available for rent on a less than month-to-month basis. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

Surrounding Land Uses and Zoning:

The property is surrounded by Community Residential zoning other than the Chamber of Commerce located to the northwest which is zoned Community Services and Recreation. In this area, there is the Sacred Heart Church, the Parish Hall, the Chamber of Commerce, and the Fruita United Methodist Church

all in close proximity to the subject property. All other land uses in the immediate area are single family detached residential.

ZONING MAP



2015 AERIAL PHOTOGRAPH



Review of Applicable Land Use Code Requirements:

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

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

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

The living space above the detached garage is intended to be available for rent on a less than month-to-month basis. As stated in the project narrative, 2 bedrooms will be provided in this living space.

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

The representative has been made aware that the kitchen and dining facilities may only serve the guests.

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

Staff believes that the residential character of this property will not change. According to the project narrative, "...the proposed conditional use of this property would fit well into the neighborhood..." The project narrative also states that, "no changes have been made to the exterior and surrounding property."

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

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

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

There are a total of 4 bedrooms according to the project narrative which would require 4 parking spaces. Four parking spaces are available on the drive way and 1 space in the garage.

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

The applicant is currently doing some remodeling on the interior of the living space that is intended for the vacation rental. The applicant has

received all permits required for the remodel. A certificate of occupancy will be required before the Bed & Breakfast becomes operable.

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

Staff is unaware of any declarations, covenants, conditions or restrictions on the property. All property owners within 350 feet of the subject property have been notified of this CUP application. At this time, staff has received no written public comments regarding this application.

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

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

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

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

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

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

Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of the Community Residential zone, which is to allow for moderate density single-family

neighborhoods . If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion can be met. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan.

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

Section 17.07.080 requires that a proposed development be compatible with adjacent properties, considering both existing and potential land uses on adjacent properties. For all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved, and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between a proposed use and existing uses in the vicinity to ensure compatibility.

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

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

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

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

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

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

Review Comments:

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

Public Comments:

No written public comments have been received regarding this application.

Staff Recommendation:

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

Fruita Planning Commission: September 13, 2016

Fruita City Council: October 4, 2016



LAND DEVELOPMENT APPLICATION

Project Name: Mudd ADU project
 Project Location: 126 S Maple St
 Current Zoning District: Community Residential Requested Zone: Bed & Breakfast Conditional Use
 Tax Parcel Number(s): 2697-171-15-005 Number of Acres: _____
 Project Type: Add conditional use to current property

Property Owner: Louis V Mudd Developer: Lou Mudd
 Property Owner: Catharine A Mudd Contact: _____
 Address: 126 S Maple St Address: Same as property owner
 City/State/Zip: Fruita CO 81521 City/State/Zip: _____
 Phone: 970-201-4881 Fax: _____ Phone: _____ Fax: _____
 E-mail: comudds@gmail.com E-mail: _____

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

Owner Rep: Lou Mudd Engineer: _____
 Contact: _____ Contact: _____
 Address: 126 S Maple St Address: _____
 City/State/Zip: Fruita CO 81521 City/State/Zip: _____
 Phone: 970 201 4881 Fax: _____ Phone: _____ Fax: _____
 E-mail: loumudd@gmail.com E-mail: _____

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

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

Louis Mudd
Name of Legal Owner

Louis Mudd
Signature

7/12/16
Date

Name of Legal Owner

Signature

Date

Name of Legal Owner

Signature

Date

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)



The foregoing instrument was acknowledged before me this 12 day of July, 2016

My Commission expires: 06-06-2018

Stephanie Heifner
Notary Public

Conditional Use Permit Project Narrative for Mudd ADU Project

Lou & Catharine Mudd
126 S Maple St.

We own property at 126 S Maple St in Fruita. Our garage has a second floor apartment that we would like to use as a short term vacation rental. It would have space for up to 4 guests and would be rented to visitors coming to the Fruita area for vacation and recreation. Rentals would be only for short term stays from 2 up to a maximum of 6 or 7 nights. The recreation opportunities in our area and the proximity to downtown Fruita makes our location desirable for guests coming to enjoy all that the Fruita area has to offer.

The property is zoned as community residential. The intended use of the ADU as a Bed and Breakfast, advertised through Air BnB, is a conditional use and would be allowed in the community residential zoning of the property. A conditional use of the ADU would not impact any public services. Water, sewer and electric are already in place and only a small increase in their use would be expected. Neighborhood impact regarding traffic or other factors would be small.

The accessory dwelling unit (ADU) consists of a 2-bedroom apartment in the second level of the garage. No changes have been made to the exterior and surrounding property. It meets all current construction and code requirements. A planning clearance was obtained from the City of Fruita, and a building permit from Mesa County, prior to construction, to be in compliance with local ordinances and codes.

Our property has space for parking at least 5 vehicles off the street, which includes one in our garage. This many parking spaces will meet the requirement of at least one parking space per guest and resident bedroom. The residence has 2 bedrooms and the ADU has 2 bedrooms requiring a minimum of 4 parking spaces.

Access to the ADU would be through the gate on the south side of the main house, or a gate behind the house on the north.

We believe that the proposed conditional use of this property would fit well into the neighborhood and the City of Fruita with minimal impact.

Attached: zoning map, property diagram – showing parking and access, neighborhood survey and exterior photographs.

Responses from nearby neighbors regarding a conditional use permit for operating a "bed and breakfast" on property at 126 S Maple St.



129 S Maple St Rich Sander YES NO

Comments: Great idea,

signed: Richard Sander
date: 5-11-2016

136 S Maple St Brendon Swihart, Autumn Clark

YES NO

Comments: _____

signed: _____
date: _____

139 S Maple St Laura Peters

YES NO

Comments: _____

signed: _____
date: _____

506 E Aspen St

Helen Sue Whitney YES NO

Comments: _____

signed: Helen Sue Whitney
date: 5-11-16

514 E Aspen St

Gus & Kelly Hendricks YES NO

Comments: _____

signed: Gus & Kelly Hendricks
date: 5-12-16

127 S Apple St

Rickie Meace YES NO

Comments: _____

signed: Rickie Meace
date: 5-13-16



**Site Built or Modular Single Family Residential,
Duplex or Accessory Building
Planning Clearance**

PC No: 11246

Date: 5/11/16

Building Address: 126 S Maple St

Parcel No: 2697-171-15-005

Subdivision: lots 66,67 ORCH SUB

Filing _____ Lot 26,27 Block 2

PROPERTY OWNER INFORMATION

APPLICANT/CONTRACTOR INFORMATION

Name: Louis & Catharine Mudd

Name: Lou Mudd

Address: 126 S Maple St

Address: 126 S Maple St

City/State/Zip: Fruita/CO/81521

City/State/Zip: Fruita/CO/81521

Phone(s): 970-201-4881

Phone(s): 970-201-4881

E-mail: comudds@gmail.com

E-mail: loumudd@gmail.com

REQUIRED: Plot plan showing lot lines and dimensions, all easements, building lines and dimensions, distance from building(s) to property lines, driveway dimensions and location, above ground utilities, drainage swales/directions, all abutting streets/alleys, lot corner elevations and minimum top of foundation elevation.

Description of Work: Interior construction of garage upstairs level into a 2 bedroom ADU. No change to exterior of property.

- | | | | | |
|---|---|--|----------------------------------|-------------------------------------|
| <input type="checkbox"/> NEW CONSTRUCTION | <input type="checkbox"/> COVERED PATIO | <input type="checkbox"/> RE-ROOF | <input type="checkbox"/> CARPORT | <input type="checkbox"/> PERGOLA |
| <input type="checkbox"/> REMODEL | <input type="checkbox"/> ADDITION | <input type="checkbox"/> DECK | <input type="checkbox"/> SHED | <input type="checkbox"/> SHED/SKIDS |
| <input type="checkbox"/> DETACHED GARAGE | <input checked="" type="checkbox"/> ACCESSORY DWELLING UNIT | <input type="checkbox"/> CHANGE IN USE | | |

What utilities will be provided to: **Detached Accessory Dwelling Unit, Detached Garage, Addition/Remodel, Shed/Shed on Skids?** If utilities will be extended, please show on plot plan. ELECTRICAL PLUMBING Services already in place.

Lot Size: 80x140 Main Floor Living Area Size: 1300sf Second Floor Living Area Size: 500sf Garage Size: 24x28

Size of Unenclosed Covered Areas: NA Size of Building/Addition: _____ Size of Existing Buildings: _____

Size of Basement/Bonus Rm: NA Finished Unfinished Garage #: 1 Building Height: 20'

Number of dwelling units before construction: 1 Number of dwelling units after construction: 2

I hereby acknowledge that I have read this application and the information is correct under penalty of perjury. I agree to comply with any and all codes, ordinances, laws, regulations or restrictions which apply to the project. I understand that failure to comply shall result in legal action, which may include but not necessarily be limited to non-use of the buildings.

Applicant Signature *Louis Mudd* Date 5-11-16

Modifications to this Planning Clearance must be approved, in writing, by the Fruita Community Development Department. The structure authorized by the application cannot be occupied until a final inspection has been completed by the Mesa County Building Department and the City of Fruita and a Certificate of Occupancy is issued. This Planning Clearance is valid for one year.

Special Conditions: Maintain drainage, keep construction site clean and weeds cut. Dust mediation and erosion measures must be in place. Comply with all covenants. Do not remove property pins. Property Pins MUST be visible before a Certificate of Occupancy will be issued.

Planning Clearance Fee -\$25.00	\$ 25.00
Use Tax Fee - 3% of estimated cost of materials <i>estimate 5800 x .03</i>	\$ 174.00
Sewer Tap Fee - \$6,600 single family dwelling <i>NA</i>	\$ 0
Sewer Recapture Fee <i>NA</i>	\$ 0
Irrigation Tap Fee \$500..... <i>NA</i>	\$ 0
OTHER FEES DUE	\$
TOTAL AMOUNT DUE	\$ 199.00

Community Development Approval *H. Hill* Date: 5/11/16

Mudd ADU project



Ed 126 - circled - is Community Residential zoning.

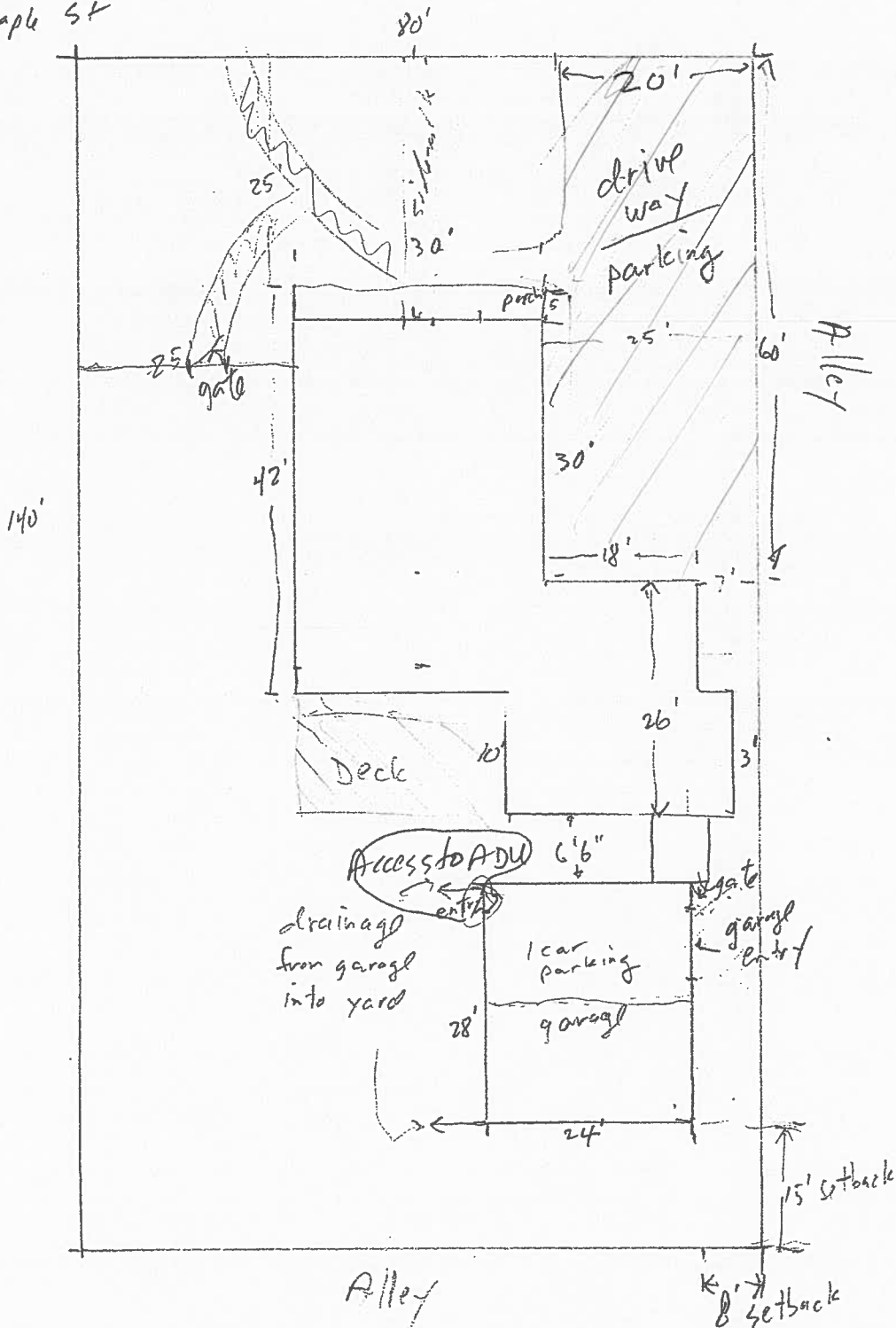


Property Layout
126 S. Maple St

Maple St

→ N

ally '1



not to scale



**Community Development Department
Staff Report
September 9, 2016**

Application #: 2016-20
Project Name: Wicked Wrench
Application: Conditional Use Permit
Property Owner: O'Shane Wilson
Representative: Brad Green
Location: 810 Grand Avenue
Zone: Downtown Mixed Use (DMU)
Request: This is a request for approval of a Conditional Use Permit for a automobile and light truck mechanical repair shop in a Downtown Mixed Use zone.

Project Description:

The subject property is located on the south side of Grand Avenue between Sycamore and Ash Streets and contains approximately 15,520 square feet. According to the Mesa County Assessor's Office, the property contains a 2,700 square foot one-story modular metal building built in 1978.

There is a small fenced area in the rear (south side) of the property, rock landscaping in the front of the building (north side), with a gravel driveway access from Grand Avenue. The finished outside building material is painted metal and there are three garage bay doors on the east side and a person door on the north side of the building facing Grand Avenue.

This building had been vacant for more than one year with the most recent licensed business at this location being a well service business in 2008 and an automobile repair shop was licensed at this location in 2005. Earlier this year it came to staff's attention through complaints in the neighborhood that an industrial service business (mainly repair of heavy trucks and equipment) was operating out of this location illegally. Once staff approached the business about the problem, the business owners chose to vacate the property.

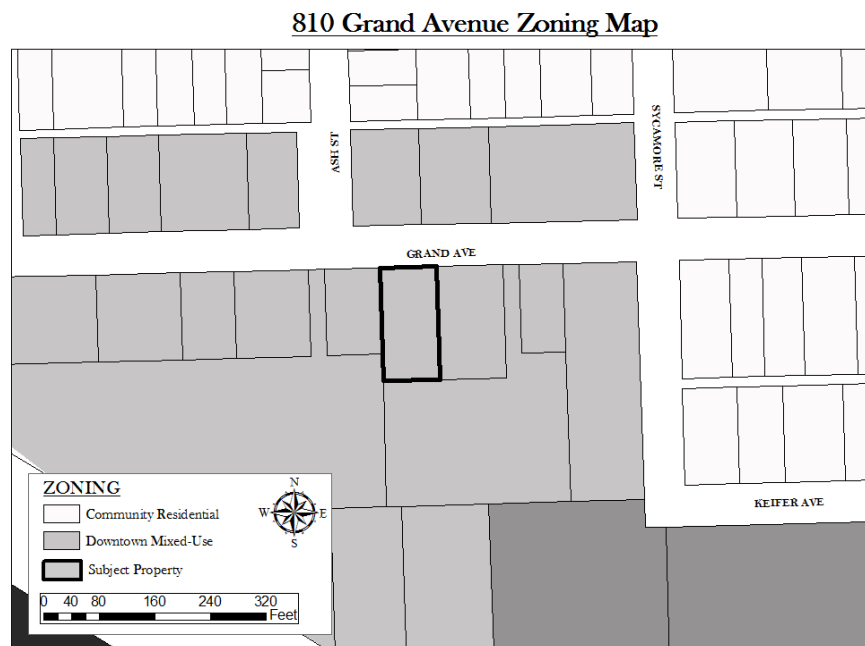
The Fruita Land Use Code requires a Conditional Use Permit (CUP) for automobile and light truck repair in the Downtown Mixed Use (DMU) zone. The Code allows businesses that were legally established to continue operations even if the business doesn't meet the city's current requirements. However, if a land use stops for one year, any subsequent use of the property is required to be in compliance with current city requirements. Because the property had been vacant for more than one year, any new

use of the property is required to be in compliance with current requirements, which is why a CUP is required for the proposed use.

The applicants originally intended to operate an industrial service business to repair large diesel trucks and similar equipment. However, this is not a permitted land use as per the Land Use/Zoning Table of Chapter 7 of the Fruita Land Use Code. The applicants revised their project narrative and CUP application for auto and light truck repair which is permitted by the current Land Use Code with approval of a CUP.

Surrounding Land Uses and Zoning:

The properties surrounding 810 Grand Avenue are zoned DMU and contain a wide variety of land uses including residential, commercial and industrial uses. In close proximity to the north and east are properties zoned Community Residential (CR) containing mostly single family residential houses. The properties zoned Community Services and Recreation (CSR) to the southeast contain the City's Public Works Department buildings and operations.



2015 AERIAL PHOTOGRAPH



Review of Applicable Land Use Code Requirements:

According to the Land Use Code, the purpose of the DMU zone is to maintain and enhance downtown as a vibrant, pedestrian-oriented commercial and residential area and as the civic heart of the community. Mixed use development, such as commercial on the ground floor and residential above the ground floor is encouraged within this zone.

According to Land Use and Zoning Table of the Code, the proposed auto and light truck mechanical repair shop is permitted in the DMU zone with the approval of a CUP. A conditional use is defined 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 Code, of the impact upon neighboring land, and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

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

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

The proposed use can be consistent with the provisions and purposes of the Land Use Code and the DMU zone if the business is operated in compliance with all city requirements. The Land Use Code is one of the primary documents used to implement the city's Master Plan. As required by Section 17.07.070.P of the Land Use Code, repair, painting, body work, and similar activities, including storage of refuse and vehicle parts, must take place in an enclosed structure (surrounded by walls and a roof). Storage of employee and customer vehicles can be outside, but all other storage must be inside the building.

The existing building and site design do not meet the current design standards of the Land Use Code including building architecture, landscaping, paved parking, and others. For non-conforming site design situations such as this, Staff recommends small steps towards compliance.

Although the building has been in existence for over 30 years, this area of the city has a strong residential component that struggles with the legacy of industrial zoning that was in place during a short period in the late 1970s. This industrial zoning resulted in this and several other unattractive industrial style buildings and land uses that are typically incompatible with residential land uses. The design standards of Chapter 11 and other sections of the Land Use Code seek to remedy these and other concerns. To comply with the intent of the Land Use Code, the following should be brought into compliance with the current Code.

Any remodeling of the building must comply with the current requirements. Exterior remodels should include screening the HVAC equipment from view and additional architectural details provided on the building (windows or awnings for example). In lieu of architectural details, additional landscaping can be provided in front of the building. Interior remodels must meet the requirements of the Building Code. Staff is unaware of any planned exterior or interior remodels; however, in order to accommodate indoor operations for this automobile and light truck repair business, it appears that some sort of venting system will be required.

New outdoor lighting must meet the intent of the Code to reduce light pollution and glare. If a dumpster or other outdoor trash containers are to be used, they

must be located towards the rear of the property and must be screened from view from the public right-of-way.

Parking areas are required to be paved and this should be accomplished within two years of approval of the CUP. For retail sales and service operations, the Code requires one car parking space for each 1,000 square feet of floor area. This equates to three car parking spaces (including a handicap accessible space) and at least one bicycle parking space for the entire building. Parking areas for client vehicles must be graveled or otherwise treated to avoid blowing dust, erosion, and tracking debris onto the public sidewalk and road.

If all requirements of the Land Use Code are met, including issues identified in this Staff Report, this criterion can be met.

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.

The Land Use Code requires a CUP for auto and light truck mechanical repair in the DMU zone due to concerns with compatibility. The subject property is in an area with a wide mix of residential and non-residential land uses. A vehicle repair shop that has been in continuous operation for over 40 years is located directly west of the subject property. An assembly business and a sheet metal fabrication business are located directly to the east. To the south is a storage business and a junk yard. Across the street to the north is a vacant lot and a building used for batting cages and a real estate business. Single family residential uses are located on the nearby to the north, east and west.

If the proposed auto and light truck repair shop business is conducted in compliance with all city requirements, the proposed use should not have a disproportionate or severe impact on the other uses in the area. This criterion can be met.

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

As long as the building codes and other city requirements are met (many of which are identified in this Staff Report), the proposed auto and light truck mechanical repair shop should not materially endanger the public health and safety. This criterion can be met.

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

All necessary services and facilities are available and adequate to serve the proposed use. This criterion has been met.

Based on this information, the approval criteria that must be considered for CUPs can be met if the business is operated in compliance with all city regulations.

Review Comments:

All review comments received are included with this Staff Report. No reviewer has a significant concern regarding this proposed conditional use.

Public Comments:

No written public comments have been received regarding this application.

Staff Recommendation:

Staff recommends approval of the proposed Wicked Wrench Conditional Use Permit for automobile and light truck mechanical repair with the condition that all review comments and issues identified in the Staff Report be adequately resolved within three months of the date of City Council approval of this Conditional Use Permit.

Fruita Planning Commission: (September 13, 2016)

Fruita City Council: (October 4, 2016)



LAND DEVELOPMENT APPLICATION

Project Name: Wicked Wrench
 Project Location: 810 Grand Ave.
 Current Zoning District: DMU Requested Zone: N/A
 Tax Parcel Number(s): _____ Number of Acres: Less than 1
 Project Type: Conditional Use

Property Owner: O'Shane Wilson Developer: N/A
 Property Owner: _____ Contact: _____
 Address: 2918 E Hwy 40 Address: _____
 City/State/Zip: Craig, CO 81625 City/State/Zip: _____
 Phone: 970-216-3408 Fax: _____ Phone: _____ Fax: _____
 E-mail: oshane.wilson@gmail.com E-mail: _____

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

Owner Rep: Brad Green Engineer: _____
 Contact: _____ Contact: _____
 Address: 924 23 Road Address: _____
 City/State/Zip: Grand Jct, CO 81505 City/State/Zip: _____
 Phone: 970-466-2333 Fax: _____ Phone: _____ Fax: _____
 E-mail: _____ E-mail: _____

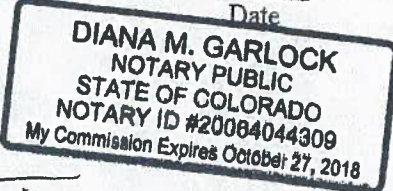
This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.

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

O'SHANE Wilson O'Shane Wilson 6-1-16
 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

STATE OF COLORADO)
Moffatt ss.
 COUNTY OF MESA)



The foregoing instrument was acknowledged before me this 1st day of June, 20 16

My Commission expires: 10/27/18

 Notary Public

Wicked Wrench Diesel and Auto Repair Shop

810 Grand Ave.

Fruita, CO 81521

Project Narrative:

Wicked Wrench Diesel and Auto Repair Shop is a business that will do auto, pick up and semi repairs from bumper to bumper. Our main focus is diesel engines. This includes but not limited to oil change, brakes, bearings, transmissions, drive line repair, and motor over hauls.

The building is 2,700 square feet, consisting of 3 work bays. The business also includes outside parking and storage area of ½ acre. All repairs will be done inside the shop. The vehicles waiting to be worked on will be stored inside the fenced in area.

The neighboring business are: To the West is Pickies Garage, which does auto repair. Across the street to the East is Adesco Oil, which does engine work and repair in their shop. Behind and South West is Modern Auto Junk Yard. To the South is a storage yard. Wicked Wrench Diesel and Auto Repair will have the same impact on the area as these businesses.

The utilities are all pre-existing and in place. We will not have any unusual demands on Fruita Utilities.

We also will not have any abnormal demands on police, fire, sanitation, roads, parks or schools.

All Waste oil and antifreeze will be disposed of with Tristate Lube. This is the same company our neighboring business of Pickies Garage uses for their disposal.

Wicked Wrench Diesel and Auto Repair Shop proposes to continue business in the manor of which the special use permit was issued and do business in a safe, reliable fashion to provide for the needs of the community. We will in no way endanger the public health and safety of the city of Fruita. We will safely and properly dispose of waste oil and antifreeze.

Thank you,

Brad Green



Dillon Green



Wicked Wrench Diesel and Auto Repair Shop

810 E Grand Ave.

Fruita, CO 81521

NEW

Project Narrative:

Wicked Wrench Diesel and Auto Repair Shop is a business that will do auto, and pickup repair from bumper to bumper. This includes but not limited to oil changes, brakes, bearings, transmission, driveline repairs and engine over hauls on cars and pickups.

The building is 2,700 square feet, consisting of 3 work bays. The business also includes outside parking and storage of ½ acre. All repairs will be done inside the shop. The vehicles waiting to be worked on will be stored inside the fenced area.

The neighboring businesses are: To the West is Pickies Garage, witch does auto repair. Across the street to the east is Adesco Oil, which does engine work and repair in their shop. Behind and South West is Modern Auto Junk Yard. To the South is a storage yard. Wicked Wrench Diesel and Auto will have the same impact on the area as these Businesses.

The utilities are all pre-existing and in place. We will not have any unusual demands on Fruita Utilities.

We also will not have any abnormal demands on police, fire, sanitation, roads, parks or schools.

All waste oil and antifreeze will be disposed of with Tristate Lube. This is the same company our neighboring business Pickies Garage uses for there disposal.

Wicked Wrench Diesel and Auto Repair Shop proposes to continue business in the manor of which the Special use permit was issued and do business in a safe, reliable fashion to provide for the needs of the community. We will in no way endanger the public health and safety of the city of Fruita. We will safely and properly dispose of waste oil and antifreeze.

We will strive to be an asset to the Fruita community!

Thank You,

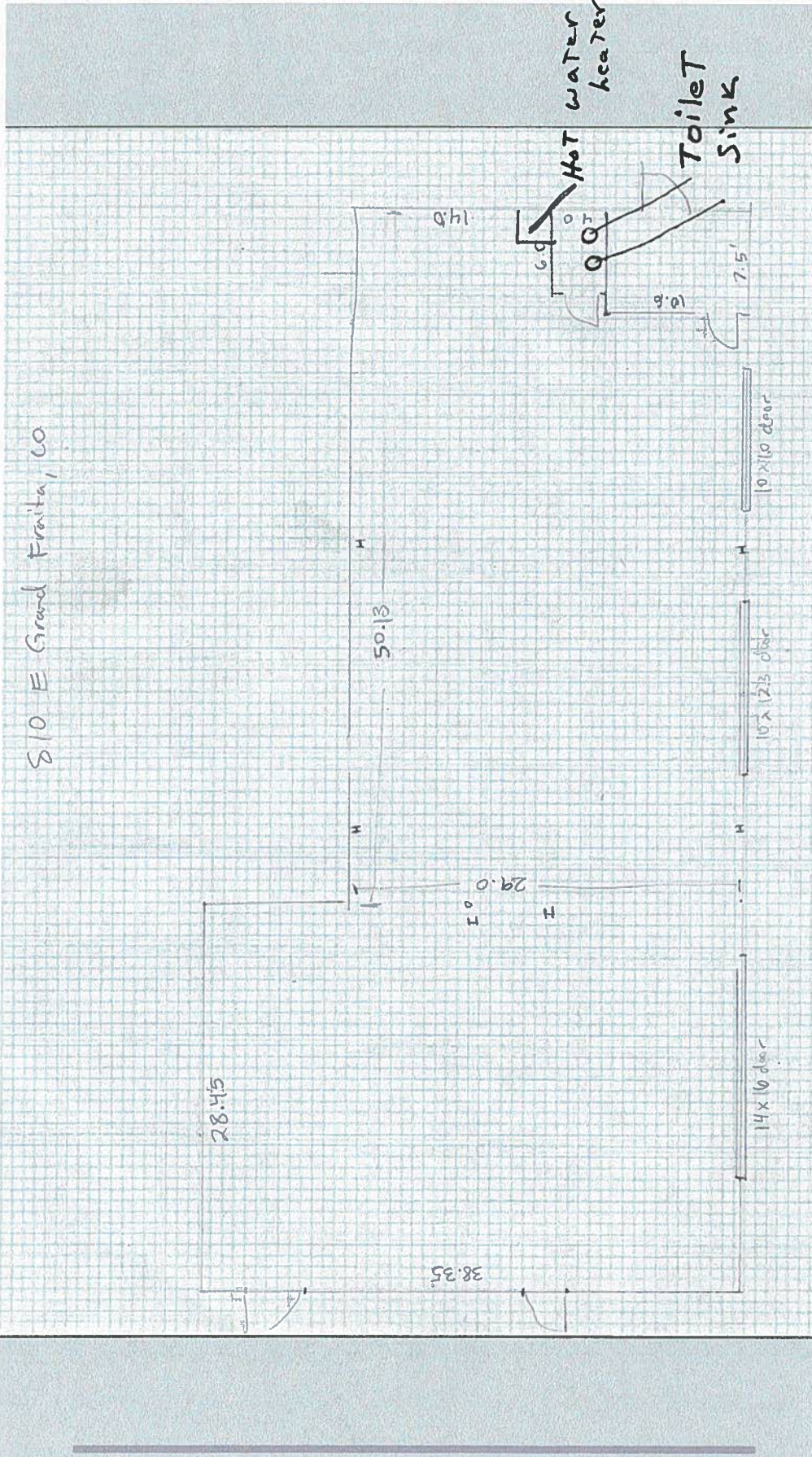
Brad Green

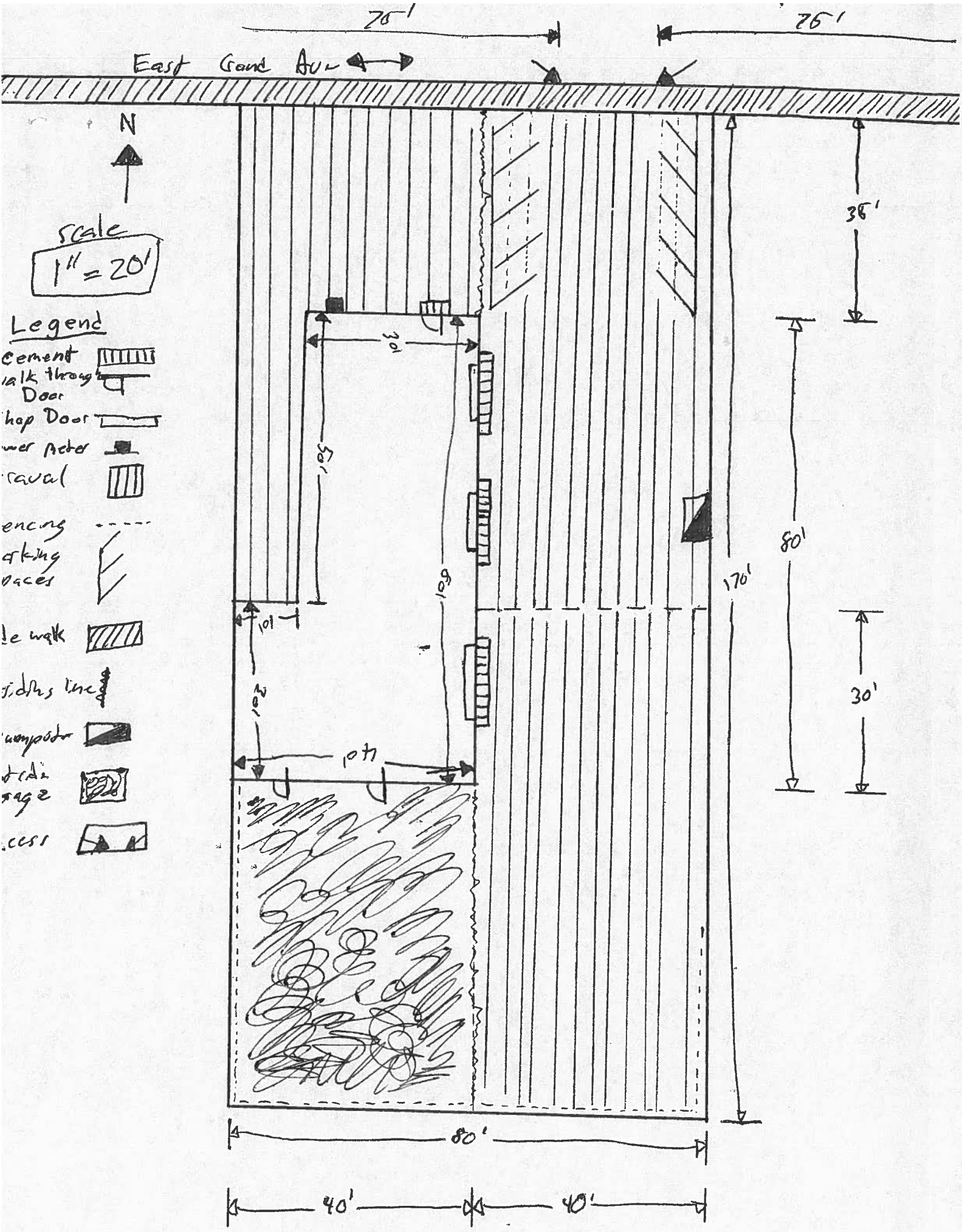


Dillon Green



Plumbing Plan



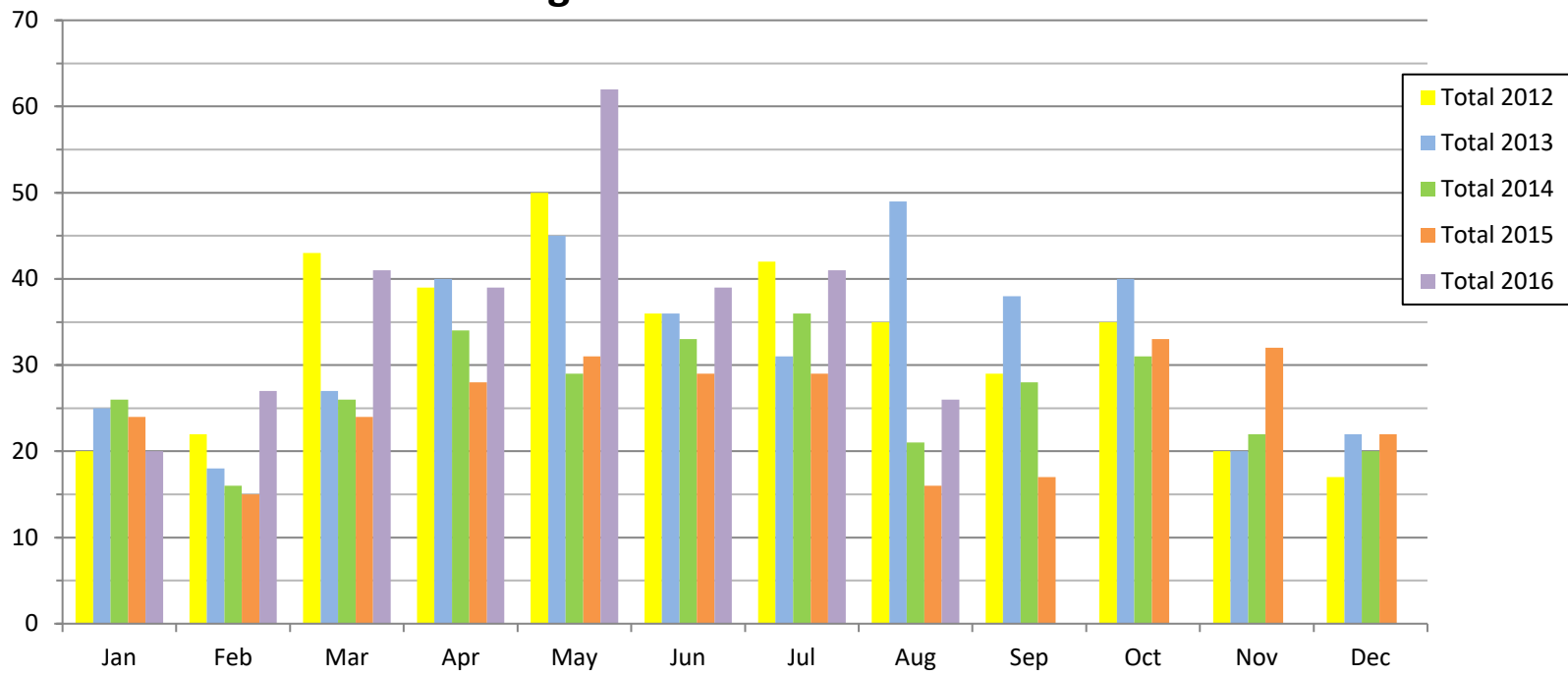


MONTHLY DEVELOPMENT REPORT 2016

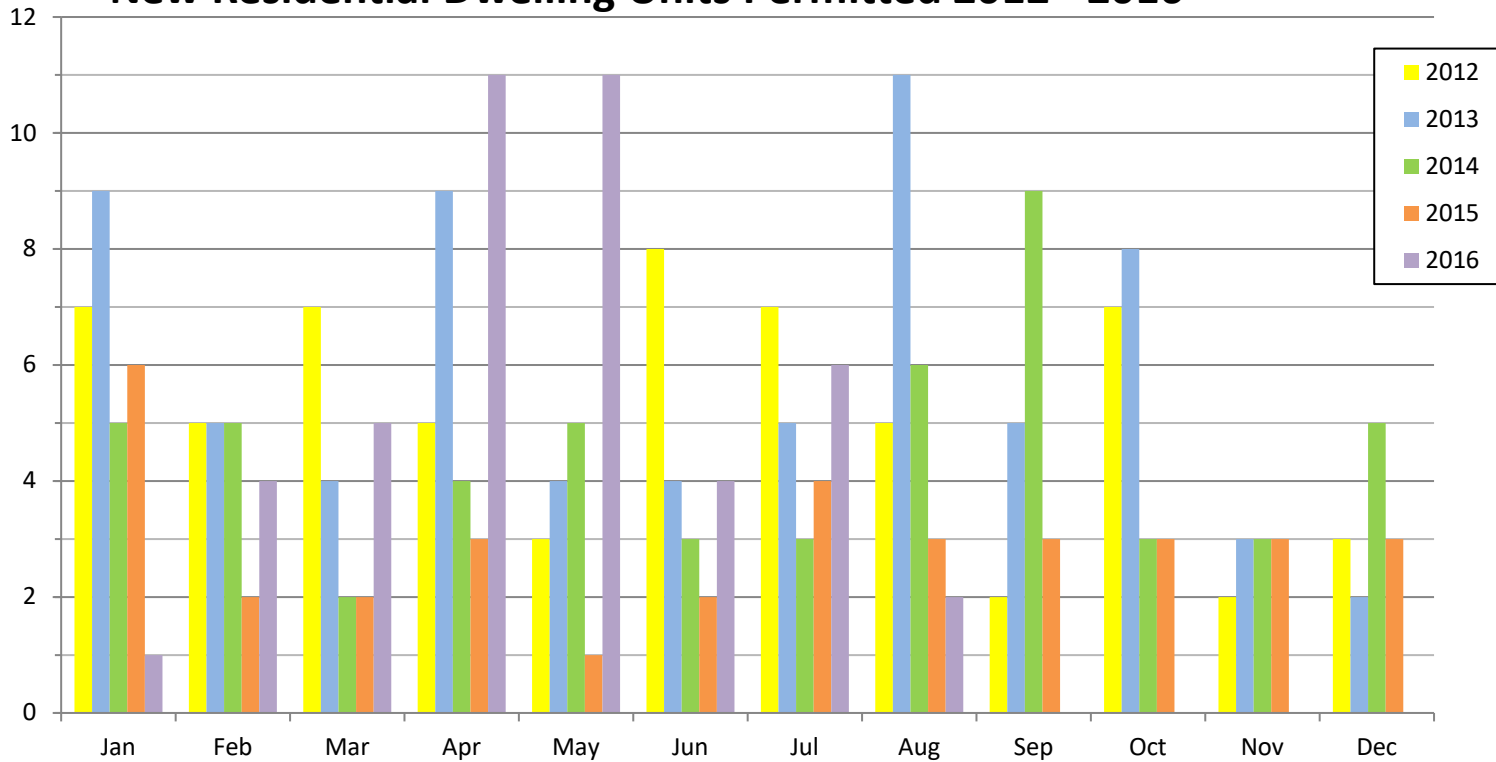
RESIDENTIAL D/U's PERMITTED AND TOTAL PERMITS ISSUED

	Total 2010	RES 2010	Total 2011	RES 2011	Total 2012	RES 2012	Total 2013	RES 2013	Total 2014	RES 2014	Total 2015	RES 2015	Total 2016	RES 2016	RES AVER
Jan	16	10	16	2	20	7	25	9	26	5	24	6	20	1	6
Feb	16	5	17	7	22	5	18	5	16	5	15	2	27	4	5
Mar	38	2	41	13	43	7	27	4	26	2	24	2	41	5	5
Apr	45	19	29	3	39	5	40	9	34	4	28	3	39	11	8
May	41	6	28	3	50	3	45	4	29	5	31	1	62	11	5
Jun	36	5	30	0	36	8	36	4	33	3	29	2	39	4	4
Jul	29	9	21	3	42	7	31	5	36	3	29	4	41	6	5
Aug	27	4	16	3	35	5	49	11	21	6	16	3	26	2	5
Sep	23	2	22	5	29	2	38	5	28	9	17	3			4
Oct	33	5	35	6	35	7	40	8	31	3	33	3			5
Nov	26	4	22	1	20	2	20	3	22	3	32	3			2
Dec	19	3	17	0	17	3	22	2	20	5	22	3			2
	349	74	294	46	388	61	391	69	322	53	300	35	295	44	55

Total Planning Clearances Issued 2012 - 2016



New Residential Dwelling Units Permitted 2012 - 2016



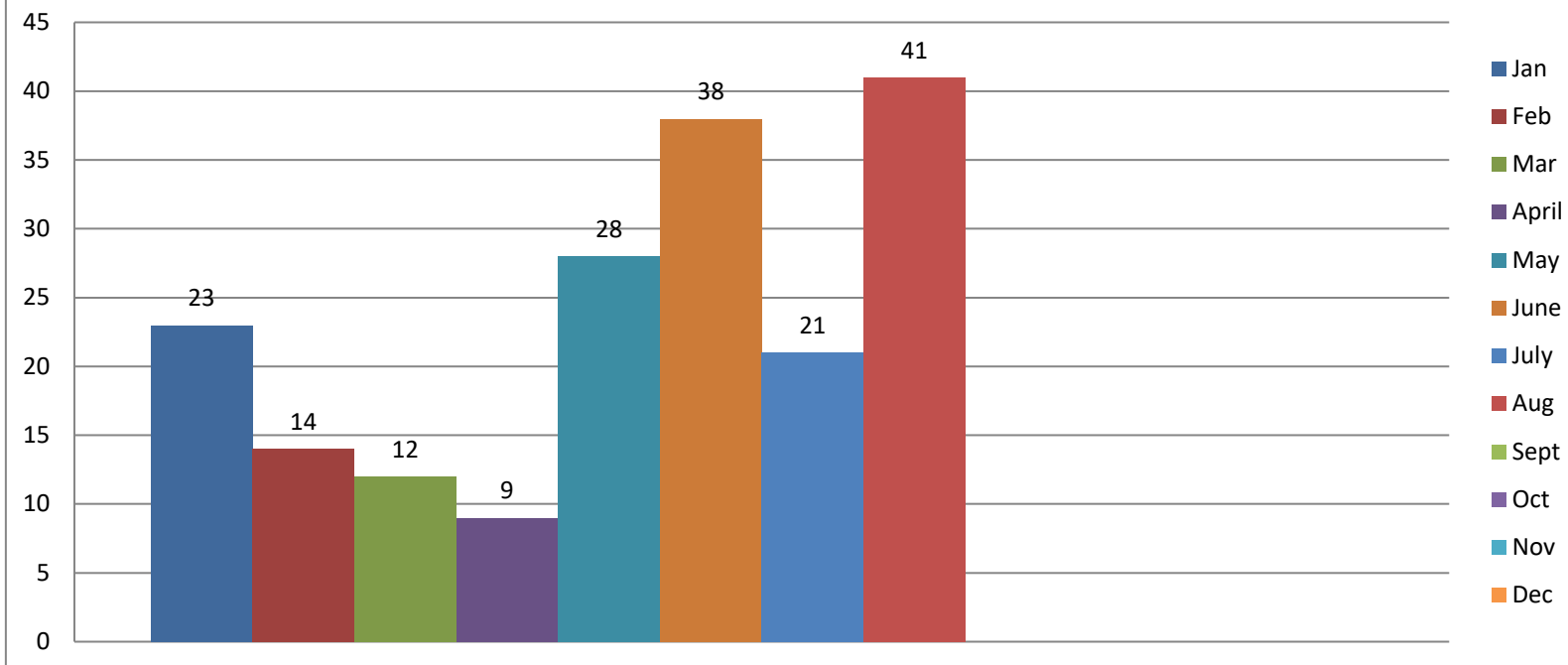
Break Down of other Development Permits Issued 2016

	Fence	Com	Remodel	Res Remodel	Upgrade	Roof	ge/C arpo	Addtn	Sign	Shed	Demo	Mobile	Porch/Patio	Misc.	Total
Jan	3	0	2	2	5	1	1	0	2	0	0	0	0	4	20
Feb	1	0	2	2	7	2	0	0	3	2	0	0	1	7	27
Mar	11	0	1	3	5	3	1	1	3	6	0	0	1	6	41
April	10	1	0	0	4	2	0	1	2	3	0	1	0	15	39
May	6	0	3	3	6	15	0	0	4	5	0	0	3	17	62
June	6	0	2	1	9	3	0	1	3	2	1	0	1	10	39
July	10	0	2	2	3	4	0	0	3	2	2	0	2	11	41
Aug	5	0	0	0	6	5	0	0	2	2	0	0	0	6	26
Sept															0
Oct															0
Nov															0
Dec															0
YTD	52	1	12	13	45	35	2	3	22	22	3	1	6	76	295

Break Down of New Code Enforcement Issues 2016

	Weeds	Trash	Junk Vehicles	Permits	Business	Snow	Obstructions	Trailer	Signs	Tires	Trees	Appliances	Other	Total
Jan	0	0	0	0	7	12	0	1	1	0	0	0	2	23
Feb	2	0	0	2	0	6	0	0	0	0	1	0	3	14
Mar	1	2	1	1	2	0	0	1	1	0	0	0	3	12
April	1	1	1	0	2	0	0	0	0	0	1	0	3	9
May	10	4	2	0	1	0	1	2	3	0	2	0	3	28
June	20	3	0	1	1	0	1	2	2	0	5	0	3	38
July	13	1	0	1	0	0	1	1	0	0	4	0	0	21
Aug	25	4	0	0	0	0	5	1	1	1	2	0	2	41
Sept														0
Oct														0
Nov														0
Dec														0
YTD	72	15	4	5	13	18	8	8	8	1	15	0	19	186

Breakdown of New Code Enforcement Issues 2016





MONTHLY REPORT

FRUITA COMMUNITY DEVELOPMENT ACTIVITIES

SEPTEMBER 2016

SEPTEMBER 2016

PLANNING COMMISSION:

Application #: 2016-21
Application Name: Mudd VRBO
Application Type: Conditional Use Permit
Representative: Louis and Catharine Mudd
Property Owner: Louis Mudd
Location: 126 S. Maple 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.

Application #: 2016-20
Project Name: Wicked Wrench
Application: Conditional Use Permit
Property Owner: O'Shane Wilson
Representative: Brad Green
Location: 810 Grand Avenue
Zone: Downtown Mixed Use (DMU)
Request: This is a request for approval of a Conditional Use Permit for a automobile and light truck mechanical repair shop in a Downtown Mixed Use zone.

AUGUST 2016

PLANNING COMMISSION:

Application #: 2016-18
Applicant: Brian Young
Application Name: Orchard House
Application Type: Conditional Use Permit
Location: 164 N. Orchard Avenue
Zone: Community Residential
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Application #: 2016-23
Application Name: Sign Code Amendment
Application Type: Land Use Code Amendment
Applicant: City of Fruita
Description: A request to amend Chapter 41 of the Fruita Land Use Code regarding Signs.

Application #: 2016-19
Application Name: US Tractor
Application Type: Site Design Review
Applicant: Nick Nipple
Location: 1984 Highway 6 & 50
Zone: General Commercial
Description: This is a request for approval of a Site Design Review application for retail sales and service of agricultural equipment along with a request for Adjustments of the Design Standards of Chapter 11 of the Fruita Land Use Code.

Application #: 2016-11
Applicant: Travis and Ellen Robinson
Application Name: Robinson Rental
Application Type: Conditional Use Permit

Location: 1424 Niblick Way
Zone: Adobe Falls PUD
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in this PUD zone.

Application #: 2016-17
Applicant: Danny Gene Mitchell Jr.
Application Name: Mineral House
Application Type: Conditional Use Permit
Location: 626 Mineral Court
Zone: Community Residential
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

RECENT SUBMITTALS:

October 11, 2016 Planning Commission meeting:

- None

*Check out www.fruita.org/cd for more details and to see what is going on in the Planning Department.