### CITY COUNCIL REGULAR MEETING

Fruita Civic Center Tuesday, January 16, 2024 at 7:00 PM

### **AGENDA**

The link to join the join the meeting electronically will be posted prior to the meeting at <a href="https://www.fruita.org/citycouncil/page/council-meeting-information">https://www.fruita.org/citycouncil/page/council-meeting-information</a>. You may also contact the City of Fruita at (970) 858-3663 for information to connect to the meeting.

This agenda is for informational purposes only and items may be added or deleted at the discretion of the City Council. An executive session may be requested for any item appearing on the agenda.

- 1. CALL TO ORDER AND ROLL CALL
- 2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
- 3. AGENDA ADOPT/AMEND

### 4. PROCLAMATIONS AND PRESENTATIONS

- A. PROCLAMATION Proclaiming January 2024 as "National Crime Stoppers Month" in the City of Fruita to be accepted by Kathy Daniels and other board members of Crime Stoppers of Mesa County
- <u>B.</u> PRESENTATION The Fruita Arts and Culture Board will give a presentation regarding the Reed Park merry-go-round art
- C. PRESENTATION Recognition of four individuals whose actions saved the life of a patron at the Fruita Community Center

### 5. PUBLIC PARTICIPATION

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

### 6. CONSENT AGENDA

These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. These items will be approved by a single motion of the Council. Members of the Council may ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section

for full discussion. Any item that is removed from the consent agenda will be placed at the end of the regular agenda.

- A. MINUTES A request to approve the minutes of the October 24, 2023 City Council Workshop Meeting
- <u>B.</u> LIQUOR LICENSE RENEWAL A request to approve the renewal of a Fermented Malt Beverage (FMB) and Wine Retail Liquor License (Off-Premises) for CF Altitude, LLC dba Alta #6317 located at 555 W. Raptor Road
- C. LIQUOR LICENSE RENEWAL A request to approve the renewal of a Hotel and Restaurant malt, vinous and spirituous liquor license for El Tapatio located at 402 Jurassic Ave
- LIQUOR LICENSE RENEWAL A request to approve the renewal of a Hotel and Restaurant malt, vinous and spirituous liquor license for Strayhorn Grill located at 456 Kokopelli Blvd., Unit 10
- E. LIQUOR LICENSE RENEWAL A request to approve the renewal of a Brew Pub Liquor License Malt, Vinous and Spirituous (City) for Suds Brothers Brewery located at 127 E. Aspen Ave.
- E. LIQUOR LICENSE RENEWAL A request to approve the renewal of an Optional Premises Malt, Vinous and Spirituous Liquor License for Imondi Wake Zone, LLC dba Imondi Wake Zone located at 1583 Cipolla Rd.
- G. BOARDS AND COMMISSIONS APPOINTMENT A request to approve the appointment of Justice Sweet Baker to the Arts and Culture Board to fulfill an unexpired term plus an additional three-year term to expire in July of 2027
- <u>H.</u> TRASH COLLECTION SERVICES CONTRACT A Request to Approve the First Amendment to the Contract between the City of Fruita and Waste Management for Trash and Recycling Services and Authorizing the Mayor to Execute and Sign the Amendment.
- <u>I.</u> ANNUAL REVIEW OF RED FLAG POLICY (Identity Theft Prevention Program)
- J. RESOLUTION 2024-01 Designating the Place for Posting of Notices of Meetings of the Fruita City Council and all Boards and Commissions of the City of Fruita
- K. CITY MANAGER EMPLOYMENT AGREEMENT A request to approve the amended and restated City Manager Contract for 2024
- L. ORDINANCE 2024-04 1ST Reading Introduction of an Ordinance amending Chapters 2.41 and 2.42 of the Fruita Municipal Code to eliminate voting rights for Council members appointed to the Police and Parks and Recreation Commissions, and excluding them from quorum calculations. Public hearing set for February 20, 2024
- M. ORDINANCE 2024-05 1ST Reading Introduction of an Ordinance amending Section 3.18.240 of the Fruita Municipal Code concerning membership requirements for the Tourism Advisory Council for public hearing set for February 20, 2024

- N. ORDINANCE 2024-06, FIRST READING, An introduction of an Ordinance amending the Official Zoning Map of the City of Fruita by zoning approximately 14.52 acres of property located 1873 K Road to a Community Residential zone for publication of public hearing on February 6, 2024 (1873 K Road Rezone)
- O. ASSOCIATE MUNICIPAL COURT JUDGE ONE-YEAR CONTRACT RENEWAL A request to approve a one-year Personal Service Agreement with Greg Mueller as Associate Municipal Court Judge for the City of Fruita
- P. NOTICE OF AWARD A Notice of Award to Merge 2 Media for clothing and merchandise needs for the 2024 Sweetheart Run
- Q. FINANCIAL REPORTS A request to approve the Preliminary December 2024 Financial Reports

## 7. ACKNOWLEDGMENT OF NEW APPOINTED BOARDS AND COMMISSIONS MEMBERS

### 8. PUBLIC HEARINGS

Public hearings are held to obtain input from the public on various items. Public hearings are either Legislative in nature or Quasi-Judicial in nature. Public Input is limited to 3 minutes per person. People speaking should step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made. Each is described as follows:

LEGISLATIVE – Legislative public hearings are held when the City Council is considering an item that establishes legislation such as an ordinance amending or establishing laws of the city. Interactions by members of the public with the City Council or individual members is permissible on items of a legislative nature.

ORDINANCES - After introduction of an Ordinance (First Reading), a public hearing date is set and notice of the hearing is published in the newspaper. Staff presents the ordinance on Second Reading and the hearing is opened to the public for public input. After comments from the public, the Mayor will close the hearing and bring the Ordinance back to the City Council for discussion and potential action. The Council will make a motion to approve the Ordinance or take no action. In the event the ordinance is approved, it will become effective 30 days after adoption.

QUASI-JUDICIAL – Quasi-judicial public hearings are held when the City Council is acting in a judicial or judge like manner and a person with a legitimate interest is entitled to an impartial decision made on the basis of information presented and laws in effect. Quasi-judicial hearings are commonly held for land use hearings and liquor license hearings. Since the City Council is acting in a fair and impartial manner, it is NOT permissible for City Council members to have any ex-parte communication (contact between the applicant, members of the public, or among other members of the City Council) outside of the Public Hearings and meetings on the subject application. The City Council must limit its consideration to matters which are placed into evidence and are part of the public record. Quasi-judicial hearings are held in the following manner:

- 1. Staff presentation Staff will present the comments and reports received from review agencies and offer a recommendation.
- 2. Applicant Presentation The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.
- 3. Public Input (limit of 3 minutes per person) Speakers must step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.
- 4. The public hearing is closed to public comments.
- 5. Questions from the Council. After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.

- 6. Make a motion. A member of the City Council will make a motion on the issue.
- 7. Discussion on the motion. The City Council may discuss the motion.
- 8. Vote. The City Council will then vote on the motion.

### A. QUASI-JUDICIAL HEARINGS

- 1) NEW LIQUOR LICENSE APPLICATION A request to approve a new Hotel and Restaurant Malt, Vinous and Spirituous Liquor License for Hot Tomato Pizzeria, LLC dba Hot Tomato Pizzeria located at 124 N. Mulberry Street (Deputy City Clerk Deb Woods
- 2) SITE DESIGN REVIEW A request to approve a Planned Unit Development (PUD) Site Design Review application for Wildcat Residences (City Planner Henry Hemphill)
- 3) RESOLUTION 2024-02, A Resolution of the Fruita City Council finding approximately 14.52 acres of property located at 1873 K Road eligible to be annexed into the City of Fruita (1873 K Road Annexation) (City Planner Henry Hemphill)

#### **B. LEGISLATIVE HEARINGS**

- 1) ORDINANCE 2024-03, SECOND READING, An Ordinance annexing approximately 14.52 acres of property located at 1873 K Road into the City of Fruita (1873 K Road Annexation) (City Planner Henry Hemphill)
- 2) ORDINANCE 2024-02 Second Reading Approving a long-term lease with Capital Business Systems, Inc. for a copier system and related services at the Fruita Police Department *Dave Krouse, Chief of Police*
- 3) ORDINANCE 2024-01 An Ordinance Amending Section 2.10.040 of the Fruita Municipal Code Regarding City Council Compensation. *Shannon Vassen, Assistant City Manager*.

#### 8. ADMINISTRATIVE AGENDA

### 9. CITY MANAGER'S REPORT

### 10. COUNCIL REPORTS AND ACTIONS

### 11. ADJOURN

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact the City Clerk's Office at 970-858-3663 within 48 hours prior to the meeting in order to request such assistance.

# Proclamation National Crime Stoppers Month January 2024

Whereas, crime is a menace to our society. It tears apart lives and causes feelings of fear, anger, and helplessness. As caring citizens, we are obligated to do everything in our power to ensure that our communities are not victimized by criminals; and

Whereas, the Crime Stoppers of Mesa County program has empowered the citizens of Mesa County to take a stand against crime. This program brings together citizens, law enforcement, the media, businesses, and educational institutions to combat crime and make our communities safer; and

Whereas, combining media awareness, cash rewards, an anonymous phone tip line and P3 tips app for citizens to contact, Crime Stoppers of Mesa County has created an effective method for solving crimes and helping citizens take back control over their neighborhoods; and

Whereas, the award-winning, nationally recognized Crime Stoppers of Mesa County has been particularly effective and since 1983 has received over 22,600 tips, which have led to 1,856 arrests and the recovery of over 9 million two hundred thousand dollars in drugs and property. Anonymous Crime Stopper callers have been rewarded \$316,000 for their valuable information; and

Whereas, Crime Stoppers of Mesa County has forged strong working relationships with all area law enforcement agencies, including Colorado State Patrol, Fruita Police Department, Grand Junction Police Department, Mesa County Sheriff's Office, Mesa County District Attorney's Office, and the Palisade Police Department; and

Whereas, Crime Stoppers of Mesa County is working to increase awareness of community safety issues and crime prevention efforts, while also giving back to our community by offering grants to various organizations, partnership with Colorado Mesa University and scholarships to Law Enforcement graduates.

*Now, Therefore*, in official recognition, we the undersigned do hereby proclaim January 2024 as National Crime Stoppers Month in the City of Fruita and call on all citizens to increase their participation in our effort to prevent crime, thereby strengthening the communities in which we live.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the official seal of the City of Fruita this 16th day of January, 2024.

Joel Kincaid, Mayor of the City of Fruita



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARC MANCUSO, PARKS AND RECREATION DIRECTOR

CARLEE BURNETT – FRUITA ARTS AND CULTURE BOARD

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** PRESENTATION – The Fruita Arts and Culture Board will give a presentation

regarding the Reed Park merry-go-round art

### **PURPOSE**

The Arts and Culture Board would like to share the Reed Park Merry-go-round art concept and artists that were selected through an evaluation process at the December meeting.

Through the RFQ process, the City was looking to select an artist or artist team to create original artwork for Reed Park utilizing the existing Merry-Go-Round that was no longer functional. We asked that the artist or artist team should be experienced in working on projects of similar scale. The artwork must be made of durable, permanent, media that is safe and requires little to no maintenance. The artwork shall exhibit lasting qualities that are not trendy or subject to change within a short period of time.

There were submissions from three local artists presenting different ideas on how to use the Merry-goround as art. One artist submitted 8 different concepts, while the other two artists submitted one concept each. The board evaluated each of the concepts and scored them based on quality, durability, safety, does the sculpture enhance the public's experience, and will the sculpture have continued appeal throughout the year. Pavia Justinian and Shanachie Carroll's concept of turning the merry-go-round into Adirondack-style chairs was selected by the board. The artists envision this to be functional art as a place where adults, kids, and kids-at-heart can gather comfortably around a table together and experience community.

The Arts & Culture Board is an advisory board to the City Council and recommends to the City Council that City staff contract with the selected artists to complete this project.

### FISCAL IMPACT

The cost to create this functional art out of the existing Merry-go-round is \$15,000 and is budgeted in the 2024 annual budget within the Reed Park project budget.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

This process is applicable to the City's goals of Quality of Place and Lifestyle. This project will provide another venue for community members to gather and view art. The City values a diversity of cultural and recreational opportunities.

### RECOMMENDATION

It is the Arts & Culture Board's and City Staff's recommendation that the City Council support the Arts and Culture boards selection and to move forward with the Merry-go-round art presented by Pavia Justinian and Shanachie Carroll.

### Visual Concept:

Adirondack-style chair with armrests and legs made from the handlebars.





### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARC MANCUSO, PARKS AND RECREATION DIRECTOR

LOWER VALLEY FIRE PROTECTION DISTRICT FIRE CHIEF FRANK

**CAVALIERE** 

COLORADO MESA UNIVERSITY VICE PRESIDENT OF COMMUNITY

COLLEGE AFFAIRS BRIGITTE SUNDERMANN

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** Recognition of four individuals whose actions saved the life of a patron at the

Fruita Community Center.

### **PURPOSE**

There are countless stories of ordinary people who do extraordinary things to save the life of an individual in times of crisis. The City of Fruita would like to recognize four individuals whose quick thinking and actions saved the life of one of our patrons at the Fruita Community Center.

At approximately 5:35 PM on December 18th, a patron approached the front desk and asked us to call 911 because another patron had collapsed on the east basketball court while playing a pickup game with friends. Hannah Bihr, Program Supervisor, and Susan Bissonette, Aquatics Coordinator, were behind the front desk when receiving this information and ran to the scene where they were met by three members of the Aquatics Lifeguarding staff, Jeremy Heer, Trevor Heer, and Leyton Pinedo. Hannah called 911, while Susan and the three other lifeguards began rendering care. On arrival the patron was unconscious and not breathing. Leyton and Susan checked for a pulse and determined that he did not have a pulse and immediately began CPR and rescue breathing. Susan turned the AED on and attached the pads, Jeremy and Trevor began rescue breathing, and Leyton began chest compressions. The AED delivered a shock, they continued CPR for about two minutes, the AED shocked again, and staff continued with CPR. EMS arrived on scene at 5:41 PM, at which time they found a pulse and took over care. The patient was then transported to St. Mary's Hospital.

Doctors explained to the family that without these actions and quick response, this individual would not be with us today. They performed lifesaving measures that saved this individual's life reviving him before EMS arrived on scene. Their selfless actions and quick response exemplify how individuals can rise to the occasion and make a profound difference in critical situations. Their selfless actions, quick response, and courage have not gone unnoticed, and their actions serve as an inspiration to us all.

In this moment of crisis, the Fruita Community Center Staff were able to quickly act with their training, care, concern, teamwork, and professionalism to save the life of Jace Hinton. We are deeply honored to have these individuals in attendance tonight so they may be recognized for their heroic actions.

Colorado Mesa University President, John Marshall, has recorded a short video message to recognize the heroic efforts that took place on December 18. Colorado Mesa Vice President of Community College Affairs, Brigitte Sundermann, will be presenting the Where We Become Mavericks Courage Award to the Colorado Mesa Student who received EMT skills and training while attending Colorado Mesa University.

### Section 6, Item A.

### FRUITA CITY COUNCIL WORKSHOP OCTOBER 24, 2023 6:30 P.M.

#### CALL TO ORDER AND ROLL CALL

The workshop of the Fruita City Council was called to order at 6:30 p.m. by Mayor Joel Kincaid. City Council members present were Councilors Jeannine Purser, James Williams, Amy Miller and Aaron Hancey. Mayor Pro Tem Matthew Breman and City Councilor Ken Kreie were excused absent.

City Staff present were City Manager Mike Bennett, Assistant City Manager Shannon Vassen and Deputy City Clerk Deb Woods.

### **AGENDA ITEMS**

## 1. WATERWORTH CONTINUOUS UTILITY RATE MANAGEMENT AND FORECASTING SYSTEM (6:30 – 7:15 PM)

Water Rate Consultant Waterworth's Customer Success Manager Calvin Coles gave the City Council a demonstration on Waterworth, which is a continuous utility rate tool that helps staff manage data in the City's wastewater enterprise Sewer Fund to help determine what rate payers need to pay to make sure sewer system revenues will cover expenses.

Waterworth utilizes historical data including operating expenses and debt service to create projections for revenue requirements while making sure the City is inflating sewer costs to the public as conservatively as possible. The City of Fruita has a large debt load with its Wastewater Reclamation Facility and related Capital Improvements, but in 2023, the City had enough revenues to cover expenses.

The Waterworth tool includes a Capital Expansion Plan and shows grant sources in the City's cash position. Revenues have been projected out to 2033 (when the City's debt for the Wastewater Reclamation Facility will be paid off). For Fruita, the cash position target is \$1 million above the cash threshold. According to assumptions in the Waterworth tool, the City's cash will remain above target (beyond debt service requirements). In addition, the City has done well with getting grant funds and will keep looking for grants going forward, which will help take pressure off rate increases.

It has been estimated through the use of Waterworth that a 2.5% annual increase is ideal for the City of Fruita to keep up with inflation and operational expenses. There was discussion about how other municipalities have to make drastic 15% rate adjustments to catch up to where they need to be to remain financially sustainable. The draft 2024 Budget has a 3% sewer rate increase built in for 2024.

There was also discussion about how the City of Fruita has been able to leverage grant funds and complete many Sewer Fund projects. Because Fruita's sewer pipes were installed in the 1970s and 1980s, Waterworth can be used to onboard pipes in asset inventory and the Asset Replacement Schedule.

### 2. DISCUSSION ON THE 2024 PROPOSED BUDGET (7:15 – 9:00 PM)

October 24

Assistant City Manager Shannon Vassen reviewed the following three discussion items with the City Council on the draft 2024 Budget:

- 1. General Discussion
- 1. Outside Agency Funding Requests
- 2. Council Pay and Comparison Review

For the General Discussion, Mr. Vassen stated that staff did not have anything specific planned for discussion, but he would answer questions or take suggestions from the Council. Discussion topics included the following:

### > Having more microevents:

Four microevents are planned for next year. It was noted that the Council previously discussed having some music in town during the winter months on a smaller scale than the Thursday Night Concerts, perhaps at the N. Mulberry St. outdoor space. Councilor Williams explained that the City's cost for the Thursday Night Concerts is \$1,500 per night, but a smaller event would probably run \$750. The Council decided to start with one wintertime concert by a local band and Mr. Vassen confirmed that there is money the draft 2024 Budget for a November/December concert. There was discussion about tasking the new "Localism" Board with organizing it.

Mayor Kincaid wanted to know how the City is doing with its tourism efforts. Staff explained that a Communications Intern was working for the City (funded through the Mesa County Workforce Center and the Parks and Recreation Budget). The City will see new salary expenses in the Budget for the intern.

Councilor Purser said she would like to see a couple more movie nights in the fall. There was discussion about how a set schedule that would be easy for people to remember would make sense and that a Friday or Saturday night would be best for school-age kids. Another idea was having a street dance with a DJ.

City Manager Mike Bennett confirmed that the City could use funds from the Tourism Advisory Council (FTAC) on these additional events for residents.

### **Outside Agency Funding Requests:**

### Fruita Chamber of Commerce:

The funding request of the City (\$30,000) was the same as last year since the Chamber received an increase at that time. Councilor Hancey said he thought the Chamber should be independent of the City and that the City's contribution to them should decrease over time. He added that the Chamber should show accountability and fiscal responsibility because \$30,000 is a lot of money. Mayor Kincaid and Councilors Purser and Williams disagreed, saying that the Chamber is doing a phenomenal job and that the money goes towards all the events the Chamber is responsible for organizing. There was consensus that executing a Memorandum of Understanding (MOU) with the Chamber detailing what is expected of them would clear up any issues Councilor Hancey was wondering about and that it would help with transparency. In addition, there was consensus to continue funding the Chamber at \$30,000 in 2024.

October 24

Discussion was also held about the bid opening for the Reed Park Improvements Project on Friday and in looking at it line item by line item, the bid came in a little high at \$800,000 more than what was in this year's budget. Improvements at the park could be done by July of next year except for the skate park portion, which is 18 months out. The mini-pitch can go in right away. Staff is coordinating with the Fruita Chamber for their Farmers Market. There was discussion about having the Market at Reed Park versus Civic Center Memorial Park. Some believe Reed Park draws away from downtown, but that people spend more time at Reed Park and the vendors do better there. Original estimates for the Reed Park Improvements were at \$1.7 million. \$150,000 – 160,000 has been spent on design and the latest bid came in at \$2.15 million including contingency.

### Grand Valley Pets Alive:

There is a funding request of \$6,000. Discussion was held concerning having the City cover costs at a Fruita veterinarian for spaying/neutering instead of giving vouchers for those services, as was done in the past. Staff will have the City's Animal Control Officer see what the interest and cost would be and Grand Valley Pets Alive would manage it.

### Grand Junction Economic Partnership (GJEP):

GJEP requested \$20,000 in 2024 and was given \$10,000 in this year's (2023) Budget. The Mayor was in favor of the increase and recommended to GJEP that increases be staggered over the next three years because the Executive Director at GJEP has a goal of seeing that funding from outside agencies is increasing over time. The City of Grand Junction and Mesa County carry the majority of GJEP's funding at \$20,000 this year. The Mayor feels that the City of Fruita has been underfunding GJEP, but noted that Fruita will have a higher expectation of GJEP to help the City of Fruita out more. Councilor Breman agreed with the Mayor and said he thought that Palisade's contribution is extremely low.

GJEP shows prospective businesses and existing businesses how to qualify for the Colorado Jump Start program and the City of Fruita has had four or five businesses go through the Jump Start process successfully. There are a couple of other incentive programs GJEP has.

There was consensus to fund GJEP at the amount of \$15,000 in 2024 out of the Economic Development portion of the City's lodging tax.

Mesa County Land Trust: \$9,000, no change.

### City Council and Mayor Compensation:

There was consensus to increase the City Council and Mayor Compensation to the amounts proposed by staff (derived from researching other communities) plus an annual cost of living increase that is the same as what the City does for staff. City Manager Mike Bennett said he needed to check to see if the compensation is tied the Consumer Price Index and added that the increase would have to be implemented through the adoption of an Ordinance.

### **OTHER ITEMS (9:00 PM)**

- ➤ Councilor Hancey requested that if Council members are going to be absent from a meeting, that they let all Council members know in case there might not be a quorum.
- ➤ City Manager Mike Bennett noted that concerning the Special Meeting scheduled for November 13<sup>th</sup> when Council would be discussing moving forward with the offer for Enoch's

Section 6, Item A.

Lake, staff communicated with one of the original three buyers and it was discussed how there would be no requirement to keep the lake open to the public if there was no deed restriction for such. He also stated that the proposal for breaching Reservoir #2 was only good until December, so the Council will need to discuss how to move forward.

> School District #51 will be meeting on December 19<sup>th</sup> to talk about the new Fruita school configuration. Mr. Bennett said it looks like where it's heading is that the Redlands kids will not be coming to Fruita and Appleton kids will be going to Grand Junction. District 51 had two in-person meetings and notices were sent to parents with kids in schools. They also sent an online survey of K-12 Fruita schools and received 55 responses. Mr. Bennett said he told them that's not statistically valid. Mr. Bennett added that the only reason he was bringing it up was because if the Council had concerns, they would need to get those to the District by December 19<sup>th</sup>. There was discussion about how if people understood the actual impact, there would be concerns from everywhere. There was consensus that the Council needed to have further discussion about the school reconfiguration topic soon.

### **ADJOURN**

With no further business before the Council, the meeting adjourned at 8:47 p.m.

Respectfully submitted,

Deb Woods Deputy City Clerk

Section 6, Item B.

APPLICANT ID: 728644

DR 8400 (03/31/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

### **Submit to Local Licensing Authority**

ALTA #6317 8400 EAST PRENTICE AVENUE SUITE 400 Greenwood Village CO 80111

APPLICANT ID. 120044	
Fees Due	
Renewal Fee	221.25
Storage Permit \$100 X	. \$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$

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

### **Retail Liquor License Renewal Application**

Please verify & update	all informat	ion below					authority by due date
Licensee Name CF ALTITUDE LLC		Doing Business As Name (DBA) ALTA #6317					
Liquor License # 04-01494	License Type Fermented Ma	ılt Beverage an	d Wine (city)	« <b>.t</b>			
Sales Tax License Number 94606708-0044	· · · · · · · · · · · · · · · · · · ·			A STATE OF THE STA			
Business Address 555 WEST RAPTOR ROAD	Fruita CO 8152	1					Phone Number 9708588006
Mailing Address 8400 EAST PRENTICE AVE	NUE SUITE 400	Greenwood V	'illage CO 801'	11	Email compliar	ice@altacor	nvenience.com
Operating Manager Richard Spresser	Date of Birth 8/30/1960	Home Addres 7740 W G		ıe, Littleton C	O 80123		Phone Number 303-941-9332
Do you have legal post Are the premises own			the street add		X Yes   ed, expiration		1/31/2027
Are you renewing a sto table in upper right ha	rage permit, a	dditional optic	onal premises es due. 🔲 Y	, sidewalk ser 'es 😧 No	vice area, or r	elated facility	? If yes, please see the
3a. Are you renewing a ta delivery license privile			t? (Note: mus	t hold a qualify	ing license ty	pe and be au	thorized for takeout and/or
3b. If so, which are you re	newing?	Delivery [	☐ Takeout	☐ Both Take	out and Deliv	ery	
found in final order of	aging member	s (LLC), or ar	ny other perso	n with a 10%	or greater fina	ancial interes	directors, stockholders, t in the applicant, been , or interest related to a
4b. Since the date of filing members (LLC), man- pay any fees or surch	aging member	s (LLC), or ar	ny other perso	on with a 10%	or greater fina	ancial interes	directors, stockholders, t in the applicant failed to
5. Since the date of filing organizational structure and attach a listing of directors, managing n	re (addition or all liquor busir	deletion of off nesses in which	ficers, director ch these new	rs, managing r lenders, owne	members or g ers (other t <u>ha</u> r	eneral partne n licensed fina	, loans, owners, etc.) or ers)? If yes, explain in detail ancial institutions), officers,
6. Since the date of filling of than licensed financia	of the last appl l institutions) b	ication, has t een convicte	he applicant o	or any of its ag If yes, attach a	jents, owners a detailed exp	managers, r lanation.	partners or lenders (other Yes 🗵 No

Section 6, Item B.

DR 8400 (03/31/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

APPLICANT ID: 728644

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. X Yes No See Attached Violation List					
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.     X Yes					
Affirmation & Consent I declare under penalty of perjury in the second degree that this application best of my knowledge.					
Type or Print Name of Applicant/Authorized Agent of Business	Title				
Richard Spresser	President				
Signature Nuhaud Juv.	Date 11/30/23				
Report & Approval of City or County Licensing Authority  The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.  Therefore this application is approved.					
Local Licensing Authority For The City of Trusta	Date				
Signature Title	KINCAID, MAYOR				

DR 8495 (07/23/19)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

## Tax Check Authorization, Waiver, and Request to Release Information

I, Richard Spresser, Presidentam signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf ofCF Altitude LLC(the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.							
The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.							
The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.							
By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.							
Name (Individual/Business) CF Altitude LLC		Social Security Number 85-358535	r/Tax Identification Number 27				
Address 8400 E Prentice Ave, Ste 400							
City Greenwood Village		State CO	Zip 80111				
Home Phone Number 303-941-9332	Business/Work Ph 303-693-9						
Printed name of person signing on behalf of the Applicant/Licensee	303-000-0	7001					
Richard Spresser  Applicant/Liceasee's Signature (Signature authorizing the disclosure of con	fidential tax informa	ation)	Date signed				
Whaid Inen	M		11/30/23				
Privacy Act Statement  Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).							

<u> Violations - Alcohol - Question 7</u>							
Violation Loc # City Jurisdiction Date Reason Resolution							
3113	723 Pueblo Blvd	Pueblo	3/3/2023	Sale to a minor	Paid \$500 Fine in-lieu of 3 days suspension with 4 Days abeyance		
6113	Colorado Springs	State	12/2/2022	Sale to a minor	Paid \$500 Fine in-lieu of 3 days suspension with 4 Days abeyance		

### Attachment to Colorado Fermented Malt Beverage License Application - Question 8

<u>Loc</u>	Address	City	<u>St</u>	<u>Zip</u>	<u>License #</u>
3301	412 Denver St.	Alamosa	CO	81101	04-01463
3501	3213 Main St	Alamosa	CO	81101	04-01460
5725	725 State Ave.	Alamosa	CO	81101	04-01462
1281	13694 E. Iliff Ave.	Aurora	CO	80014	04-01491
1340	15201 E. Hampden Ave	Aurora	CO	80014	04-01492
6112	1351 E. Bridge Street	Brighton	CO	80601	04-01563
6140	12702 Lowell Blvd	Broomfield	CO	80020	04-01553
6142	122 S Lincoln St	Burlington	CO	80807	04-01543
6122	1228 Royal Gorge Blvd	Canon City	CO	81212	04-01449
6322	420 Royal Gorge Blvd	Canon City	CO	81212	04-01451
6324	2075 Fremont Drive	Canon City	CO	81212	04-01450
6326	3095 E US Highway 50	Canon City (Fremont Cty)	CO	81212	04-01483
6328	1410 Elm Avenue	Canon City (Fremont Cty)	CO	81212	04-01484
6330	1501 Central Avenue	Canon City	CO	81212	04-01452
6104	800 S Wilcox St	Castle Rock (Douglas Cty)	CO	80104	04-01485
6017	7450 S. Colorado Blvd	Centennial	CO	80122	04-01473
5111	2006 E 8th Street	Center	CO	81125	04-01468
6008	5050 Boardwalk Drive	Colorado Springs	CO	80919	04-01518
6009	3945 Palmer Park Blvd	Colorado Springs	CO	80909	04-01516
6101	2105 W, Colorado Ave.	Colorado Springs	CO	80915	04-01515
6113	227 W Filmore St	Colorado Springs	CO	80907	04-01517
6152	26431 Main Street	Conifer (Jefferson Cty)	CO	80433	04-01538
5504	805 Grand Ave	Del Norte	CO	81132	04-01470
6127	1502 Howard St	Delta	CO	81416	04-01475
6146	1430 US 50	Delta	CO	81416	04-01476
6114	2387 W 72nd Ave	Denver (Adams Cty)	co	80221	04-01545
6144	1370 S Parker Rd	Denver (Arapahoe Cty)	CO	80231	04-01564
6115	11399 US Highway 24	Divide (Teller Cty)	CO	80814	04-01549
6323	921 E Main Street	Florence	CO	81226	04-01472
6329	217 Church Ave	Florence	CO	81226	04-01471
6130	1113 W Drake Rd	Fort Collins	CO	80526	04-01561
6138	382 E Mountain Ave	Fort Collins	CO	80524	04-01560
6145	825 Main St	Fort Morgan	CO	80701	04-01481
6003	5510 S. Highway 85	Fountain	CO	80911	04-01571
6133	123 W Cranston Ave	Fowler	CO	81039	04-01531
6317	555 Raptor Road	Fruita	CO	81521	04-01494
3205	700 4th Avenue	Fort Garland (Costilla Cty)	co	81133	04-01556
6318	51171 Highway 6	Glenwood Springs	CO	81601	04-01467
6124	2525 Broadway	Grand Junction	CO	81507	04-01572
6125	2998 North Ave	Grand Junction (Mesa Cty)	CO	81504	04-01521
6151	2896 North Avenue	Grand Junction	co	81501	04-01527
6311	1904 12th Street	Grand Junction	CO	81501	04-01529
6312	107 Grand Avenue	Grand Junction	co	81501	04-01528
6315	722 Horizon Drive	Grand Junction	CO	81506	04-01526
6316	2249 Broadway	Grand Junction	CO	81507	04-01525
3850	821 W. Tomichi Ave	Gunnison	CO	81230	04-01557
6120	2630 Colorado Blvd	Idaho Springs	CO	80452	04-01459

### Attachment to Colorado Fermented Malt Beverage License Application - Question 8

63324810 Larimer ParkwayJohnstownCO8053404-017905320320 Spruce St.La JaraCO8114004-0147761111301 Wadsworth BlvdLakewoodCO8021404-015626121356 Bent AveLas AnimasCO8105404-0147461291500 N Main StLongmontCO8050104-0146161191331 W Eisenhower BlvdLovelandCO8053704-0146534011331 Grand Ave.Monte VistaCO8114404-0146463391025 Park AvenueMonte VistaCO8114404-019106126938 S Townsend AveMontroseCO8140104-01534614111000 US 50Poncha SpringsCO8124204-015373104725 W. Northern Ave.PuebloCO8100404-0149831062801 N. Elizabeth St.PuebloCO8100104-0150131071350 E. 4th St.PuebloCO8100304-015023113723 Pueblo Blvd.PuebloCO8100504-0150061353201 Lake AvePuebloCO8100404-01496	<u>Loc</u>	Address	<u>City</u>	<u>St</u>	<u>Zip</u>	License #
6111       1301 Wadsworth Blvd       Lakewood       CO       80214       04-01562         6121       356 Bent Ave       Las Animas       CO       81054       04-01474         6129       1500 N Main St       Longmont       CO       80501       04-01461         6119       1331 W Eisenhower Blvd       Loveland       CO       80537       04-01465         3401       1331 Grand Ave.       Monte Vista       CO       81144       04-01464         6339       1025 Park Avenue       Monte Vista       CO       81144       04-01910         6126       938 S Townsend Ave       Montrose       CO       81401       04-01534         6141       11000 US 50       Poncha Springs       CO       81242       04-01537         3104       725 W. Northern Ave.       Pueblo       CO       81004       04-01498         3106       2801 N. Elizabeth St.       Pueblo       CO       81001       04-01501         3107       1350 E. 4th St.       Pueblo       CO       81003       04-01502         3113       723 Pueblo Blvd.       Pueblo       CO       81005       04-01500	6332	4810 Larimer Parkway	Johnstown	CO	80534	04-01790
6121356 Bent AveLas AnimasCO8105404-0147461291500 N Main StLongmontCO8050104-0146161191331 W Eisenhower BlvdLovelandCO8053704-0146534011331 Grand Ave.Monte VistaCO8114404-0146463391025 Park AvenueMonte VistaCO8114404-019106126938 S Townsend AveMontroseCO8140104-01534614111000 US 50Poncha SpringsCO8124204-015373104725 W. Northern Ave.PuebloCO8100404-0149831062801 N. Elizabeth St.PuebloCO8100804-0150131071350 E. 4th St.PuebloCO8100104-0150331092102 Norwood Ave.PuebloCO8100304-015023113723 Pueblo Blvd.PuebloCO8100504-01500	5320	320 Spruce St.	La Jara	CO	81140	04-01477
61291500 N Main StLongmontCO8050104-0146161191331 W Eisenhower BlvdLovelandCO8053704-0146534011331 Grand Ave.Monte VistaCO8114404-0146463391025 Park AvenueMonte VistaCO8114404-019106126938 S Townsend AveMontroseCO8140104-01534614111000 US 50Poncha SpringsCO8124204-015373104725 W. Northern Ave.PuebloCO8100404-0149831062801 N. Elizabeth St.PuebloCO8100804-0150131071350 E. 4th St.PuebloCO8100104-0150331092102 Norwood Ave.PuebloCO8100304-015023113723 Pueblo Blvd.PuebloCO8100504-01500	6111	1301 Wadsworth Blvd	Lakewood	CO	80214	04-01562
6119         1331 W Eisenhower Blvd         Loveland         CO         80537         04-01465           3401         1331 Grand Ave.         Monte Vista         CO         81144         04-01464           6339         1025 Park Avenue         Monte Vista         CO         81144         04-01910           6126         938 S Townsend Ave         Montrose         CO         81401         04-01534           6141         11000 US 50         Poncha Springs         CO         81242         04-01537           3104         725 W. Northern Ave.         Pueblo         CO         81004         04-01498           3106         2801 N. Elizabeth St.         Pueblo         CO         81008         04-01501           3107         1350 E. 4th St.         Pueblo         CO         81001         04-01503           3109         2102 Norwood Ave.         Pueblo         CO         81003         04-01502           3113         723 Pueblo Blvd.         Pueblo         CO         81005         04-01500	6121	356 Bent Ave	Las Animas	СО	81054	04-01474
34011331 Grand Ave.Monte VistaCO8114404-0146463391025 Park AvenueMonte VistaCO8114404-019106126938 S Townsend AveMontroseCO8140104-01534614111000 US 50Poncha SpringsCO8124204-015373104725 W. Northern Ave.PuebloCO8100404-0149831062801 N. Elizabeth St.PuebloCO8100804-0150131071350 E. 4th St.PuebloCO8100104-0150331092102 Norwood Ave.PuebloCO8100304-015023113723 Pueblo Blvd.PuebloCO8100504-01500	6129	1500 N Main St	Longmont	CO	80501	04-01461
63391025 Park AvenueMonte VistaCO8114404-019106126938 S Townsend AveMontroseCO8140104-01534614111000 US 50Poncha SpringsCO8124204-015373104725 W. Northern Ave.PuebloCO8100404-0149831062801 N. Elizabeth St.PuebloCO8100804-0150131071350 E. 4th St.PuebloCO8100104-0150331092102 Norwood Ave.PuebloCO8100304-015023113723 Pueblo Blvd.PuebloCO8100504-01500	6119	1331 W Eisenhower Blvd	Loveland	CO	80537	04-01465
6126       938 S Townsend Ave       Montrose       CO       81401       04-01534         6141       11000 US 50       Poncha Springs       CO       81242       04-01537         3104       725 W. Northern Ave.       Pueblo       CO       81004       04-01498         3106       2801 N. Elizabeth St.       Pueblo       CO       81008       04-01501         3107       1350 E. 4th St.       Pueblo       CO       81001       04-01503         3109       2102 Norwood Ave.       Pueblo       CO       81003       04-01502         3113       723 Pueblo Blvd.       Pueblo       CO       81005       04-01500			Monte Vista			
6141       11000 US 50       Poncha Springs       CO       81242       04-01537         3104       725 W. Northern Ave.       Pueblo       CO       81004       04-01498         3106       2801 N. Elizabeth St.       Pueblo       CO       81008       04-01501         3107       1350 E. 4th St.       Pueblo       CO       81001       04-01503         3109       2102 Norwood Ave.       Pueblo       CO       81003       04-01502         3113       723 Pueblo Blvd.       Pueblo       CO       81005       04-01500		1025 Park Avenue	Monte Vista	CO	81144	04-01910
3104       725 W. Northern Ave.       Pueblo       CO       81004       04-01498         3106       2801 N. Elizabeth St.       Pueblo       CO       81008       04-01501         3107       1350 E. 4th St.       Pueblo       CO       81001       04-01503         3109       2102 Norwood Ave.       Pueblo       CO       81003       04-01502         3113       723 Pueblo Blvd.       Pueblo       CO       81005       04-01500						
3106       2801 N. Elizabeth St.       Pueblo       CO       81008       04-01501         3107       1350 E. 4th St.       Pueblo       CO       81001       04-01503         3109       2102 Norwood Ave.       Pueblo       CO       81003       04-01502         3113       723 Pueblo Blvd.       Pueblo       CO       81005       04-01500		11000 US 50	Poncha Springs	CO		
3107       1350 E. 4th St.       Pueblo       CO       81001       04-01503         3109       2102 Norwood Ave.       Pueblo       CO       81003       04-01502         3113       723 Pueblo Blvd.       Pueblo       CO       81005       04-01500		. ==				
3109       2102 Norwood Ave.       Pueblo       CO       81003       04-01502         3113       723 Pueblo Blvd.       Pueblo       CO       81005       04-01500						
3113 723 Pueblo Blvd. Pueblo CO 81005 04-01500						
6135 3201 Lake Ave Pueblo CO 81004 04-01496						
6143 2714 Thatcher Ave Pueblo CO 81005 04-01499						
6256 300 West Northern Ave Pueblo CO 81004 04-01497						
3405 315 8th St. Saguache CO 81149 04-01469	3405	315 8th St.	Saguache	co	81149	04-01469
3701 337 W. 1st Street Salida CO 81201 04-01478	3701	337 W. 1st Street	Salida	CO	81201	04-01478
6150 946 E Rainbow Blvd Salida CO 81201 04-01479	6150	946 E Rainbow Blvd	Salida	CO	81201	04-01479
6301 310 Rainbow Blvd Salida CO 81201 04-01480	6301	310 Rainbow Blvd	Salida	co	81201	04-01480
6123 9190 Huron St Thornton CO 80260 04-01486	6123	9190 Huron St	Thornton	CO	80260	04-01486
6255 305 State St Trinidad CO 81082 04-01532	6255	305 State St	Trinidad	со	81082	04-01532
6333 9960 Santa Fe Trail Trinidad CO 81082 04-01871	6333	9960 Santa Fe Trail	Trinidad	CO	81082	04-01871
6336 731 E Main Street Trinidad CO 81082 04-01872	6336	731 E Main Street	Trinidad	co	81082	04-01872
6338 806 East Goddard Avenue Trinidad CO 81082 04-01891	6338	806 East Goddard Avenue	Trinidad	CO	81082	04-01891
6117 416 US 87 Walsenburg CO 81089 04-01457	6117	416 US 87	Walsenburg	СО	81089	04-01457
6340 425 South 6th Street Westcliffe CO 81252 04-01886	6340	425 South 6th Street	Westcliffe	co	81252	04-01886
1243 5190 Ward Rd Wheat Ridge CO 80033 04-01555	1243	5190 Ward Rd	Wheat Ridge	co	80033	04-01555
4999 9999 W. 38th Ave. Wheat Ridge CO 80033 04-01554	4999	9999 W. 38th Ave.	Wheat Ridge	co	80033	04-01554
6006 40 N. Highway 67 Woodland Park CO 80863 04-01466	6006	40 N. Highway 67	Woodland Park	co	80863	04-01466
6106 20421 US 24 Woodland Park CO 80863 04-01548	6106	20421 US 24	Woodland Park	со	80863	04-01548

Fortress Investment Group LLC 50% up the chain owner of CF Altitude LLC, also has ownerhip in Apro LLC d/b/a United Pacific/My Goods Market which owns 55 alcohol licensed locations throughout Colorado.

Greg Shoemaker is a Member of the Management Committee of United Pacific/My Goods Market (55 locations in Colorado) - no financial interests

Alta #	<u>Address</u>	<u>City</u>	<u>St</u>	<u>Zip</u>	License Type	License #	Fee
1281	13694 E. Iliff Ave.	Aurora	CO	80014	FMB_Wine Off Premise	04-01491	\$221.25
3106	2801 N. Elizabeth St.	Pueblo	СО	81008	FMB_Wine Off Premise	04-01501	\$221.25
3501	3213 Main St	Alamosa	CO	81101	FMB_Wine Off Premise	04-01460	\$221.25
5111	2006 E 8th Street	Center	СО	81125	FMB_Wine Off Premise	04-01468	\$221.25
6008	5050 Boardwalk Drive	Colorado Springs	СО	80919	FMB_Wine Off Premise	04-01518	\$221.25
6009	3945 Palmer Park Blvd	Colorado Springs	CO	80909	FMB_Wine Off Premise	04-01516	\$221.25
6101	2105 W, Colorado Ave.	Colorado Springs	СО	80915	FMB_Wine Off Premise	04-01515	\$221.25
6104	800 S Wilcox St	Castle Rock	CO	80104	FMB_Wine Off Premise	04-01485	\$242.50
6106	20421 US 24	Woodland Park	СО	80863	FMB_Wine Off Premise	04-01548	\$221.25
6113	227 W Filmore St	Colorado Springs	СО	80907	FMB_Wine Off Premise	04-01517	\$221.25
6117	416 US 87	Walsenburg	СО	81089	FMB_Wine Off Premise	04-01457	\$221.25
6121	356 Bent Ave	Las Animas	СО	81054	FMB_Wine Off Premise	04-01474	\$221.25
6123	9190 Huron St	Thornton	СО	80260	FMB_Wine Off Premise	04-01486	\$221.25
6125	2998 North Ave	Grand Junction	СО	81504	FMB_Wine Off Premise	04-01521	\$242.50
6126	938 S Townsend Ave	Montrose	СО	81401	FMB_Wine Off Premise	04-01534	\$221.25
6127	1502 Howard St	Delta	СО	81416	FMB_Wine Off Premise	04-01475	\$221.25
6129	1500 N Main St	Longmont	СО	80501	FMB_Wine Off Premise	04-01461	\$221.25
6133	123 W Cranston Ave	Fowler	СО	81039	FMB_Wine Off Premise	04-01531	\$221.25
6142	122 S Lincoln St	Burlington	СО	80807	FMB_Wine Off Premise	04-01543	\$221.25
6143	2714 Thatcher Ave	Pueblo	СО	81005	FMB_Wine Off Premise	04-01499	\$221.25
6146	1430 US 50	Delta	СО	81416	FMB_Wine Off Premise	04-01476	\$221.25
6151	2896 North Avenue	Grand Junction	СО	81501	FMB_Wine Off Premise	04-01527	\$221.25
6255	305 State St	Trinidad	СО	81082	FMB_Wine Off Premise	04-01532	\$221.25
6311	1904 12th Street	Grand Junction	СО	81501	FMB_Wine Off Premise	04-01529	\$221.25
6312	107 Grand Avenue	Grand Junction	СО	81501	FMB_Wine Off Premise	04-01528	\$221.25
6315	722 Horizon Drive	Grand Junction	СО	81506	FMB_Wine Off Premise	04-01526	\$221.25
6316	2249 Broadway	Grand Junction	СО	81507	FMB_Wine Off Premise	04-01525	\$221.25
6317	555 Raptor Road	Fruita	CO	81521	FMB_Wine Off Premise	04-01494	\$221.25
6318	51171 Highway 6	Glenwood Springs	СО	81601	FMB_Wine Off Premise	04-01467	\$221.25
6326	3095 E US Highway 50	Canon City	СО	81212	FMB_Wine Off Premise	04-01483	\$242.50
						33,7452	
					Grand Payment to LED		\$6,701.25

Section 6, Item B.

### CITY OF FRUITA LIQUOR LICENSE RENEWAL MEMORANDUM

		T T T T T T T T T T T T T T T T T T T						
TO:		FRUITA POLICE DEPARTMENT						
FRO	OM:	DEBRA WOODS, DEPUTY O	CITY CLERK					
DA	ГЕ:	DECEMBER 12, 2023						
RE:		CF ALTITUDE, LLC DBA AI	LTA #6317 LIQUOR L	LICENSE RENEW	/AL			
		Licen	se Information					
Lice	ensee:		Alta 6317			ESC. SCHOOL PORTER		
Loc	ation		555 W. Raptor Rd.					
Тур	e of I	Fermented Malt Beverage (FMB Retail Liquor License (Off Premises)						
Exp	iratio	on Date of Current License:	March 10, 2024					
City	Z Cou	ncil Hearing Date :	December 19, 2023					
<b>DU</b> I	DUE DATE FOR POLICE REPORT: December 15, 2023							
		Tips ce	ertificates on File					
Em	ploye	e:		Date:				
(No	ne cui	rent)			ALLES - 100			
A)		e there been any reported violati	on(s) of the Liquor or l	Beer Code in the	Yes	No		
B)	Have	ve there been any incidents reported to the Police Dept in the last year that buld pertain to the liquor license and the establishment's control of alcoholic verages and their patrons?			No			
C)	1	there other concerns that need to	be brought to the atte	ntion of the City	Yes	No		
	ise at	tach documentation to support	the above noted viola	ation(s), incidents	s or			
Sigr	nature	: Paula Rajewich		Date: 12-16-23				



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Fermented

Malt Beverage (FMB) and Wine Retail Liquor License (Off-Premises) for CF

Altitude, LLC dba Alta #6317 located at 555 W. Raptor Road

### **BACKGROUND**

The Fermented Malt Beverage (FMB) and Wine Liquor License for Alta #6317 located at 555 W. Raptor Road is up for renewal. Their current license expires on **March 10, 2024.** 

The Police Department had nothing to report regarding this establishment. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The City Clerk's office has no current TIPS certificates on file for employees of the Alta #6317.

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

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

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

#### FISCAL IMPACT

None.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

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

### OPTIONS AVAILABLE TO THE COUNCIL

Renew the FMB and Wine Retail Liquor License (Off Premises) for the Alta #6317 in Fruita.

Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

### RECOMMENDATION

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

• RENEW THE FERMENTAL MALT BEVERAGE (FMB) AND WINE RETAIL LIQUOR LICENSE FOR CF ALTITUDE, LLC DBA ALTA #6317 LOCATED AT 555 W. RAPTOR ROAD



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Hotel and

Restaurant – malt, vinous and spirituous liquor license for El Tapatio located at 402

Jurassic Ave

### **BACKGROUND**

The Hotel and Restaurant Liquor License for El Tapatio located at 402 Jurassic Ave. is up for renewal. Their current license expires on **March 27, 2024**. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The Police Department report indicates that there have not been any violations or incidents reported to them in the last year and there is nothing unusual or of concern that would hinder renewal of the license. There are no TIPS certificates on file at the City Clerk's Office.

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

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

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

### FISCAL IMPACT

None.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The review and

renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

### OPTIONS AVAILABLE TO THE COUNCIL

- 1. Renew the Hotel and Restaurant Liquor License.
- 2. Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

### RECOMMENDATION

• RENEW THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR EL TAPATIO LOCATED AT 402 JURASSIC AVE

DR 8400 (02/22/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

### Submit to Local Licensing Authority

EL TAPATIO 402 JURASSIC AVE Fruita CO 81521-7704

APPLICANT ID: 215497	
Fees Due	Section 6, Item C.
Renewal Fee	625.00
Storage Permit \$100 X	. \$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$ 625 00

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

### Colorado Beer and Wine License Renewal Application

Please verify & update all information below	Return to d	Return to city or county licensing authority by due date			
Licensee Name FRUITA EL TAPATIO INC	Doing Busine EL TAPATIO	ss As Name (DI	3A)	-	
Liquor License # License Type Hotel & Restaurant (city)	·				
Sales Tax License Number 12757420000	Expiration Date 03/27/2024		Due Date 02/11/2024	1.201-3.201	
Business Address 402 JURASSIC AVE Fruita CO 81521-7704			1	Phone Number 9702456479	
Mailing Address 402 JURASSIC AVE Fruita CO 81521-7704		Email Esp	inoza U	Jag O Gmail.	
Operating Manager Date of Birth Home Address Wendy Kidd 04 23 44 2491		0 B1509		Phone Number	
<ol> <li>Do you have legal possession of the premises at Are the premises owned or rented?</li></ol>	the street address above?  Rented* *If rent	Yes 🗌 ed, expiration	No date oflease_	2031	
Are you renewing a storage permit, additional option     table in upper right hand comer and include all fe	onal premises, sidewalk se				
3a. Are you tenewing a takeout and/or delivery permi delivery license privileges) ☐ Yes ☑ No	t? (Note: must hold a qualit	ying license ty	pe and be au	thorized for takeout and/	
3b. If so, which are you renewing?	☑ Takeout ☐ Both Tak	eout and Deliv	ery		
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business?					
4b. Since the date of filing of the last application, has members (LLC), managing members (LLC), or a pay any fees or surcharges imposed pursuant to	ny other person with a 10%	or greater fin	ancial interest		
<ol> <li>Since the date of filing of the last application, has a organizational structure (addition or deletion of or and attach a listing of all liquor businesses in wh directors, managing members, or general partne</li> </ol>	fficers, directors, managing ich these new lenders, owr	members or g ers (other t <u>ha</u>	eneral partne n licensed fina	rs)? If yes, explain in det	
Since the date of filing of the last application, has than licensed financial institutions) been convicted.					

Signature

Section 6, Item C.

APPLICANT ID: 215497

Attest

Liquor Enforcement Division 7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes No 8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes X No Affirmation & Consent I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge. Type or Print Name of Applicant/Authorized Agent of Business Title Signature Report & Approval of City or County Licensing Authority The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules. Therefore this application is approved. Date Local Licensing Authority For

Title

JOEL KINCAID, M

# Tax Check Authorization, Waiver, and Request to Release Information

Information (hereinafter "Waiver") on behalf of							
The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.							
The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.							
By signing below, Applicant/Licensee requests that the Coltaxing authority or agency in the possession of tax documer the Colorado Liquor Enforcement Division, and is duly authorized representative under section 39-21-113(4), C.R.S. their duly authorized employees, to investigate compliance authorizes the state and local licensing authorities, their du use the information and documentation obtained using this application or license.	nts or information orized employe S., solely to allow with the Liquor ly authorized er	n, release informati es, to act as the Ap v the state and local Code and Liquor R mployees, and their administrative or jud	on and documentation to oplicant's/Licensee's duly licensing authorities, and dules. Applicant/Licensee legal representatives, to licial action regarding the				
Name (Individual/Business)			r/Tax Identification Number				
Address InC.		127574	<u> 20000</u>				
402 Jurassic Ave							
City	***************************************	State	Zip				
truita	Business/Work Ph	Number	8152				
Home Phone Number	Busiliess/vvoik Pr		-1611				
Printed name of person signing on behalf of the Applicant/Licensee	v	<u>, 0000</u>	1011				
Wendy Kidd							
Applicant/Licensee's Signature (Signature authorizing the disclosure of con	fidential tax informa	tion)	Date signed				
bluey Kidd			17/22/23				
•	t Statement						
Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).							

### CITY OF FRUITA MEMORANDUM

TO:	FRUITA POLICE DEPARTMENT			
FROM:	DEBRA WOODS, DEPUTY CITY CLERK			
DATE:	JANUARY 2, 2024			
RE:	HOTEL RESTAURANT LIQUOR LICENSE RENEWAL			
	Licen	se Information		
Licensee	:	Fruita El Tapatio Restaurant		
Location:		402 Jurassic Ave		
Type of License:		Hotel/Restaurant		
<b>Expiration Date of Current License:</b>		March 27, 2024		
City Council Hearing Date:		January 16, 2024		
DUE DATE FOR POLICE REPORT:		January 12, 2024		

Tips certificates on File

Employee: Date: E		Exp	кр	
(None	e)			
	Report of Fruita Pol	lice Department		
	Have there been any reported violation(s) of the Liquor or Beer Code in the last year?			No
	Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment's control of alcoholic beverages and their patrons?			No
	Are there other concerns that need to be brought to the attention of the City Council?			No

Signed: Paula Rajewich\_\_\_\_\_ Date: 01-10-2024\_\_\_\_

Fax: 858-0210 E-Mail: dwoods@fruita.org



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Hotel and

Restaurant – malt, vinous and spirituous liquor license for Strayhorn Grill located at

456 Kokopelli Blvd., Unit 10

### **BACKGROUND**

The Hotel and Restaurant Liquor License for Strayhorn Grill located at 456 Kokopelli Blvd., Unit 10 is up for renewal. Their current license expires on **March 6, 2024**. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The Police Department report indicates that there have not been any violations or incidents reported to them in the last year and there is nothing unusual or of concern that would hinder renewal of the license. There are no TIPS certificates on file at the City Clerk's Office.

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

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

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

#### FISCAL IMPACT

None.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The review and

renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

### OPTIONS AVAILABLE TO THE COUNCIL

- 1. Renew the Hotel and Restaurant Liquor License.
- 2. Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

### RECOMMENDATION

• RENEW THE HOTEL AND RESTAURANT LIQUOR LICENSE FOR STRAYHORN GRILL LOCATED AT 456 KOKOPELLI BLVD., UNIT 10

DR 8400 (02/22/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

### Submit to Local Licensing Authority

STRAYHORN GRILL 456 KOKOPELLI BOULEVARD #10 Fruita CO 81521

APPLICANT ID: 784765 Fees Due	Section 6, Item
Renewal Fee	625.00
Storage Permit \$100 X	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$

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

## Colorado Beer and Wine License Renewal Application

Please verify & update a	all information below	Return t	o city or coun	ty licensing	authority by due date
Licensee Name 4K ENTERPRISES INC		Doing Bu	Doing Business As Name (DBA) STRAYHORN GRILL		
Liquor License # 03-17630	License Type Hotel & Restaurant (city)		<del></del>	· · · · · · · · · · · · · · · · · · ·	
Sales Tax License Number 95359231-0001		Expiration Date		Due Date	
Business Address		03/06/2024	-	01/21/2024	
456 KOKOPELLI BOULEVARE	9#10 Fruita CO 81521				Phone Number 9708581525
Mailing Address 456 KOKOPELLI BOULEVARD	0 #10 Fruita CO 81521		Email	· · · · · · · · · · · · · · · · · · ·	
A /	Date of Birth Home Address	etl's Crossing 1	Blud Lan	a Co 8154	Phone Number 970-260-81609
Do you have legal posse     Are the premises owner	ession of the premises at t	the street address above	ented, expiration	No	11. 800 840 7
2. Are you renewing a storage table in upper right hand	· · · · · · · · · · · · · · · · · · ·	nal premises eidewalk	service area, or		? If yes, please see the
Ba. Are you renewing a take delivery license privilege	out and/or delivery permit			pe and be aut	horized for takeout and/or
Bb. If so, which are you rene	ewing? 🔲 Delivery	X Takeout ☐ Both ☐	akeout and Deli	/ery	s.
4a. Since the date of filing of members (LLC), manag found in final order of a tousiness?	f the last application, has t ing members (LLC), or an ax agency to be delinguer	the applicant, including	Its manager, par	tners, officer,	
b. Since the date of filing of members (LLC), managi pay any fees or surchar	/ f the last application, has t ing members (LLC), or an ges imposed pursuant to s	V DIRBE DEISON WITH 9 17	IVA OF AFARTAR FIR	ancial interest	directors, stockholders, in the applicant failed to
<ol> <li>Since the date of filing of to organizational structure and attach a listing of all</li> </ol>	· <del>-</del>	ere been any change ir cers, directors, managir	financial interes	eneral partner	
6. Since the date of filing of t		e applicant or only of its			artners or lenders (other

Section 6, Item D.

APPLICANT ID: 784765

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, mar than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license denied, suspended explanation.   Yes	auaraga liaanaa ayanandad
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licens direct or indirect interest in any other Colorado liquor license/Including loans to or from any licensee? If yes, attach a detailed explanation.	sed financial institutions) have a ensee or interest in a loan to any
Affirmation & Consent I declare under penalty of perjury in the second degree that this application and all attachments are best of my knowledge.	e true, correct and complete to the
Type or Print Name of Applicant/Authorized Agent of Business  ARRON  Signature	Title
Control of the contro	13-18/2-023
Report & Approval of City or County Licensing Authority The foregoing application has been examined and the premises, business conducted and character we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 Therefore this application is approved.	of the applicant are satisfactory, and and 3, C.R.S., and Liquor Rules.
Local Licensing Authority For The City of Truita	Date
Signature	Attest
JOEL KINCAIU.	, PVXXV2

# Tax Check Authorization, Waiver, and Request to Release Information

Information (hereinafter "Waiver") on behalf of HARON Shows to permit the Colorado Department of Revenue and any other state or loc documentation that may otherwise be confidential, as provided below. If I a myself, including on behalf of a business entity, I certify that I have the aux Applicant/Licensee.	cal taxing authority to release information and
The Executive Director of the Colorado Department of Revenue is the Colorado Liquor Enforcement Division as his or her agents, clerks, and en obtained pursuant to this Waiver may be used in connection with the Applit ongoing licensure by the state and local licensing authorities. The Color ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor obligations, and set forth the investigative, disciplinary and licensure action take for violations of the Liquor Code and Liquor Rules, including failure to	reployees. The information and documentation cant/Licensee's liquor license application and rado Liquor Code, section 44-3-101. et seq. Rules"), require compliance with certain tax is the state and local licensing outhorities.
The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any concerning the confidentiality of tax information, or any document, report caxes. This Waiver shall be valid until the expiration or revocation of a licel authorities take final action to approve or deny any application(s) for the Applicant/Licensee agrees to execute a new waiver for each subsequent license, if requested.	or return filed in connection with state or local inse, or until both the state and local licensing
By signing below, Applicant/Licensee requests that the Colorado Departmentaring authority or agency in the possession of tax documents or information the Colorado Liquor Enforcement Division, and is duly authorized employed authorized representative under section 39-21-113(4), C.R.S., solely to allow their duly authorized employees, to investigate compliance with the Liquor authorizes the state and local licensing authorities, their duly authorized e use the information and documentation obtained using this Walver in any application or license.	on, release information and documentation to ses, to act as the Applicant's/Licensee's duly with the state and local licensing authorities, and riced and Liquor Rules. Applicant/Licensee
ame (Individual/Business) AARON S m +h	Social Security Number/Tax Identification Number
1333 Lutes Chosiena De Lama	(0 6524
Lama (0 81524	State CO Zip 81524
othe Priorie Number 7 970 – 260 – 8409 Business/Work Printed name of person signing on behalf of the Applicant/Licensee	858-1535
pplicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information)	ation)   Date signed
Privacy Act Statement	15/18/2023
roviding your Social Security Number is voluntary and no right, benefit or passift of refusal to disclose it. 8.7 of Privacy Act. 5.11808.8.5530 (note)	privilege provided by law will be denied as a

### CITY OF FRUITA MEMORANDUM

TO:	FRUITA POLICE	FRUITA POLICE DEPARTMENT DEBRA WOODS, DEPUTY CITY CLERK				
FRO	M: DEBRA WOODS					
DAT	E: JANUARY 2, 2024	JANUARY 2, 2024				
RE:	HOTEL/RESTAU	HOTEL/RESTAURANT LIQUOR LICENSE RENEWAL				***************************************
		Licens	se Information			
Lice	nsee:		Strayhorn Grill			
<b>Location:</b> 456 Kokopelli Blvd, Unit J		nit J				
Type of License: Hotel/Restaurant		Hotel/Restaurant				
<b>Expiration Date of Current License:</b> March 6, 2024		March 6, 2024				
City Council Hearing Date: January 16, 2024						
DUE	DATE FOR POLICE I	REPORT:	January 12, 2024			
		Tips ce	rtificates on File			
Emp	loyee:		E	xpiration	Date:	
(Non	e current)					
	R	eport of Fru	ita Police Department			
A)	Have there been any repethe last year?	ve there been any reported violation(s) of the Liquor or Beer Code in last year?			Yes	No
B)	that would pertain to the	ve there been any incidents reported to the Police Dept in the last year t would pertain to the liquor license and the establishment's control of oholic beverages and their patrons?			Yes	No
C)	Are there other concerns that need to be brought to the attention of the City Council?			Yes	No	

Fax: 858-0210 e-mail: dwoods@fruita.org

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

comments.

Signature: Paula Rajewich

Date: 01-10-2024



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Brew Pub

Liquor License - Malt, Vinous and Spirituous (City) for Suds Brothers Brewery

located at 127 E. Aspen Ave.

### **BACKGROUND**

The Brew Pub Liquor License for Suds Brothers Brewery located at 127 E. Aspen Ave. is up for renewal. Their current license expires on **January 19, 2024.** The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The Police Department report indicates that there have not been any violations or incidents reported to them in the last year and there is nothing unusual or of concern that would hinder renewal of the license. There are no TIPS certificates on file at the City Clerk's Office.

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

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

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

#### FISCAL IMPACT

None.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

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

# OPTIONS AVAILABLE TO THE COUNCIL

- 1. Renew the Brew Pub (City) Liquor License for Suds Brothers Brewery in Fruita.
- 2. Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

# RECOMMENDATION

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

• RENEW THE BREW PUB LIQUOR LICENSE FOR SUDS BROTHERS BREWERY LOCATED AT 127 E. ASPEN AVE.

DR 8400 (02/22/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

# **Submit to Local Licensing Authority**

SUDS BROTHERS BREWERY PO BOX 9 Fruita CO 81521

-	
APPLICANT ID: 224681	Section 6, Item E
Fees Due	
Renewal Fee	875.00
Storage Permit \$100 X	. \$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$

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

# **Colorado Beer and Wine License Renewal Application**

Please verify & update	all informat	tion below		Return to c	ity or count	y licensing	authority by due date
Licensee Name SUDS BROTHERS II LLC		· · · · · · · · · · · · · · · · · · ·			ss As Name (D IERS BREWEI		
Liquor License # 42-87740-0000	License Type Brew Pub (city	y)		<b>-</b>			
Sales Tax License Number 42877400000			Expiration Da 01/19/2024	ate		Due Date 12/05/2023	
Business Address 127 E ASPEN Fruita CO 819	521-2543		j			1	Phone Number 9708581571 97071201/3
Mailing Address PO BOX 9 Fruita CO 81521					Email		1.0 /1200/3
Operating Manager	Date of Birth	Home Addres					Phone Number
Do you have legal pos Are the premises own	ed or rented?	Owned	Rented*	*If rente	ed, expiration	date of lease	
<ol><li>Are you renewing a sto table in upper right ha</li></ol>					vice area, or	related facility	? If yes, please see the
3a. Are you renewing a ta delivery license privile			t? (Note: mus	st hold a qualify	ying license ty	pe and be au	thorized for takeout and/or
3b. If so, which are you re	newing?	Delivery	☐ Takeout	☐ Both Take	eout and Deliv	very	
found in final order of	aging member	rs (LLC), or a	ny other pers	on with a 10%	or greater fin	ancial interes	directors, stockholders, t in the applicant, been , or interest related to a
4b. Since the date of filing members (LLC), man- pay any fees or surch	aging member	rs (LLC), or a	ny other pers	on with a 10%	or greater fin	ancial interes	directors, stockholders, t in the applicant failed to
	re (addition or all liquor busi	deletion of of nesses in whi	ficers, directo ich these new	ors, managing i I lenders, own	members or g ers (other t <u>ha</u>	eneral partne n licensed fin	, loans, owners, etc.) or ers)? If yes, explain in detail ancial institutions), officers,
6. Since the date of filing than licensed financia							

DR 8400 (02/22/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

APPLICANT ID: 224681

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, parthan licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license, had an alcohol beverage license denied, suspended or revoked explanation.	icense suspended or
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or licensee? If yes, attach a detailed explanation.   Yes  No	
Affirmation & Consent I declare under penalty of perjury in the second degree that this application and all attachments are true, co best of my knowledge.	
Type or Print Name of Applicant/Authorized Agent of Business	Title
Signature	Date 1-3-2024
Report & Approval of City or County Licensing Authority The foregoing application has been examined and the premises, business conducted and character of the application has been examined and the premises, business conducted and character of the application has been examined, will comply with the provisions of Title 44, Articles 4 and 3, C Therefore this application is approved.	
Local Licensing Authority For The City of Truita	Date
Signature Title TOEL KINCALD, NAYOR	Attest

# Tax Check Authorization, Waiver, and Request to Release Information

I,am signing thi	s Tax Check Au	thorization, Waiv	er and Request to Release
	er state or loca	I taxing authority n signing this Wai	(the "Applicant/Licensee") to release information and iver for someone other than
The Executive Director of the Colorado Department of Recolorado Liquor Enforcement Division as his or her agents, obtained pursuant to this Waiver may be used in connection ongoing licensure by the state and local licensing authorit ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 2 obligations, and set forth the investigative, disciplinary and license for violations of the Liquor Code and Liquor Rules, included	clerks, and emp with the Applicaties. The Colora 03-2 ("Liquor Focensure actions	oloyees. The informant/Licensee's liquor Code Rules"), require c the state and loc	rmation and documentation uor license application and , section 44-3-101. et seq. compliance with certain tax cal licensing authorities may
The Waiver is made pursuant to section 39-21-113(4), C.F. concerning the confidentiality of tax information, or any doct taxes. This Waiver shall be valid until the expiration or revocauthorities take final action to approve or deny any applicant/Licensee agrees to execute a new waiver for each of any license, if requested.	ument, report or cation of a licen- cation(s) for the	return filed in co se, or until both t renewal of the	onnection with state or local he state and local licensing license, whichever is later.
By signing below, Applicant/Licensee requests that the Coltaxing authority or agency in the possession of tax documer the Colorado Liquor Enforcement Division, and is duly authorized representative under section 39-21-113(4), C.R.S. their duly authorized employees, to investigate compliance authorizes the state and local licensing authorities, their duly use the information and documentation obtained using this application or license.	its or informatio orized employe C., solely to allow with the Liquor ly authorized er	n, release inform es, to act as the v the state and loo Code and Liquo mployees, and th	ation and documentation to Applicant's/Licensee's duly cal licensing authorities, and r Rules. Applicant/Licensee eir legal representatives, to
Name (Individual/Business)		Social Security Num	nber/Tax Identification Number
Address			
City		State	Zip
Home Phone Number	Business/Work Ph	one Number	
Printed name of person signing on behalf of the Applicant/Licensee			
Applicant/Licensee's Signature (Signature authorizing the disclosure of cont	fidential tax informa	tion)	Date signed
Privacy Ac	t Statement		
Providing your Social Security Number is voluntary and no result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 8	ight, benefit or p	orivilege provided	d by law will be denied as a

# CITY OF FRUITA MEMORANDUM

TO:	FRUITA POLICE DEPARTMENT				
FROM:	OM: DEBRA WOODS, DEPUTY CITY CLERK				
DATE:	TE: JANUARY 3, 2024				
RE:	BREW PUB LIQUOR LICENSE RENEWAL				
License Information					
Licensee:		Suds Brothers Brewery			
Location:		127 E. Aspen Ave.			
Type of License:		Brew Pub			
Expiration	on Date of Current License:	January 19, 2024			
City Council Hearing Date :		January 16, 2024			
DUE DA	TE FOR POLICE REPORT:	January 12, 2024			

Tips certificates on File

	rips certificates on File		
Em	ployee: Expiration I	Date:	
(nor	ne)		
***************************************			
estilosteratura	Report of Fruita Police Department		N PURCHASIAN AND A
A) Have there been any reported violation(s) of the Liquor or Beer Code in the last year?			
B)	Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment's control of alcoholic beverages and their patrons?	Yes	No
C)	Are there other concerns that need to be brought to the attention of the City Council?	Yes	No
	ase attach documentation to support the above noted violation(s), incident aments.	s or	

Signature: Paula Rajewich\_\_\_\_\_ Date \_1-10-24\_\_\_\_

Fax: 858-0210 E-Mail: dwoods@fruita.org



# AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** JANUARY 16, 2023

**AGENDA TEXT:** LIQUOR LICENSE RENEWAL – A request to approve the renewal of an Optional

Premises – Malt, Vinous and Spirituous Liquor License for Imondi Wake Zone, LLC

dba Imondi Wake Zone located at 1583 Cipolla Rd.

### **BACKGROUND**

The Optional Premises Liquor License for Imondi Wake Zone located at 1583 Cipolla Road is up for renewal. Their current license expires on **March 17, 2024**. The Police Department had nothing to report regarding this establishment. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The City Clerk's office has six (6) current Colorado Responsible Alcohol Vendor Training certificates (dated June 7, 2022) on file for Imondi Wake Zone. These certificates are valid for three (3) years.

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

An Optional Premises Liquor License allows employees to serve alcoholic beverages in the Pro Shop and on the grassy area at Imondi Wake Zone.

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

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

#### FISCAL IMPACT

None

# APPLICABILITY TO CITY GOALS AND OBJECTIVES

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

### OPTIONS AVAILABLE TO THE COUNCIL

- 1. Renew the Optional Premises Malt, Vinous, and Spirituous Liquor License for Imondi Wake Zone.
- 2. Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

# RECOMMENDATION

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

• RENEW THE OPTIONAL PREMISES – MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR IMONDI WAKE ZONE LOCATED AT 1583 CIPOLLA ROAD

DR 8400 (02/22/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

# **Submit to Local Licensing Authority**

IMONDI WAKE ZONE LLC 1583 CIPOLLA ROAD Fruita CO 81521

APPLICANT ID: 699627	
Fees Due	Section 6, Item F
Renewal Fee	625.00
Storage Permit \$100 X	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$62500

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

# **Colorado Beer and Wine License Renewal Application**

Please verify & update	all informat	tion below	•	Return to c	ity or	count	y licensii	ng authority by due date
Licensee Name IMONDI WAKE ZONE LLC				Doing Busines IMONDI WAK			3A)	<del>-</del>
Liquor License # 03-13167	License Type Optional Prem	nises (city)						
Sales Tax License Number 35055010	Expiration Date 03/17/2024			ate	Due Date 02/01/2024			4
Business Address 1583 CIPOLLA ROAD Fruita	CO 81521							Phone Number 9706390327
Mailing Address 1583 CIPOLLA ROAD Fruita	CO 81521				Emai		12/AVE 3	ONE SGMAZE. COM
Operating Manager	Date of Birth	Home Addre	ess		1		AN HILL X	Phone Number
VICTOR IMONDE	7/10/85	691 61	RANKTH DR	FRUITA	10	815	2/	970-261-4710
table in upper right ha  3a. Are you renewing a ta delivery license privile  3b. If so, which are you re	keout and/or d ges)	lelivery perm	JI	Yes ☑ No st hold a qualif			,	authorized for takeout and/or
4a. Since the date of filing members (LLC), man found in final order of business?	of the last ap aging member a tax agency t \times No	plication, ha s (LLC), or a o be delinqu	s the applican any other pers uent in the pay	t, including its on with a 10% ment of any sta	manag or gre ate or	ger, par eater fina local tax	tners, office ancial inter (es, penalt	er, directors, stockholders, rest in the applicant, been ies, or interest related to a
	aging member	s (LLC), or a	any other pers	on with a 10%	or gre	ater fin	ancial inter	er, directors, stockholders, rest in the applicant failed to
organizational structur	re (addition or all liquor busi	deletion of onesses in wh	officers, directo hich these nev	ors, managing v lenders, own	memb ers (ot	ers or g her t <u>ha</u> i	eneral par n licensed	es, loans, owners, etc.) or tners)? If yes, explain in detail financial institutions), officers
6. Since the date of filing than licensed financia								s, partners or lenders (other

Section 6, Item F.

APPLICANT ID: 699627

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, part than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage I revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked explanation.   Yes  No	icense suspended or
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or licensee? If yes, attach a detailed explanation. Yes No	cial institutions) have a interest in a loan to any
Affirmation & Consent I declare under penalty of perjury in the second degree that this application and all attachments are true, co best of my knowledge.	rrect and complete to the
Type or Print Name of Applicant/Authorized Agent of Business	Title
VICTOR I MONDE Signature	PRIBLEDIENT
Signature	Date
	12/28/23
Report & Approval of City or County Licensing Authority  The foregoing application has been examined and the premises, business conducted and character of the application we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C Therefore this application is approved.	olicant are satisfactory, and .R.S., and Liquor Rules.
Local Licensing Authority For The City of Troita	Date
Signature Title JOEL KINCALD, PLAYOR	Attest

# Tax Check Authorization, Waiver, and Request to Release Information

Information (hereinafter "Waiver") on behalf of Ingener by to permit the Colorado Department of Revenue and any oth documentation that may otherwise be confidential, as provid myself, including on behalf of a business entity, I certify that Applicant/Licensee.	<i>Vake ≵ovk d</i> ner state or loca ed below. If I am	زدد (th ا taxing authority to n signing this Waive	release information and rfor someone other than
The Executive Director of the Colorado Department of Re Colorado Liquor Enforcement Division as his or her agents, obtained pursuant to this Waiver may be used in connection ongoing licensure by the state and local licensing authorit ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 2 obligations, and set forth the investigative, disciplinary and license for violations of the Liquor Code and Liquor Rules, included	clerks, and emp with the Applicaties. The Colora 203-2 ("Liquor Rocensure actions	ployees. The inform ant/Licensee's liquo ado Liquor Code, s alles"), require con the state and local	ation and documentation or license application and ection 44-3-101. et seq. appliance with certain tax licensing authorities may
The Waiver is made pursuant to section 39-21-113(4), C.F. concerning the confidentiality of tax information, or any doct taxes. This Waiver shall be valid until the expiration or revocauthorities take final action to approve or deny any applicant/Licensee agrees to execute a new waiver for each of any license, if requested.	ument, report or cation of a licens cation(s) for the	return filed in conr se, or until both the renewal of the lic	nection with state or local state and local licensing ense, whichever is later.
By signing below, Applicant/Licensee requests that the Coletaxing authority or agency in the possession of tax document the Colorado Liquor Enforcement Division, and is duly authorized representative under section 39-21-113(4), C.R.S. their duly authorized employees, to investigate compliance authorizes the state and local licensing authorities, their duly use the information and documentation obtained using this application or license.	nts or information orized employe S., solely to allow with the Liquor ly authorized en	n, release informati es, to act as the Ap the state and local Code and Liquor R nployees, and their	on and documentation to oplicant's/Licensee's duly licensing authorities, and Rules. Applicant/Licensee legal representatives, to
Name (Individual/Business)			r/Tax Identification Number
VICTOR IMONDS / IMONDS WAKE ZONA Address		82-0952814	
1583 CIPOLLA RD			
City	1	State	Zip
FRUITA Home Phone Number		CO	81251
	Business/Work Ph		
970-261-4710	970-639-	0327	
Printed name of person signing on behalf of the Applicant/Licensee			
VICTOR IMONDA  Applicant/Licensee's Signature (Signature authorizing the disclosure of conf	fidential tay informat	tion)	Date signed
The state of the s	inderitiat tax imorma	dony	#2/28/23
M.5 8	4 Ctataur		14-160160
Providing your Social Security Number is voluntary and no rivesult of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 5		orivilege provided by	y law will be denied as a

# CITY OF FRUITA MEMORANDUM

TO:	FRUITA POLICE DEPARTM	MENT – CHIEF KROUSE/PAULA RAJEWICH				
FROM:	DEBRA WOODS, DEPUTY	DEBRA WOODS, DEPUTY CITY CLERK				
DATE:	JANUARY 4, 2024	JANUARY 4, 2024				
RE:	LIQUOR LICENSE RENEW	LIQUOR LICENSE RENEWAL				
	Licen	se Information				
Licensee	:	Imondi Wake Zone				
Location: 1583 Cipolla Road		1583 Cipolla Road				
Type of l	License:	Optional Premises - Malt Vinous and Spirituous Liquors				
Expiration	on Date of Current License:	March 17, 2024				
City Cou	ncil Hearing Date:	January 16, 2024				
<b>DUE DA</b>	TE FOR POLICE REPORT:	January 12, 2024				

Em	ployee: Da	te:		
Vict	or Imondi Jun	e 7, 2022	46	
Kod	i Imondi Jur	e 7, 2022		
Joe	Powell Jur	ie 7, 2022		
Ellic	otte Schroeder Jur	ne 7, 2022		
Mic	haela Fessler Jur	ne 7, 2022		
Sam	antha Kendall Jur	ne 7, 2022		
	Report of Fruita Police Department			
A) Have there been any reported violation(s) of the Liquor or Beer Code in the last year?				No
B) Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment's control of alcoholic beverages and their patrons?				
C) Are there other concerns that need to be brought to the attention of the City Council?				No
	ase attach documentation to support the above noted violation(s) aments.	, incident	s or	
_	nature: Dat la Rajewich	e: 01-10-	2024	



# **AGENDA ITEM COVER SHEET**

TO: FRUITA CITY COUNCIL

FROM: DEPUTY CITY CLERK DEBRA WOODS FOR MAYOR KINCAID AND

**COUNCILOR PURSER** 

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** BOARDS AND COMMISSIONS APPOINTMENT – A request to approve the

appointment of Justice Sweet Baker to the Arts and Culture Board to fulfill an

unexpired term plus an additional three-year term to expire in July of 2027

# **BACKGROUND**

Arts & Culture Board member Sally Edginton resigned from the Arts and Culture Board on January 9, 2024, thus creating a vacancy. Her term was due to expire in July of 2024.

A previous vacancy was advertised on the City's website at fruita.org beginning in September 2023 through November 21, 2023 and applications were received from Carlee Burnett and Justice Sweet Baker. After conducting interviews of both applicants, Mayor Kincaid and Council Liaison Jeannine Purser recommended that Carlee Burnett be appointed, which she was, at the November 21, 2023 City Council meeting. At that time, Mayor Kincaid and Councilor Purser expressed what a difficult decision it was because they wanted to appoint both applicants, but there was only one vacancy.

Mayor Kincaid and Councilor Purser recommend the appointment of Justice Sweet Baker to the Arts and Culture Board to fulfill Sally Edginton's unexpired term plus an additional three-year term to expire in July of 2027. If Ms. Baker is appointed, there will be no remaining vacancies on the Arts and Culture Board.

# **FISCAL IMPACT**

N/A

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

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

### OPTIONS AVAILABLE TO THE COUNCIL

1. Appoint Justice Sweet Baker to the Arts and Culture Board to fulfill an unexpired term plus an additional three-year term to expire in July of 2027

2. Instruct staff to publish a notice of vacancy and repeat the interview process.

# RECOMMENDATION

It is the recommendation of Mayor Kincaid and Councilor Purser that the City Council by motion:

• APPROVE THE APPOINTMENT OF JUSTICE SWEET BAKER TO THE ARTS AND CULTURE BOARD TO FULFILL AN UNEXPIRED TERM PLUS AN ADDITIONAL THREE-YEAR TERM TO EXPIRE IN JULY OF 2027



# CITY OF FRUITA BOARDS AND COMMISSIONS MEMBERSHIP APPLICATION

<del></del>				
BOARD OR COMMISSION:	Arts and Culture Board			
NAME:	Justice Sweet Baker			
MAILING ADDRESS:	457 N Mesa St	reet		
RESIDENCE ADDRESS: PHONE NUMBER:	City Fruita	-	State CO	Zip 81521
	9102975571			
E-MAIL ADDRESS:	Home IL ADDRESS: justicesweetbaker@gma		Work	
How long have you been a res	sident of Fruita?	1.5 years		
Occupation/Employer:		remote		
List any volunteer and/or wor	k experience:			
I have taught graphic desi District and Denver Public accomplished Public Scul	Schools. I have	a BA in Studio A	art, and ran the	kiln yard. I was an
Are you presently serving on	a board or commi	ission? If so, which	one(s)?	
No				
Why do you want to be a mer	nber of this board	l or commission?		

Joining the Board of Arts and Culture offers a unique opportunity to make a meaningful impact on a community's cultural vibrancy. By becoming a board member, I can actively contribute to preserving and promoting the rich artistic heritage of the region while fostering

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

My experience teaching various artistic disciplines to youth, equips me with the ability to understand and advocate for art education and its importance within the community. Additionally, my tenure as a successful public sculptor demonstrates my commitment to enhancing the town's cultural landscape through artistic endeavors. Furthermore, my active

City of Fruita Boards and Commissions Application Page 2
Are you committed to attending meetings?  Are you committed to serving an entire term?  Yes  No  No
Please specify any activities which might create serious conflict of interest if you should be appointed to a particular board or commission. (If unsure, please call the City Manager's office at 858-3663)
N/A
List any licenses, certificates or other specialized training applicable to the board or commission for which you are applying.
CO teaching certificate for K-12 Art and Career Technical Education, Masters in Curriculum & Instruction. Program Management, Project Management. Potter, silversmith, welder, graphic designer.
Additional information or references you believe may be helpful in considering your application.
Nancy Patterson (720)331-0783 Karen Leonhart (970) 250-4435
Signature Date 9/3/23  All applicants are strongly encouraged to attend a regularly scheduled meeting of the board or commission for which they are applying. Frequent non-attendance may result in termination of the
appointment.

# ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES

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



# AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: SHANNON VASSEN, ASSISTANT CITY MANAGER

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** TRASH COLLECTION SERVICES CONTRACT – A Request to Approve the First

Amendment to the Contract between the City of Fruita and Waste Management for Trash and Recycling Services and Authorizing the Mayor to Execute and Sign the

Amendment.

#### BACKGROUND

In 2019, the City of Fruita administered a formal Requests for Proposals ("RFP") process for Trash and Recycling services for Fruita. The City received two responses to that RFP and after evaluating those responses, awarded a contract to Waste Management. While a number of factors were considered when awarding the contract, at the time, Waste Management received the award because the costs of the services to residents were 160% lower than the second bid and because of their experience with Fruita. The contract was awarded for a five-year period, with the option to renew for an additional two years, two separate times. Currently, the contract is set to expire at the end of this year, 2024. The contract includes providing unlimited trash collection services to Fruita residents, a 96-gallon container option, and dual-stream recycling.

Throughout the current contract, Waste Management has requested that the City of Fruita transition from unlimited (up to three, 32-gallon containers) trash collection services to automated services. Waste Management requested these changes to help with operational challenges and staff shortages. In 2022, Waste Management transitioned approximately 3,000 Fruita households to the new automated system and is now requesting moving all households to the service.

When Waste Management initially made this request, staff presented it to the City Council and discussed it at length at the April 2023 workshop. With the contract set to expire in 2024, and with Waste Management's request to move Fruita to all automated services, the City Council requested that staff work with Waste Management on a contract extension with new terms to help residents with this transition. Throughout last year, staff negotiated with Waste Management on new terms of the amendment and presented these to the City Council in August.

Taking that all into consideration, this is a request to approve an amendment to the existing contract with the new terms. As has been discussed, highlights from the amendment include the following:

• **New Term** – this amendment extends the contract until the end of 2027, with additional options for renewal if the City Council is interested.

- **Single-Stream Recycling** Waste Management will transition all Fruita households who participate in recycling to a single-stream recycling service through the use of a 96-gallon container (and for those that request it, a smaller 56-gallon container).
- **Automated Trash Collection Services** All Fruita households will transition to the automated trash collection services through a 96-gallon (or smaller) container.
- Leaf Drop Off Services Waste Management will pick up leaves in three separate weeks in November of each year for all customers, as long as they are bagged and placed alongside the trash and recycling.
- **Fees** The fees charged to Fruita residents will be consolidated to two fees, the Weekly Curbside collection (originally the "unlimited" rate) and the Senior Rate. Additionally, residents can request another 96-gallon container for \$4 per month (down from \$7.70 per month in 2023). There are a few additional fees that are uncommon.
- **Roll-Out Period** During the roll-out period of the automated trash services, Waste Management will implement an education and outreach campaign and provide notices to residences if they are in violation of the overage or contamination portion of the contract.

Additionally, Waste Management is providing a dumpster for additional trash collection at the beginning of each new year, as requested by the City Council. Included with this cover sheet is the original contract, and the draft amendment.

## FISCAL IMPACT

There is no fiscal impact associated with approving this amendment to the contract. As part of the original contract, any increases in rates are based upon the average of the Consumer Price Index for inflation each year and is subject to Council approval through the budget process each year. Further, the expenses are subject to Council approval each year through the appropriations process.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

It is one of the goals of Fruita to provide excellent core services to residents, and staff believes that approving this amendment will continue to serve that goal. Trash and recycling collection services are one of the highest rated City services in each Community Survey. For example, in the 2021 Community Survey, 92% of Fruita residents expressed satisfaction with the overall quality of garbage collection. It is also a very cost-effective service, as most Fruita residents only pay \$17.70 per month for trash service.

# OPTIONS AVAILABLE TO THE COUNCIL

- Approve the first contract amendment between the City of Fruita and Waste Management for trash and recycling services and allow the Mayor to sign the amendment.
- Advise staff to amend the amendment and approve or not approve the amendment.

#### RECOMMENDATION

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

• APPROVE THE FIRST AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF FRUITA AND WASTE MANAGEMENT FOR TRASH AND RECYCLING SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE AND SIGN THE AMENDMENT.

#### FIRST AMENDMENT TO CONTRACT

This First Amendment to Contract ("<u>First Amendment</u>") is entered into as of January 1, 2024 (the "<u>First Amendment Date</u>"), by and between Waste Management of Colorado, Inc., a Colorado corporation ("<u>Waste Management</u>") and the City of Fruita, a municipal corporation in the State of Colorado ("<u>City</u>"). Waste Management and City are referred to herein, individually, as a "<u>Party</u>" and jointly as the "<u>Parties</u>".

#### RECITALS

- A. On January 1, 2020, the Parties entered into that certain Contract under which Waste Management performs certain solid waste services (the "Contract").
- B. The Parties have recently had discussions regarding adjustment of the terms and conditions of the Contract to better meet the needs and desires of each Party.
- C. Having agreed on certain adjustments to the terms and conditions of the Contract, the Parties now desire to formally memorialize such adjustments through this First Amendment.
- D. Capitalized terms used but not defined herein shall have the meanings set forth in the Contract.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree to amend the Processing Agreement as follows:

1. <u>Changes to Term.</u> Effective as of the First Amendment Date, paragraph D of the Contract is hereby deleted in its entirety and replaced with the following:

Subject to paragraph G, the parties agree that this Contract shall become effective as of January 1, 2020 and shall continue until December 31, 2027. The parties may, upon written agreement, extend the Contract, under the original terms and conditions, for up to two separate two-year extensions for a total extension period of four years.

2. <u>Changes to Containers</u>. Effective as of the First Amendment Date, paragraph I.6 of the Contract is hereby deleted in its entirety and replaced with the following:

During January 2024, Waste Management will deliver to each residential unit one 96 gallon container for solid waste and one 96 gallon container for recyclables (if the resident has chosen to participate in such services). Such containers will continue to be owned by Waste Management. Additional containers will be provided and serviced for an additional fee, as set forth in paragraph K.1. Residences will be required to place all solid waste and recyclables in the WM-provided containers.

3. <u>Changes to Process for Overage</u>. Effective as of the First Amendment Date, paragraph I.7 of the Contract is hereby deleted in its entirety and replaced with the following:

Contamination; Overage:

# For purposes of this Contract:

- "Contamination" refers to materials placed in a recyclables container other than recyclables.
- "Overage" is defined as (a) solid waste or recyclables exceeding its container's intended capacity such that the lid is lifted (or would be lifted if lowered) or (b) solid waste or recyclables placed on top of or in the immediate vicinity of the container, in bags or otherwise.
- "Unacceptable Waste" means any waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized, or listed under applicable federal, state, or local laws or regulations, any materials containing information protected by federal, state or local privacy and security laws or regulations.

Roll-Out Period – Education and Outreach. For purposes of this paragraph I.7, the "Commencement Date" is the date on which Waste Management implements its WM Smart Truck<sup>SM</sup> technology on collection vehicles for this Contract. During the period beginning on the Commencement Date and ending on 60 days later (the "Roll-Out Period"), Waste Management shall provide an education program designed to minimize instances of Contamination and Overage. During the Roll-Out Period, where Waste Management documents that a particular residence has Contamination or Overage, Waste Management shall collect the offending container (where it can be done safely and excluding material laying on ground) and provide an electronic notice to the residence (if such contact information is provided by customer) with the following information (a "Violation Notice"):

- 1. Date of the offense;
- 2. Description of the offense;
- 3. If available, a photograph or video (or link to photograph or video);
- 4. A description of the materials that are appropriate for collection in said container and a link to view online with educational materials; and
- 5. A website to obtain additional information and/or receive responses to questions the customer may have.

During the Roll-Out Period, Waste Management shall not impose a Contamination or Overage charge.

<u>Post Roll-Out Period</u>. The following shall apply after the Roll-Out Period:

- 1. <u>Contamination</u>.
  - First and Second Occurrences. Waste Management shall service containers with Contamination except where there is visible Unacceptable Waste. Waste Management shall provide a Violation Notice, where such contact information has been provided.

- ii. Third and Subsequent Occurrences. Waste Management may opt to not collect recyclables containers with Contamination; in such event, the customer may request the container be collected as solid waste, and an additional fee will apply. Alternatively, Waste Management may collect a container with Contamination and invoice the City a Contamination charge in the amount set forth in paragraph K.1. In either case, the Waste Management shall provide a Violation Notice where such electronic contact information has been provided.
- 2. Overage. Waste Management may opt to not collect Overage, unless caused by spillage of non-overloaded containers during collection; in such event, the resident may correct the Overage and request that Waste Management return to service the container (an additional fee will apply). Alternatively, Waste Management may collect the container with Overage and invoice the City an Overage Charge in the amount set forth in paragraph K.1. In either case, Waste Management shall provide a Violation Notice where such electronic contact information has been provided. If there have been more than three instances of Overage in any 12-month period for a particular service (i.e., solid waste or recyclables), Waste Management may increase the customer's service level (i.e., additional containers) to mitigate the Overage, and may increase the charges according to the increased service level.
- 4. <u>Changes to Curbside Recycling Program</u>. Effective as of the First Amendment Date, paragraph I.12 of the Contract is hereby deleted in its entirety and replaced with the following:

Curbside recycling services will be made available to those residents who choose to participate in the program at no additional fee (one (1) 96 gallon container). Accepted recyclable materials are set forth in Exhibit F. Waste Management is responsible for providing containers and collecting any accepted recyclable materials. The City reserves the right to require additional recyclable items to be collected should Waste Management provide this service for any other municipal customer within Mesa County. Recycling services will be provided every other week. Waste Management reserves the right to discontinue recycling services to residents which repeatedly place more than the permitted amount of non-recyclables pursuant to Waste Management's standards.

5. <u>Leaf Drop Off Services</u>. Effective as of the First Amendment Date, the following is hereby added to the Contract as paragraph I.15:

Waste Management will provide curbside service for City residents to place bagged leaves during three weeks in November each year, on dates to be agreed to by WM and the City. Leaves are the only acceptable material that will be collected. All other materials will be not be collected. Collection may not happen on regular service dates.

6. <u>Waste Management Fees</u>. Effective as of the First Amendment Date, paragraph K.1 of the Contract is hereby deleted in its entirety and replaced with the following:

The fees for compensation to Waste Management for collection of solid waste and recyclable materials for services beginning January 1, 2024 shall be as follows:

Weekly curbside collection: \$17.37 per month
Weekly curbside collection – senior rate: \$16.21 per month
Extra pickup: \$8.19 per pickup

Additional cart (solid waste or recyclables): \$4.19 per cart per month

Bulky item: \$51.49 per item

Contamination: \$5.00 Overage: \$5.00

Waste Management will invoice the City monthly regarding services provided in the previous month. Payment shall be due within 30 days of the invoice date.

7. <u>Extraordinary Adjustments to Rates</u>. Effective as of the First Amendment Date, paragraph K.3 of the Contract is hereby deleted in its entirety and replaced with the following:

In addition to the Annual CPI Adjustment provided above, the Waste Management fees shall, upon written request of Waste Management, be further adjusted to fully capture increased expenses and lost revenue associated with performance of the services hereunder due to any one or more of the following causes:

- a. Force majeure;
- b. Changes in applicable law, regulation or permit that is effective after the First Amendment Date of this Contract;
- c. Increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities related to the Waste Management's services;
- d. Changes in baseline assumptions, such as changes in volumes collected and changes in the amount of container contamination;
- e. Increase in the cost of transportation, including fuel and third-party transportation costs, as determined by reference to the Energy Information Administration of the U.S. Department of Energy's ("EIA/DOE") Weekly Retail on Highway Diesel Prices for the U.S.
- f. Changes in the cost of labor as determined by the U.S. Bureau of Labor Standards, Employment Cost Index CIU20100005200000I, Total compensation, Private industry, Transportation and material moving, Collective Bargaining Agreement or Actual Labor and Benefits Increases (or an equivalent).

- g. Changes in the cost of equipment as determined by the U.S. Bureau of Labor Standards, Producer Price Index, PCU336120336120, Heavy duty truck manufacturing and costs arising from supply chain impacts (or an equivalent).
- h. Any other extraordinary circumstances or causes or reasons that are not within the reasonable control of Waste Management.

If Waste Management requests an adjustment pursuant to this paragraph K.3, it shall prepare a fee adjustment request setting forth its calculations of the increased costs/lost revenue and accompanying adjustment to the fees necessary to offset such increased costs/lost revenue. The City may request documentation and data reasonably necessary to evaluate such request by Waste Management, and may retain, at its own expense, an independent third party to audit and review such documentation and request. If such third party is retained, the City shall take reasonable steps, consistent with applicable law, to protect the confidential or proprietary nature of any data or information supplied by Waste Management. The City shall approve all properly calculated fee adjustments within ninety (90) days of Waste Management's request, and the adjusted fees shall be deemed to take effect as of the date of Waste Management's request. In addition, if the request is based upon any new or increased third party fees, taxes, assessments or charges, the City shall approve the fees adjustment within such time period as necessary to ensure that such fees, taxes, assessments or charges are passed on to the City by the date the same are effective.

8. <u>Changes to Exhibit A.</u> Effective as of the First Amendment Date, Exhibit A, paragraph C.2 of the Contract is hereby deleted in its entirety and replaced with the following

There shall be no limit to the number of containers to be collected at one residence, provided the resident utilizes a WM provided container and pays the applicable Extra Cart Rate per additional container. All solid waste and recyclables must be in a WM provided container to be collected.

- 9. <u>Conflict/Order of Precedence</u>. The Contract and this First Amendment are intended to be complementary such that what is set forth in one document is as binding as if set forth in each document. However, in the event of a conflict, discrepancy, error, or inconsistency that cannot be reconciled this First Amendment shall prevail.
- 10. <u>Entire Agreement</u>. This First Amendment, together with the Contract, constitutes the entire agreement between the City and Waste Management regarding the subject matter contained herein and supersedes an and all prior and/or contemporaneous oral or written negotiations, agreements or understandings.
- 11. <u>Headings</u>. The paragraph headings used herein are inserted for convenience only and shall not affect in any way the meaning or interpretation of this First Amendment.

- 12. <u>Ratification; Effect</u>. Except as specifically amended hereby, all of the terms and conditions of the Contract are and shall remain in full force and effect and are hereby ratified and confirmed.
- 13. <u>Amendments</u>. No amendment, modification, termination or waiver of any provision of this First Amendment shall be binding or effective unless in writing and duly executed by both the City and Waste Management.
- 14. <u>Successors and Assigns</u>. This First Amendment shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns.
- 15. <u>Governing Law</u>. This First Amendment shall be governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Colorado.
- 16. <u>Counterparts</u>. This First Amendment may be executed in counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto execute this First Amendment as of the date first set forth above. Each individual executing this First Amendment in a representative capacity for a party warrants the authority to do so and to bind principals.

corporation

By:	
_ ,,	Print Name:
	Its:
City of By:	of Fruita, Colorado
_ ,,	Print Name:
	T <sub>4.0</sub> .

Waste Management of Colorado, Inc., a Colorado

#### **CONTRACT**

THIS CONTRACT is made and entered into this January 1, 2020 by and between the City of Fruita, a municipal corporation in the State of Colorado (the "City") and Waste Management of Colorado, a Colorado corporation ("Waste Management")

#### WITNESSETH

WHEREAS, the City has provided residential refuse collection and disposal services to single family and multi-family residential units within the City of Fruita since at least 1984, through the use of an independent contractor, and required the payment of user fees for such service; and

WHEREAS, the City desires to continue to provide residential refuse collection and disposal services within the City and require single family residences and multi-family residences of less than four (4) units to use and pay user charges for such services within the City, and any territory annexed thereto; and

WHEREAS, Waste Management submitted a Proposal on May 15, 2019, to provide, as an independent contractor, residential refuse and recycling collection and disposal services on behalf of the City for a five-year term, and to perform such work as may be incidental thereto.

NOW, THEREFORE, in consideration of the following mutual agreements and covenants, it is understood and agreed by and between parties hereto as follows:

#### A. Furnishing of Services on Behalf of the City.

In accordance with the Contract Documents (defined below), Waste Management, as an independent contractor, is hereby granted the sole and exclusive right within the territorial jurisdiction of the City of Fruita, and any territory annexed thereto, to furnish on behalf of the City all personnel, labor, equipment, trucks, and other items necessary to provide unlimited solid waste and recycling collection, removal and disposal services for residential units as specified in the Contract Documents and to perform all of the work as described in the Contract Documents.

#### B. Contract Documents.

This Contract shall include the following Exhibits.

Exhibit A	Request for Proposals and invitation to bid dated April 15, 2019

Exhibit B Trash and Recycle Route Map

Exhibit C Performance Bond (Have Not Received)

Exhibit D Illegal Alien Affidavit of No Employees

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Exhibit E Department Program Affidavit Exhibit F Recyclables Specifications

# C. Amendments to Contract.

All provisions of the Contract Documents shall be strictly honored by Waste Management, and no amendment to this Contract shall be made except upon written consent of the parties, which consent shall not be unreasonably withheld. No amendment shall be construed to release either party from any obligation of this Contract except as specifically provided.

## D. Term.

Subject to paragraph G, the parties agree that this Contract shall become effective as of January 1, 2020 and shall continue until December 31, 2024. The parties may, upon written agreement, extend the contract, under the original terms and conditions, for up to two separate two-year extensions for a total extension period of four years.

## E. Insurance.

- Waste Management agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure, in an amount standard in the industry for the kind of work performed by Waste Management, against all liability, claims, demands, and other obligations assumed by Waste Management pursuant to this Contract. Such insurance shall be in addition to any other insurance requirements imposed by law.
- Waste Management shall procure and maintain and shall cause any subcontractor of Waste Management to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
  - a. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Contract, and Employer's Liability insurance with minimum limits of five hundred thousand dollars (\$500,000) each accident, two million dollars (\$2,000,000) disease policy limit, and two million dollars (\$2,000,000) disease each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.

- b. Commercial general liability insurance with minimum combined single limits, which are currently nine hundred ninety-nine thousand dollars (\$999,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision and shall be endorsed to include the City and the City's officers, employees, and consultants as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.
- 3) Any insurance carried by the City, its officers, its employees, or its consultants shall be excess and not contributory insurance to that provided by Waste Management. Waste Management shall be solely responsible for any deductible losses under any policy.
- Waste Management shall annually provide to the City a certificate of insurance, completed by Waste Management's insurance agent, as evidence that policies providing the required coverages, conditions, and minimum limits are in full City and effect. The certificate shall identify this Contract and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days (ten (10) days' for non-payment of premium) prior written notice has been given to the City.

Failure on the part of Waste Management to procure or maintain the insurance required herein shall constitute a material breach of this Contract upon which the City may immediately terminate this Contract, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Waste Management to the City upon demand, or the City may offset the cost of the premiums against any monies due to Waste Management from the City.

## F. Force Majeure.

Waste Management shall not be liable for the failure to wholly perform its duties, if such failure is caused by a catastrophe, riot, war, governmental order or regulation, strike, fire, accident, act of God, or other different contingency beyond the reasonable control of Waste Management.

# G. Contract Subject to Referendum - Annual Appropriation.

This contract and all contracts which require authorization by ordinance will be subject to the initiative and referendum portions of the Fruita City Charter. In addition, as required by Article X, Section 20 of the Colorado Constitution, any obligation of the City not to be performed during the current fiscal year is specifically made subject to appropriation of funds for such performance. Should the City's governing body not appropriate funds for the performance of this contract in any future fiscal year this Contract shall automatically terminate without further action by the parties. No provision of this Contract shall be construed or interpreted: i) to directly or indirectly obligate the City to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant by the City to or in aid of any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.

#### H. Indemnification.

Waste Management agrees to indemnify and hold harmless the City, 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, arising from or caused by negligent act, willful misconduct, acts of omission, error, professional error, mistake, negligence, or other fault of Waste Management, any subcontractor of Waste Management, or any officer, employee, representative, or agent of Waste Management, or which arise out of any workmen compensation claim of any employee of Waste Management or of any employee of any subcontractor of Waste Management. In such case Waste Management agrees to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims, or demands at the sole expense of Waste Management. Waste Management also agrees to bear all other cost and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

### I. Performance by Waste Management:

 <u>Littering.</u> Waste Management shall not litter in the process of making collections but shall not be required to collect material that has not been placed in and completely contained approved containers (lid closed). All refuse hauled by Waste Management shall be so contained, tied or enclosed that leaking, spilling or blowing

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are prevented. Title to all waste shall be vested in Waste Management upon being placed in its vehicle.

- 2) <u>Landfill designated.</u> All refuse collected for disposal by Waste Management shall be hauled to the Mesa County Landfill or other City approved landfill. Subject to Section K(3), the fee for disposal shall be included in the fee set forth in Paragraph K of this Contract.
- Routes for collection of solid waste and recyclable materials. Subject to Section (I)(4) herein, routes and scheduling for collection of solid waste shall be on a weekly basis, and collection of recyclables shall be on alternating weeks. Days of collection shall be as depicted on the "Trash/Recycle Areas 10/2/2017" map attached hereto as Exhibit B.

When said collection day falls on a holiday, solid waste and recyclables shall be collected on the following day. The following shall be holidays are recognized for purposes of this Contract:

- · New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- · Thanksgiving Day
- Christmas Day

In the event of closure of the Mesa County Landfill due to weather or other conditions, solid waste will be collected on the next work day that the landfill is open.

Waste Management shall consult with the City prior to altering the routes and scheduling for collection of solid waste and recyclables, and such changes shall not occur without the City's consent, which shall not be unreasonably withheld. In the event of changes in routes or schedules that will alter the day of pickup, Waste Management shall notify the City by mail not less than one month prior to the change. Waste Management shall be responsible for designing, printing and distributing a written brochure to each residence describing changes to services provided including a description of collection times as well as specific guidelines as to what types of materials will be accepted, and the manner in which they are to be prepared, per this contract. The brochure must arrive at each resident's house at least two weeks prior to the date of service change. The brochure and its distribution are subject to the City's approval.

- Waste Management shall provide an adequate number of vehicles for regular solid waste and recycling collection services. All vehicles and other equipment shall be kept in good repair, appearance, and in a sanitary condition at all times. Each vehicle shall clearly have visible on each side the identity and telephone number of Waste Management.
- 6) If City allows residents to utilize Waste Management-provided 96 gallon carts for solid waste service (instead of initial method of placing materials at the curb), at the fee as set forth in Section K(1), Waste Management shall provide each home with one 96-gallon cart for solid waste, in additional to the already provided two 18-gallon tubs for recyclables. Additional containers will be available for a fee as set forth in Exhibit A. Waste Management will own all containers provided to residents hereunder, unless purchased by the resident.
- Overage: For purposes of this Contract, "Overage" means (i) Refuse, Recyclables or Organic Waste exceeding its container's intended capacity such that the lid is lifted by at least 10 inches (or would be lifted by at least 10 inches if there was a lid), or (ii) Refuse, Recyclables or Organic Waste placed on top of or in the immediate vicinity of the container. Waste Management is not obligated to collect Overage, unless caused by Waste Management spillage of non-overloaded Containers during collection.
  - If Waste Management elects to collect Overage, it may charge the Customer an Overage Rate to be negotiated with the City, however, Waste Management must have photographic evidence of the Overage (which will be provided to the Customer upon request).
  - 2. If there have been more than three instances of Overage in any 12-month period for a particular service (i.e., Refuse, Recyclables, or Organic Waste), and Waste Management has photographic evidence of each instance, Waste Management may increase the Customer's service level (i.e., larger Container or more frequent service) to mitigate the Overage, and may increase the charges to such Customer according to the increased service level.
- 8. Overweight Containers. Waste Management may refuse to collect any Refuse, or Recyclables, which Waste Management reasonably believes to be overweight. A Container shall be considered "overweight" if the total weight of the Container and contents exceeds two times the volume capacity of said Container (e.g., 192 pounds for a 96-gallon Cart). Waste Management shall provide notification to the Customer regarding each instance of non-collection.

- 8) Waste Management shall maintain an office through which it can be contacted. It shall be equipped with sufficient telephones and shall have a responsible person in charge from 8:00 am to 4:30 pm on regular collections days.
- Waste Management shall resolve all complaints within 24 hours of receipt of such complaint. Waste Management shall supply the City with copies of all complaints on a form approved by it and indicate the disposition of each. Such records shall be available for the City inspection at all times during business hours. The forms shall indicate the day and hour on which it was resolved. When a complaint is received on a day preceding a holiday or on a Saturday or Sunday, it shall be resolved on the next working day.
- 10) Waste Management shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.
- Waste Management shall conduct operations under this Contract in compliance with all applicable laws and municipal regulations including City ordinances.
- Curbside recycling services will be made available to those residents who choose to participate in the program at no additional fee (up to two 18-gallon tub every other week) (make sure this is the size). Accepted recyclable materials are set forth in Exhibit F. Waste Management is responsible for providing clean containers and collecting any accepted recyclable materials. The City reserves the right to require additional recyclable items to be collected should Waste Management provide this service for any other municipal customer within Mesa County. Recycling services will be provided every other week. Waste Management reserves the right to discontinue recycling services to residents which repeatedly place more than the permitted amount of non-recyclables pursuant to Waste Management's standards.
- Waste Management shall provide solid waste collection and recycling services at City facilities as outlined in the chart of "Dumpsters/Trash Bins at Public Offices" included in the Request for Proposals (page 3) attached hereto as Exhibit A using Contractor provided containers at no charge. Services in addition to those described in such Exhibit A chart will be billed at market rates negotiated with the City at the time the services are requested by the City.
- Waste Management and the City will work together in good faith to implement a recycling program for special events held in the City. As a starting point, at no cost to the City, Waste Management will provide 10 cardboard recycling bins and two (2) 8-yard dumpsters for the cardboard bins to be emptied into, for the annual Mike the Headless Chicken Festival. The City and Waste Management will work together in good faith to organize a recycling program for other special events as well, though such services will be billed at market rates negotiated with City.

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Waste Management will consult with the City regarding the City's annual electronics recycling event in the City. The timing a of the event will be jointly agreed to by the parties.

# J. Performance by City.

- The City shall notify all new property owners about complaint procedures, fees for collection of solid waste, regulations, day(s) for scheduled solid waste collection, and voluntary curbside recycling opportunities. City shall notify Waste Management of customer changes before such changes take effect (e.g., new customers, cancelling customers, changed service levels, etc.). Waste Management may notify the City of any discrepancies and the City shall promptly make appropriate billing adjustments.
- The City will submit statements to and collect from all residential units for services provided by Waste Management. The City shall have the right to make adjustments for those residents who do not require service for a period of time due to hospitalization, vacation, etc., only if advance notification is given to Waste Management of those residential addresses that do not require service. The City shall pay Waste Management within two weeks following the mailing of statements.

### K. Fees.

- The fees for compensation to Waste Management for collection of solid waste and recyclable materials for services beginning January 1, 2020 shall be \$12.87 per month per single-family residence and \$11.99 per month for a single-family residence that qualifies for the senior citizen fee based on age and income criteria. Waste Management provided container rate shall be \$14.00 per month for single-family residence and \$13.00 per month for seniors.
- Annual CPI Adjustment. These fees shall be adjusted annually on January 1 of each subsequent year of the contract to reflect changes in the cost of doing business, as measured by fluctuations in the Consumer Price Index (CPI) for All Urban Consumers: Garbage and Trash collection services (<a href="http://www.bls.gov/data">http://www.bls.gov/data</a>) as published by the U.S. Department of Labor, Bureau of Labor Statistics. Any percentage change in the CPI shall equal the percentage change in the collection fee. The fee will be calculated no later than August 31st of each year, based on the preceding twelve months (August thru July) of CPI data. Waste Management shall notify the City, in writing, of changes in the monthly fee by September 1 preceding the January 1 effective date of said fee change.

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- 3) Extraordinary Adjustments. In addition to the Annual CPI Adjustment provided, the Waste Management fees shall, upon written request of Waste Management, be further adjusted to fully capture increased expenses and lost revenue associated with performance of the services hereunder due to any one or more of the following causes:
  - a. Force majeure events;
  - b. Change in applicable law (statutes, regulations, permit requirements, orders, etc.) that is effective after the effective date of this Agreement;
  - c. Increase in costs to dispose (e.g., Mesa County landfill tip fees) of or process materials (e.g., MRF operating costs) collected hereunder; or
  - d. Increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities related to the services hereunder.

If Waste Management requests an adjustment pursuant to this section, it shall prepare an adjustment request setting forth its calculations of the increased costs/lost revenue and accompanying adjustment to the fees necessary to offset such increased costs/lost revenue. The City may request documentation and data reasonably necessary to evaluate such request by Waste Management, and may retain, at its own expense, an independent third party to audit and review such documentation and request. If such third party is retained, the City shall take reasonable steps, consistent with applicable law, to protect the confidential or proprietary nature of any data or information supplied by Waste Management. In the event the City, after retaining such third party, disputes the calculations provided by Waste Management, Waste Management may retain an independent third party to calculate the increased cost. If the parties are unable to agree on an adjustment after Waste Management's third party expert provides its calculations, the two independent third parties shall select a third independent third party who will calculate the adjustments, which calculation shall be final and approved by both parties.

### L. Assignment.

Any assignment of the Contract or any right occurring under this Contract is void without the express written consent of the City which consent shall not be unreasonably withheld.

# M. Failure to Perform.

If Waste Management (i) fails to collect materials herein specified for a period in excess of five (5) consecutive scheduled working days, (ii) fails to operate the system in a satisfactory manner, as described by the Contract Documents and the Fruita Municipal Code, for a similar period, or (iii) violates any of the provisions of this Contract, the City shall have

the following remedies in addition to any remedies provided at law or in equity (provided such failure is not due to war, insurrection, riot act of God, or any other cause beyond Waste Management's control), provided the City had given Waste Management notice of the performance failure and Waste Management failed to cure the same within five (5) days: Do these conflict?

- At its option, after written notice to Waste Management as provided hereinafter, take over and operate any or all of Waste Management's equipment used in the performance of this Contract;
- 2) Use and operate same itself until such matter is resolved and Waste Management is again able to carry out its operation under this Contract;
- 3) Contract with another service provider or engage in other self help.

Any and all operating expenses incurred by the City in so doing may be deducted from compensation to the Waste Management hereunder. If Waste Management is unable for any cause to resume performance at the end of thirty (30) calendar days, the City may terminate this Contract and all liability of the City under this Contract to Waste Management shall cease and the City shall be free to negotiate with other contractors for the collection of solid waste and recyclable materials. Such operation with another contractor shall not release Waste Management herein of its' liability to the City for such breach of this Contract.

#### N. Notices.

All notices shall be deemed given when same is delivered or mailed postage prepaid to the following address:

City of Fruita 325 E Aspen Ave, Suite 155 Fruita, CO 81521 Waste Management 1227 Winters Ave Grand Junction, CO 81501

With a copy to:

Waste Management Attn: Legal Department 222 S. Mill Avenue, Suite 333 Tempe, AZ 85281

O. Severability.

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In the event that any provision or portion thereof of any Contract Document shall be found to be invalid or unenforceable, then such provision or portion of any Contract Document shall not affect the validity or enforceability of any other provision or portion of the Contract Documents.

## P. Illegal Aliens.

1) Certification. Waste Management hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under the Contract and that the Waste Management will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the

Department Program administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Contract.

- 2) Prohibited Acts. Waste Management shall not:
  - a. Knowingly employ or contract with an illegal alien to perform work under this Contract; or
  - b. Enter into a contract with a subcontractor that fails to certify to Waste Management that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract.

### 3) Verification.

- a. If Waste Management has employees, Waste Management has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-Verify Program or the Department Program.
- b. Waste Management shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.
- c. If Waste Management obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien who is performing work under the Contract, Waste Management shall:
  - i. Notify the subcontractor and the City within three (3) days that Waste Management has actual knowledge that the subcontractor is

- employing or contracting with an illegal alien who is performing work under the Contract; and
- ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (a) hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under the Contract; except that Waste Management shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under the Contract.
- 4) Waste Management shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Waste Management is complying with this Contract.
- 5) If Waste Management does not have employees, Waste Management shall sign the "No Employee Affidavit" attached hereto as Exhibit D.
- 6) If Waste Management wishes to verify the lawful presence of newly hired employees who perform work under the Contract via the Department Program, Waste Management shall sign the "Department Program Affidavit" attached hereto as Exhibit E.

### Q. <u>Miscellaneous</u>

- Governing Law and Venue. This Contract shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Mesa County, Colorado.
- No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Contract by the City shall not constitute a waiver of any of the other terms or obligation of this Contract.
- 3) Integration. This Contract and any attached exhibits constitute the entire Contract between Waste Management and the City, superseding all prior oral or written communications. If there is a conflict between language in the body of this Agreement and any Exhibit, language in the body of the Agreement will prevail.
- 4) Third Parties. There are no intended third-party beneficiaries to this Contract.

- Governmental Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Contract, the monetary limitations (presently three hundred fifty thousand dollars (\$350,000) per person and six hundred thousand dollars (\$990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, or otherwise available to the City and its officers or employees.
- Rights and Remedies. The rights and remedies of the City under this Contract are in addition to any other rights and remedies provided by law. The expiration of this Contract shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

IN WITNESS WHEREOF, We, the Contracting parties, by our duly authorized agents, hereto affix our signatures and seals this 540 day of November, 2019.

City of Fruita  Joel K incaid, Mayor	Waste Management of Colorado, Inc.  Waste Management
ATTEST:	ATTEST:
Margaret Sell, City Clerk	So and to me
wargaret sett, City Cierk	Secretary

### Exhibit A: Basic Cope of Services to be Provided, as in the Request for Proposals.

### C. Basic Scope of Services to be Provided

- 1. Curb side trash collection and disposal services shall be provided to all residential units within the city limits of Fruita at least one (1) time per week. Multi-family dwellings of less than four units may elect, at the owner's option, to contract with the successful bidder for trash collection services through the use of a trash dumpster in lieu of curb side services subject to the City and successful bidder's review and approval of the specific location for access and safety issues. Multi-family dwellings of four or more units may, at the owner's option, elect to contract separately for trash collection services from any provider of trash collection services. The number of residential units currently being served is 4668 per month.
- 2. There shall be no limit to the number of containers or the amount of residential waste to be collected at one residence.
- 3. A copy of Section 8.08.080 of the Fruita Municipal Code concerning trash collection is attached as Exhibit A. Any requested changes to this Chapter such as weight or size restrictions or number of containers should be included in the proposal submitted.
- 4. Trash containers shall be placed, by both the residential user and the trash collection firm, at the front of the premises within 12 inches of the yard edge of the front sidewalk or curb, but in no event shall such containers block the use of the sidewalk or use the street for parking.
- 5. Contractor shall provide trash and recycling collection services at designated City locations at no charge to the City using Contractor-owned containers. An inventory of current Contractor-owned containers is as follows:

Dumpsters/Trash Bins at Public Offices				
Location	Size	Quantity	Service	Waste Type
Fruita Civic Center	Dumpster, 8 yard	1	Weekly	Trash
325 E. Aspen Ave	Dumpster, 6 yard	1	Weekly	Recycle

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F C- 04F04				
Fruita, Co 81521				
	Dumpster, 6			
Fruita Recreation Center	yard	1	Weekly	Trash
324 N. Coulson Street	Totes, 96 gallon	4	Weekly	Recycle
Fruita, Co 81521				
Little Salt Wash Park	Dumpster, 6 yard	1	Weekly	Trash
651 N. Pine Street				
Fruita, Co 81521				
	Dumpster, 8 yard		Twice a	
Fruita City Shops		1	week	Trash
	Dumpster, 6 yard		Twice a	
900 Kiefer Ave		1	week	Cardboard
Fruita, Co 81521	Totes, 96 gallon	9	Weekiy	Recycle
Fruita Police Department	Dumpster, 3 yard			
		2	Weekly	Trash
404 W 44-0	Dumpster, 6 yard			
101 W. McCune Ave		1	Weekly	Cardboard
Fruita, Co 81521	Totes, 96 gallon	2	Weekly	Recycle
Fruita Wastewater Plant	Dumpster, 2 yard	7	Weekly	Trash
1131 15 Road				
Fruita, Co 81521			*****	

6. Cost of the curbside recycling program shall be built into the flat rate for trash collection with no additional charge to either the City or resident for curbside recycling service. Contractor shall include with a bid a detailed list of items they will accept for recycling. The City reserves the right to require additional recyclable items to be collected should the Contractor provide this service for any other municipal

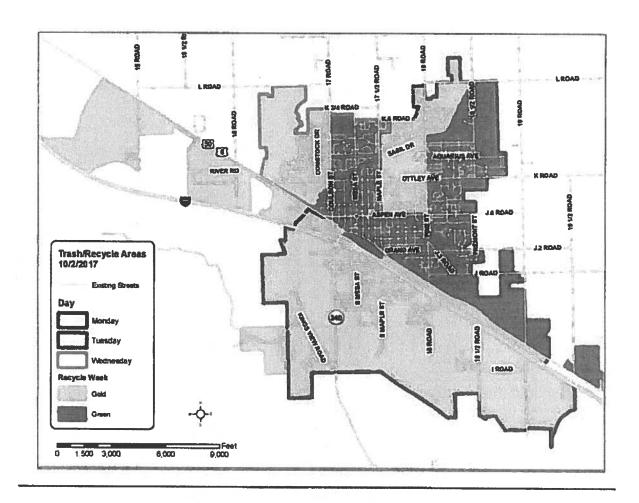
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customer with Mesa County. In addition, the Contractor shall be responsible for maintaining an inventory of clean bins to accommodate growth in the customer base during the term of the contract.

- 7. Special haul services shall be provided by the Contractor to residential customers upon request at a rate to be determined by the Contractor. The charge for such service shall be billed by the Contractor directly to such requesting customer. A residential customer may choose any trash hauling company for special haul services. Special haul services shall include, but are not limited to, materials which do not meet the requirements of 8.08.080 of the Fruita Municipal Code, bundles exceeding reasonable weight or size restrictions, rocks, automobile parts, tires, concrete, trees, appliances, furniture, and other bulky items.
- 8. All refuse collected for disposal shall be hauled to the Mesa County Landfill or other City approved landfill. The charge for disposal shall be borne by the Contractor. All applicable regulations shall be adhered to for transportation and disposal of refuse.

Exhibit B

TRASH AND RECYCLE ROUTE MAP



### Exhibit C

### PERFORMANCE BOND

### Exhibit D

### NO EMPLOYEE AFFIDAVIT

[To be completed only if Consultant does not have any employees]

1.	Check and complete one:
	I,, am a sole proprietor doing business as I do not currently employ any individuals. Should I employ any
	uals during the term of my Contract with the City, I certify that I will comply with the presence verification requirements outlined in that Contract.
OR	
	I,, am the sole owner/member/shareholder of, a[specify type of entity
Sho	corporation, limited liability company], that does not currently employ any individuals. I employ any individuals during the course of my Contract with the City, I certify that I emply with the lawful presence verification requirements outlined in that Contract.
2.	Check one.
	m a United States citizen or legal permanent resident.
	The City must verify this statement by reviewing one of the following items:  + A valid Colorado driver's license or a Colorado identification card;
	<ul> <li>A United States military card or a military dependent's identification card;</li> <li>A United States Coast Guard Merchant Mariner card;</li> <li>A Native American tribal document;</li> </ul>
	+ In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card;
	or
	Any other documents or combination of documents listed in the City's "Acceptable Documents for Lawful Presence Verification" chart that prove both the contractor's citizenship/lawful presence and identity.
OR	
	m otherwise lawfully present in the United States pursuant to federal law.
	Consultant must verify this statement through the Federal Systematic Alien Verification of Entitlement program, the "SAVE" program, and provide such verification to the City

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Signature	Exhibit E	Date	
	DEPARTMENT PROGRAM	M AFFIDAVIT	
[T	o be completed if Consultant presence	participates in the	
I,	, as a public copy affirm that:	contractor under contract with the Cit	y of
newly hired for employme		gal work status of all employees who spublic contract for services ("Contradate;	
	employment eligibility and i	of all documents required by 8 U.S. identity of newly hired employees	
	and will not alter or falsify the form work under this Contract.	ne identification documents for my ne	wly
Consultant Signature		10 - 8-19 Date	
STATE OF COLORADO	) ss.	JENNIFER L. HAGGARD Notary Public - State of Advanta MARICOPA COUNTY My Commission Expires Feb. 28, 2021	
The foregoing inst day of <u>October</u> , i Waste Management of	trument was subscribed, sworn 2018, <sup>2</sup> bya' <u>SCOHA</u> BYO COLOYADO, INC	to and acknowledged before me this	8-11- of

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My commission expires: Fobruary 25, 2021

(S	E	A	L)

Notary Public

### Exhibit F

### Recyclables Specifications

### RECYCLABLES must be dry, loose (not bagged) and include ONLY the following:

Aluminum cans - empty	Newspaper
PET bottles with the symbol #1 - with screw tops only - empty	Mail
HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.) - empty	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
PP plastic bottles and tubs with symbol # 5 - empty	Uncoated printing, writing and office paper
Steel and tin cans - empty	Old corrugated containers/cardboard (uncoated)
Glass food and beverage containers – brown, clear, or green – empty*	Magazines, glossy inserts and pamphlets

### NON-RECYCLABLES include, but are not limited to the following:

Plastic bags and bagged materials (even if containing Recyclables)	Microwavable trays
Mirrors	Window or auto glass
Light bulbs	Coated cardboard
Porcelain and ceramics	Plastics not listed above including but not limited to those with symbols #3*, #4*, #6*, #7* and unnumbered
Expanded polystyrene	Coat hangers
Glass and metal cookware/bakeware	Household appliances and electronics,
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)
Excluded Materials or containers which contained Excluded Materials	Napkins, paper towels, tissue, paper plates, paper cups, and plastic utensils
Any paper Recyclable materials or pieces of paper Recyclables less than 4" in size in any dimension	Propane tanks, batteries
Cartons*	Aseptic Containers*

<sup>\*</sup> These materials may be deemed Recyclables upon written consent of Waste Management, which may be withdrawn upon notice to City if there is no commercially viable market.

### **ADDITIONAL SPECIFICATIONS:**

Contained materials may not have more than 10% Non-Recyclables or any Excluded Materials. Carts or Bins with more than 10% Non-Recyclables may be delivered to the designated transfer or

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disposal facility for disposal. "Excluded Materials" means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances.

Waste Management reserves the right, upon notice to City, to reclassify Recyclables as Non-Recyclables for such period of time that the to cost process, transport and market such materials exceeds its then-current value, subject to the City of Fruita's approval which shall not unreasonably withheld). In any event, Waste Management may temporarily dispose of such negatively valued materials after proper notice to City, which notice will include its calculation establishing a commodity's negative value.



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** ANNUAL REVIEW OF RED FLAG POLICY (Identity Theft Prevention

Program)

#### BACKGROUND

The City of Fruita adopted a Red Flag Policy on May 19, 2009 (Resolution 2009-31) as required by the Federal Trade Commission and amended the Policy on January 15, 2019 (Resolution 2019-02) to provide for provisions of Colorado HB 18-1128 requiring a written policy for the destruction or proper disposal of documents containing personal identifying information.

The purpose of the policy is to identify, detect and respond to patterns, practices or specific activities that could indicate identity theft. The City's Red Flag Policy requires annual review by the City Council and updating, if necessary. The Council shall consider the following in review and amending the program:

- The City's experiences with identity theft
- Update in methods of identity theft
- Updates in customary methods used to detect, prevent and mitigate identity theft
- Updates in the types of accounts that the City offers or maintains; and
- Updates in service provider arrangements.

The City has not had any incidence of identity theft, suspicious activity or significant changes in personnel or procedures during the last year. Staff is not proposing any changes to the Red Flag Policy at this time. A copy of the existing Red Flag Policy is attached for review.

### FISCAL IMPACT

None

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

The amendment, adoption and implementation of the Red Flag Policy assists the City in the goal of <u>Maintaining and/or Improving the Quality of Service Provided</u> by protecting citizens from identity theft which could arise from their doing business with the City of Fruita.

### OPTIONS AVAILABLE TO THE COUNCIL

Continue with the existing Red Flag Policy Amend the existing Red Flag Policy.

### RECOMMENDATION

No Council action is necessary unless there is a desire to amend the existing Red Flag Policy.



### **RED FLAG POLICY AND PROCEDURES**

Updated: January 1, 2023

DEPARTMENTS:	ALL
FREQUENCY:	ANNUALLY

### **PURPOSE**

This policy is developed to comply with the Federal Trade Commission (FTC) rules requiring policies and procedures to prevent and mitigate identity theft with respect to acceptance of multiple or recurring payments for municipal services.

### **POLICY AND PROCEDURES**

Key components of the policy include the following:

- Access to Covered Account Information
- Credit Card Payments
- Sources and type of Red Flags
- Prevention and Mitigation of Identify Theft
- Annual review and potential update of the Red Flag Policy to reflect changes in risks to customers from identify theft
- Program Administration
- Treatment of Address Discrepancies
- Furnishing address information to consumer reporting agency
- Methods of Confirming Consumer Addresses
- Destruction of Personal Identifying Information (PIN)

See attached Exhibit A (Resolution 2019-02) for the Red Flag Policy

### **APPLICABILITY**

This policy applies to all departments and employees of the City who have access to personal identifying information.

Updated: January 1, 2023

### RESOLUTION 2019-02 EXHIBIT A

### **Red Flag Policy and Identity Theft Prevention Program**

### **Purpose**

To establish an Identity Theft Prevention Program designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

### **Definitions**

### 1. Covered Account means:

- a. An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and
- b. Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.
- 2. Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.
- 3. **Creditor** means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.
- 4. **Customer** means a person that has a covered account with a creditor
- 5. **Identity theft** means a fraud committed or attempted using identifying information of another person without authority.
- 6. **Notice of address discrepancy** means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(l), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

- 7. **Person** means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
- 8. **Personal Identifying Information** means a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.
- **9. Red flag** means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
- 10. **Service provider** means a person that provides a service directly to the City.
- 11. City means the City of Fruita.

### **Findings**

- 1. The City is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- 2. Covered accounts offered to customers for the provision of City services include utility accounts and development review accounts.
- 3. The process of opening a new covered account and making payments on such accounts have been identified as potential processes in which identity theft could occur.
- 4. The City limits access to personal identifying information to those employees responsible for or otherwise involved in opening covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the City's computer system and is not otherwise recorded.
- 5. The City determines that there is a low risk of identity theft occurring in the following ways:
  - a. Use by an applicant of another person's personal identifying information to establish a new covered account; and
  - b. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts.

#### **Access to Covered Account Information**

- 1. Access to customer accounts shall be password protected and shall be limited to authorized City personnel.
- 2. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the City Clerk and the password changed immediately.

3. Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the City Clerk.

### **Credit Card Payments**

- 1. In the event that credit card payments that are made over the telephone are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
- 2. All documentation containing personal identifying information shall be shredded erased, or otherwise modified to make the personal identifying information unreadable or indecipherable through any means after credit card payment has been entered into computer database.
- 3. Account statements and receipts for covered accounts shall include only the authorization code issued after approval of the credit card transaction from the third party service provider for payment of the covered account.

### Sources and Types of Red Flags

All employees responsible for or involved in the process of opening a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

1. Alerts from consumer reporting agencies, fraud detection agencies or service providers.

Examples of alerts include but are not limited to:

- a. A fraud or active duty alert that is included with a consumer report;
- b. A notice of credit freeze in response to a request for a consumer report;
- c. A notice of address discrepancy provided by a consumer reporting agency;
- d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
  - i. A recent and significant increase in the volume of inquiries;
  - ii. An unusual number of recently established credit relationships;
  - iii. A material change in the use of credit, especially with respect to recently established credit relationships; or
  - iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
- 2. Suspicious documents. Examples of suspicious documents include:
  - a. Documents provided for identification that appear to be altered or forged;

- b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
- c. Identification on which the information is inconsistent with information provided by the applicant or customer;
- d. Identification on which the information is inconsistent with readily accessible information that is on file with the creditor, such as the application for service; or
- e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
- 3. Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:
  - a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
    - i. The address does not match any address in the consumer report; or
    - ii. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
  - b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
  - c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
  - d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
  - e. The SSN provided is the same as that submitted by other applicants or customers.
  - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
  - g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
  - h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.

- i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
- 4. Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:
  - a. Shortly following the notice of a change of address for an account, City receives a request for the addition of authorized users on the account.
  - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
    - i. The customer fails to make the first payment or makes an initial payment but no subsequent payments.
  - c. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
    - i. Nonpayment when there is no history of late or missed payments;
    - ii. A material change in purchasing or spending patterns;
  - d. An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
  - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
  - f. The City is notified that the customer is not receiving paper account statements.
  - g. The City is notified of unauthorized charges or transactions in connection with a customer's account.
  - h. The City is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
- 5. Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

### **Prevention and Mitigation of Identity Theft**

1. In the event that any City employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the

City Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the City Clerk, who may in his or her discretion determine that no further action is necessary. If the City Clerk in his or her discretion determines that further action is necessary, a City employee shall 1) notify the customer within thirty (30) days after the date of the determination that a security breached occurred 2) provide a copy of such notification to the Colorado Attorney General's office and 3) perform one or more of the following responses, as determined to be appropriate by the City Clerk:

- a. Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
  - i. change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
  - ii. close the account;
- b. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
- c. Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
- d. Take other appropriate action to prevent or mitigate identity theft.
- 2. In the event that any City employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the City Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the City Clerk, who may in his or her discretion determine that no further action is necessary. If the City Clerk in his or her discretion determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the City Clerk:
  - a. Request additional identifying information from the applicant;
  - b. Deny the application for the new account;
  - c. Notify law enforcement of possible identity theft; or
  - d. Take other appropriate action to prevent or mitigate identity theft.

### **Updating the Program**

The City Council shall annually review and, as deemed necessary by the Council, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the City and its covered accounts from identity theft. In so doing, the City Council shall consider the following factors and exercise its discretion in amending the program:

- 1. The City's experiences with identity theft;
- 2. Updates in methods of identity theft;
- 3. Updates in customary methods used to detect, prevent, and mitigate identity theft;
- 4. Updates in the types of accounts that the City offers or maintains; and
- 5. Updates in service provider arrangements.

### **Program Administration**

The City Clerk is responsible for oversight of the program and for program implementation. The City Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the City Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the City Council for consideration by the Council.

- 1. The City Clerk will report to the City Manager at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
  - a. The effectiveness of the policies and procedures of City in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
  - b. Service provider arrangements;
  - c. Significant incidents involving identity theft and management's response; and
  - d. Recommendations for material changes to the Program.
- 2. The City Clerk is responsible for providing training to all employees responsible for or involved in opening a new covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The City Clerk shall exercise his or her discretion in determining the amount and substance of training necessary.

### **Outside Service Providers**

In the event that the City engages a service provider to perform an activity in connection with one or more covered accounts the City Clerk shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

### **Treatment of Address Discrepancies**

Pursuant to 16 CFR § 681.1, this establishes a process by which the City will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the City has received a notice of address discrepancy. In the event that the City receives a notice of address discrepancy, the City employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

- 1. Compare the information in the consumer report with:
  - a. Information the City obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 3 1 U.S.C.  $\S$  53 18(1);
  - b. Information the City maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
  - c. Information the City obtains from third-party sources that are deemed reliable by the relevant City employee; or
- 2. Verify the information in the consumer report with the consumer.

### **Furnishing Consumer's Address to Consumer Reporting Agency**

- 1. In the event that the City reasonably confirms that an address provided by a consumer to the City is accurate, the City is required to provide such address to the consumer reporting agency from which the City received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:
  - a. The City is able to form a reasonable belief that the consumer report relates to the consumer about whom the City requested the report;
  - b. The City establishes a continuing relation with the consumer; and

- c. The City regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
- 2. Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the City to such agency for the reporting period in which the City establishes a relationship with the customer.

### **Methods of Confirming Consumer Addresses**

The City employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

- 1. Verifying the address with the consumer;
- 2. Reviewing the City's records to verify the consumer's address;
- 3. Verifying the address through third party sources; or
- 4. Using other reasonable processes.

### **Destruction of Personal Identifying Information**

Unless otherwise required by state or federal law or regulation, when paper and electronic documents containing personal identifying information are no longer needed, employees of the City must destroy or arrange for the destruction of such documents by shredding, erasing, or otherwise modifying the personal identifying information in the documents to make the personal identifying information unreadable or indecipherable through any means.

Where the destruction of records is performed by a third party service provider, the City shall ensure that the provider maintain reasonable security procedures and practices that are appropriate for the records subject to destruction and are reasonably designed to protect the records from unauthorized access, use, modification, disclosure, or destruction.

For the purposes of this section "personal identifying information" means: a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, (as defined below); an employer, student, or military identification number; or a financial transaction devise, (as defined below).

For the purposes of this section "biometric data" means: unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when he or she accesses an online account.

For the purposes of this section "financial transaction devise" means: any instrument or device whether known as a credit card, banking card, debit card, electronic fund transfer card, or guaranteed check card, or account number representing a financial account or affecting the financial interest, standing, or obligation of or to the account holder, that can be used to obtain cash, goods, proper, or services or to make financial payments. Financial transaction devise does not mean a "check", a "negotiable order of withdrawal", or a "share draft".

Questions concerning appropriate means for disposing of specific types of paper or electronic documents should be directed to the City Clerk.

#### RESOLUTION NO. 2019-02

### A RESOLUTION AMENDING THE RED FLAG POLICY ESTABLISHING AN IDENTITY THEFT PREVENTION PROGRAM FOR THE CITY OF FRUITA

WHEREAS, pursuant to federal law the Federal Trade Commission (the "FTC") adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft;

WHEREAS, the FTC regulations, adopted as 16 CFR § 681.2, require creditors, as defined by 15 U.S.C. § 1681a(r)(5), to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS, 15 U.S.C. § 1681a(r)(5) cites 15 U.S.C. § 1691a, which defines a creditor as a person that extends, renews or continues credit, and defines 'credit' in part as the right to purchase property or services and defer payment therefore;

WHEREAS, the FTC regulations include utility companies in the definition of creditor;

WHEREAS, the City of Fruita (the "City") is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears:

WHEREAS, the FTC regulations define 'covered account' in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

WHEREAS, the FTC regulations require each creditor to adopt an Identity Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts:

WHEREAS, the City provides sewer, irrigation and refuse collection services for which payment is made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

WHEREAS, customer accounts for development review and other services for which payment is made after the product is consumed or the service has otherwise been provided are covered accounts by virtue of being for household purposes and allowing for multiple payments or transactions;

WHEREAS, the FTC regulations, adopted as 16 CFR 681.1, require users of consumer credit reports to develop policies and procedures relating to address discrepancies

between information provided by a consumer and information provided by a consumer credit company;

WHEREAS, the Colorado General Assembly has adopted HB 18-1128, entitled "Concerning Strengthening Protections for Consumer Data Privacy" ("HB 18-1128");

WHEREAS, HB 18-1128 requires the City the adopt certain written policies regarding the destruction of personal identifying information;

WHEREAS, the City desires to amend and update existing policies and procedures relating identity theft prevention, last reviewed by the City Council on August 7, 2018; and

WHEREAS, the duly elected governing authority of the City of Fruita is the Mayor and City Council thereof

### NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

Section 1. The Red Flag Policy amendments shown in the attached as Exhibit A are hereby adopted and approved.

Section 2. This Resolution shall be in full force and effect upon its passage and adoption.

### INTRODUCED, PASSED, APPROVED AND ADOPTED THIS 15th DAY OF JANUARY, A.D., 2019.

ATTEST:	City of Fruita	
Margaret Sell, City Clerk	Joel Kincaid, Mayor	



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** RESOLUTION 2024-01 – Designating the Place for Posting of Notices of Meetings

of the Fruita City Council and all Boards and Commissions of the City of Fruita

### **BACKGROUND**

Under Colorado's Open Meetings Law, local public bodies are required to post notices of public meetings at least 24 hours in advance of the meetings.

HB 19-1087 allows local public bodies to satisfy the notice requirement by posting the agenda on a public website of the local government at least 24 hours in advance of the public meeting. Such online posting may be in addition to or in lieu of the physical posting. A local public body that posts agendas on its website must provide the website address to the Department of Local Affairs and shall designate a public place within its boundaries at which it may post agendas at least 24 hours in advance of the meeting if it is unable to post online in exigent or emergency circumstances such as a power outage.

State statute also requires that the place for posting notices of meetings of the City of Fruita be designated annually at the first regular meeting of each year. DOLA has been provided with the www.fruita.org website as per the statute and Fruita's current practice of posting agendas to it website complies with the new legislation.

Resolution 2024-01 designates the City of Fruita's official online posting place for notices of meetings as www.fruita.org and the marquee on the east side of the Fruita Civic Center located at 325 E. Aspen as the posting place if the City is unable to post online in exigent or emergency circumstances such as a power outage.

### FISCAL IMPACT

N/A

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

N/A

### OPTIONS AVAILABLE TO THE COUNCIL

1. Approve Resolution 2024-01

2. Amend the resolution by designating another official site (online and/or physical) for posting notices of meetings

### RECOMMENDATION

APPROVE RESOLUTION 2024-01 - DESIGNATING THE PLACE FOR POSTING OF NOTICE OF MEETINGS OF THE FRUITA CITY COUNCIL AND ALL BOARDS AND COMMISSIONS OF THE CITY OF FRUITA

### **RESOLUTION 2024-01**

# CITY OF FRUITA, COLORADO RESOLUTION OF THE CITY COUNCIL ESTABLISHING THE LOCATIONS FOR POSTING NOTICES OF PUBLIC MEETINGS OF THE CITY COUNCIL AND ALL BOARDS AND COMMISSIONS OF THE CITY IN THE YEAR 2024

**WHEREAS,** §24-6-402(2)(c) requires that full and timely notice be given to the public of any meeting at which the adoption of any proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance; and

**WHEREAS,** §24-6-402(2)(c)(I), C.R.S., requires that the public place or places for posting of notices of public meetings shall be designated annually at the local public body's first regular meeting of each calendar year; and

WHEREAS, §24-6-402(2)(c)(II)(A), C.R.S. states that such posting place should be the local public body's website to the greatest intent practicable and that a local public body shall be deemed to have given full and timely notice of a public meeting if the local public body posts the notice, with specific agenda information if available, no less than twenty-four hours prior to the holding of the meeting on a public website of the local public body.

### **NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Fruita that:

- 1. The posting place for notices of regular and special meetings of the City of Fruita shall be the City of Fruita website: www.fruita.org. City staff shall provide the address of the website to the State of Colorado Department of Local Affairs for inclusion in the inventory maintained pursuant to C.R.S. §24-32-116.
- 2. The regularly scheduled meetings for the City Council shall be the first and third Tuesdays of the month commencing at 7:00 p.m.
- 3. City of Fruita hereby designates the Fruita Civic Center located at 325 E. Aspen Ave., Fruita, Colorado as the public place within its boundaries at which it may post notice no less than twenty-four hours prior to a meeting if it is unable to post a notice online in exigent or emergency circumstances such as a power outage or interruption in internet service that prevents the public from accessing the notice online; and as a courtesy, public notice may be posted there as well in any event.

**Effective Date**. This Resolution shall take effect and be enforced immediately upon its approval by the City Council.

The foregoing Resolution was approved and adopted this 16<sup>th</sup> day of January, 2024.

### CITY OF FRUITA

	By:
	Joel Kincaid, Mayor
Attest:	
Margaret Sell, City Clerk	



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** CITY MANAGER EMPLOYMENT AGREEMENT – A request to approve the

amended and restated City Manager Contract for 2024

### **BACKGROUND**

The City Council met in executive session to present their formal review of the City Manager on December 19, 2023. Upon reconvening from executive session, the City Council voted to renew the employment agreement with the City Manager with modifications to compensation to include an 8% increase and \$5,000 bonus. This agenda item formalizes the amendment to compensation and restates the January 3, 2023 City Manager Employment Agreement.

### FISCAL IMPACT

This Agreement increases the annual salary of the City Manager by 8%, consistent with other city employee increases for 2024, with a fiscal impact of approximately \$14,000 in addition to a \$5,000 bonus for exceeding expectations in 2023. These funds are included in the budget.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

N/A

### OPTIONS AVAILABLE TO THE COUNCIL

N/A

### **RECOMMENDED MOTION:**

 APPROVE THE AMENDED AND RESTATED 2024 CITY MANAGER EMPLOYMENT AGREEMENT AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT

### CITY MANAGER EMPLOYMENT AGREEMENT - AMENDED AND RESTATED 2024

This City Manager Employment Agreement – Amended and Restated 2024 ("Employment Agreement"), is made and entered into effective the 1st day of January, 2024, by and between the City of Fruita, Colorado, a Colorado home-rule municipality, acting by and through its City Council, hereinafter called, "Employer" or "City," as a party of the first part, and Michael Bennett, hereinafter called, "Employee," as a party of the second part, (Employer/City and Employee referred to collectively herein as "Parties").

### **WITNESSETH:**

WHEREAS, at its regularly scheduled meeting on December 19, 2023, the City Council of the City of Fruita ("City Council") conducted its annual formal review of Employee; and

WHEREAS, since Employee was hired by Employer in 2014, there have been several amendments to Employee's employment agreement; and

WHEREAS, at its December 19, 2023, meeting, the City Council voted to continue Employee's employment as City Manager with an increase in salary and severance pay, and to amend and restate the employment agreement to incorporate all changes into this Employment Agreement and to better organize the terms and conditions thereof.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree the Employee Agreement between Employer and Employee dated January 3, 2023 is hereby amended and replaced in its' entirety to read as follows:

### SECTION 1 EMPLOYEE DUTIES

Employer hereby agrees to employ Employee as City Manager of the City of Fruita subject to the conditions of this agreement and applicable provisions of the Fruita City Charter and the Fruita Municipal Code. Employee hereby agrees to faithfully perform the duties assigned to him by the Fruita City Charter, the Fruita Municipal Code, and any other legally permissible and proper duties which are compatible with Employee's position as City Manager and as the City Council shall from time to time determine and assign.

### SECTION 2 TERMS OF EMPLOYMENT

A. Pursuant to section 2.08.020 of the Fruita Municipal Code and Section 4.02 of the Fruita City Charter, Employee's employment may be terminated at will and without

- cause by a majority vote of the entire City Council, subject only to the provision set forth in Section 3, paragraph (A), (B) and (C) of this Agreement.
- B. Employee agrees to remain in the exclusive employment of the Employer and to neither accept nor become employed by any other employer until Employee's employment hereunder is terminated. The term "exclusive employment" shall not be construed to preclude occasional teaching, writing or consulting by Employee for third parties during hours when Employee is not conducting work for Employer.
- C. Employee is an exempt employee under the Fair Labor Standards Act ("FLSA").
- D. Employee shall maintain residency within the City of Fruita for the duration of his employment with Employer.
- E. The term of this Agreement shall be open-ended, with Employee serving at the pleasure of the City Council. This Agreement shall be reviewed and renewed, amended or not renewed annually by the City Council subject to the formal performance evaluation as set forth in Section 5 of this Agreement.
- F. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with the Employer, subject only to the provisions set forth in Section 3, paragraph (F) of this Agreement.

### SECTION 3 TERMINATION AND SEVERANCE PAY

- A. If Employee is terminated by the Employer for any reason other than conviction of a felony, as set forth in subparagraph (D) below, or voluntary resignation as described in subparagraph (F) below, Employer agrees to pay Employee a sum calculated as six (6) months aggregate compensation including the payment of all Employer benefits over said period. One additional month of compensation shall be added each year beginning on January 1, 2024, up to a maximum of twelve (12) months of compensation.
- B. Employee shall also be compensated for all earned vacation benefits accrued but unused as of the date of termination. Employer shall be entitled to withhold from said payments all amounts required to be withheld pursuant to the laws of the State of Colorado and the laws of the United States of America.
- C. In all cases it shall be the sole choice of Employee to accept a lump sum payment or to continue to be paid at regular intervals until compensation to which he is entitled pursuant to this Section 3 is exhausted.
- D. Notwithstanding the above, in the event Employee is terminated because of his conviction of a felony, the Employer shall have no obligation to pay any compensation described in paragraphs A, B and C of this Section.

- E. In the event Employer at any time during the term of this Agreement reduces the salary or other financial benefits of Employee in a greater percentage than applicable across-the-board reductions for all employees of Employer (see Section 4 (C) below); or in the event Employer refuses, following written notice, to comply with any other provision benefitting Employee herein; or in the event Employer elects not to renew this agreement; or Employee resigns following a formal suggestion by the City Council that he resign; Employee may, at his option, be deemed to be "terminated" at the date of such reduction or such refusal to comply, or non-renewal or suggestion of resignation and the severance benefits described in paragraphs (A) and (B) of this Section 3 shall be payable to Employee.
- F. In the event Employee decides to voluntarily resign from his position with the Employer, then Employee shall give the Employer two (2) months written notice in advance, or such lesser amount of advance notice as may be otherwise mutually agreed to. Employee shall not be entitled to, nor shall he receive, severance pay in the event of voluntary resignation.

### SECTION 4 SALARY AND BENEFITS

- A. Employer agrees to pay Employee for his service as City Manager an annual base salary of \$189,237 payable at the same time and schedule as other full-time employees of the Employer are paid with a \$5,000 bonus for exceeding expectations. In addition, Employer agrees to increase said base salary and/or benefits upon completion of the annual formal review as specified in Section 5, paragraph (A) in such amount and to such extent as the City Council may determine is desirable on the basis of the formal performance evaluation and an annual salary review of comparable positions.
- B. Employee shall receive as additional compensation and benefits, those benefits described in the most recent edition of the City of Fruita Employee Handbook, or any personnel policies or procedures subsequently adopted by Employer for all of the City's employees except as may be otherwise provided in this Employment Agreement.
- C. Employer shall not at any time during the term of this agreement reduce the salary, compensation, or other financial benefits of Employee, except to the degree of such a reduction across-the-board for all employees of the Employer, but in no event shall the Employee be paid less than the salary set forth in Section 4 (A), above, of this Agreement except by mutual written agreement between Employee and Employer. Such adjustments, if any, shall be made pursuant a majority vote of the entire City Council. In such event, Employer and Employee agree to provide their best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.

### SECTION 5 PERFORMANCE EVALUATION

- A. Employee shall receive a formal annual performance evaluation pursuant to Section 4.03 of the Fruita City Charter. The formal performance evaluation shall occur in January of each year. The City Council may define such goals and performance objectives for Employee that it determines necessary for the proper operation of the City and shall further establish a relative priority among those various goals and objectives. The goals and objectives shall generally be attainable by Employee within the time limitations specified and within the available financial resources provided in the annual budget.
- B. In addition, Employee shall also receive an informal performance review by City Council in July of each year.

### SECTION 6 AUTOMOBILE STIPEND

Employer shall pay Employee four hundred dollars (\$400) per month as an automobile allowance which shall be treated by Employee as additional income for income tax purposes. Employee shall maintain adequate personal automobile insurance during his employment which indicates Employee is the primary insurance carrier and file and keep a current copy of the insurance certificate with the Human Resource Director. Employee may utilize a City vehicle or receive the IRS mileage reimbursement rate as provided for all City employees for extended trips outside the Mesa County.

### SECTION 7 TIME OFF DURING NORMAL OFFICE HOURS

Employee must devote a great deal of time to business of the Employer outside of regular office hours of the City; therefore, Employee will be allowed to take compensatory time off during said regular office hours as Employee deems appropriate.

### SECTION 8 VACATION AND SICK LEAVE

Employee shall accrue vacation at the rate of fourteen (14) hours per month and shall accrue sick leave at the rate of eight (8) hours per month.

### SECTION 9 DISABILITY, HEALTH, AND LIFE INSURANCE

Employer shall provide Employee with worker's compensation coverage and those insurance coverages which Employer provides to other City employees and to pay the premiums for Employee's coverage for the same on the same basis as premiums are provided to all employees of the Employer.

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### SECTION 10 RETIREMENT FUNDING

Employer shall make monthly retirement contributions to the International City Management Association Retirement Corporation (ICMA RC) on Employee's behalf in the amount of ten percent (10%) of Employee's monthly base salary. This contribution is in lieu of any retirement contribution referred to in the City of Fruita Employee Handbook, or any subsequently adopted personnel policies and procedures.

## SECTION 11 DUES AND SUBSCRIPTIONS, PROFESSIONAL DEVELOPMENT AND GENERAL BUSINESS EXPENSES

- A. Employer agrees to budget and pay for professional dues and subscriptions for Employee, including ICMA membership, necessary for Employee's continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for his continued professional development as a City Manager.
- B. Recognizing the importance of constant communication and maximum productivity, Employer shall provide Employee, at Employer's cost, for business and personal use, a laptop/tablet computer and mobile smart phone to perform his duties and maintain communication with Employer staff and officials as well as other individuals doing business with Employer. Upon termination of Employee's employment, at the discretion of the Employee, any mobile phone number shall be transferred to Employee.
- C. Within budget constraints, Employer hereby agrees to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, Colorado Municipal League, and such other national, regional, state, and local governmental groups and committees thereof which Employee serves as a member.

### SECTION 12 INDEMNIFICATION

A. Pursuant to the Colorado Governmental Immunity Act, the Employer shall be liable for the costs of defense, including reasonable attorney's fees, and the payment of all judgments and settlement of all claims against Employee where the claim arises out of injuries or damages alleged to have been sustained from the act or omission of Employee occurring during the performance of his duties as City Manager, and within the scope of his employment, except where such act or omission is willful and wanton, so long as Employee does not compromise or settle the claims without

consent or the Employer.

B. Employer may indemnify Employee in any criminal proceeding against the costs of defense, including reasonable attorney's fees, and fines, if Employee acted in good faith an in a manner he reasonably believed to be in the best interests of the Employer, and had no reasonable cause to believe his conduct was unlawful. Determination of any action by a conviction, or upon a plea of nolo contendre or its equivalent, shall not of itself create a presumption that the Employee did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Employer, and had no reasonable cause to believe his conduct was unlawful. Any indemnification under this Paragraph shall be made by Employer only as authorized in a specific case upon a determination that indemnification of the Employee is proper under the circumstances because he has met the applicable standards of conduct set forth herein. Such determination shall be made by the Council by a majority vote of a quorum consisting of Council members who were not parties to such proceeding or, if the quorum is not obtainable, or even if obtainable, if a quorum of disinterested Council members so directs, by independent legal counsel in a written opinion.

### SECTION 13 BONDING

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

### SECTION 13 GENERAL PROVISIONS

- A. The text herein shall constitute the entire agreement between the Parties with regard to Employee's employment by the City.
- B. This Employment Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. To the extent not modified herein, the terms and conditions found in the most recent edition of the City of Fruita Employee Handbook, or any personnel policies or procedures subsequently adopted by Employer for all of the City's employees shall apply to Employee.
- D. If any provision, or any portion thereof, contained in this Employment Agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

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IN WITNESS WHEREOF, the City of Fruita has caused this Employment Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk, and Employee has signed and executed this Agreement, both in duplicate, effective the day and year first above written.

EMPLOYEE:	THE CITY OF FRUITA:
	By:
Michael Bennett	Joel Kincaid, Mayor
	Attest:
	Margaret Sell, City Clerk

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# CITY MANAGER EMPLOYMENT AGREEMENT - AMENDED AND RESTATED 20232024

This City Manager Employment Agreement – Amended and Restated 20232024 ("Employment Agreement"), is made and entered into effective the 3rd1st day of January, 20232024, by and between the City of Fruita, Colorado, a Colorado home-rule municipality, acting by and through its City Council, hereinafter called, "Employer" or "City," as a party of the first part, and Michael Bennett, hereinafter called, "Employee," as a party of the second part, (Employer/City and Employee referred to collectively herein as "Parties").

# WITNESSETH:

WHEREAS, at its regularly scheduled meeting on January 3 December 19, 2023, the City Council of the City of Fruita ("City Council") conducted its annual formal review of Employee; and

WHEREAS, since Employee was hired by Employer in 2014, there have been several amendments to Employee's employment agreement; and

WHEREAS, at its <u>January 3December 19</u>, 2023, meeting, the City Council voted to continue Employee's employment as City Manager with an increase in salary and severance pay, and to amend and restate the employment agreement to incorporate all changes into this Employment Agreement and to better organize the terms and conditions thereof.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree the Employee Agreement between Employer and Employee dated February 2, 2016January 3, 2023 is hereby amended and replaced in its' entirety to read as follows:

# SECTION 1 EMPLOYEE DUTIES

Employer hereby agrees to employ Employee as City Manager of the City of Fruita subject to the conditions of this agreement and applicable provisions of the Fruita City Charter and the Fruita Municipal Code. Employee hereby agrees to faithfully perform the duties assigned to him by the Fruita City Charter, the Fruita Municipal Code, and any other legally permissible and proper duties which are compatible with Employee's position as City Manager and as the City Council shall from time to time determine and assign.

# SECTION 2 TERMS OF EMPLOYMENT

A. Pursuant to section 2.08.020 of the Fruita Municipal Code and Section 4.02 of the

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- Fruita City Charter, Employee's employment may be terminated at will and without cause by a majority vote of the entire City Council, subject only to the provision set forth in Section 3, paragraph (A), (B) and (C) of this Agreement.
- B. Employee agrees to remain in the exclusive employment of the Employer and to neither accept nor become employed by any other employer until Employee's employment hereunder is terminated. The term "exclusive employment" shall not be construed to preclude occasional teaching, writing or consulting by Employee for third parties during hours when Employee is not conducting work for Employer.
- C. Employee is an exempt employee under the Fair Labor Standards Act ("FLSA").
- D. Employee shall maintain residency within the City of Fruita for the duration of his employment with Employer.
- E. The term of this Agreement shall be open-ended, with Employee serving at the pleasure of the City Council. This Agreement shall be reviewed and renewed, amended or not renewed annually by the City Council subject to the formal performance evaluation as set forth in Section 5 of this Agreement.
- F. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with the Employer, subject only to the provisions set forth in Section 3, paragraph (F) of this Agreement.

# SECTION 3 TERMINATION AND SEVERANCE PAY

- A. If Employee is terminated by the Employer for any reason other than conviction of a felony, as set forth in subparagraph (D) below, or voluntary resignation as described in subparagraph (F) below, Employer agrees to pay Employee a sum calculated as six (6) months aggregate compensation including the payment of all Employer benefits over said period. One additional month of compensation shall be added each year beginning on January 1, 2024, up to a maximum of twelve (12) months of compensation.
- B. Employee shall also be compensated for all earned vacation benefits accrued but unused as of the date of termination. Employer shall be entitled to withhold from said payments all amounts required to be withheld pursuant to the laws of the State of Colorado and the laws of the United States of America.
- C. In all cases it shall be the sole choice of Employee to accept a lump sum payment or to continue to be paid at regular intervals until compensation to which he is entitled pursuant to this Section 3 is exhausted.
- D. Notwithstanding the above, in the event Employee is terminated because of his conviction of a felony, the Employer shall have no obligation to pay any

Page 2

compensation described in paragraphs A, B and C of this Section.

- E. In the event Employer at any time during the term of this Agreement reduces the salary or other financial benefits of Employee in a greater percentage than applicable across-the-board reductions for all employees of Employer (see Section 4 (C) below); or in the event Employer refuses, following written notice, to comply with any other provision benefitting Employee herein; or in the event Employer elects not to renew this agreement; or Employee resigns following a formal suggestion by the City Council that he resign; Employee may, at his option, be deemed to be "terminated" at the date of such reduction or such refusal to comply, or non-renewal or suggestion of resignation and the severance benefits described in paragraphs (A) and (B) of this Section 3 shall be payable to Employee.
- F. In the event Employee decides to voluntarily resign from his position with the Employer, then Employee shall give the Employer two (2) months written notice in advance, or such lesser amount of advance notice as may be otherwise mutually agreed to. Employee shall not be entitled to, nor shall he receive, severance pay in the event of voluntary resignation.

# SECTION 4 SALARY AND BENEFITS

- A. Employer agrees to pay Employee for his service as City Manager an annual base salary of \$175,220.00189,237 payable at the same time and schedule as other full-time employees of the Employer are paid with a \$5,000 bonus for exceeding expectations. In addition, Employer agrees to increase said base salary and/or benefits upon completion of the annual formal review as specified in Section 5, paragraph (A) in such amount and to such extent as the City Council may determine is desirable on the basis of the formal performance evaluation and an annual salary review of comparable positions.
- B. Employee shall receive as additional compensation and benefits, those benefits described in the most recent edition of the City of Fruita Employee Handbook, or any personnel policies or procedures subsequently adopted by Employer for all of the City's employees except as may be otherwise provided in this Employment Agreement.
- C. Employer shall not at any time during the term of this agreement reduce the salary, compensation, or other financial benefits of Employee, except to the degree of such a reduction across-the-board for all employees of the Employer, but in no event shall the Employee be paid less than the salary set forth in Section 4 (A), above, of this Agreement except by mutual written agreement between Employee and Employer. Such adjustments, if any, shall be made pursuant a majority vote of the entire City Council. In such event, Employer and Employee agree to provide their best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.

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# SECTION 5 PERFORMANCE EVALUATION

- A. Employee shall receive a formal annual performance evaluation pursuant to Section 4.03 of the Fruita City Charter. The formal performance evaluation shall occur in January of each year. The City Council may define such goals and performance objectives for Employee that it determines necessary for the proper operation of the City and shall further establish a relative priority among those various goals and objectives. The goals and objectives shall generally be attainable by Employee within the time limitations specified and within the available financial resources provided in the annual budget.
- B. In addition, Employee shall also receive an informal performance review by City Council in July of each year.

# SECTION 6 AUTOMOBILE STIPEND

Employer shall pay Employee four hundred dollars (\$400) per month as an automobile allowance which shall be treated by Employee as additional income for income tax purposes. Employee shall maintain adequate personal automobile insurance during his employment which indicates Employee is the primary insurance carrier and file and keep a current copy of the insurance certificate with the Human Resource Director. Employee may utilize a City vehicle or receive the IRS mileage reimbursement rate as provided for all City employees for extended trips outside the Mesa County.

# SECTION 7 TIME OFF DURING NORMAL OFFICE HOURS

Employee must devote a great deal of time to business of the Employer outside of regular office hours of the City; therefore, Employee will be allowed to take compensatory time off during said regular office hours as Employee deems appropriate.

# SECTION 8 VACATION AND SICK LEAVE

Employee shall accrue vacation at the rate of fourteen (14) hours per month and shall accrue sick leave at the rate of eight (8) hours per month.

# SECTION 9 DISABILITY, HEALTH, AND LIFE INSURANCE

Employer shall provide Employee with worker's compensation coverage and those insurance coverages which Employer provides to other City employees and to pay the premiums for Employee's coverage for the same on the same basis as premiums are provided to all employees of the Employer.

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# SECTION 10 RETIREMENT FUNDING

#

Employer shall make monthly retirement contributions to the International City Management Association Retirement Corporation (ICMA RC) on Employee's behalf in the amount of ten percent (10%) of Employee's monthly base salary. This contribution is in lieu of any retirement contribution referred to in the City of Fruita Employee Handbook, or any subsequently adopted personnel policies and procedures.

# SECTION 11 DUES AND SUBSCRIPTIONS, PROFESSIONAL DEVELOPMENT AND GENERAL BUSINESS EXPENSES

- A. Employer agrees to budget and pay for professional dues and subscriptions for Employee, including ICMA membership, necessary for Employee's continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for his continued professional development as a City Manager.
- B. Recognizing the importance of constant communication and maximum productivity, Employer shall provide Employee, at Employer's cost, for business and personal use, a laptop/tablet computer and mobile smart phone to perform his duties and maintain communication with Employer staff and officials as well as other individuals doing business with Employer. Upon termination of Employee's employment, at the discretion of the Employee, any mobile phone number shall be transferred to Employee.
- C. Within budget constraints, Employer hereby agrees to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, Colorado Municipal League, and such other national, regional, state, and local governmental groups and committees thereof which Employee serves as a member.

# SECTION 12 INDEMNIFICATION

A. Pursuant to the Colorado Governmental Immunity Act, the Employer shall be liable for the costs of defense, including reasonable attorney's fees, and the payment of all judgments and settlement of all claims against Employee where the claim arises out of injuries or damages alleged to have been sustained from the act or omission of Employee occurring during the performance of his duties as City Manager, and within the scope of his employment, except where such act or omission is willful and wanton, so long as Employee does not compromise or settle the claims without

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consent or the Employer.

B. Employer may indemnify Employee in any criminal proceeding against the costs of defense, including reasonable attorney's fees, and fines, if Employee acted in good faith an in a manner he reasonably believed to be in the best interests of the Employer, and had no reasonable cause to believe his conduct was unlawful. Determination of any action by a conviction, or upon a plea of nolo contendre or its equivalent, shall not of itself create a presumption that the Employee did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Employer, and had no reasonable cause to believe his conduct was unlawful. Any indemnification under this Paragraph shall be made by Employer only as authorized in a specific case upon a determination that indemnification of the Employee is proper under the circumstances because he has met the applicable standards of conduct set forth herein. Such determination shall be made by the Council by a majority vote of a quorum consisting of Council members who were not parties to such proceeding or, if the quorum is not obtainable, or even if obtainable, if a quorum of disinterested Council members so directs, by independent legal counsel in a written opinion.

# SECTION 13 BONDING

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

# SECTION 13 GENERAL PROVISIONS

- A. The text herein shall constitute the entire agreement between the Parties with regard to Employee's employment by the City.
- B. This Employment Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. To the extent not modified herein, the terms and conditions found in the most recent edition of the City of Fruita Employee Handbook, or any personnel policies or procedures subsequently adopted by Employer for all of the City's employees shall apply to Employee.
- D. If any provision, or any portion thereof, contained in this Employment Agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

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IN WITNESS WHEREOF, the City of Fruita has caused this Employment Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk, and Employee has signed and executed this Agreement, both in duplicate, effective the day and year first above written.

EMPLOYEE:	THE CITY OF FRUITA:
Michael Bennett	By: Joel Kincaid, Mayor
iviiciiaei beiiiiett	Joel Kilicald, Mayor
	Attest:
	Margaret Sell, City Clerk

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# AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK

**DATE:** JANUARY 16, 2023

**AGENDA TEXT:** ORDINANCE 2024-04 – 1<sup>ST</sup> Reading - Introduction of an Ordinance amending

Chapters 2.41 and 2.42 of the Fruita Municipal Code to eliminate voting rights for Council members appointed to the Police and Parks and Recreation Commissions, and excluding them from quorum calculations. Public hearing set for February 20,

2024

# **BACKGROUND**

In 2023, the City Council engaged with various city boards and commissions to: 1) assess their purpose and achievements, 2) provide guidance on aligning with Fruita's strategic and master plans, and 3) evaluate the roles of Council members on these bodies. The City Council aims to enhance the separation of roles between itself and the boards/commissions, fostering their independence. While Council members or the Mayor may still serve as liaisons, they won't have voting powers or contribute to quorum calculations for the boards/commissions.

The Fruita City Charter (Sections 6.3.4 and 6.3.5) outlines the membership requirements for the Police Commission and Parks and Recreation Commission, mandating the appointment of one Council member to each. City Charter amendments necessitate voter approval. This ordinance maintains Council members' presence on the Police Commission and Parks and Recreation Commission but withdraws their voting rights. Additionally, it specifies that Council members are not considered when determining a quorum.

# FISCAL IMPACT

This Ordinance does not have any fiscal impact.

# **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The removal of voting rights of Council members appointed to the Police Commission and Parks and Recreation Commission provides a degree of separation of roles and responsibilities between the City Council and these Commissions, and promotes independence of the Commissions.

# **OPTIONS TO THE COUNCIL:**

- Approve the ordinance as presented, or with amendments, or
- Opt for no action, retaining the current voting privileges of Council members on the Police Commission and Parks and Recreation Commission, along with their inclusion in quorum

calculations.

# **RECOMMENDATION:**

PUBLISH A SYNOPSIS OF ORDINANCE 2024-04, AMENDING CHAPTERS 2.41 AND 2.42 OF THE FRUITA MUNICIPAL CODE TO ELIMINATE VOTING RIGHTS FOR COUNCIL MEMBERS APPOINTED TO THE POLICE AND PARKS AND RECREATION COMMISSIONS AND EXCLUDING THEM FROM QUORUM CALCULATIONS, FOR PUBLIC HEARING ON FEBRUARY 20, 2024

### ORDINANCE NO. 2024-04

# AN ORDINANCE AMENDING CHAPTERS 2.41 AND 2.42 OF THE FRUITA MUNICIPAL CODE CONCERNING QUORUMS AND VOTING FOR THE POLICE COMMISSION AND PARKS AND RECREATION COMMISSION

WHEREAS, the City Council met with the various boards and commissions of the City throughout 2023 to 1) review the purpose and accomplishments of the boards, 2) provide direction to them on how they can advise the Council to further priorities in Fruita's strategic and master plans, and 3) evaluate the roles of City Council members serving on various boards and commissions, and

**WHEREAS,** membership requirements of the Police Commission and Parks and Recreation Commission are established by the Fruita City Charter (Sections 6.3.4 and 6.3.5) and require one Council member be appointed to each of the Commissions, and

**WHEREAS**, the City Council desires to make the City Council members appointed to the Police Commission and Parks Recreation Commission non-voting members in order to provide better separation of roles and responsibilities between the City Council and the Commissions and promote independence of the Commissions.

# NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:

**Section 1:** Section 2.41.010 paragraph A of the Fruita Municipal Code and Ordinance 2005-17 concerning the Police Commission are hereby repealed and reenacted to read as follows:

# 2.41.010 MEMBERSHIP REQUIREMENTS.

A. The Police Commission is established by Article VI of the Fruita City Charter. Members at large are appointed in accordance with the Fruita City Charter. The member appointed from the City Council shall be appointed by the City Council immediately following the regular municipal election held every two (2) years and shall be a non-voting member of the Police Commission. Members may continue to serve until their successors have been appointed.

<u>Section 2:</u> Section 2.41.030 of the Fruita Municipal Code and Ordinance 2005-17 concerning the Police Commission are hereby repealed and reenacted to read as follows:

# 2.41.030 QUORUM AND VOTING.

A. A quorum shall be necessary for the Police Commission to take official action. A quorum is defined as a majority of the total voting membership, excluding vacant positions and the non-voting City Council member.

B. All actions of the Police Commission shall be taken by a majority vote, a quorum being present. A roll call vote shall be taken upon the request of any member.

<u>Section 3:</u> Section 2.42.010 of the Fruita Municipal Code and Ordinance 2005-17 concerning the Parks and Recreation Commission are hereby repealed and reenacted to read as follows:

# **2.42.010 MEMBERSHIP.**

A. The Parks and Recreation Commission is established by Article VI of the Fruita City Charter. Members at large are appointed in accordance with the Fruita City Charter. The member appointed from the City Council shall be appointed by the City Council immediately following the regular municipal election held every two (2) years and shall be a non-voting member of the Parks and Recreation Commission. Members may continue to serve until their successors have been appointed.

**Section 4:** Section 2.42.030 of the Fruita Municipal Code and Ordinance 2005-17 concerning the Parks and Recreation Commission are hereby repealed and reenacted to read as follows:

# 2.42.030 QUORUM AND VOTING.

- A. A quorum shall be necessary for the Parks and Recreation Commission to take official action. A quorum is defined as a majority of the total voting membership, excluding vacant positions and the non-voting City Council member.
- B. All actions of the Parks and Recreation Commission shall be taken by a majority vote, a quorum being present. A roll call vote shall be taken upon the request of any member.

# PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS DAY OF FEBRUARY 2024

ATTEST:	CITY OF FRUITA
Margaret Sell, City Clerk	Joel Kincaid, Mayor

# **2.41.010 MEMBERSHIP REQUIREMENTS**.

A. The Police Commission is established by Article VI of the Fruita City Charter. Members at large are appointed in accordance with the Fruita City Charter. The member appointed from the City Council shall be appointed by the City Council immediately following the regular municipal election held every two (2) years and shall be a non-voting member of the Police Commission. Members may continue to serve until their successors have been appointed.

# 2.41.030 QUORUM AND VOTING.

A. A quorum shall be necessary for the Police Commission to take official action. A quorum is defined as a majority of the total voting membership, excluding vacant positions and the non-voting City Council member.

# **2.42.010 MEMBERSHIP**.

A. The Parks and Recreation Commission is established by Article VI of the Fruita City Charter. Members at large are appointed in accordance with the Fruita City Charter. The member appointed from the City Council shall be appointed by the City Council immediately following the regular municipal election held every two (2) years and shall be a non-voting member of the Parks and Recreation Commission. Members may continue to serve until their successors have been appointed.

# **2.42.030 QUORUM AND VOTING.**

- A. A quorum shall be necessary for the Parks and Recreation Commission to take official action. A quorum is defined as a majority of the total voting membership, excluding vacant positions and the non-voting City Council member.
- B. All actions of the Parks and Recreation Commission shall be taken by a majority vote, a quorum being present. A roll call vote shall be taken upon the request of any member.

# **CHAPTER 2.41**

# **POLICE COMMISSION**

# **Sections:**

2.41.010	Membership requirements
2.41.020	<b>Meetings of the Police Commission</b>
2.41.030	Quorum and voting
2.41.040	<b>Police Commission officers</b>
2.41.050	<b>Powers and duties of Police Commission</b>

# 2.41.010 MEMBERSHIP REQUIREMENTS.

- A. The Police Commission is established by Article VI of the Fruita City Charter. Members at large are appointed in accordance with the Fruita City Charter. The City Council representative or Mayor shall be appointed by the City Council immediately following the regular municipal election held every two (2) years. Members may continue to serve until their successors have been appointed.
- B. Members of the Commission shall reside within the City.
- C. Members may be appointed to successive terms without any limitation.
- D. Chapter 2.70 of the Fruita Municipal Code, concerning the Code of Ethics for City Officials, and Sections 24-18-101, *et. seq.*, C.R.S. shall apply to all members of the Police Commission.

(Ord. 2005-17, S1)

**2.41.020 MEETINGS OF THE POLICE COMMISSION**. The Police Commission shall establish a regular meeting schedule and shall meet as frequently as necessary to perform its duties in conformance with Article 6 of the Fruita City Charter and this Chapter. (Ord. 2005-17, S1)

# 2.41.030 QUORUM AND VOTING.

- A. A quorum for the Police Commission shall consist of a majority of the Commission membership, excluding vacant positions. A quorum shall be necessary for the Police Commission to take official action.
- B. All actions of the Police Commission shall be taken by a majority vote, a quorum being present. A roll call vote shall be taken upon the request of any member.

(Ord. 2005-17, S1)

# 2.41.040 POLICE COMMISSION OFFICERS.

- A. In its first meeting in April of each year, the Police Commission shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chairman who shall preside over the Commission's meetings, and one (1) member to serve as vice chairman. The persons so designated shall serve in such capacities for a term of one (1) year. A vacancy in these offices may be filled for the unexpired term by a majority vote of the Commission membership, excluding vacant positions.
- B The chairman and vice-chairman may take part in all deliberations of the Police Commission and vote on all matters.

(Ord. 2005-17, S1)

# 2.41.050 POWERS AND DUTIES OF POLICE COMMISSION.

- A. The Police Commission shall have the powers and duties as noted in Section 6.03.04 of the Fruita City Charter.
- B The Police Commission shall perform such additional duties as assigned by the City Council.

(Ord. 2005-17, S1)

# **CHAPTER 2.42**

# PARKS AND RECREATION COMMISSION

# **Sections:**

2.42.010	Membership
2.42.020	Meetings of the Parks and Recreation Commission
2.42.030	Quorum and Voting
2.42.040	Parks and Recreation Commission officers
2.42.050	Powers and duties of Parks and Recreation Commission

# **2.42.010 MEMBERSHIP.**

- A. The Parks and Recreation Commission is established by Article VI of the Fruita City Charter. Members at large are appointed in accordance with the Fruita City Charter. The City Council representative or Mayor shall be appointed by the City Council immediately following the regular municipal election held every two (2) years. Members may continue to serve until their successors have been appointed.
- B. Members of the Commission may reside inside or outside the city limits of Fruita and shall have an interest in parks and recreation activities in the city of Fruita.
- C. Members may be reappointed by the City Council to successive terms without limitation.
- D. Chapter 2.70 of the Fruita Municipal Code, concerning the Code of Ethics for City Officials, and Sections 24-18-101, *et. seq.*, C.R.S. shall apply to all members of the Parks and Recreation Commission.

(Ord. 2005-17, S2)

**2.42.020 MEETINGS OF THE PARKS AND RECREATION COMMISSION**. The Parks and Recreation Commission shall establish a regular meeting schedule and shall meet as frequently as necessary to perform its duties in conformance with the requirements of this Chapter and the Fruita City Charter. (Ord. 2005-17, S2)

# 2.42.030 QUORUM AND VOTING.

- A. A quorum for the Parks and Recreation Commission shall consist of a majority of the Commission membership, excluding vacant positions. A quorum shall be necessary for the Parks and Recreation Commission to take official action.
- B. All actions of the Parks and Recreation Commission shall be taken by a majority vote, a quorum being present. A roll call vote shall be taken upon the request of any member

(Ord. 2005-17, S2)

# 2.42.040 PARKS AND RECREATION COMMISSION OFFICERS.

- A. At its first regular meeting in April, the Parks and Recreation Commission shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chairman who shall preside over meetings, and one (1) member to serve as vice-chairman. The persons so designated shall serve in such capacities for a term of one (1) year. A vacancy in these offices may be filled for the unexpired term by a majority vote of the Commission membership, excluding vacant positions.
- B. The chairman and vice-chairman may take part in all deliberations of the Parks and Recreation Commission and vote on all matters.

(Ord. 2005-17, S2)

# 2.42.050 POWERS AND DUTIES OF PARKS AND RECREATION COMMISSION.

- A. The Parks and Recreation Commission shall have the powers and duties as noted in Section 6.03.05 of the Fruita City Charter.
- B. The Parks and Recreation Commission shall perform such additional duties as assigned by the City Council.

(Ord. 2005-17, S2)



# AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK

**DATE:** JANUARY 16, 2023

**AGENDA TEXT:** ORDINANCE 2024-05 – 1<sup>ST</sup> Reading - Introduction of an Ordinance amending

Section 3.18.240 of the Fruita Municipal Code concerning membership requirements for the Tourism Advisory Council for public hearing set for February

20, 2024

### **BACKGROUND**

In 2023, the City Council engaged with various city boards and commissions to: 1) assess their purpose and achievements, 2) provide guidance on aligning with Fruita's strategic and master plans, and 3) evaluate the roles of Council members on these bodies. The City Council aims to enhance the separation of roles between itself and the boards/commissions, fostering their independence. While Council members or the Mayor may still serve as liaisons, they won't have voting powers or contribute to quorum calculations for the boards/commissions.

Section 3.18.240 of the Fruita Municipal Code establishes membership of the Tourism Advisory Council and states that composition of the committee will include representatives of the lodging industry, area attractions, retail businesses, the City Council, and other interested parties. This Ordinance eliminates the reference to a City Council representative on the Board. The current Council member's position will be vacated, and an interested party will be appointed in their stead, ensuring the continuity of membership and quorums.

# FISCAL IMPACT

This Ordinance does not have any fiscal impact.

# **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The removal of a representative from the City Council from the Tourism Advisory Council provides a degree of separation of roles and responsibilities between the City Council and the Advisory Council and promotes independence of the Advisory Council.

# **OPTIONS TO THE COUNCIL:**

- Approve the ordinance as presented, or with amendments, or
- Opt for no action, retaining the current membership structure of the Tourism Advisory Council.

# **RECOMMENDATION:**

PUBLISH A SYNOPSIS OF ORDINANCE 2024-05, AMENDING SECTION 3.18.240 OF THE FRUITA MUNICIPAL CODE REMOVING A REPRESENTATIVE FROM THE CITY COUNCIL FROM MEMBERSHIP OF THE TOURISM ADVISORY COUNCIL, FOR PUBLIC HEARING ON FEBRUARY 20, 2024

### ORDINANCE NO. 2024-05

# AN ORDINANCE AMENDING SECTION 3.18.240 OF THE FRUITA MUNICIPAL CODE CONCERNING MEMBERSHIP FOR THE TOURISM ADVISORY COUNCIL

WHEREAS, the City Council met with the various boards and commissions of the City throughout 2023 to 1) review the purpose and accomplishments of the boards, 2) provide direction to them on how they can advise the Council to further priorities in Fruita's strategic and master plans, and 3) evaluate the roles of City Council members serving on various boards and commissions, and

**WHEREAS**, membership requirements of the Tourism Advisory Council are established by Ordinance and state that composition of the committee will include representatives of the City Council, and

**WHEREAS**, the City Council desires to remove the City Council member(s) appointed to the Tourism Advisory Council in order to provide better separation of roles and responsibilities between the City Council and the Tourism Advisory Council and to promote independence of the Tourism Advisory Council.

# NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:

<u>Section 1:</u> Section 3.18.240 of the Fruita Municipal Code and Ordinances 1996-12 and 2005-17 concerning the Tourism Advisory Council are hereby amended to read as follows: (redline indicates deletion)

3.18.240 TOURISM ADVISORY COUNCIL. There is hereby created a Tourism Advisory Council which will consist of seven (7) members appointed by the City Council. Composition of the committee will include representatives of the lodging industry, area attractions, retail businesses, the City Council, and other interested parties. Members of the Commission may reside inside or outside the City limits Fruita and shall have an interest in marketing and promoting the City of Fruita. The Tourism Advisory Council shall advise the City Manager and City Council concerning the preparation of a budget for the expenditures of funds in the Tourism Promotional Fund. Members appointed to the Advisory Council shall serve terms as outlined in the Fruita City Charter. All members shall serve without compensation. (Ord. 1996-12, Ord. 2005-17)

# PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS \_\_\_ DAY OF FEBRUARY 2024

CITY OF FRI ITA

ATTEST.	CITTOTTKUITA

ATTECT.

Margaret Sell, City Clerk

Joel Kincaid, Mayor



# AGENDA ITEM COVER SHEET

**TO:** Fruita City Council and Mayor

**FROM:** Planning & Development Department

**DATE:** January 16, 2024

**AGENDA TEXT:** ORDINANCE 2024-06, FIRST READING, An introduction of an Ordinance

amending the Official Zoning Map of the City of Fruita by zoning approximately 14.52 acres of property located 1873 K Road to a Community Residential zone for

publication of public hearing on February 6, 2024.

(1873 K Road Rezone)

### **BACKGROUND**

This is a request for approval to zone approximately 14.52 acres of property to Community Residential (CR). The subject property is currently zoned Agricultural, Forestry and Transitional (AFT), which is a Mesa County zoning designation.

The applicants are requesting a Community Residential (CR) zone. The first step in the process to zone a property outside the city limits is annexation. Once the subject property has been annexed into the City Limits, zoning of the property must take place within 90 days in accordance with Section 17.17.080 of the Land Use Code and Colorado Revised Statutes (CRS) Section 31-12-115 (2).

The City Council is scheduled to make a decision on the annexation application at their January 16, 2024, public hearing.

The CR zone is primarily a single-family residential zone. The density (4-8 dwelling units per acre) associated with this zone district should be compatible with future residential development as supported by the Future Land Use Map and supporting documents within the Comprehensive Plan.

The Planning Commission heard the zoning application at their December 12, 2023, public hearing and recommended approval to the City Council by a vote of 7-0.

### FISCAL IMPACT

There is no fiscal impact to the City of Fruita for zoning property.

# APPLICABILITY TO CITY GOALS AND OBJECTIVES

This property is within the Urban Growth Boundary and is recommended through the Future Land Use Map contained in the Fruita Comprehensive Plan (The City's Master Plan) as being zoned Community Residential (CR).

# OPTIONS AVAILABLE TO THE COUNCIL

- 1. Publish a synopsis of Ordinance 2024-06, An introduction of an Ordinance amending the official zoning map of the City of Fruita by zoning approximately 14.52 acres of property located at 1873 K Road to a Community Residential zone for publication of public hearing on February 6, 2024.
- 2. Deny Ordinance 2024-06.

### RECOMMENDATION

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

PUBLISH A SYNOPSIS OF ORDINANCE 2024-06 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 14.52 ACRES OF PROPERTY LOCATED AT 1873 K ROAD TO A COMMUNITY RESIDENTIAL ZONE FOR PUBLICATION OF PUBLIC HEARING ON FEBRUARY 6, 2024.

### **ORDINANCE 2024-06**

# AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA BY ZONING APPROXIMATELY 14.52 ACRES OF PROPERTY LOCATED AT 1873 K ROAD TO A COMMUNITY RESIDENTIAL ZONE

**WHEREAS**, the subject property is shown and described in attached Exhibit A which was recently annexed to the City of Fruita by Ordinance, and

**WHEREAS,** a public hearing will be held by the City Council on February 6, 2024, for the zoning request, and

**WHEREAS**, the requested zone is consistent with the city's goals and policies including the city's Master Plan.

**WHEREAS**, the requested zone meets the approval criteria of Section 17.09.070 of the Fruita Land Use Code that must be considered for an Amendment to the Official Zoning Map (rezone).

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

**THAT** the Official Zoning Map adopted pursuant to Section 17.03.030 of the Fruita Land Use Code is hereby amended and that the subject property shown and described on the attached Exhibit A, containing approximately 14.52 acres, is hereby zoned Community Residential (CR).

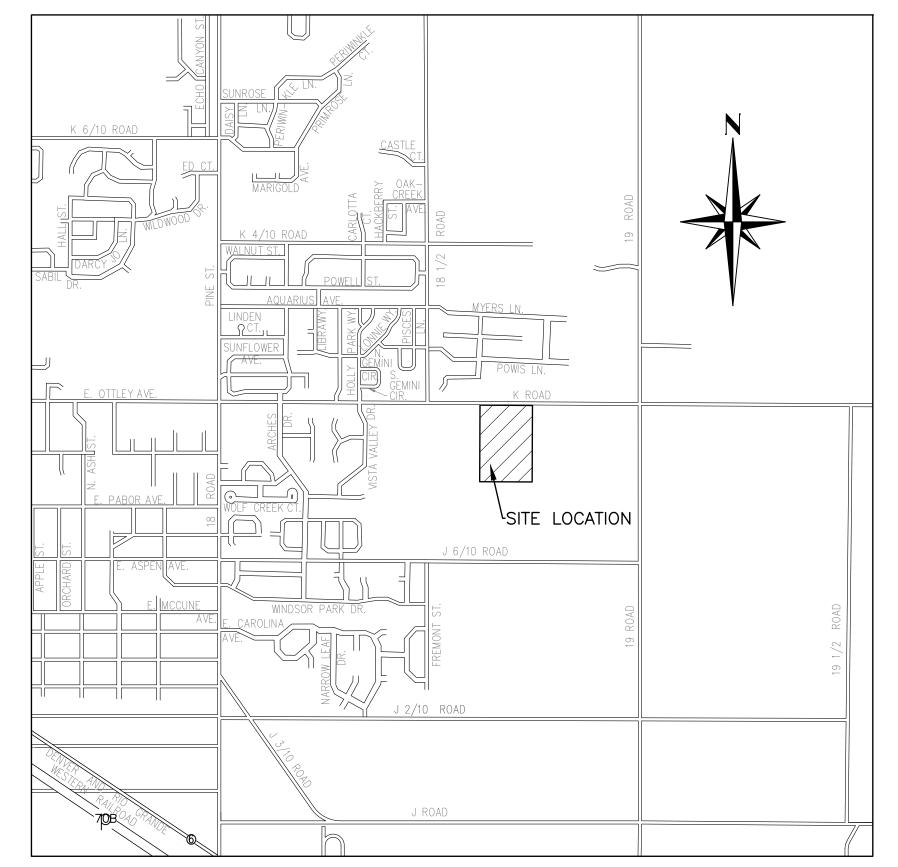
# PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS 6<sup>th</sup> DAY OF FEBRUARY 2024.

ATTEST:	City of Fruita:	
Margaret Sell, City Clerk	Joel Kincaid, Mayor	

# Exhibit A

# ANNEXATION

SITUATED IN THE NW1/4 NE1/4 SECTION 16 TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO

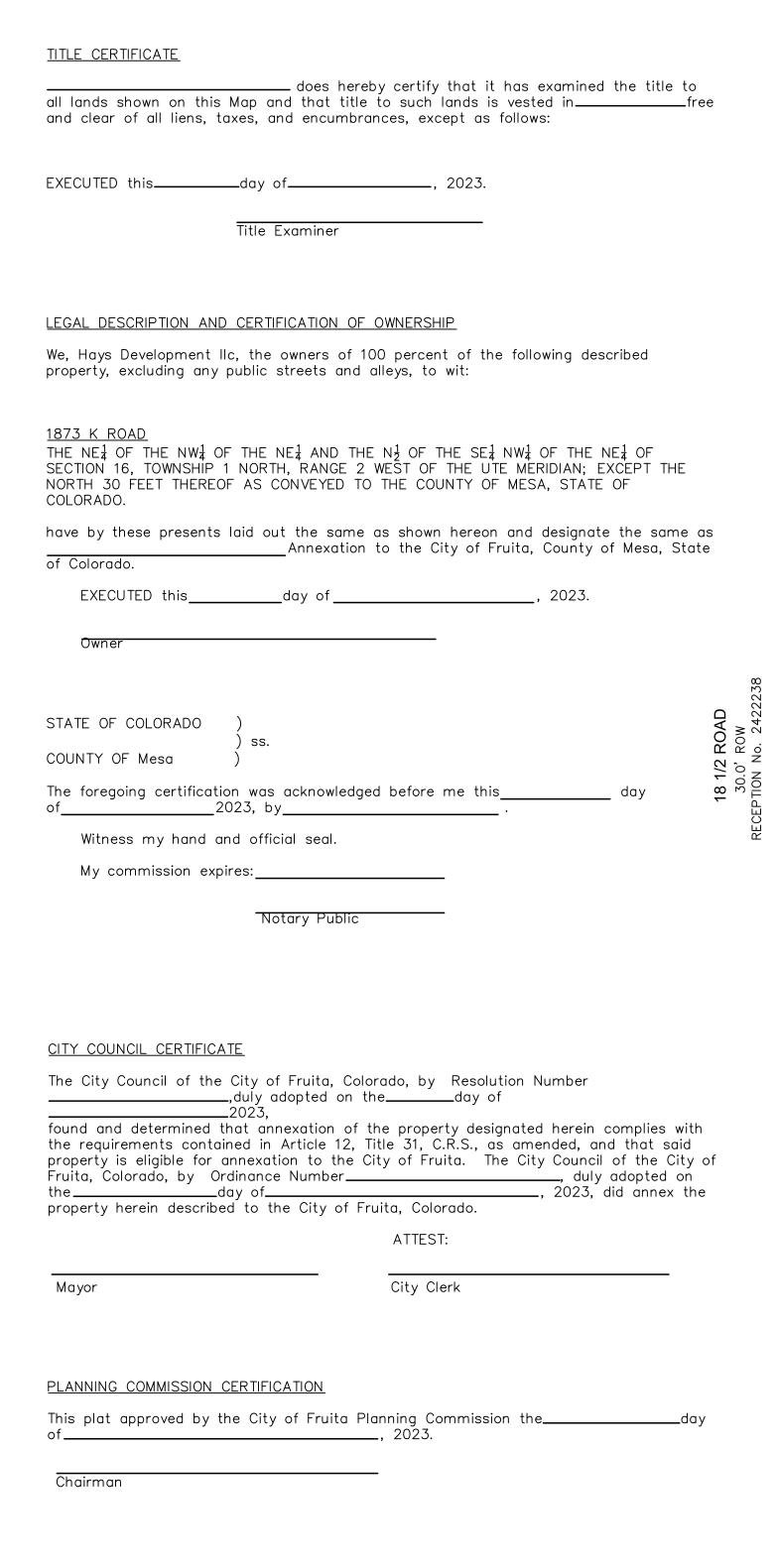


VICINITY MAP : NOT TO SCALE

# **ABBREVIATIONS:**

- NORTH SOUTH EAST
- WEST TOWNSHIP
- RANGE
- MESA COUNTY SURVEY MARKER RIGHT OF WAY
- SURVEY INFORMATION MANAGEMENT SYSTEM
- PROFESSIONAL LAND SURVEYOR
- No. NUMBER
- GLOBAL POSITIONING SYSTEM **IDENTIFICATION**
- SQUARE
- FT FEET AVE. **AVENUE**
- ST. STREET
- CT. COURT
- LANE
- DR. DRIVE UNITED STATES U.S.
- LIMITED COMMON ELEMENT
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. **POINT OF BEGINNING** W.C. WITNESS CORNER

1. BEARINGS ARE BASED ON THE NORTH LINE OF NW1/4 NE1/4 SECTION 16, TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN. THE VALUE USED S89°54'52"E, WAS CALCULATED USING THE MESA COUNTY LOCAL COORDINATE SYSTEM. MESA COUNTY SURVEY MARKERS WERE FOUND AT THE EAST AND WEST ENDS OF SAID LINE AS SHOWN HEREON.



I, Patrick W. Click, a registered land surveyor licensed under the laws of the State of Colorado, do hereby certify that this survey was made under my direct supervision and

that the information hereon is correct to the best of my knowledge and belief, and that no less than one—sixth (1/6) of the perimeter of the area as shown hereon is contiguous with the existing boundaries of the City of Fruita, Colorado. I further certify

that the external boundaries of the property shown on this Map have been

SURVEYOR'S CERTIFICATE

monumented on the ground.

Registered Land Surveyor

# MCSM #439-1 N1/4 CORNER K ROAD E1/16 CORNER ON NORTH LINE SECTION 16, T1N, R2W UTE MERIDIAN SEĆTION 16, T1N, R2W UTE MERIDIAN 30.0' ROW RECEPTION No. 829783 N89° 54' 52"W 1316.69' -ANNEXATION BOUNDARY CITY OF FRUITA EXISTING FRUITA CITY LIMITS $NW_4^1 NW_4^1 NE_4^1$ $NE_4^1 NW_4^1 NE_4^1$ 1851 K ROAD HILLTOP HEALTH SERVICES CORPORATION RECEPTION No. 2137869 **1873 K ROAD** 14.52 ACRES EXISTING FRUITA CITY LIMITS <del>/-</del>60.0'/ **MESA COUNTY** 1853 K ROAD MIKE & KRISTY DRIVER RECEPTION No. 2137869 ANNEXATION-BOUNDARY $SE_{4}^{1} NW_{4}^{1} NE_{4}^{1}$ $SW_{4}^{1}$ $NW_{4}^{1}$ $NE_{4}^{1}$ N89° 55′ 31″W 658.93′ PARCEL 2697-161-00-066 DONALD COMPTON **MESA COUNTY** RECEPTION No. 2164049 N1/16 CORNER NE1/16 CORNER SECTION 16, T1N, R2W SECTION 16, T1N, R2W UTE MERIDIAN UTE MERIDIAN S89° 55' 45"E 1318.25'

# GRAPHIC SCALE: 1"=100'

LINEAR UNITS ARE U.S. SURVEY FEET

SET No. 5 REBAR WITH 2 INCH ALUMINUM CAP PLS 37904

LEGEND:

# 1873 K ROAD ANNEXATION

SITUATED IN THE NW1/4 NE1/4 SECTION 16 TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO

JOB #: 2023-161 FIELD WORK: SL DRAWN BY: NB DATE: 10/26/23 DRAWING NAME: 1851 & 1873 K RD CHECKED BY: PC

# POLARIS SUR VEYING

PATRICK W. CLICK P.L.S.

3194 MESA AVE. #B GRAND JUNCTION, CO 81504 PHONE (970)434-7038



# AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK

**DATE:** JANUARY 16, 2024

ASSOCIATE MUNICIPAL COURT JUDGE ONE-YEAR CONTRACT

**AGENDA TEXT:** RENEWAL – A request to approve a one-year Personal Service Agreement with

Greg Mueller as Associate Municipal Court Judge for the City of Fruita

# **BACKGROUND**

Pursuant to Article 5 of the Fruita City Charter, the City Council may appoint additional Associate Municipal Judges as may be necessary to act in case of temporary absence of the Presiding Municipal Judge. The contract with Greg Mueller will expire on January 31, 2024. Associate Judge Mueller is interested in continuing his service with the City. Attached is a copy of the Personal Service Agreement for Associate Municipal Judge Mueller.

### FISCAL IMPACT

Compensation will increase from \$575 to \$621 per session. The contract does not have any additional impact on the 2024 Budget. The 2024 Budget includes additional funds sufficient for payment of the Associate Municipal Judge in the absence of the Presiding Municipal Judge.

# APPLICABILITY TO CITY GOALS AND OBJECTIVES

The efficient and effective operations of Municipal Court help the city maintain its core services and provide for Quality of Place through the fair and impartial judgement on violations of city ordinance and other laws.

# OPTIONS AVAILABLE TO THE COUNCIL

Approve, amend or deny the contract with the Associate Municipal Judge/

# RECOMMENDATION

It is the recommendation of the Fruita City Staff that the Council move to:

APPROVE THE ONE YEAR PERSONAL SERVICE AGREEMENT WITH GREG MUELLER AS ASSOCIATE MUNICIPAL JUDGE FOR THE CITY OF FRUITA

# PERSONAL SERVICE AGREEMENT FOR ASSOCIATE MUNICIPAL JUDGE

The City of Fruita, whose address is 325 E. Aspen, Suite 155, Fruita, Colorado, 81521 County of Mesa, State of Colorado, herein referred to as City, hereby retains Greg Mueller whose address is 902 Colorado Avenue, Grand Junction, Colorado, 81501 herein referred to as Associate Municipal Judge.

### **SCOPE OF SERVICES**

The Associate Municipal Judge shall hear and try all alleged violations of ordinance provisions of the City of Fruita brought before the Fruita Municipal Court in the absence of the Presiding Municipal Judge and agrees to faithfully perform the duties assigned to him to the best of his ability. Associate Municipal Judge shall maintain his license to practice law in the state of Colorado as required by the Fruita City Charter. Associate Municipal Judge shall have all the judicial powers relating to the operation of his court, subject to any rules of procedure governing the operation or conduct of municipal courts promulgated by the Colorado Supreme Court and shall have the authority to issue local rules of procedure consistent with any rules of procedure adopted by Presiding Municipal Judge and the Colorado Supreme Court. Matters not provided for governing the operation of the municipal court in the Fruita Municipal Code and Fruita City Charter shall be governed by the provisions of C.R.S. 13-10-103 thru 13-10-125.

### **COMPENSATION**

Compensation for serving as Associate Municipal Judge shall be six hundred twenty one dollars (\$621) per session.

### **TERM**

This agreement shall be in effect from February 1, 2024 until January 31, 2025. Pursuant to the Fruita City Charter, the Associate Municipal Judge shall serve at the pleasure of the Fruita City Council and is subject to annual review. Associate Municipal Judge may terminate this agreement upon sixty (60) days written notice to the Fruita City Council. At the termination of this agreement in any manner, the payment to the Associate Municipal Judge of compensation earned to the date of such termination shall be in full satisfaction of all claims against City under this agreement.

### PERSONAL SERVICE AGREEMENT FOR ASSOCIATE MUNICIPAL JUDGE

(continued)

# **OFFICE AND EQUIPMENT**

The City shall furnish the Municipal Court with suitable courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies and furniture for the proper conduct of the business of the court as determined by the City. City shall also provide a municipal court clerk and bailiff to assist the Associate Municipal Judge with municipal court proceedings and operations. The municipal court clerk and bailiff shall have such duties as delegated by law and court rule and shall work with the Associate Municipal Judge for the efficient and effective administration and operation of Municipal Court. Associate Municipal Judge shall work with the supervisors of the court clerk and/or bailiff to address any issues with the provision of said services.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at Fruita City						
Hall on this day of	_, 2024.					
Joel Kincaid, Mayor	Greg Mueller, Associate Municipal Judge					
seer kineara, mayer	Greg Macher, Associate Marie par sauge					
ATTEST:						
Margaret Sell						
City Clerk						



# AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARC MANCUSO, PARKS AND RECREATION DIRECTOR

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** NOTICE OF AWARD – A Notice of Award to Merge 2 Media for clothing and

merchandise needs for the 2024 Sweetheart Run

### BACKGROUND

The purpose of this agenda item is to provide public disclosure for the purchase of clothing from Merge 2 Media. As required by the City of Fruita's purchasing policies, three quotes were received for the Clothing and Merchandise.

For the purpose of public disclosure, Staff wanted to communicate with the Council that Merge 2 Media was selected to fulfill the clothing and merchandise for the Sweetheart Run for 2024 as they are the apparent low bidder. Merge 2 Media is a company owned by Mayor Kincaid. City Council does not need to approve the award of this bid. State law and the City Charter do not prohibit such an award. Per Chapter 2.70.020 of the Fruita Municipal Code, however, public disclosure of this award is required. Mayor Kincaid is not allowed to participate in this discussion.

The relevant section for this award is Section C of the Fruita Municipal Code, which reads:

C. Incompatible employment. No official shall engage in private employment with, or render services for, any private person who has business transactions with any public body unless he shall first make full public disclosure of the nature and extent of such employment or services.

# **Quotes received:**

The following vendors provided quotes, The Locker Room, First String, and Merge2Media.

# OPTIONS AVAILABLE TO THE COUNCIL

No action is needed from City Council on this matter.

# RECOMMENDATION

No action is needed from City Council on this matter.



# **AGENDA ITEM COVER SHEET**

**TO:** Fruita City Council and Mayor

**FROM:** Margaret Sell, Finance Director/City Clerk

**DATE:** January 16, 2024

**AGENDA TEXT:** FINANCIAL REPORTS – A request to approve the Preliminary December 2024

Financial Reports

### BACKGROUND

<u>Sales and use tax revenues</u>. The following table provides a summary of sales and use tax revenues for November sales compared to sales in the same period in 2022. Reductions in sales and use tax revenues were anticipated in the 2023 Budget. Collectively, these revenues have surpassed the budget through November by \$563,148. On a year-to-date basis county sales tax revenues are flat compared to the prior year, use taxes on building materials and vehicles are down from the prior year, and city sales tax and lodging tax revenues are up from the previous year.

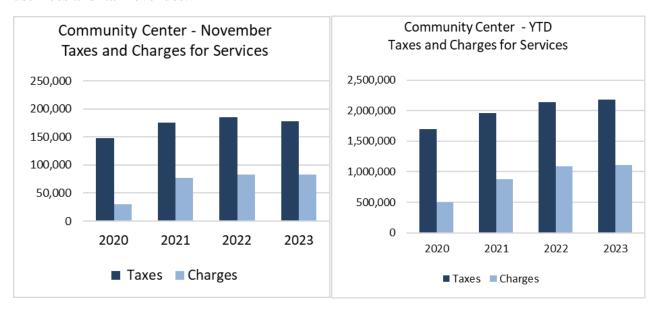
Summary of Sales and Use Tax Revenues - November 2023									
		Percent (%	) Change	Dollar (\$) Change					
Туре	Month	Month	Y-T-D		m prior r - YTD	Between actual and budget - YTD			
City Sales Tax (2%)	Nov-23	-0.8%	6%	\$	184,719	\$	323,036		
Use tax on Motor Vehicles (2%)	Nov-23	-24.5%	-9%	\$	(73,163)	\$	(18,149)		
Use tax on Building Materials (2%)	Nov-23	28.3%	-10%	\$	(37,267)	\$	34,150		
Lodging Tax (3%)	Nov-23	19.2%	2%	\$	4,328	\$	34,076		
County Sales Tax	Nov-23	2.1%	0%	\$	10,499	\$	163,702		
Public Safety Tax	Nov-23	2.0%	1%	\$	2,928	\$	26,333		
				\$	92,044	\$	563,148		

The following table shows a monthly comparison between November 022 and 2023 city sales tax collections by NAICS category. City sales tax revenues were down 1% from the prior year with the largest reductions in wholesale and retail trade. Remote sales were up 36% over the prior year.

Sales Tax Revenues by Category (3%)										
Nov-23  Description 2021 2022 2023 1 yr % Chg 1 yr \$ Chg										
Description	2021	2022	2023	1 yr % Chg	1 yr \$ Chg					
Retail Trade	222,760	240,276	247,284	3%	7,008					
Food	60,557	61,382	56,927	-7%	(4,455)					
Other Miscellaneous	8,706	16,470	14,692	-11%	(1,778)					
Utilities	24,804	34,433	26,215	-24%	(8,218)					
Manufacturing	9,472	15,911	11,953	-25%	(3,958)					
Rental and Leasing	5,903	7,228	6,654	-8%	(574)					
Other Services	5,660	6,420	7,179	12%	759					
Lodging	11,615	8,988	9,457	5%	469					
Wholesale Trade	10,499	16,048	17,898	12%	1,850					
Communications	15,715	14,905	16,221	9%	1,316					
Oil and Gas	1,739	599	<i>4,</i> 710	686%	4,111					
Total	377,430	422,660	419,190	-1%	(3,470)					
Remote retailers	48,771	56,805	59,732	5%	2,927					

# Community Center Fund Charges for Services – November 2023

November 2023 charges for services (pass fees and recreation programs) were up 1% from the prior year while sales and use tax revenues were down 3% from the prior year. Annual revenues are up 2% for both user fees and tax revenues.



<u>Actual vs Budget Report – December (Preliminary) 2023.</u> The attached Actual vs Budget report presents comparison information on budgeted vs actual revenues and expenses by fund and department for all funds. There are a number of year end adjustments and entries that are outstanding and these numbers will change for the final year end reporting. The following is a summary of the report by fund.

Revenues and Expenses as Percentage of Budget -							
PRELIMINARY December 2023 (100%)							
Column1 🔻	Revenues as a % Budget	Expenses as a % of Budget					
General Fund	115%	77%					
Conservation Trust Fund	119%	20%					
Economic Development Fund	122%	62%					
Marketing	119%	81%					
Public Places Fund	134%	86%					
Community Center	106%	74%					
Fruita Housing Authority	113%	93%					
Capital Projects	29%	31%					
Debt Service	104%	100%					
Devils Canyon Center	0%	0%					
Irrigation Water *	98%	62%					
Sewer*	66%	84%					
Trash*	94%	91%					
Fleet Maintenance Fund	100%	78%					
Total	79%	67%					

# FISCAL IMPACT

None.

# APPLICABILITY TO CITY GOALS AND OBJECTIVES

These reports provide financial information to the Council to monitor the City's financial position and may be used as a tool to hold staff accountable for accomplishing goals and objectives set forth in the Budget.

# OPTIONS AVAILABLE TO THE COUNCIL

Approval of Financial Reports

Approval of Financial Reports with clarification on specific items

# RECOMMENDATION

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

# ACCEPT THE PRELIMINARY DECEMBER 2023 FINANCIAL REPORTS AS PRESENTED



# **SALES AND USE TAX REPORTS**

City Sales Tax - 2% General Fund (110-3131)								
	2019	2020	2021	2022	2023	\$ Variance	% Variance	
Jan	124,973.08	190,392.44	204,830.52	222,224.08	272,043.95	49,819.87	22.42%	
Feb	144,100.65	167,749.86	201,246.04	241,043.51	257,301.07	16,257.56	6.74%	
Mar	165,160.52	242,722.52	274,325.31	241,256.77	274,681.30	33,424.53	13.85%	
Apr	191,027.30	211,354.97	275,116.14	307,724.72	310,799.52	3,074.80	1.00%	
May	198,826.37	236,158.52	299,751.07	315,266.10	337,385.69	22,119.59	7.02%	
Jun	197,471.05	229,208.70	280,881.50	315,464.89	334,549.58	19,084.69	6.05%	
Jul	190,974.84	280,361.25	268,022.29	290,659.73	306,866.03	16,206.30	5.58%	
Aug	200,644.07	229,018.92	259,681.40	321,372.15	319,767.61	-1,604.54	-0.50%	
Sep	193,024.68	239,752.16	281,301.78	303,829.93	335,023.25	31,193.32	10.27%	
Oct	205,934.68	243,770.76	266,678.57	302,938.30	300,395.33	-2,542.97	-0.84%	
Nov	192,966.14	224,503.72	251,620.04	281,773.52	279,460.03	-2,313.49	-0.82%	
Dec	208,689.86	243,087.11	275,684.31	308,179.47				
TOTAL	2,213,793.24	2,738,080.93	3,139,138.97	3,451,733.17	3,328,273.36	184,719.66	5.88%	
%	15.26%	23.68%	14.65%	9.96%				

2023 Budget= \$3,300,000, 4.4% decrease from 2022 Actual Revenues

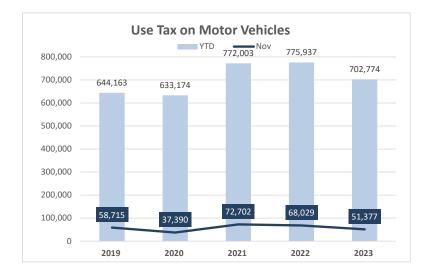
Nov 2,005,103.38 2,494,993.82 2,863,454.66 3,143,553.70 3,328,273.36 184,719.66 5.88% 3% 3,007,655.07 3,742,490.73 4,295,181.99 4,715,330.55 4,992,410.04 277,079.49 5.88%

Use Tax on Motor Vehicles - 2% General Fund (110-3132)									
	2019	2020	2021	2022	2023	\$ Variance	% Change		
JAN	59,067.65	44,776.20	59,327.64	47,309.36	49,751.32	2,441.96	5.16%		
FEB	35,431.97	59,554.07	38,721.90	46,447.50	60,836.73	14,389.23	30.98%		
MAR	56,995.69	53,618.86	69,952.45	74,968.11	<i>74,</i> 791.1 <i>5</i>	-176.96	-0.24%		
APR	58,679.47	37,062.83	56,918.15	79,891.83	54,713.24	-25,178.59	-31.52%		
MAY	90,700.80	35,122.84	73,577.89	94,600.69	81,719.62	-12,881.07	-13.62%		
JUN	52,822.10	72,285.02	73,709.93	64,351.62	50,023.47	-14,328.15	-22.27%		
JUL	67,463.71	89,038.90	79,197.84	64,357.92	54,891.13	-9,466.79	-14.71%		
AUG	66,028.27	73,161.03	111,272.20	83,056.00	93,114.18	10,058.18	12.11%		
SEP	46,789.04	69,374.11	55,871.85	71,679.10	64,187.04	-7,492.06	-10.45%		
OCT	51,469.53	61,789.73	80,751.67	81,246.37	67,369.67	-13,876.70	-17.08%		
NOV	58,715.01	37,390.30	72,701.97	68,028.87	51,376.62	-16,652.25	-24.48%		
DEC	46,583.89	67,505.07	70,219.53	80,815.93					
YTD	690,747.13	700,678.96	842,223.02	856,753.30	702,774.17	(73,163.20)	-9.43%		
%	9.88%	1.44%	20.20%	1.73%					

2023 Budget = \$800,000 - 7.09% decrease from 2022 Actual revenues

Nov 644,163.24 633,173.89 772,003.49 775,937.37 702,774.17 -73,163.20 -9.43% 3% 966,244.86 949,760.84 1,158,005.24 1,163,906.06 1,054,161.26 -109,744.80 -9.43% for chart only





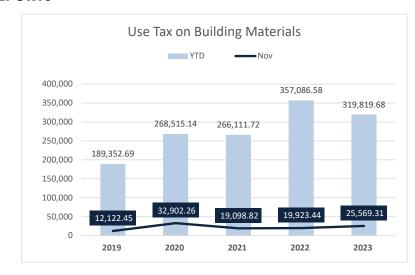
179,312.94

174,984.54



# **SALES AND USE TAX REPORTS**

	Use Tax on Building Materials - 2% General Fund (110-3133)								
	2019	2020	2021	2022	2023	\$ Variance	% Change		
JAN	19,357.85	14,922.55	16,599.65	22,964.41	16,208.89	-6,755.52	-29.42%		
FEB	19,056.71	10,930.68	27,922.86	31,415.26	52,028.31	20,613.05	65.61%		
MAR	9,936.56	41,435.81	32,453.39	58,817.72	9,971.22	-48,846.50	-83.05%		
APR	24,173.95	10,766.83	27,295.09	44,288.18	42,054.83	-2,233.35	-5.04%		
MAY	32,410.86	38,491.01	17,464.96	34,286.83	19,000.44	-15,286.39	-44.58%		
JUN	26,190.88	17,591.28	33,914.75	38,355.04	41,803.15	3,448.11	8.99%		
JUL	16,836.31	37,279.04	24,039.63	18,894.10	26,846.41	7,952.31	42.09%		
AUG	8,864.92	20,497.47	10,941.09	19,619.37	42,886.61	23,267.24	118.59%		
SEP	3,865.13	23,043.51	15,065.96	30,588.98	23,227.32	-7,361.66	-24.07%		
OCT	16,537.07	20,654.70	41,315.52	37,933.25	20,223.19	-17,710.06	-46.69%		
NOV	12,122.45	32,902.26	19,098.82	19,923.44	25,569.31	5,645.87	28.34%		
DEC	19,073.22	30,253.24	26,525.37	18,289.07					
YTD	208,425.91	298,768.38	292,637.09	375,375.65	319,819.68	-37,266.90	-10.44%		
%	-42.35%	43.35%	-2.05%	28.27%					



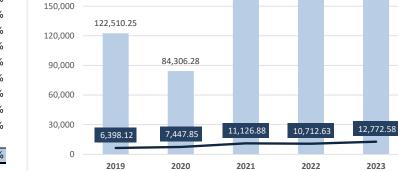
City Lodging Tax

164,710.11

2023 Budget = \$300,000 -20% decrease from 2022 Actual revenues

Nov 189,352.69 268,515.14 266,111.72 357,086.58 319,819.68 -37,266.90 -10.44% 3% 284,029.04 402,772.71 399,167.58 535,629.87 479,729.52 -55,900.35 -10.44%

0 / 0	204,027.04	702// / 2./ 1	0 / / , 1 0 / . 3 0	303,027.07	7///2/.52	-55,700.55	-10.4470		
City Lodging Tax - 3% (125-3134)									
	2019	2020	2021	2022	2023	\$ Variance	%		
Jan	2,611.13	3,573.20	3,452.69	4,465.16	4,145.44	-319.72	-7.16%		
Feb	3,774.09	4,018.26	4,145.37	5,490.69	7,399.14	1,908.45	34.76%		
Mar	8,249.09	4,677.20	10,961.79	12,266.06	10,093.53	-2,172.53	-17.71%		
Apr	8,046.43	2,305.15	16,557.26	14,135.42	16,355.71	2,220.29	15.71%		
May	15,242.71	5,512.69	19,501.69	27,925.85	24,540.57	-3,385.28	-12.12%		
Jun	22,312.67	8,463.77	23,011.89	24,010.29	26,405.31	2,395.02	9.97%		
Jul	15,335.70	11,150.71	19,979.13	14,726.50	19,695.54	4,969.04	33.74%		
Aug	12,712.49	11,047.44	16,446.92	13,107.77	18,237.56	5,129.79	39.14%		
Sep	9,427.07	12,255.47	21,282.81	20,312.24	25,090.28	4,778.04	23.52%		
Oct	18,400.75	13,854.54	18,243.68	27,831.93	14,577.28	-13,254.65	-47.62%		
Nov	6,398.12	7,447.85	11,126.88	10,712.63	12,772.58	2,059.95	19.23%		
Dec	4,558.22	5,195.64	7,209.43	6,475.52					
TOTAL	127,068.47	89,501.92	171,919.54	181,460.06	179,312.94	4,328.40	2.47%		
	-1.29%	-29.56%	92.08%	5.55%					



180,000

2023 Budget = \$150,000 - 17% decrease from 2022 actual revenues

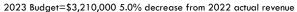
Nov 122,510.25 84,306.28 164,710.11 174,984.54 179,312.94 4,328.40 2.47% 6% 245,020.50 168,612.56 329,420.22 349,969.08 358,625.88 8,656.80 2.47%

Section 6, Item Q.



# **SALES AND USE TAX REPORTS**

	County Sales Tax - 2% (110-3130)								
	2019	2020	2021	2022	2023	\$ Variance	% Variance		
Jan	168,991.80	178,526.13	199,569.41	227,801.34	235,100.74	7,299.40	3.20%		
Feb	161,231.36	181,438.93	200,816.29	232,761.64	234,963.31	2,201.67	0.95%		
Mar	198,980.47	188,855.08	268,529.43	283,096.69	283,146.64	49.95	0.02%		
Apr	197,897.18	187,855.58	270,209.01	279,500.97	277,150.11	-2,350.86	-0.84%		
May	209,011.45	220,166.38	266,353.47	293,351.88	299,401.48	6,049.60	2.06%		
Jun	213,850.33	233,449.26	281,089.81	304,783.41	306,021.87	1,238.46	0.41%		
Jul	210,475.42	227,956.26	264,407.19	283,763.03	289,221.95	5,458.92	1.92%		
Aug	216,142.51	222,314.16	259,705.93	308,357.00	292,640.77	-15,716.23	-5.10%		
Sep	206,870.89	230,820.91	274,282.88	297,059.99	292,818.85	-4,241.14	-1.43%		
Oct	210,951.31	228,020.45	263,951.60	278,430.83	283,059.19	4,628.36	1.66%		
Nov	204,326.68	211,965.09	252,758.87	275,219.04	281,096.69	5,877.65	2.14%		
Dec	233,401.07	248,034.85	296,934.24	316,028.45					
TOTAL	2,432,130.47	2,559,403.08	3,098,608.13	3,380,154.27	3,074,621.60	10,495.78	0.34%		
%	6.99%	5.23%	21.07%	9.09%					



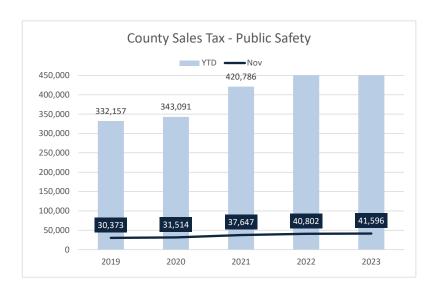
Vov 2,198,729.40 2,311,368.23 2,801,673.89 3,064,125.82 3,074,621.60 10,495.78 0.34%

		County	Sales Tax		
		YT	D —Nov		
3,000,000			2,801,674		
2,750,000					
2,500,000	2,198,729	2,311,368			
2,250,000	2,198,729				
2,000,000					
1,750,000					
1,500,000					
1,250,000					
1,000,000					
750,000					
500,000	204,327	211,965	252,759	275,219	281,097
250,000	204,327	211,505			_
0					
	2019	2020	2021	2022	2023

	County Sales Tax - 0.37% Public Safety Tax (110-3129)								
	2019	2020	2021	2022	2023	\$ Variance	% Variance		
Jan	25,508.99	26,762.07	29,794.36	34,330.68	35,660.02	1,329.34	3.87%		
Feb	24,195.07	26,744.72	30,522.74	35,019.51	35,427.83	408.32	1.17%		
Mar	30,317.68	26,640.82	41,095.99	42,371.66	42,812.82	441.16	1.04%		
Apr	30,643.86	27,635.27	40,485.69	41,898.53	41,149.35	-749.18	-1.79%		
May	32,085.32	32,800.08	39,900.10	43,792.01	45,752.66	1,960.65	4.48%		
Jun	32,143.50	35,125.60	42,158.45	45,827.75	46,220.47	392.72	0.86%		
Jul	31,495.72	34,219.03	39,786.84	42,639.68	43,521.83	882.15	2.07%		
Aug	32,200.79	33,414.60	38,714.05	45,747.00	43,705.32	-2,041.68	-4.46%		
Sep	31,197.04	34,227.49	41,1 <i>77</i> .94	44,829.02	43,705.41	-1,123.61	-2.51%		
Oct	31,996.22	34,007.72	39,502.32	41,678.35	42,311.45	633.10	1.52%		
Nov	30,373.05	31,513.90	37,647.08	40,801.66	41,596.22	794.56	1.95%		
Dec	35,263.78	36,822.92	44,432.47	47,219.60					
TOTAL	367,421.02	379,914.22	465,218.03	506,155.45	461,863.38	2,927.53	0.64%		
%	9.41%	3.40%	22.45%	8.80%					



K 1	000 157 04				0 / /0/
Nov	332.15/.24			2.927.53	0.64%



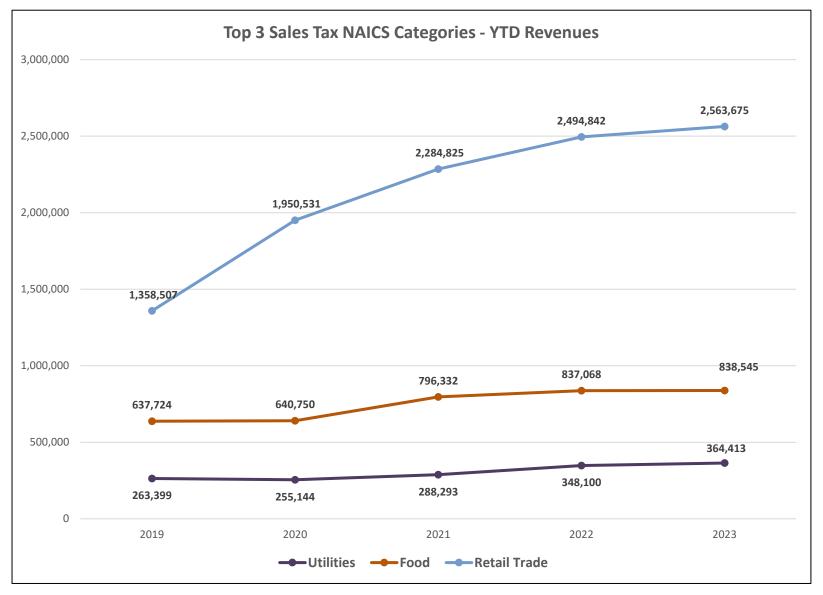
2023 City Lodging Tax - Marketing Fund 3% (125-3134)							
	Hotels Campgro		VRBO				
	Revenue	% of Total	Revenue	% of Total	Monthly Total		
Jan	3,1 <i>57</i>	76%	988	24%	4,145		
Feb	6,406	87%	993	13%	<i>7,</i> 399		
Mar	7,823	77%	2,310	23%	10,133		
Apr	11,609	71%	4,746	29%	16,355		
May	18,352	75%	6,189	25%	24,541		
Jun	20,206	77%	6,199	23%	26,405		
Jul	15,180	77%	<b>4,</b> 515	23%	19,696		
Aug	13,927	76%	4,311	24%	18,238		
Sep	18,745	75%	6,345	25%	25,090		
Oct	9,304	64%	5,274	36%	14,577		
Nov	9,678	76%	3,094	24%	12,773		
Dec					-		
TOTAL	134,387	75%	44,964	25%	179,351		

2023 City Lodging Tax - Other Funds 3%							
	Econo	mic			Monthly		
	Develor	oment	Public Pl	aces	Total		
		% of		% of			
	Revenue	Total	Revenue	Total			
Jan	2,763	67%	1,382	33%	4,145		
Feb	4,932	67%	2,473	33%	7,404		
Mar	6,764	67%	3,372	33%	10,136		
Apr	13,772	69%	6,052	31%	19,824		
May	16,359	67%	8,182	33%	24,541		
Jun	1 <i>7,</i> 602	67%	8,803	33%	26,405		
Jul	13,129	67%	6,566	33%	19,695		
Aug	12,1 <i>57</i>	67%	6,080	33%	18,237		
Sep	16,725	67%	8,365	33%	25,090		
Oct	9,71 <i>7</i>	67%	4,860	33%	14,577		
Nov	8,514	67%	4,258	33%	12,772		
Dec					-		
TOTAL	122,434	67%	60,393	33%	182,826		



	Sales a	and Use Ta	ax Revenu	es by Cate	egory (3%)	)		
		Jan	uary-Nov	ember				
Description	2019	2020	2021	2022	2023	1 yr % Chg	1 yr \$ Chg	% of 2023 Total
Sales taxes								
Other Services	50,954	58,332	71,600	81,429	123,791	52%	42,362	2%
Other Miscellaneous	72,180	106,789	144,301	201,560	197,125	-2%	(4,435)	3%
Manufacturing	53,586	93,976	123,881	140,002	140,700	0%	698	2%
Wholesale Trade	85,565	120,751	162,482	233,548	272,835	17%	39,287	4%
Rental and Leasing	121,578	110,492	81,086	75,993	<i>77,</i> 533	2%	1,540	1%
Communications	162,475	129,187	139,851	1 <i>57,7</i> 91	160,855	2%	3,064	2%
Oil and Gas	68,268	168,225	6,674	-51,658	58,139	213%	109,797	1%
Utilities	263,399	255,144	288,293	348,100	364,413	5%	16,313	6%
Lodging	133,419	108,314	195 <b>,</b> 857	196,656	194,799	-1%	(1,857)	3%
Food	637,724	640,750	796,332	837,068	838,545	0%	1,477	13%
Retail Trade	1,358,507	1,950,531	2,284,825	2,494,842	2,563,675	3%	68,833	39%
Subtotal	3,007,655	3,742,491	4,295,182	4,715,331	4,992,410	6%	277,079	76%
Use taxes								
Vehicles	966,245	949,761	1,158,005	1,163,906	1,054,161	-9%	(109,745)	16%
Building materials	284,029	402,773	399,168	535,630	479,730	-10%	(55,900)	7%
Subtotal	1,250,274	1,352,534	1,557,173	1,699,536	1,533,891	-10%	(165,645)	24%
Total	4,257,929	5,095,025	5,852,355	6,414,867	6,526,301	2%	111,434	100%
Online sales	145,752	343,280	435,912	495,966	555,839	12%	59,873	9%

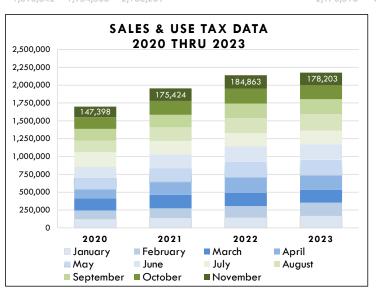


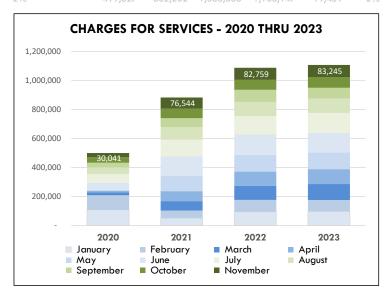


#### **2023 COMMUNITY CENTER FUND REVENUES**

				2023 Tax Revenues					
Month	2020	2021	2022	City Sales	Use Tax Motor Vehicles	Use Tax Building Materials	2023	\$ Change	% Chg
January	125,046	140,379	146,249	136,022	24,876	8,104	169,002	22,753	16%
February	119,117	133,945	159,453	128,651	30,418	26,014	185,083	25,630	16%
March	168,889	188,406	18 <b>7,</b> 521	137,341	37,396	4,986	179,722	<i>-7,</i> 800	-4%
April	129,592	1 <i>7</i> 9,665	215,952	155,400	27,357	21,027	203,783	-12,169	-6%
May	154,886	195,397	222,077	168,693	40,860	9,500	219,053	-3,024	-1%
June	159,543	194,253	209,085	167,275	25,012	20,902	213,188	4,103	2%
July	203,340	185,630	186,956	153,433	27,446	13,423	194,302	7,346	4%
August	161,339	190,947	212,024	159,884	46,557	21,443	227,884	15,860	7%
September	166,085	176,120	203,049	167,512	32,094	11,614	211,219	8,170	4%
October	163,108	194,373	211,059	150,198	33,685	10,195	194,078	-16,981	-8%
November	147,398	1 <i>75,</i> 424	184,863	139,730	25,689	12,785	178,203	-6,660	-4%
December	170,423	186,215	203,642				-		
TOTAL	1,868,764	2,140,753	2,341,931	1,664,137	351,388	159,993	2,175,518	37,229	2%
% Change	20.06%	14.55%	9.40%						
2023 Budge % of Budget				1,650,000 100.86%	400,000 87.85%	150,000 106.66%	2,200,000 98.89%		
	1,698,342	1,954,538	2,138,289				2,175,518	37,229	2%

Charges for Services									
Month	2020	2021	2022	2023	\$ Change	% Chg			
January	108,150	50,712	94,372	97,499	3,127	3%			
February	99,658	52,470	81,894	78,473	(3,421)	-4%			
March	21,361	65,392	98,073	109,728	11,655	12%			
April	9,239	68,466	97,049	102,490	5,441	6%			
May	8,041	105,543	116,172	114,132	(2,040)	-2%			
June	48,220	135,621	140,195	135,399	(4,796)	-3%			
July	58,968	113,550	125,561	137,877	12,316	10%			
August	47,293	85,139	98,449	99,965	1,516	2%			
September	31,642	62,246	83,220	72,984	(10,236)	-12%			
October	37,214	66,519	68,943	74,354	5,411	8%			
November	30,041	76,544	82,759	83,245	486	1%			
December	38,366	83,066	77,309						
TOTAL	538,193	965,269	1,163,997	1,106,147	19,459	2%			
2023 Budget	1,275,000	694,300	1,190,300	1,196,500					
% of Budget	42.21%	139.03%	97.79%	92.45%					
	499,827	882,202	1,086,688	1,106,147	19,459	2%			





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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
110	General Fund					
000	Assets - Liabilities -					
	Revenue					
R01	Taxes	-749,635.63	-11,016,203.67	-10,359,000.00	657,203.67	106.34
R02	Licenses and permits	-25,545.00	-72,095.00	-50,500.00	21,595.00	142.76
R03	Intergovernmental revenue	-45,597.29	-879,945.90	-597,300.00	282,645.90	147.32
R04	Charges for services	-22,735.59	-456,164.51	-335,500.00	120,664.51	135.97
R05	Fines and forfeitures	-2.743.98	-35.970.84	-34,000.00	1.970.84	105.80
R06	Interest	0.00	-578,981.54	-50,000.00	528,981.54	1,157.96
R07	Donations	0.00	-51,113.00	-30,500.00	20,613.00	167.58
R08	Miscellaneous	-1,925.33	-57,316.08	-6,500.00	50.816.08	881.79
R09	Transfers from other funds	-62,781.25	-251,125.00	-251,125.00	0.00	100.00
R10	Other financing sources	0.00	-108,206.40	-9,150.00	99,056.40	1,182.58
R12	Rents	-2,161.36	-45.769.96	-48,000.00	-2,230.04	95.35
000	Assets - Liabilities -	-913,125,43	-13,552,891.90	-11,771,575.00	1,781,316.90	115.13
700	Revenue	710,120	10,002,001.00	11,7,1,0,0,0	1,, 01,610., 1	*
410	General Government					
	Department					
E01	Personnel services, salaries	56,285.69	463,788.12	470,525.00	6,736.88	98.57
E02	Personnel services, benefits	6,896.33	140,421.43	150,425.00	10,003.57	93.35
E03	Purchased professional	13,759.51	227,077.40	257,375.00	30,297.60	88.23
	service	•		•		
E04	Purchased property services	553.86	10,173.99	10,520.00	346.01	96.71
E05	Other purchased services	609.49	16,660.71	23,600.00	6,939.29	70.60
E06	Supplies	926.13	6,068.16	7,340.00	1,271.84	82.67
E08	Special projects	0.00	41,372.77	42,450.00	1,077.23	97.46
410	General Government	79,031.01	905,562.58	962,235.00	56,672.42	94.11
	Department	,		,		
415	Administration Department					
E01	Personnel services, salaries	53,376.41	448,458.03	448,025.00	-433.03	100.10
E02	Personnel services, benefits	6,720.27	124,942.07	133,875.00	8,932.93	93.33
E03	Purchased professional	4,849.99	51,512.50	71,000.00	19,487.50	72.55
	service	•	•	•	,	
E04	Purchased property services	11,646.00	207,711.72	240,100.00	32,388.28	86.51
E05	Other purchased services	4,694.25	21,690.56	25,650.00	3,959.44	84.56

Section 6, Item Q.

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect	
E06	Supplies	3,418.53	48,044.35	49,950.00	1,905.65	96.18	
E07	Capital	3,294.91	35,717.27	39,530.00	3,812.73	90.35	
415	Administration Department	88,000.36	938,076.50	1,008,130.00	70,053.50	93.05	
418	Engineering Department						
E01	Personnel services, salaries	37,739.00	332,774.00	333,625.00	851.00	99.74	
E02	Personnel services, benefits	4,960.61	131,321.88	127,300.00	-4,021.88	103.16	
E03	Purchased professional service	3,081.16	3,636.15	8,000.00	4,363.85	45.45	
E04	Purchased property services	0.00	12,438.60	13,850.00	1,411.40	89.81	
E05	Other purchased services	447.42	1,939.41	2,800.00	860.59	69.26	
E06	Supplies	1,162.23	5,055.98	6,750.00	1,694.02	74.90	
E07	Capital	0.00	31,987.00	32,000.00	13.00	99.96	
418	Engineering Department	47,390.42	519,153.02	524,325.00	5,171.98	99.01	
419	Community Development Dpmt						
E01	Personnel services, salaries	56,483.60	455,698.47	477,800.00	22,101.53	95.37	
E02	Personnel services, benefits	6,908.32	163,549.10	209,225.00	45,675.90	78.17	
E02 E03	Purchased professional	1,667.06	13,852.52	15,870.00	2,017.48	87.29	
	service	,					
E04	Purchased property services	598.00	36,276.50	42,525.00	6,248.50	85.31	
E05	Other purchased services	5,688.36	11,699.05	13,550.00	1,850.95	86.34	
E06	Supplies	1,354.71	27,231.44	28,755.00	1,523.56	94.70	
E07	Capital	8,834.25	929,851.74	1,133,400.00	203,548.26	82.04	
E08	Special projects	51.23	3,737.19	75,500.00	71,762.81	4.95	
419	Community Development Dpmt	81,585.53	1,641,896.01	1,996,625.00	354,728.99	82.23	
421	Police Department						
E01	Personnel services, salaries	201,775.13	1,602,861.74	1,624,250.00	21,388.26	98.68	
E02	Personnel services, benefits	28,954.27	666,607.13	700,525.00	33,917.87	95.16	
E03	Purchased professional service	460.00	12,663.56	16,025.00	3,361.44	79.02	
E04	Purchased property services	2,430.71	144,481.39	163,100.00	18,618.61	88.58	
E05	Other purchased services	35,498.30	335,392.09	338,000.00	2,607.91	99.23	
E06	Supplies	10,259.79	84,120.95	97,775.00	13,654.05	86.04	
E07	Capital	3,021.33	52,464.53	201,500.00	149,035.47	26.04	
421	Police Department	282,399.53	2,898,591.39	3,141,175.00	242,583.61	92.28	
431	Public Works Department						
E01	Personnel services, salaries	71,394.30	625,473.00	671,650.00	46,177.00	93.12	
E02	Personnel services, benefits	8,926.37	295,419.69	333,250.00	37,830.31	88.65	
E03	Purchased professional	386.44	24,524.02	30,625.00	6,100.98	80.08	
	service		,	•	,		
E04	Purchased property services	19,129.30	543,655.65	612,725.00	69,069.35	88.73	
E05	Other purchased services	2,561.68	3,921.55	5,750.00	1,828.45	68.20	
E06	Supplies	49,512.27	376,458.94	417,120.00	40,661.06	90.25	
E07	Capital	266,599.25	402,066.76	443,000.00	40,933.24	90.76	

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
431	Public Works Department	418,509.61	2,271,519.61	2,514,120.00	242,600.39	90.35
451	Parks and Recreation Dept					
E01	Personnel services, salaries	61,555.27	577,465.24	667,675.00	90,209.76	86.49
E02	Personnel services, benefits	7,617.27	218,459.47	236,600.00	18,140.53	92.33
E03	Purchased professional service	2,166.80	49,645.52	53,200.00	3,554.48	93.32
E04	Purchased property services	5,611.00	159,970.55	179,325.00	19,354.45	89.21
E05	Other purchased services	2,768.78	5,164.09	10,650.00	5,485.91	48.49
E06	Supplies	20,464.55	201,430.59	234,475.00	33,044.41	85.91
E07	Capital	8,918.67	76,523.85	73,625.00	-2,898.85	103.94
E08	Special projects	889.72	64,673.77	65,000.00	326.23	99.50
451	Parks and Recreation Dept	109,992.06	1,353,333.08	1,520,550.00	167,216.92	89.00
490	Non-Departmental Expenses					
E01	Personnel services, salaries	0.00	0.00	64.800.00	64.800.00	0.00
E02	Personnel services, benefits	-4,077.23	2,790.76	0.00	-2,790.76	0.00
E03	Purchased professional service	1,389.65	82,134.54	88,000.00	5,865.46	93.33
E04	Purchased property services	1,389.21	7,659.63	8,000.00	340.37	95.75
E05	Other purchased services	0.00	178,582.24	203,000.00	24,417.76	87.97
E06	Supplies	305.46	1,324.83	25,000.00	23,675.17	5.30
E08	Special projects	0.00	59,042.62	59,425.00	382.38	99.36
E11	Contingency	0.00	0.00	149,500.00	149,500.00	0.00
E12	Transfers to other funds	364,241.12	2,220,777.07	4,801,200.00	2,580,422.93	46.25
490	Non-Departmental Expenses	363,248.21	2,552,311.69	5,398,925.00	2,846,613.31	47.27
Revenue Total Expense Total		-913,125.43 1,470,156.73	-13,552,891.90 13,080,443.88	-11,771,575.00 17,066,085.00	1,781,316.90 3,985,641.12	-1.1513 0.7665
110	General Fund	557,031.30	-472,448.02	5,294,510.00	5,766,958.02	-8.92

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
121	Conservation Trust Fund					
000	Assets - Liabilities - Revenue					
R03	Intergovernmental revenue	-55,260.46	-189,781.78	-160,000.00	29,781.78	118.61
R06	Interest	0.00	-1,153.56	-100.00	1,053.56	1,153.56
000	Assets - Liabilities - Revenue	-55,260.46	-190,935.34	-160,100.00	30,835.34	119.26
820	Parks Equipment					
E07	Capital	0.00	0.00	0.00	0.00	0.00
820	Parks Equipment	0.00	0.00	0.00	0.00	0.00
880	Parks, Trails and Open Space					
E12	Transfers to other funds	35,935.29	159,346.18	779,000.00	619,653.82	20.46
880	Parks, Trails and Open Space	35,935.29	159,346.18	779,000.00	619,653.82	20.46
Revenue Total Expense Total		-55,260.46 35,935.29	-190,935.34 159,346.18	-160,100.00 779,000.00	30,835.34 619,653.82	-1.1926 0.2046
121	<b>Conservation Trust Fund</b>	-19,325.17	-31,589.16	618,900.00	650,489.16	-5.10

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
124	Economic Development					
	Fund					
000	Assets - Liabilities -					
	Revenue					
R01	Taxes	-8,514.10	-122,433.33	-100,000.00	22,433.33	122.43
000	Assets - Liabilities -	-8,514.10	-122,433.33	-100,000.00	22,433.33	122.43
	Revenue					
465	Marketing and ED					
	Operations					
E08	Special projects	0.00	10.000.00	25,100.00	15,100.00	39.84
E12	Transfers to other funds	0.00	15,100.00	15,100.00	0.00	100.00
465	Marketing and ED	0.00	25,100.00	40,200.00	15,100.00	62.44
	Operations					
Revenue Total		-8,514.10	-122,433.33	-100,000.00	22,433.33	-1,2243
Expense Total		0.00	25,100.00	40,200.00	15,100.00	0.6244
124	<b>Economic Development</b>	-8,514.10	-97,333.33	-59,800.00	37,533.33	162.76
127	Fund	3,314.10	71,000,00	27,000.00	51,555.55	102.70

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
125	Marketing and Promotion					
125	Fund					
000	Assets - Liabilities -					
000	Revenue					
R01	Taxes	-12,772.58	-185,788.46	-150,000.00	35,788.46	123.86
R03	Intergovernmental revenue	0.00	-39,600.00	-39,600.00	0.00	100.00
R04	Charges for services	-1,066.73	-1,742.46	0.00	1,742.46	0.00
R06	Interest	0.00	-449.77	0.00	449.77	0.00
R09	Transfers from other funds	0.00	-12.000.00	-12.000.00	0.00	100.00
000	Assets - Liabilities -	-13,839.31	-239,580.69	-201,600.00	37,980.69	118.84
	Revenue	10,000,001	20,,000,00	201,000.00	27,500.05	110107
465	Marketing and ED					
	Operations					
E01	Personnel services, salaries	1,455.85	9,932.00	10,175.00	243.00	97.61
E02	Personnel services, benefits	183.12	3,480.68	3,675.00	194.32	94.71
E03	Purchased professional	1,000.00	7,022.73	7,200.00	177.27	97.54
	service					
E04	Purchased property services	57.59	421.36	2,000.00	1,578.64	21.07
E05	Other purchased services	3,635.00	132,634.87	134,700.00	2,065.13	98.47
E07	Capital	3,569.66	3,569.66	3,600.00	30.34	99.16
E08	Special projects	0.00	38,250.00	80,250.00	42,000.00	47.66
465	Marketing and ED	9,901.22	195,311.30	241,600.00	46,288.70	80.84
	Operations					
Revenue Total		-13,839.31	-239,580.69	-201,600.00	37,980.69	-1.1884
Expense Total		9,901.22	195,311.30	241,600.00	46,288.70	0.8084
125	Marketing and Promotion	-3,938.09	-44,269.39	40,000.00	84,269.39	-110.67
	Fund	•	•	,	,	

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
126	Public Places Fund					
000	Assets - Liabilities -					
	Revenue					
R01	Taxes	-4,258.08	-66,868.00	-50,000.00	16,868.00	133.74
000	Assets - Liabilities -	-4,258.08	-66,868.00	-50,000.00	16,868.00	133.74
	Revenue					
452	Public Space					
E04	Purchased property services	0.00	3,000.00	10,000.00	7,000.00	30.00
E08	Special projects	0.00	0.00	10,000.00	10,000.00	0.00
E12	Transfers to other funds	0.00	100,000.00	100,000.00	0.00	100.00
452	Public Space	0.00	103,000.00	120,000.00	17,000.00	85.83
Revenue Total		-4,258.08	-66,868.00	-50,000.00	16,868.00	-1.3374
Expense Total		0.00	103,000.00	120,000.00	17,000.00	0.8583
126	<b>Public Places Fund</b>	-4,258.08	36,132.00	70,000.00	33,868.00	51.62

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
107	Community Conton Frond					
127 000	Community Center Fund					
000	Assets - Liabilities -					
D01	Revenue	192 107 76	2 270 202 70	2 200 000 00	179 202 70	100 11
R01	Taxes	-183,107.76	-2,378,393.79	-2,200,000.00	178,393.79	108.11
R03	Intergovernmental revenue	0.00	-20,987.00	-30,400.00	-9,413.00	69.04
R04	Charges for services	-97,424.52	-1,203,571.16	-1,196,500.00	7,071.16	100.59
R06	Interest	0.00	-44,399.39	-5,000.00	39,399.39	887.99
R07	Donations	-412.00	-2,840.53	0.00	2,840.53	0.00
R08	Miscellaneous	-30.47	-1,972.31	0.00	1,972.31	0.00
R09	Transfers from other funds	-23,750.00	-95,000.00	-95,000.00	0.00	100.00
R10	Other financing sources	0.00	-130,867.62	-135,000.00	-4,132.38	96.94
R12	Rents	-5,354.61	-80,272.24	-72,700.00	7,572.24	110.42
000	Assets - Liabilities -	-310,079.36	-3,958,304.04	-3,734,600.00	223,704.04	105.99
	Revenue					
451	Parks and Recreation Dept					
E01	Personnel services, salaries	148,417.90	1,306,453.82	1,476,150.00	169,696.18	88.50
E02	Personnel services, benefits	14,323.55	269,289.50	312,050.00	42,760.50	86.30
E03	Purchased professional	2.078.58	44.783.93	51,990.00	7,206.07	86.14
	service	,	,	,	,	
E04	Purchased property services	14,868.21	138,522.96	143,775.00	5,252.04	96.35
E05	Other purchased services	2.187.20	40.471.83	56.200.00	15,728.17	72.01
E06	Supplies	34,114.37	394,147.83	428,210.00	34.062.17	92.05
E07	Capital	32,622.87	433,321.81	1,337,800.00	904.478.19	32.39
E12	Transfers to other funds	186,650.00	746,600.00	746,600.00	0.00	100.00
451	Parks and Recreation Dept	435,262.68	3,373,591.68	4,552,775.00	1,179,183.32	74.10
Revenue Total		-310,079.36	-3,958,304.04	-3,734,600.00	223,704.04	-1.0599
Expense Total		435,262.68	3,373,591.68	4,552,775.00	1,179,183.32	0.7410
127	<b>Community Center Fund</b>	125,183.32	-584,712.36	818,175.00	1,402,887.36	-71.47
	Community Control Land	120,100.02	201,712120	010,1,0,00	1,102,007.00	71,47

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
129	Fruita Housing Authority					
	Fund					
000	Assets - Liabilities -					
	Revenue					
R04	Charges for services	0.00	-58,204.50	-50,000.00	8,204.50	116.41
R09	Transfers from other funds	0.00	-15,100.00	-15,100.00	0.00	100.00
000	Assets - Liabilities -	0.00	-73,304.50	-65,100.00	8,204.50	112.60
	Revenue					
463	Housing Authority					
E03	Purchased professional	0.00	60,563.24	65,000.00	4,436.76	93.17
	service					
E05	Other purchased services	0.00	37.11	100.00	62.89	37.11
463	Housing Authority	0.00	60,600.35	65,100.00	4,499.65	93.09
Revenue Total		0.00	-73,304.50	-65,100.00	8,204.50	-1.1260
Expense Total		0.00	60,600.35	65,100.00	4,499.65	0.9309
129	Fruita Housing Authority	0.00	-12,704.15	0.00	12,704.15	0.00
	Fund	••••	,. •		==,: 0 1120	0.00

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
130	Capital Projects Fund					
000	Assets - Liabilities -					
R06	Revenue Interest	0.00	-142,833.06	0.00	142,833.06	0.00
000	Assets - Liabilities -	0.00	-142,833.06 -142,833.06	0.00	142,833.06	0.00
000	Revenue	0.00	-142,033.00	0.00	142,033.00	0.00
707	EV Charging Station					
E07	Capital	0.00	135,082.00	150,000.00	14,918.00	90.05
R03	Intergovernmental revenue	0.00	-70,000.00	-70,000.00	0.00	100.00
R09	Transfers from other funds	0.00	-65,082.00	-80,000.00	-14,918.00	81.35
707	EV Charging Station	0.00	0.00	0.00	0.00	0.00
708	Downtown Improvements					
E07	Capital	0.00	445,978.61	454,000.00	8,021.39	98.23
R03	Intergovernmental revenue	0.00	-226,989.35	-229,000.00	-2,010.65	99.12
R09	Transfers from other funds	0.00	-218,989.26	-225,000.00	-6,010.74	97.33
708	Downtown Improvements	0.00	0.00	0.00	0.00	0.00
710	Broadband Connection					
E07	Capital	161,324.49	161,324.49	738,000.00	576,675.51	21.86
R03	Intergovernmental revenue	0.00	0.00	-738,000.00	-738,000.00	0.00
710	Broadband Connection	161,324.49	161,324.49	0.00	-161,324.49	0.00
734	South Mesa Improvements					
E07	Capital	13,483.25	19,418.50	2,150,000.00	2,130,581.50	0.90
R03	Intergovernmental revenue	0.00	0.00	-1,736,000.00	-1,736,000.00	0.00
R09	Transfers from other funds	-5,935.25	-5,935.25	-414,000.00	-408,064.75	1.43
734	South Mesa Improvements	7,548.00	13,483.25	0.00	-13,483.25	0.00
735	Overlays					
E07	Capital	0.00	269,052.94	300,000.00	30,947.06	89.68
R09	Transfers from other funds	0.00	-269,052.94	-300,000.00	-30,947.06	89.68
735	Overlays	0.00	0.00	0.00	0.00	0.00
736	Business Park- 16 Rd Rail					
E03	Purchased professional service	0.00	7,196.63	27,150.00	19,953.37	26.51

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Section 6, Item Q.
E07	Comital	0.00	0.00	200,000,00	200,000,00	0.00
E07	Capital	0.00	0.00 0.00	390,000.00	390,000.00	0.00
R03	Intergovernmental revenue	0.00		-50,000.00	-50,000.00	0.00
R09	Transfers from other funds	0.00	-7,196.63	-216,850.00	-209,653.37	3.32
R11	Development impact fees	0.00	0.00	-121,700.00	-121,700.00	0.00
736	Business Park- 16 Rd Rail	0.00	0.00	28,600.00	28,600.00	0.00
743	Pine Street Bridge					
E07	Capital	-26,703.38	1,124,413.37	1,286,400.00	161,986.63	87.41
R09	Transfers from other funds	-314,124.22	-1,125,316.75	-1,260,600.00	-135,283.25	89.27
R11	Development impact fees	0.00	-25,800.00	-25,800.00	0.00	100.00
743	Pine Street Bridge	-340,827.60	-26,703.38	0.00	26,703.38	0.00
744	18 12 Road Improvements					
E07	Capital	180.00	12,868.75	397,750.00	384,881.25	3.24
R09	Transfers from other funds	-3,920.00	-12,688.75	-397,750.00	-385,061.25	3.19
744	18 12 Road Improvements	-3,740.00	180.00	0.00	-180.00	0.00
746	Maple Street Bridge					
E07	Capital	0.00	18,591.67	100,000.00	81,408.33	18.59
R09	Transfers from other funds	0.00	-18,591.67	-100,000.00	-81,408.33	18.59
746	Maple Street Bridge	0.00	0.00	0.00	0.00	0.00
740	мирге знеен Вниде	0.00	0.00	0.00	0.00	0.00
750	19 Road Improvements					
E07	Capital	8,019.73	95,765.65	400,000.00	304,234.35	23.94
R09	Transfers from other funds	-13,522.68	-95,765.65	-400,000.00	-304,234.35	23.94
750	19 Road Improvements	-5,502.95	0.00	0.00	0.00	0.00
783	Civic Center Improvements					
E03	Purchased professional	0.00	9,652.50	9,850.00	197.50	97.99
	service		>,	7,02000	-,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
E07	Capital	0.00	385,505.67	390,150.00	4,644.33	98.81
R09	Transfers from other funds	-2,988.97	-395,158.17	-400,000.00	-4,841.83	98.79
783	Civic Center Improvements	-2,988.97	0.00	0.00	0.00	0.00
	_	2,700.77	0.00	0.00	0.00	0.00
792 E03	SH 340 Trail Purchased professional	0.00	0.00	250,000.00	250,000.00	0.00
E03	service	0.00	0.00	230,000.00	230,000.00	0.00
R03	Intergovernmental revenue	0.00	0.00	-160,000.00	-160,000.00	0.00
R07	Donations	0.00	0.00	-90,000.00	-90,000.00	0.00
792	SH 340 Trail	0.00	0.00	0.00	0.00	0.00
795	Reed Park Improvements					
E07	Capital	201,157.55	346,921.73	2,801,800.00	2,454,878.27	12.38
R03	Intergovernmental revenue	0.00	0.00	-1,010,000.00	-1,010,000.00	0.00
R07	Donations	-1,000.00	-1,000.00	0.00	1,000.00	0.00
R09	Transfers from other funds	-35,935.29	-145,764.18	-1,754,600.00	-1,608,835.82	8.31
R11	Development impact fees	0.00	0.00	-37,200.00	-37,200.00	0.00
795	Reed Park Improvements	164,222.26	200,157.55	0.00	-200,157.55	0.00
800	Prospector Park					
000	i iospecioi i aik					

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Section 6, Item Q.
F07		0.00	12 502 00	24 400 00	10.010.00	55.00
E07	Capital	0.00	13,582.00	24,400.00	10,818.00	55.66
R09	Transfers from other funds	0.00	-13,582.00	-24,400.00	-10,818.00	55.66
800	Prospector Park	0.00	0.00	0.00	0.00	0.00
803	Dog Park Project					
E07	Capital	395.00	47,339.61	50,000.00	2,660.39	94.68
R11	Development impact fees	0.00	-46,944.61	-50,000.00	-3,055.39	93.89
803	Dog Park Project	395.00	395.00	0.00	-395.00	0.00
Revenue Total Expense Total 130	Capital Projects Fund	-377,426.41 357,856.64 -19.569.77	-2,886,690.27 3,092,694.12 206.003,85	-9,890,900.00 9,919,500.00 28,600.00	-7,004,209.73 6,826,805.88 -177,403.85	-0.2919 0.3118 720.29

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
140	Debt Service Fund					
000	Assets - Liabilities - Revenue					
R06	Interest	0.00	-36,311.89	-8,000.00	28,311.89	453.90
R09	Transfers from other funds	-185,150.00	-740,600.00	-740,600.00	0.00	100.00
000	Assets - Liabilities - Revenue	-185,150.00	-776,911.89	-748,600.00	28,311.89	103.78
470	Debt Service					
E09	Debt service principal	0.00	385,000.00	385,000.00	0.00	100.00
E10	Debt interest & bond issuance	0.00	363,600.00	363,600.00	0.00	100.00
470	Debt Service	0.00	748,600.00	748,600.00	0.00	100.00
Revenue Total Expense Total 140	Debt Service Fund	-185,150.00 0.00 -185,150.00	-776,911.89 748,600.00 -28,311.89	-748,600.00 748,600.00 0.00	28,311.89 0.00 28,311.89	-1.0378 1.0000 0.00

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
210	<b>Devils Canyon Center</b>					
	Fund					
000	Assets - Liabilities -					
	Revenue					
R06	Interest	0.00	-3,154.03	0.00	3,154.03	0.00
000	Assets - Liabilities -	0.00	-3,154.03	0.00	3,154.03	0.00
	Revenue					
Revenue Total		0.00	-3,154.03	0.00	3,154.03	0.0000
Expense Total		0.00	0.00	0.00	0.00	0.0000
210	<b>Devils Canyon Center</b>	0.00	-3,154.03	0.00	3,154.03	0.00
	Fund		,		,	

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
211	Irrigation Water Fund					
000	Assets - Liabilities -					
	Revenue					
R04	Charges for services	0.00	-133,386.62	-136,500.00	-3,113.38	97.72
R06	Interest	0.00	-449.29	-50.00	399.29	898.58
000	Assets - Liabilities -	0.00	-133,835.91	-136,550.00	-2,714.09	98.01
	Revenue					
431	Public Works Department					
E01	Personnel services, salaries	4,002.48	36,801.42	61,275.00	24,473.58	60.06
E02	Personnel services, benefits	495.72	14,875.88	24,175.00	9,299.12	61.53
E04	Purchased property services	0.00	4,000.00	4,000.00	0.00	100.00
E05	Other purchased services	501.98	5,553.91	9,000.00	3,446.09	61.71
E06	Supplies	233.67	12,949.48	20,475.00	7,525.52	63.25
E07	Capital	0.00	0.00	2,400.00	2,400.00	0.00
E11	Contingency	0.00	0.00	5,100.00	5,100.00	0.00
E12	Transfers to other funds	2,531.25	10,125.00	10,125.00	0.00	100.00
431	Public Works Department	7,765.10	84,305.69	136,550.00	52,244.31	61.74
Revenue Total		0.00	-133,835.91	-136,550.00	-2,714.09	-0.9801
Expense Total		7,765.10	84,305.69	136,550.00	52,244.31	0.6174
211	Irrigation Water Fund	7,765.10	-49,530.22	0.00	49,530.22	0.00

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
212	Sewer Fund					
000	Assets - Liabilities - Revenue					
R03	Intergovernmental revenue	0.00	-541,719.92	-2,831,250.00	-2,289,530.08	19.13
R04	Charges for services	-14,988.79	-4,021,557.57	-4,299,000.00	-277,442.43	93.55
R06	Interest	0.00	-167,522.55	-26,000.00	141,522.55	644.32
R08	Miscellaneous	-1,223.01	-6,703.01	-2,000.00	4,703.01	335.15
000	Assets - Liabilities - Revenue	-16,211.80	-4,737,503.05	-7,158,250.00	-2,420,746.95	66.18
433	Sewer					
E01	Personnel services, salaries	76,301.18	643,934.64	689,700.00	45,765.36	93.36
E02	Personnel services, benefits	9,629.52	293,029.65	295,125.00	2,095.35	99.29
E03	Purchased professional service	1,047.26	40,551.36	59,380.00	18,828.64	68.29
E04	Purchased property services	1,317.13	94,613.25	101,275.00	6,661.75	93.42
E05	Other purchased services	35,645.32	168,892.17	176,220.00	7,327.83	95.84
E06	Supplies	50,242.22	411,693.03	441,045.00	29,351.97	93.34
E07	Capital	2,426.00	225,076.12	414,280.00	189,203.88	54.33
E09	Debt service principal	0.00	1,045,000.00	1,045,000.00	0.00	100.00
E10	Debt interest & bond issuance	0.00	203,205.00	203,225.00	20.00	99.99
E12	Transfers to other funds	41,250.00	165,000.00	165,000.00	0.00	100.00
433	Sewer	217,858.63	3,290,995.22	3,590,250.00	299,254.78	91.66
602	WWTF - Ventilation & Foul Air					
E07	Capital	200,473.99	709,864.01	1,224,300.00	514,435.99	57.98
602	WWTF - Ventilation & Foul Air	200,473.99	709,864.01	1,224,300.00	514,435.99	57.98
603	Sewer Line Upgrades					
E07	Capital	114,049.75	1,072,478.13	900,000.00	-172,478.13	119.16
603	Sewer Line Upgrades	114,049.75	1,072,478.13	900,000.00	-172,478.13	119.16
604	Sewer Line Improvements					
E07	Capital	0.00	0.00	240,000.00	240,000.00	0.00
604	Sewer Line Improvements	0.00	0.00	240,000.00	240,000.00	0.00

Sort Level Description		Period Amt	End Bal	Budget	Variance	% Section 6, Item Q.
607	Treatment System - Aeration					
E07	Capital	412,127.95	1,040,988.67	1,306,950.00	265,961.33	79.65
607	Treatment System - Aeration	412,127.95	1,040,988.67	1,306,950.00	265,961.33	79.65
Revenue Total		-16,211.80	-4,737,503.05	-7,158,250.00	-2,420,746.95	-0.6618
Expense Total		944,510.32	6,114,326.03	7,261,500.00	1,147,173.97	0.8420
212	Sewer Fund	928,298.52	1,376,822.98	103,250.00	-1,273,572.98	1,333.48

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
215	Trash Fund					
000	Assets - Liabilities -					
	Revenue					
R04	Charges for services	-214.76	-1,026,836.64	-1,096,000.00	-69,163.36	93.69
R06	Interest	0.00	-509.79	0.00	509.79	0.00
000	Assets - Liabilities -	-214.76	-1,027,346.43	-1,096,000.00	-68,653.57	93.74
	Revenue					
432	Sanitation Department					
E05	Other purchased services	85,123.46	928,285.64	1,026,000.00	97,714.36	90.48
E12	Transfers to other funds	17,500.00	70,000.00	70,000.00	0.00	100.00
432	Sanitation Department	102,623.46	998,285.64	1,096,000.00	97,714.36	91.08
Revenue Total		-214.76	-1,027,346.43	-1,096,000.00	-68,653.57	-0.9374
Expense Total		102,623.46	998,285.64	1,096,000.00	97,714.36	0.9108
215	Trash Fund	102,408.70	-29,060.79	0.00	29,060.79	0.00

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
220	Fleet Maintenance Fund					
000	Assets - Liabilities - Revenue					
R04	Charges for services	0.00	-412,400.00	-412,400.00	0.00	100.00
R10	Other financing sources	0.00	-76.00	0.00	76.00	0.00
000	Assets - Liabilities - Revenue	0.00	-412,476.00	-412,400.00	76.00	100.02
431	Public Works Department					
E01	Personnel services, salaries	17,709.62	127,137.54	155,600.00	28,462.46	81.71
E02	Personnel services, benefits	2,360.78	64,270.35	74,650.00	10,379.65	86.10
E03	Purchased professional service	1,312.00	2,486.99	3,500.00	1,013.01	71.06
E04	Purchased property services	1,984.64	35,182.17	52,900.00	17,717.83	66.51
E06	Supplies	8,691.99	92,669.50	110,500.00	17,830.50	83.86
E11	Contingency	0.00	0.00	15,250.00	15,250.00	0.00
431	Public Works Department	32,059.03	321,746.55	412,400.00	90,653.45	78.02
Revenue Total		0.00	-412,476.00	-412,400.00	76.00	-1.0002
Expense Total 220	Fleet Maintenance Fund	32,059.03 32,059.03	321,746.55 -90,729.45	412,400.00 0.00	90,653.45 90,729.45	0.7802 0.00

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
Revenue Total		-1,884,079.71	-28,182,235.38	-35,525,675.00	-7,343,439.62	-0.7933
Expense Total		3,396,070.47	28,357,351.42	42,439,310.00	14,081,958.58	0.6682



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** JANUARY 16, 2024

**AGENDA TEXT:** NEW LIQUOR LICENSE APPLICATION – A request to approve a new Hotel and

Restaurant – Malt, Vinous and Spirituous Liquor License for Hot Tomato Pizzeria,

LLC dba Hot Tomato Pizzeria located at 124 N. Mulberry Street

#### **BACKGROUND**

Hot Tomato Pizzeria, LLC dba Hot Tomato Pizzeria has submitted an application and all of the necessary paperwork and fees to be granted a Hotel & Restaurant Liquor License at 124 N. Mulberry Street. The applicant has requested that the Colorado Liquor Enforcement Division (state licensing authority) conduct a concurrent review of the application, which means that the state licensing authority began its approval process while the local authority was still conducting its own.

Background checks were conducted with the Federal Bureau of Investigation, Colorado Bureau of Investigation, Mesa County Sheriff's Department, and Police Departments from the Cities of Grand Junction and Fruita. None of these law enforcement agencies found anything of concern that would hinder the issuance of the license.

The Colorado Liquor License Application, Preliminary Findings Report and diagram are attached hereto.

The following is a list of questions and guidelines to aid the Council in the decision-making process to determine if the liquor license should be approved. These guidelines are from Colorado State Statutes.

#### Regulation 47-324. Concurrent Application Review.

- A. A local licensing authority, or a license applicant with local authority approval, can request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application. Local licensing authorities who permit a concurrent review will continue to independently review the applicant's license application for the purpose of establishing the reasonable requirements of the neighborhood, the suitability of the character, record and reputation of the applicant and its principals, the fitness of the applicant's premises for occupancy in compliance with the provisions of Articles 46 and Article 47 of Title 12 C.R.S., and any other provisions required for local authority determination as provided for in these articles.
- B. When conducting a concurrent application review, the state licensing authority will advise the local licensing authority of any items that it finds that could result in the denial of the license application. Upon correction of the noted discrepancies, the state licensing authority will notify the local licensing

- authority of its conditional approval of the license application subject to the final approval by the local licensing authority. The state licensing authority will then issue the applicant's state liquor license upon receiving evidence of final approval by the local licensing authority.
- C. All applications submitted for concurrent review must be accompanied by all applicable state license and application fees. Any applications that are later denied or withdrawn will allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

### Code of Regulations, 1 C.C.R 203-2 Regulation 47-310 Application – General Provisions

- E. A licensing authority (the City Council in this case) is required to make a determination as to the character, record and reputation of the applicants for new licenses. The City Council may consider the following factors when assessing the character of the applicants, which may include but not be limited to the following:
  - 1. The applicant or licensee has submitted false applications, made willful misrepresentations and/or committed fraudulent acts:
  - 2. The application or licensee has a criminal history of crimes of moral turpitude. By way of example, crimes of moral turpitude shall include but not be limited to, murder, burglary, robbery, arson kidnapping, sexual assault, illegal drugs or narcotics convictions;
  - 3. The applicant or licensee has had previous alcohol beverage licenses denied, suspended or revoked as a result of violations of law;
  - 4. The applicant or licensee has been found to be delinquent in the payment of any state or local taxes, and record of such tax delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means;
  - 5. The applicant or licensee has committed statutory violations resulting in the suspension, revocation or denial or any other professional license. For purpose of this section, the suspension or revocation or a state-issued driver's license shall not be considered.

#### ISSUANCE OF A NEW LIQUOR LICENSE

No license shall be issued to or held by:

- 1. Any person until the annual fee therefore has been paid;
- 2. Any person who is not of good moral character;
- 3. Any partnership, association, or company any of whose officers, or any of whose members holding ten percent or more interest therein, are not of good moral character;
- 4. Any person unless such person's character, record, and reputation are satisfactory to the respective licensing authority;

5. Any natural person under twenty-one years of age.

Background checks were conducted by staff on the one individual who will be on the liquor license and because there were no crimes "of moral turpitude" resulting from those, staff finds that there are no grounds to deny the liquor license application based on moral character.

In addition, pursuant to 44-3-301(2)(a), C.R.S. Licensing in general:

Before granting any license, all licensing authorities shall consider, except where this article 3 and article 4 of this title 44 specifically provide otherwise, the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority.

Provided as evidence of the reasonable requirements of the neighborhood and the desires of the adult inhabitants, the applicant submitted a neighborhood survey that was signed by 10 people, 10 of whom were in favor of the Fruita City Council's granting of the liquor license and do not feel that the reasonable requirements of the neighborhood are already being met by other existing outlets.

#### FISCAL IMPACT

Unknown

#### APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The consideration of the issuance of a new Hotel and Restaurant Liquor License by the City Council ensures that the proposed establishment is desired in the neighborhood and the applicants are of good moral character.

#### OPTIONS AVAILABLE TO THE COUNCIL

- 1. Approve the Hotel and Restaurant Malt, Vinous and Spirituous Liquor License for Hot Tomato Pizzeria, LLC dba Hot Tomato Pizzeria located at 124 N. Mulberry Street as proposed based on the character of the applicants and the needs of the neighborhood and the desires of the adult inhabitants
- 2. Approve the Hotel and Restaurant Malt, Vinous and Spirituous Liquor License for Hot Tomato Pizzeria, LLC dba Hot Tomato Pizzeria located at 124 N. Mulberry Street based on the character of the applicants and the needs of the neighborhood and the desires of the adult inhabitants with additional requirements
- 3. Deny the issuance of the liquor license based on the character of the applicants and the needs of the neighborhood and desires of the adult inhabitants

#### RECOMMENDATION

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

• APPROVE THE ISSUANCE OF A HOTEL AND RESTARURANT – MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR HOT TOMATO PIZZERIA, LLC DBA HOT TOMATO PIZZERIA LOCATED AT 124 N. MULBERRY STREET

Section A, Item 1)

\*DR 8404 (07/07/23)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division
(303) 205-2300

# Colorado Liquor Retail License Application

* Note that the Division will n	ot accept cash	☐ Paid by c	heck 🌅 Pai		aded to	
New License New	v-Concurrent	Transfer of	Ownership	State Property	Only	Master file
<ul> <li>All answers must be printed in</li> <li>Applicant must check the appre</li> <li>Applicant should obtain a copy</li> </ul>	opriate box(es)		and Wine Code	: SBG.Colorado.go	v/Liquoi	
	Corporation		cludes Limited I	☐ Association or 0 Liability and Husbar	nd and \	
2. Applicant If an LLC, name of LLC; If J HOT TOMATO PIZZERIA, LLC	partnership, at least 2	2 partner's name	es; if corporation, i	name of corporation		FEIN Number 85-3964996
2a. Trade Name of Establishment (DBA) HOT TOMATO PIZZERIA			-	State Sales Tax Num 94614288-0001	ber	Business Telephone 970-858-1117
3. Address of Premises (specify exact l	ocation of premises,	include suite/un	it numbers)	134014200 0001		010 000 1117
124 N MULBERRY ST City		[	County		State	ZIP Code
FRUITA			MESA		co	81521
Mailing Address (Number and Stree     SAUE)      Email Address	·t)		City or Town FEUITA		State	81521
amknapp4@gmail.com						
<ol><li>If the premises currently has a liquor Present Trade Name of Establishment (</li></ol>					oneo	Present Expiration Date
HOT TOMATO PIZZERIA	DBA)	03-14424	riceuse Manipel	BEER & WINE	GHSG	2/24/24
	ionrefundable Appl		Section B (Cont.)			Liquor License Fees*
Application Fee for New License						\$312.50
Application Fee for New License w/C						\$500.00 \$500.00
Application Fee for Transfer Section B		icense Fees*		-		\$30.00
						\$30.00
Add Optional Premises to H & R	\$100.00 X	lotal				nent\$30.00
Add Related Facility to Resort Comple						olex\$30.00
Add Sidewalk Service Area		\$75.00	l			\$500.00
Arts License (City)			-			\$500.00
Arts License (County)						\$500.00
Beer and Wine License (City)			ł			\$500.00
Beer and Wine License (County)			Resort Comp	lex License (City)		\$500.00
Brew Pub License (City)			☐ Resort Comp	lex License (County)	.,,	\$500.00
Brew Pub License (County)			Related Facil	ity - Campus Liquor Co	mplex (C	ity)\$160.00
Campus Liquor Complex (City)			Related Facil	ity - Campus Liquor Co	mplex (C	County) \$160.00
Campus Liquor Complex (County)			Related Facil	ity - Campus Liquor Co	mplex (S	State)\$160.00
Campus Liquor Complex (State)						\$500.00
Li Club License (City)			Retail Gamin	g Tavern License (Cou	nty)	\$500.00
Club License (County)			1			\$227.50
Distillery Pub License (City)			1		-	nty)\$312.50
Distillery Pub License (County)			[			\$227.5
Hotel and Restaurant License (City)			· ·			\$312,5
Hotel and Restaurant License (Count			Tuvoli Lioo			\$500.0
Hotel and Restaurant License w/one						\$500.0
Hotel and Restaurant License w/one Liquor–Licensed Drugstore (City)			1 - 48.810137103			\$750.0
			CJ VII BIOI O I KO	· · · · · · · · · · · · · · · · · · ·		\$750.0
				or more informa		
Do not write in this space - For Department of Revenue use only  Liability Information						
License Account Number	Liability Date		ied Through (Exp	iration Date)	To	tal

Section A, Item 1)

Application Documents Checklist and Worksheet

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure.

All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable. Questions? Visit: <a href="mailto:SBG.Colorado.gov/Liquor">SBG.Colorado.gov/Liquor</a> for more information

	Items submitted, please check all appropriate boxes completed or documents submitted
I.	Applicant information
	A. Applicant/Licensee identified
	B. State sales tax license number listed or applied for at time of application
	C. License type or other transaction identified
ĺ	D. Return originals to local authority (additional items may be required by the local licensing authority)
	Li All sections of the application need to be completed
	F. Master file applicants must include the Application for Master File form DR 8415 and applicable fees to this
ļ.,	Retail License Application (N/A)
11.	Diagram of the premises
	A. No larger than 8½" X 11"
	B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences,
ļ	/ Walls, thu v/exil boints, etc.)
ĺ	C. Separate diagram for each floor (if multiple levels)
	D. Kitchen - identified if Hotel and Restaurant
111.	E. Bold/Outlined Licensed Premises
1111.	Proof of property possession (One Year Needed)
	A. Deed in name of the applicant (or) (matching question #2) date stamped / filed with County Clerk
	B. Lease in the name of the applicant (or) (matching question #2)
	<ul> <li>□ C. Lease assignment in the name of the applicant with proper consent from the landlord and acceptance by the applicant</li> <li>□ D. Other agreement if not deed or lease. (matching question #2)</li> </ul>
iV	Background information (DR 8404-I) and financial documents
• • •	A Complete DR 8404-I for each principal (individuals with more than 400/ man at the state of the
	A. Complete DR 8404-I for each principal (individuals with more than 10% ownership, officers, directors, partners, members)
	B. Fingerprints taken and submitted to the appropriate Local Licensing Authority through an approved State Vendor.
	Master File applicants submit results to the State using code 25YQHT with IdentoGO.
	Do not complete fingerprint cards prior to submitting your application.
	The Vendors are as follows:
	IdentoGO - https://uenroll.identogo.com/ Phone: 844-539-5539 (toll-free)
	Colorado Fingerprinting – http://www.coloradofingerprinting.com
	Appointment Scheduling Website: http://www.coloradofingerprinting.com/cabs/
	Phone: 720-292-2722 Toll Free: 833-224-2227
	Details about the vendors and fingerprinting in Colorado can be found on CRI's website here:
	Illups://coi.coiorado.gov/sections/biometric-identification-and-records-unit/employment-and-hackground chooks
	Purchase agreement, stock transfer agreement, and/or authorization to transfer license.
	D.List of all notes and loans (Copies to also be attached)
V.	Sole proprietor/husband and wife partnership (if applicable)
	□ A. Form DR 4679.
	B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI.	Corporate applicant information (if applicable)
	Li A. Certificate of Incorporation
	B. Certificate of Good Standing
	C.Certificate of Authorization if foreign corporation (out of state applicants only)
VII.	Partnership applicant information (if applicable)
	A. Partnership Agreement (general or limited).
	☐ B. Certificate of Good Standing
/III.	Limited Liability Company applicant information (if applicable)
	A. Copy of articles of organization
	B. Certificate of Good Standing
	C. Copy of Operating Agreement (if applicable)
	□ D. Certificate of Authority if foreign LLC (out of state applicants only)
Χ.	Manager registration for Hotel and Restaurant, Tavern, Lodging & Entertainment, and Campus Liquor
	Complex licenses when included with this application
	□ A. \$30.00 fee
	B. If owner is managing, no fee required

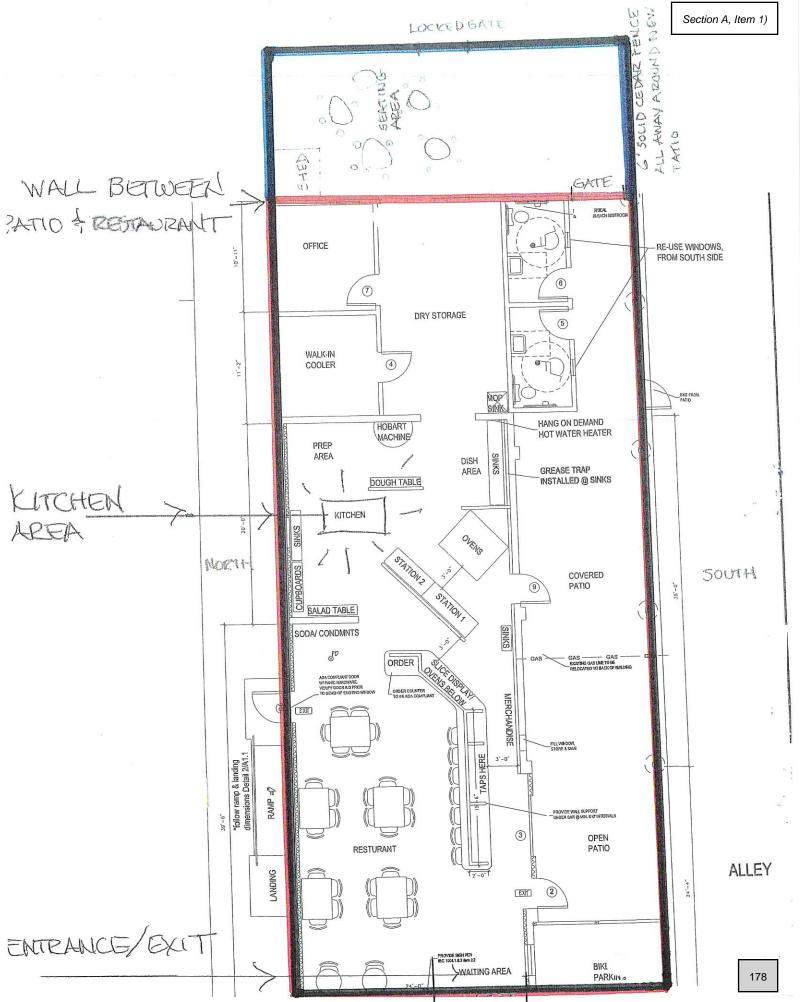
Name		Type of License		Account N	umber	Secu	on A, ne
7. Is the applicant (including any of the partner	ers if a partnersh	ip; members or	managers i	a limited liabi	ity company;	Yes	No X
Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state):  a. Been denied an alcohol beverage license?  b. Had an alcohol beverage license suspended or revoked?					X X X		
c. Had interest in another entity that had an alcohol beverage license suspended or revoked?  ou answered yes to 8a, b or c, explain in detail on a separate sheet.  Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.						×	
10. Are the premises to be licensed within 5 education requirements of Colorado law	00 feet, of any   v, or the principa	public or privat il campus of ar	ıy college, u \	at meets comp iniversity or so Waiver by loca Other:	eminary r		⊠ or □
1. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,0000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.							
12. Is your Liquor Licensed Drugstore (LLD license for off-premises sales in a jurisd shall be determined by a radius measure.	12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,0000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.						
13. a. For additional Retail Liquor Store only. V				<del></del>		? [	
b. Are you a Colorado resident?						□	
14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)?  If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee.							
5. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership, lease or other arrangement?  ☐ Ownership   Lease ☐ Other (Explain in Detail)							
a. If leased, list name of landlord and te	nant, and date o	of expiration, e	xactly as th	ey appear on	the lease:		
Landlord Tannie Properties LLC	Tenan He	ot Tomat	o Pizz			131/	25 □ 🗷
b. Is a percentage of alcohol sales incl     c. Attach a diagram that designates th     the bars, brewery, walls, partitions,     diagram should be no larger than 8	e area to be lice entrances, exits ½" X 11".	ensed in black and what eac	bold outline th room sha	(including di II be utilized f	mensions) w or in this bus	hich s ines <b>s</b>	hows . This
16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary.							
Last Name MA	First Name		Date of Birth	FEIN or SSN	inte	restre	rcentage
Last Name	First Name		Date of Birth	FEIN or SSN	Inte	rest/Pe	rcentage
Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.							
17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises:  Has a local ordinance or resolution authorizing optional premises been adopted?  Number of additional Optional Premise areas requested. (See license fee chart)							
Number  18. For the addition of a Sidewalk Service documentation received from the local is not limited to a statement of use, possible to the use of use the statement of use of use the use of	e Area per Reg	gulation 47-30 y authorizing u	2(A)(4), inc use of the si	lude a diagra dewalk. Docu	m of the ser	vice a	rea and lude bu

Name	Туре	of License	Account Number	Section A, Item 1,		
<ol> <li>Liquor Licensed Drugstore (LLDS) a         <ul> <li>a. Is there a pharmacy, licensed by the             If "yes" a copy of license must I</li> </ul> </li> </ol>	Colorado Board of Pharm e attached.	nacy, located within the				
20. Club Liquor License applicants ansv	ver the following: Attach	a copy of applicab	le documentation	Yes No		
a. Is the applicant organization operat and not for pecuniary gain?				1		
<ul> <li>b. Is the applicant organization a reg is operated solely for the object of</li> </ul>	a patriotic or fraternal or	odge or chapter of a r ganization or society, l	national organization who out not for pecuniary ga	ich 🗆 🗆		
c. How long has the club been inco	porated?		at was appraised solely f	or		
d. Has applicant occupied an establisher reasons stated above?						
<ol> <li>Brew-Pub, Distillery Pub or Vintner a. Has the applicant received or app</li> </ol>	s Restaurant applicants : ied for a Federal Permitî	answer the following: ? (Copy of permit or a	oplication must be attac	hed) 🗆 🗆		
22. Campus Liquor Complex applicants						
<ul> <li>a. Is the applicant an institution of h</li> <li>b. Is the applicant a person who co</li> <li>If "yes" please provide a copy</li> <li>food services.</li> </ul>	ntracts with the institution	n of higher education e institution of highe	to provide food service reducation to provid	es?		
<ul><li>23. For all on-premises applicants.</li><li>a. For all Liquor Licensed Drugstore</li><li>DR 8000 and fingerprints.</li></ul>	<ol> <li>For all on-premises applicants.</li> <li>For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit an Manager Permit Application</li> </ol>					
Last Name of Manager	Fir	st Name of Manager	<del></del>			
24. Does this manager act as the manager	loger of, or have a financ	ial interest in, any oth	er liquor licensed	Yes No		
establishment in the State of Color	ado? If yes, provide nam	ie, type of license and	d account number.			
25. Related Facility - Campus Liquor C	omplex applicants answ	er the following:				
a. Is the related facility located with	in the boundaries of the	Campus Liquor Com	ipiex?	ļ		
If yes, please provide a map of the lf no, this license type is not available b. Designated Manager for Related	le for issues outside the g	eographical location of	the Campus Liquor Cor	nplex.		
Last Name of Manager		rst Name of Manager				
26. Tax Information.				Yes No		
managing members (LLC), or an been found in final order of a tax	a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes,					
b. Has the applicant, including its managing members (LLC), or ar failed to pay any fees or surchar	penalties, or interest related to a business?  b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.?					
27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant. All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.						
1 7	Home Address, City & State	DC	Position  Owner	%Owned   しゅん		
Aaron Knapp Name	Home Address, City & State	52 l		%Owned		
Name	Home Address, City & State	DC	DB Position	%Owned		
Name	Home Address, City & State	DC	DB Position	%Owned		
Name	Home Address, City & State	DC	DB Position	%Owned		
DR 8404 (07/07/23)				Pag 17		

Name	Тур	e of License	Account Number	Section A, Item
<ul> <li>** If applicant is owned 100% by a parent con</li> <li>** Corporations - the President, Vice-President percentage if applicable)</li> <li>** If total ownership percentage disclosed her</li> <li>Applicant affirms that no individual other not have financial interest in a prohibited</li> </ul>	nt, Secretary and Tr re does not total 10 r than these disclos	easurer must be acc 00%, applicant must sed herein owns 10%	check this box: % or more of the applica	
	Oath Of Ap			
I declare under penalty of perjury in the secon complete to the best of my knowledge. I also and employees to comply with the provisions	d degree that this a	application and all att	and the responsional	January Ligania
Authorized Signature	Printed Name and Tife AARON KNAPP	OWNER		Date 12/1/23
// Report and Appr	oval of Local Lice	ensing Authority (C	city/County)	icto of application)
Date application filed with local authority  Date of	local authority hearing (fo	r new license applicants; ca	nnot be less than 30 days from c	
For Transfer Applications Only - Is the license being	transferred valid?			Yes No
Subject to background investigation, That the local authority has conducted, or in applicant is in compliance with and aware of (Check One)  Date of inspection or anticipated date vill conduct inspection upon approv	ntends to conduct, f, liquor code provi e al of state licensin	an inspection of the sions affecting their gauthority	proposed premises to e class of license	
☐ Is the Liquor Licensed Drugstore (LL liquor license for off-premises sales	in a jurisdiction wi	in a population of >	10,00003	/A
☐ Is the Liquor Licensed Drugstore(LL liquor license for off-premises sales NOTE: The distance shall be detern of the LLDS/RLS premises for which the Licensed LLDS/RLS.	in a jurisdiction wi nined by a radius t	tn a population of < neasurement that b	egins at the principal do	porway
☐ Does the Liquor-Licensed Drugstore annual income derived from the sale	e (LLDS) have at lee of food, during the	east twenty percent ne prior twelve (12) ı	(20%) of the applicant's month period?	gross 🗆 🗆
The foregoing application has been examine cant are satisfactory. We do report that such hood and the desires of the adult inhabitant Liquor Rules. Therefore, this application	ch license, if grante its, and will comply	y with the provisions	s of Title 44, Article 4 or	3, C.R.S., and
Local Licensing Authority for THE CITY OF FRUITA		Telephone Number (970) 639-4210	▼ Town, Ci     □ County	
Signature	Print JOEL KINCAID		Title MAYOR	Date
Signature	Print DEB WOODS		Title DEPUTY CITY CLER	Date C

# Tax Check Authorization, Waiver, and Request to Release Information

and Nequest to No				
am signing the nformation (hereinafter "Waiver") on behalf of the To permit the Colorado Department of Revenue and any ot documentation that may otherwise be confidential, as proving myself, including on behalf of a business entity, I certify the Applicant/Licensee.	her state or local ded below. If I am	かみいとし taxing author signing this V	Vaiver for someone other than	
The Executive Director of the Colorado Department of R Colorado Liquor Enforcement Division as his or her agents obtained pursuant to this Waiver may be used in connect and ongoing licensure by the state and local licensing auth ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR obligations, and set forth the investigative, disciplinary and take for violations of the Liquor Code and Liquor Rules, inc	e, clerks, and emp otion with the App norities. The Colo 203-2 ("Liquor F licensure actions	plicant/Licens rado Liquor C Rules"), requir the state and	ee's liquor license application code, section 44-3-101. et seq. e compliance with certain tax local licensing authorities may	
The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.				
By signing below, Applicant/Licensee requests that the C taxing authority or agency in the possession of tax document the Colorado Liquor Enforcement Division, and is duly authorized representative under section 39-21-113(4), C.F. their duly authorized employees, to investigate compliance authorizes the state and local licensing authorities, their duse the information and documentation obtained using the application or license.	ients or information athorized employon R.S., solely to alloo be with the Liquo duly authorized e	on, release imposes, to act as withe state and Code and Lomployees, ar administrative	the Applicant's/Licensee's duly d local licensing authorities, and iquor Rules. Applicant/Licensee and their legal representatives, to e or judicial action regarding the	
Name (Individual/Business)			/ Number/Tax Identification Number	
HOT TOMATO PIZZERIA, LLC		94614288-	0001	
Address				
124 N. MULBERRY ST City		State	Zip	
RUITA		CO	81521	
Home Phone Number	Business/Work F			
(812) 344-0617 Printed name of person signing on behalf of the Applicant/Licensee	(970) 858-11	11		
A ADON KNA DD			- Data signed	
Applicant/Licensee's Signature (Signature authorizing the disclosure of	confidential tax inforr	nation)	Date signed	
Bulyany	Act Statement			
Providing your Social Security Number is voluntary and	no right, benefit	or privilege p	rovided by law will be denied as	
result of refusal to disclose it. § 7 of Privacy Act, 5 USCS	3 002a (110to).			





325 E Aspen Fruita, CO 81521 (970) 858-3663

#### CITY OF FRUITA LOCAL LICENSING AUTHORITY, MESA COUNTY COLORADO

PRELIMINARY FINDINGS AND REPORT UPON APPLICATION FOR A NEW HOTEL AND RESTAURANT LIQUOR LICENSE – AMENDED TO INCLUDE SERVER TRAINING

**IN RE:** Hot Tomato Pizzeria, LLC

Dba Hot Tomato Pizzeria 124 N. Mulberry Street Fruita, CO 81521

#### TO THE APPLICANT NAMED ABOVE AND OTHER INTERESTED PARTIES:

You are hereby advised that with regard to your application for a new Hotel and Restaurant Liquor License, an investigation has been made and based on the results thereof the following has been determined:

- 1. That the application was filed on December 13, 2023.
- 2. That the Notices of Public Hearing on this matter were posted by the applicant on December 23, 2023 and publication was made in the Grand Junction Daily Sentinel on December 27, 2023 for the hearing date of January 16, 2023.
- 3. There has not been, within two years preceding the date of your application, a denial of an application by the County Commissioners of Mesa County, the State Licensing Authority, or the Local Licensing Authority of the City of Fruita for a Hotel and Restaurant Liquor License at the location for which you make application for the reason that the reasonable requirements of the neighborhood and the desires of the inhabitants have been satisfied by the existing outlets.
- 4. It appears from the evidence submitted by you that you will be entitled to possession of the premises where you propose to exercise the license applied for.
- 5. Sixteen (16) employees of the Hot Tomato Pizzeria including owner Aaron Knapp successfully completed the Colorado Responsible Alcohol Vendor Training hosted by the City of Fruita on April 18, 2022. The certifications are valid for two (2) years. This is a two-hour class on Colorado laws pertaining to but not limited to: serving alcohol, identifying intoxicated persons, and how to identify those of age to drink alcoholic beverages. The City of Fruita is currently in the process of scheduling the first of two training sessions this year with an approved Colorado Responsible Alcohol Vendor Trainer. The training will be offered to all Fruita liquor licensees.

- 6. The proposed establishment is located in a Downtown Mixed-Use Zoning District. Food Service, Restaurant (including alcohol) is an allowed use in this zone. A certificate of occupancy, a food establishment permit and any other applicable licenses and permits must be issued prior to commencement of operations including Planning Clearances from the City of Fruita Planning Department.
- 7. The building and grounds where you propose to exercise the privilege of serving alcohol do not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary.
- 8. Within a one-mile radius from the building and grounds where you propose to sell malt and vinous liquors there are the following **Hotel and Restaurant Liquor License** establishments:

Strayhorn Grill
Rib City Grill
El Tapatio
Fiesta Guadalajara
Karma Kitchen
El Mescal Family Mexican Restaurant & Bar
Dragon Treasure
Aspen Street Coffee
Rib City
Mike's Famous Chicken

9. The following criminal history information has been brought to the attention of the authority:

Applicant and Owner: Aaron Michael Knapp – ALL CLEAR

#### Source of information:

Colorado Bureau of Investigation Mesa County Sheriff's Office Grand Junction Police Department Fruita Police Department

10. The results of the petition circulated with respect to this application are as follows:

Total Signatures obtained by applicant: 10 (Exhibit A)

For: 10
Against: 0
No Opinion: 0

11. The public hearing on your application will be held on January 16, 2024 at 7:00 p.m. at the Fruita Civic Center, 325 E. Aspen Ave., 2<sup>nd</sup> Floor. At said hearing you shall have the

- opportunity to be heard regarding all matters related to your application, including all matters set forth herein.
- 12. At the public hearing, and pursuant to CRS 12-46-108, as amended, you have the burden of proving that you are qualified to hold the license applied for and that your character, record and reputation are satisfactory; that the neighborhood needs this license and that the residents of the neighborhood desire that this license be granted.
- 13. A copy of the "Order of Hearing" procedures used by the Local Licensing Authority of the City of Fruita for use and guidance in holding hearings on liquor license applications is attached for your information and review. (Exhibit B)

Dated this 12th day of January, 2024

\_\_\_\_\_

Debra Woods, Deputy City Clerk for the Local Licensing Authority





An application has been filed with the City of Fruita for a liquor license. In its consideration of this application, the Fruita City Council must consider the reasonable requirements of the neighborhood and the desires of the inhabitants. An "inhabitant" is an individual who resides in a given neighborhood or community for more than six months each year. The "neighborhood" is defined generally as the area between L Road to the North and the Colorado National Monument to the South, and between 15 ½ Road to the West and 20 Road to the East. A public hearing will be advertised and held on this application in the Council Chambers at the Fruita Civic Center, 325 E. Aspen, Fruita, Colorado on the first and third Tuesdays of the month at 7:00 pm.

<u>Do not sign this survey unless you are 21 years or older and reside within the area bounded on the north by L Road, on the south by Colorado National Monument, on the west by 15 ½ Road, and on the 20 Road to the East.</u>

As an owner of property in the neighborhood, an employee or business lessee of property in the neighborhood and/or an inhabitant who resides in the neighborhood for more than six months each year:

Question 1. I believe the reasonable requirements of the neighborhood are already being met by other existing outlets. (Yes or No)

As an inhabitant who resides in the neighborhood for more than six month each year:

Question 2. It is my desire that the license be issued. (Yes or No or Not Applicable (N/A))

	Name (signature)		Business (B)	Question 1	Question 2	N/A D
	Msash	825 E offley C1	Residence (R)	Yes No	Yes No	N/A Date   1-10-14
•	Men Clur	826 W CEDAGET	R	X		1.10.24
	Madin Trackin	124 N mulberry	3	X	X	1-10-24
-	Aff 3.1	124 N. MULBERRY	B	Y X	X	1-10-24
	Mckenzi andall	177 N. Apple St.	R	X	X	1/10/29
1	John Lule	1235 Sycamores.	R	X	X	410/24
		227 N Elm St	R	X	X	1/10/24
,	Ist from	376 N Mulberry St	R	X	$\times$	10/24
		336 n. mullem st	e	X	X	10/29
	Color	405 W Aspen Ave )	R	X	X	1/11/24
		1		2		
		•	50			

# AFFIDAVIT OF CIRCULATOR

I, Aaron Knapp, who resides at 713 E Harrison Av				
(print name) (print address)				
do hereby certify that:				
I circulated the foregoing survey for a Hotel + Restaurant				
(print type of license)				
Liquor license application within the area described as the neighborhood, on the date(s) of $1/9/29 - 1/11/24$ , $2024$ , and that;				
I personally witnessed each signature appearing on the petition.				
To the best of my knowledge and belief, each of the person signing was, at the time of				
signing, an owner of the property in the neighborhood, an employee or business lessee of				
property in the neighborhood for more than six (6) months each year, and;				
Each person who signed the petition represented him/herself to be 21 years of age or older				
and;				
Each person who signed the petition were not paid and will not be paid, directly or				
indirectly, any money or other thing of value for the purpose of inducing or causing signature of				
this survey. I also hereby affirm that no promises, threats, or inducements were employed				
whatsoever in connection with the presentation of this petition and that every signature				
appearing hereon was completely free and voluntarily given.				
1 Chy				
Circulator /				
STATE OF COLORADO ) SS.				
COUNTY OF MESA )				
Subscribed and sworn to before me this 11 day of January, 2024.				
DAWN R MARTIN NOTARY PUBLIC STATE OF COLORADO  Notary Public				
NOTARY ID 20144028098 COMMISSION EXPIRES JANUARY 27, 2027				
01/27/2027				

My commission expires



- QUASI-JUDICIAL Quasi-judicial public hearings are held when the City Council is acting in a judicial or judge like manner and a person with a legitimate interest is entitled to an impartial decision made on the basis of information presented and laws in effect. Quasi-judicial hearings are commonly held for land use hearings and liquor license hearings. Since the City Council is acting in a fair and impartial manner, it is NOT permissible for City Council members to have any ex-parte communication (contact between the applicant, members of the public, or among other members of the City Council) outside of the Public Hearings and meetings on the subject application. The City Council must limit its consideration to matters which are placed into evidence and are part of the public record. Quasi-judicial hearings are held in the following manner:
  - 1) **Staff presentation** Staff will present the comments and reports received from review agencies and offer a recommendation.
  - 2) **Applicant Presentation** The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.
  - 3) **Public Input** (limit of 3 minutes per person) Speakers must step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.
  - 4) The public hearing is closed to public comments.
  - 5) **Questions from the Council.** After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.
  - 6) **Make a motion.** A member of the City Council will make a motion on the issue.
  - 7) **Discussion on the motion.** The City Council may discuss the motion.
  - 8) Vote. The City Council will then vote on the motion.



# AGENDA ITEM COVER SHEET

**TO:** Fruita City Council and Mayor

**FROM:** Planning & Development Department

**DATE:** January 16, 2024

**AGENDA TEXT:** SITE DESIGN REVIEW – A request to approve a Planned Unit Development

(PUD) Site Design Review application for Wildcat Residences (City Planner Henry

Hemphill)

# **BACKGROUND**

This is a request for approval of a Site Design Review application for the development of Outlot C from the Legacy PUD Subdivision Plat. The Plat was originally recorded in 2007 and this is the last remining lot. The entire Legacy PUD Subdivision is zoned Planned Unit Development (PUD) which is a customized zoning district used to encourage flexibility and innovation in developments in exchange for a community benefit that could not otherwise be realized through the strict adherence to the Code. At the time the PUD Guide and subdivision were originally approved, the idea was to have mixed-use development (multi-family and commercial) on the north and south sides of the residential uses in the middle. The area saw initial commercial development when the Dollar General was constructed a few years after the subdivision was approved but the other commercial/residential lots remained vacant for many years. Although there have been slight changes to the overall subdivision plan over the last 16 years, this lot has remained unchanged.

It's important to note, the subject property is already zoned to allow for residential and/or commercial types of uses. This application does not include zoning the subject property.

For the subject property, the PUD Guide supports a number of commercial land uses as well as all residential land uses. The commercial land uses supported consist of retail sales and services, food services (including drive- through), fuel sales, manufactured building sales and service, mini warehouse/self-storage facilities, car wash, and vehicle repair just to name a few. In addition to allowed land uses, the PUD Guide and the Land Use Code quoted in the approvals supports up to 15 dwelling units per gross acre with multi-family allowing a 10% increase for a total of 16.5 dwelling units per gross acre.

The proposed development plan is located at the corner of Pine Street and Wildcat Avenue and consists of two (2) twenty (20) unit apartment buildings and five (5) 5-unit row home apartment buildings for a total of 65 units on approximately 3.7 acres with two (2) access points. The street stub exists to the subject property on Blair Street with the other access point located on Wildcat Avenue. The subject property also has adequate access to wastewater services, trash services, police and fire protection, drainage facilities, and potable water from Ute Water.

Since the Staff Report was completed, the City did receive written public comments and also had public comments at the December 12, 2023, Planning Commission meeting. The primary concern was in regards to traffic and density. The Planning Commission recommended approval of the application by a vote of 6-1 to the Fruita City Council.

Planning Commission Motion from 12/12/2023 meeting:

COMMISSIONER HEARNS MOVED THAT BECAUSE THE APPLICATION MEETS OR CAN MEET ALL THE APPLICABLE APPROVEL CRITERIA FOR A SITE DESIGN REVIEW, SHE MOVED TO RECOMMEND APPROVAL TO THE CITY COUNCIL WITH FRUITA THE CONDITION THAT THE APPLICATION ADEQUATELY RESOLVE THE OUTSTANDING REVIEW AGENCY CONERNS WITH THE FINAL PUD APPLICATION AND/OR APPROVAL OF A BUILDING PERMIT.

COMMISSIONER MCGUIRE SECONDED THE MOTION

**MOTION PASSED 6-1** 

## FISCAL IMPACT

There are no immediate fiscal impacts associated with this Site Design Review application. If the property were to be developed as its proposed, most of the infrastructure needed will be entirely private. Fiscal impact would start to occur once the project is under construction and near completion when people start to occupy these units full time. These impacts are associated with all residential developments when they add to the existing transportation network and continue to use public services and other facilities. It's important to note that impact fees and sewer tap fees will be collected with this project.

#### APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City's Master Plan strongly supports infill residential development. Goal #2 on page 37 of the Master Plan states, "Prioritize infill development over development at the edge of the city limits." Although there are always growth pressures on the city's edge, the subject property offers a unique opportunity to contribute to multi-family infill development. The Master Plan also states, "Residential development within the city will be able to take advantage of existing nearby roads, parks, trails, and community resources. Infill development will create more customers for the existing downtown and commercial centers, rather than customers for sprawling, highway commercial developments." Further support for infill residential development contained in the Master Plan states, "Higher density infill development that helps achieve the allowed densities will contribute to an even more vibrant downtown, with more nearby, walking-distance residents that can support more small businesses."

The City's Master Plan supports a diversity of housing types and on page 39 of the Master Plan Goal #4 states, "Allow and encourage a diversity of housing types to fit the needs of the Fruita community and provide the diverse "funky" character that is treasured by residents." With support, "Fruita's housing

stock is getting more homogenous and more expensive. As a community that prides itself on being inclusive, this ethos should extend to providing types of housing for people of different ages, income ranges, family structures, and aesthetic preference. Allowing and encouraging more apartments and/or townhomes in appropriate locations could contribute to more affordable housing options. (Chapter 3 Land Use & Growth, Page 39, Comprehensive Plan).

More detail regarding the project and its applicability to the City's Master Plan are located in the Staff Report.

# OPTIONS AVAILABLE TO THE COUNCIL

- 1. Approve the Wildcat Residence Site Design Review application as presented.
- 2. Approve the Wildcat Residences Site Design Review with conditions.
- 3. Deny the proposed Wildcat Residences Site Design Review.

## RECOMMENDATION

Staff recommends that the Council move to:

APPROVE THE PROPOSED WILDCAT RESIDENCES SITE DESIGN REVIEW WITH THE CONDITION THAT ALL REVIEW COMMENTS ARE RESOLVED WITH THE FINAL PUD PLAN APPLICATION AND/OR APPROVAL OF A BUILDING PERMIT.



# PLANNING & DEVELOPMENT DEPARTMENT STAFF REPORT DECEMBER 12, 2023

**Application #: 2023-31** 

Project Name: Wildcat Residences
Application: Site Design Review
Representative: Austin Civil Group
Location: 1807 Wildcat Avenue

Zone: Planned Unit Development (PUD) – Commercial/Residential

Request: This is a request for approval of a Site Design Review of two (2) twenty

(20) unit apartment buildings and five (5) 5-unit row home apartment

buildings for a total of 65 units on approximately 3.7 acres.

# **Description:**

This is a request for approval of a Site Design Review application for the development of Outlot C from the Legacy PUD Subdivision Plat. The Plat was originally recorded in 2007 and this is the last remining lot. The entire Legacy PUD Subdivision is zoned Planned Unit Development (PUD) which is a customized zoning district used to encourage flexibility and innovation in developments in exchange for a community benefit that could not otherwise be realized through the strict adherence to the Code. At the time the PUD Guide and subdivision were originally approved, the idea was to have mixed-use development (multi-family and commercial) on the north and south sides of the residential uses in the middle. The area saw initial commercial development when the Dollar General was constructed a few years after the subdivision was approved but the other commercial/residential lots remained vacant for many years. Although there have been slight changes to the overall subdivision plan over the last 16 years, this lot has remained unchanged.

It's important to note, the subject property is already zoned to allow for residential and/or commercial types of uses. This application does not include zoning the subject property.

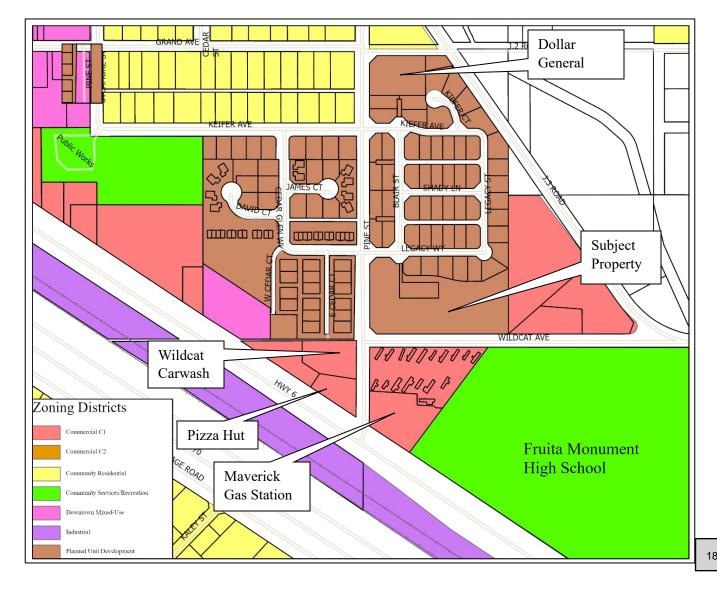
For the subject property, the PUD Guide supports a number of commercial land uses as well as all residential land uses. The commercial land uses supported consist of retail sales and services, food services (including drive- through), fuel sales, manufactured building sales and service, mini warehouse/self-storage facilities, car wash, and vehicle repair just to name a few. In

addition to allowed land uses, the PUD Guide and the Land Use Code quoted in the approvals supports up to 15 dwelling units per gross acre with multi-family allowing a 10% increase for a total of 16.5 dwelling units per gross acre.

The proposed development plan is located at the corner of Pine Street and Wildcat Avenue and consists of two (2) twenty (20) unit apartment buildings and five (5) 5-unit row home apartment buildings for a total of 65 units on approximately 3.7 acres with two (2) access points. The street stub exists to the subject property on Blair Street with the other access point located on Wildcat Avenue. The subject property also has adequate access to wastewater services, trash services, police and fire protection, drainage facilities, and potable water from Ute Water.

# **ZONING MAP**

The surrounding character of the area, which includes multi-family and a carwash to the west, the Dollar General to the north, single-family attached and detached to the north, Fruita Monument High School, a mobile home park, and the Maverick gas station to the south, the Church of Jesus Christ Latter-Day Saints seminary building and an auto machanic shop to the east.





# **APPROVAL CRITERIA:**

# PLANNED UNIT DEVELOPMENTS (PUD'S)

Section 17.19.010 explains the purpose of a Planned Unit Development and states, "The purpose of this Chapter is to encourage flexibility and innovation in developments in exchange for a

community benefit that could not otherwise be realized through the strict adherence to the Code."

# 17.19.030 (A)(1) (a-d)

a) Conformance to the City of Fruita's Comprehensive Plan, Land Use Code, Design Criteria and Construction Specifications Manual and other city policies and regulations;

The Legacy PUD Subdivision was reviewed and approved back in 2006-2007 as a Planned Unit Development. Within the approvals was reference to a new urbanism type of development related to neighborhood commercial centers along with a mix of housing types. Like many other PUD subdivisions approved and developed around the same time, the commercial centers were never developed completely, and were later modified to allow for residential uses. The same can be said for the Legacy PUD Subdivision, and although the Dollar General was constructed, the remaining commercial uses never occurred and single-family dwellings were constructed instead. For the subject property, the development plan at the time was envisioned to be a mix of commercial and residential land uses. As explained in the Staff Report, there are many supported land uses for this area including all residential types. Over the past 15 years since the Legacy PUD Subdivision was approved, commercial land uses just didn't have the development pressures like the residential pressures the city has seen the past few years. Although its great to have additional commercial development in Fruita, residential development of this kind has been something the City has a need for.

With regards to the Master Plan (Comprehensive Plan), Fruita is an exceptional community. Throughout the comprehensive plan process, residents brought up how much they love living in Fruita, its small-town character, and their desire to preserve the community's most desirable qualities into the future. The plan starts by declaring what makes Fruita special. In turn, these community values are the foundation of the plan—shaping the plan vision, goals, policies, and actions. Three community values represented include:

- Fruita is a place where you run into neighbors, friends, and acquaintances at local stores and restaurants, parks, and the community center. (Community Values, Page 2, Comprehensive Plan)
- Fruita is a community where people are invested and constantly work to make the community better. (Community Values, Page 2, Comprehensive Plan)
- Fruita is committed to a land use pattern and supporting policies that promote access to housing across the income spectrum of its residents. (Community Values, Page 2, Comprehensive Plan)

Influenced by the community values expressed on page 2 of the Comprehensive Plan, the Plan Vision states, "The City of Fruita values quality of place. It's an inclusive city, with a small-town feel and vibrant downtown, surrounded by public lands. People love to live, work, and play in Fruita because the City facilitates community, safe neighborhoods, family-friendly events, and walking and biking. The City governs in a way that's responsive to its citizens and prioritizes

high-impact services and projects. Fruita fosters a fun and funky ambiance around the arts, agriculture, and recreation."

The Community Snapshot section within the Comprehensive Plan also identified affordability as a growing concern within Fruita. "Affordability issues are greatest among renters in Fruita, with about half of all renters paying more than 30% of their income towards housing costs. This is defined as being cost burdened, wherein a household is paying too much towards housing. The rental supply in Fruita is extremely limited with essentially zero vacancy, allowing landlords to charge higher rents. The percentage of renters in Fruita has increased, even though most housing being built is in the form of single-family homes. Some people may be renting single-family homes by choice; for others it may be the only option and they would prefer a lower cost option such as an apartment or duplex. Housing affordability issues affect the ability of local businesses to attract and retain employees. This is a threat to economic sustainability if left unchecked." (Community Snapshot, Page 12, Comprehensive Plan).

The findings from the Community Snapshot point to key areas for the City to address through the Comprehensive Plan. The Plan seeks to address managing growth at the edges and encouraging development within the city, supporting affordable housing to retain the local workforce.

The current build-out of residential dwellings is well below the densities allowed for and intended by each zoning category. This contributes to an inefficient development pattern. City service provision (sewer, roads, etc.) is more fiscally prudent at higher density levels. Especially in the DMU area, more dwelling units/acre would create more housing that is within walking distance of shops, restaurants, parks, and civic spaces. (Chapter 3 Land Use and Growth, Page 24, Comprehensive Plan).

The City's Master Plan strongly supports infill residential development. Goal #2 on page 37 of the Master Plan states, "Prioritize infill development over development at the edge of the city limits." Although there are always growth pressures on the city's edge, the subject property offers a unique opportunity to contribute to multi-family infill development. The Master Plan also states, "Residential development within the city will be able to take advantage of existing nearby roads, parks, trails, and community resources. Infill development will create more customers for the existing downtown and commercial centers, rather than customers for sprawling, highway commercial developments." Further support for infill residential development contained in the Master Plan states, "Higher density infill development that helps achieve the allowed densities will contribute to an even more vibrant downtown, with more nearby, walking-distance residents that can support more small businesses."

The City's Master Plan supports a diversity of housing types and on page 39 of the Master Plan Goal #4 states, "Allow and encourage a diversity of housing types to fit the needs of the Fruita community and provide the diverse "funky" character that is treasured by residents." With support, "Fruita's housing stock is getting more homogenous and more expensive. As a community that prides itself on being inclusive, this ethos should extend to providing types of housing for people of different ages, income ranges, family structures, and aesthetic preference. Allowing and encouraging more apartments and/or townhomes in appropriate locations could

contribute to more affordable housing options. (Chapter 3 Land Use & Growth, Page 39, Comprehensive Plan).

#### **PARKING**

The proposed application is required to have 92 total parking spaces per Section 17.37.030. The project is proposing a total of 143 total parking spaces. The total parking requirement breakdown is shown below.

Building #	1 Bedroom/Studio	2 Bedroom (1.5	3+ Bedroom
	(1 space per)	spaces per)	(2 spaces per)
1	18	2	0
2	18	2	0
3	0	0	5
4	0	0	5
5	0	0	5
6	0	0	5
7	0	0	5
<b>Minimum Spaces</b>	36	4	50
Required			
TOTAL SPACES	92		

b) Consistency with <u>one or more</u> of the following general goals for a PUD justifying a deviation from the requirements of the Code, including but not limited to:

This is not a zoning application, which means that most of these criteria won't apply.

i. More convenient location of residences, places of employment, and services in order to minimize the strain on transportation systems, to ease burdens of traffic on streets and highways, and to promote more efficient placement and utilization of utilities and public services; or

Because the nature of this application pertains to site layout and design, this criteria can be considered. The proposed site layout and design appears to be laid out to make more efficient use of the entire property. The utilities needed for this development do contribute to the overall site layout. The utilities will all be placed in a manner that allow the site to be developed, this includes site access, drainage, power/electricity/gas, sanitary sewer, and potable water.

As for the transportation system, Pine Street and Wildcat Avenue will handle the added traffic capacity. The application materials included a traffic study and the study made no indications that additional off-site improvements to Pine Street or Wildcat Avenue were warranted.

ii. To promote greater variety and innovation in residential design, resulting in adequate housing opportunities for individuals of varying income levels and greater variety and innovation in commercial and industrial design; or

Because the nature of this application includes residential development and design, this criteria can also be considered. The proposed residential buildings include design elements that meet the City's design standards regarding architectural elements. The building materials, colors, and building orientation have all been taken into consideration and meet the City's design standards. It is not clear whether these housing units will be considered affordable housing options, however, it's safe to assume that at this time they will be market rate rentals. Over the past 10+ years, very few new housing rentals have been constructed, this project should help further the city's goal of supporting flexibility in zoning and the development of diverse housing types as part of an economic sustainability strategy as expressed in the city's Master Plan.

- iii. To relate development of particular sites to the physiographic features of that site in order to encourage the preservation of its natural wildlife, vegetation, drainage, and scenic characteristics; or
- iv. To conserve and make available open space; or
- v. To provide greater flexibility for the achievement of these purposes than would otherwise be available under conventional zoning restrictions; or
- vi. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may inure to the benefit of those who need homes; or
- vii. To conserve the value of land and to provide a procedure which relates the type, design, and layout of residential, commercial and industrial development to the particular site proposed to be developed, thereby encouraging the preservation of the site's natural characteristics.
- c) Conformance to the approval criteria for Subdivisions (Chapter 17.21) and/or Site Design Review (Chapter 17.09), as applicable; except where Adjustments to the standards of this Title are allowed, and;

The application is being reviewed in accordance with Section 17.09.020 Site Design Reviews. With these types of applications, there are no direct approval criteria, however, Staff and other review agencies are reviewing the application for health, safety, and welfare. In addition, the application is being reviewed in accordance with zoning policies that govern the subject property which have been explained within the Staff Report. As for the Site Design Review, the application meets the intents and purposes of the current Code, the PUD Guide, and past Code Sections referenced in the PUD Guide related to density.

d) Conformance with applicable Design Standards and Guidelines as outlined in Chapter 17.13, unless approved as an Adjustment pursuant to the Adjustment criteria set forth in Section 17.13.020(B).

Typically, the design standards apply for commercial and multi-family residential projects in the City's Downtown Mixed-Use (DMU) Zone or Commercial 1 & Commercial 2 zones. There are design standards that apply to the residential zone districts; however, these standards mostly consist of subdivision layout and not the design of the residential buildings.

The application meets all the design standards that pertain to multi-family residential buildings if constructed in the City's DMU zone. The following is a brief analysis of the standards being considered.

# SITE DESIGN

Primary Entrances – Section 17.13.060 (A)(1)

The site design includes pedestrian connections to the sidewalks located on Pine and Wildcat were possible, including a few other pedestrian connections. In addition, these standards require primary building entrances to be within 20 feet of the public street, which has been proposed.

Blank Wall Prevention – Section 17.13.060 (A)(2)

This criterion means that the architectural features should be incorporated onto all sides of the buildings.

# **BUILDING DESIGN**

Overall Design – Section 17.13.060 (B)(1)

Again, this criterion requires that all major architectural features wrap around all sides of the building. This is being met.

*Building Mass – Section 17.13.060 (B)(5)* 

This section states that, "Building elevations shall incorporate offsets or divisions to reduce the apparent building scale and to improve aesthetics. Elevations of a structure shall be divided into smaller areas or planes to minimize the appearance of bulk as viewed from any street, civic space or adjacent property." The proposed building elevations show that this criteria is being met by providing building transitions every 22-27 feet, cantilevered decks, parapet divisions, different material types and colors, and floor separations.

The building placement also takes into consideration the existing residential dwellings to the north. The two (2) apartment buildings (Building 1 and 2) measure at 25° 2" in height and are setback a minimum of 27 feet from the north property line while the other buildings measure at a height of about 33° (Buildings 3-7).

*Materials and Colors – Section 17.13.060 (B)(6)* 

This section states that, "Exterior materials shall consist of brick, stone, adobe, wood shingle or imitation wood shingle walls, slump block, adobe brick or suitable split block or brick." The proposed building materials include stucco and

# PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN

# 17.19.030 (B)(1) (a-e)

a) Adequate resolution of all review comments; and

Review comments have been received by Ute Water, GVDD, Mesa County Regional Transportation Planning Office (RPTO), Lower Valley Fire, GVP, and the City Engineer. All review comments received by the City are included with the Staff Report.

After reviewing the review comments submitted, there does not appear to be a need for a significant redesign of the proposed application. The review comments received are reasonable in nature and should not keep the application from moving forward.

b) Proposed zoning and adjustments are generally consistent with the character in the immediate area, or are necessary to address an important community purpose, as determined by City Council.

The proposed application does not request any zoning modifications or changes currently. The application is generally consistent with the surrounding character of the area, which includes multi-family and a carwash to the west, the Dollar General to the north, single-family attached and detached to the north, Fruita Monument High School, a mobile home park, and the Maverick gas station to the south.

c) Conformance to the approval criteria for Subdivisions (Chapter 17.21) and/or Site Design Review (Chapter 17.09), as applicable; except where Adjustments to the standards of this Title are allowed, and;

The application is being reviewed in accordance with Section 17.09.020 Site Design Reviews. With these types of applications, there are no direct approval criteria, however, Staff and other review agencies are reviewing the application for health, safety, and welfare. In addition, the application is being reviewed in accordance with zoning policies that govern the subject property which have been explained within the Staff Report. As for the Site Design Review, the application meets the intents and purposes of the current Code and the PUD Guide.

d) Conformance with applicable Design Standards and Guidelines as outlined in Chapter 17.13, unless approved as an Adjustment pursuant to the Adjustment criteria set forth in Section 17.13.020(B).

This criteria is explained previously in the Staff Report.

# e) Compliance with conditions of approval on the Concept Plan, if any.

This criterion is not applicable with this application.

# **Review Comments:**

All review comments received by Staff are included with the Staff Report and review materials for the Planning Commission and City Council. There does not appear to be any major concerns from our review agency partners.

# **Public Comments:**

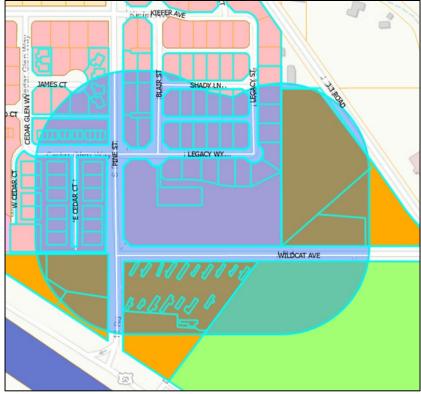
No written public comments have been received by Staff. Any comments received after the completion of this Staff Report will be provided to the Planning Commission and City Council.

# **Legal Notice:**

Legal Notice (minimum of 15 days prior to Planning Commission)		
November 22, 2023 (20 days prior)	Post Cards [17.07.040 (E)(1)(d)]	
November 22, 2023 (20 days prior)	Sign Posting [17.07.040 (E)(1)(c)]	
November 22, 2023 (20 days prior)	Legal Ad [17.07.040 (E)(1)(a)]	







# **Public Hearing Dates:**

Planning Commission – December 12, 2023

City Council – January 16, 2024

# **Staff Recommendation:**

Because the application meets the requirements of a Planned Unit Development Site Design Review, **Staff recommends approval** of the proposed Wildcat Residences Site Design Review with the condition that the application adequately resolve outstanding review agency concerns with the Final PUD application and/or approval of a Building Permit.

# **Planning Commission - Suggested Motion:**

Mr. Chair, because the application meets or can meet all applicable approval criteria for a Site Design Review, I move to recommend **approval** to the Fruita City Council with the condition that the application adequately resolve outstanding review agency concerns with the Final PUD application and/or approval of a Building Permit.

# **PLANNING & DEVELOPMENT REVIEW COMMENTS:**

# General

- 1. Section 17.11.020 (E) Site Design Review. In the event a proposed Planned Unit Development does not require a subdivision, Planned Unit Development will follow the Site Design Review application procedures of Chapter 17.09, except the Site Design Review for the Planned Unit Development shall be reviewed through the public hearing process in accordance with Section 17.07.040 (Common Development Review Procedures). Approval criteria for Planned Unit Developments must be considered in addition to the approval criteria required to be considered for Site Design Review, pursuant to Chapter 17.09.
- 2. If approved, a great communication tool Staff recommends is to place a poster on the site showing what was approved and when the public can expect to see it under construction. This could also be a great tool to get members of the public interested in the project as a potential housing option for them.
- 3. Are the apartment units going to be subdivided as a condo plat(s)? Example, are the buildings going to have separate lots then the parking lot and the open space?
- 4. The CCR's speak to residential purposes being allowed under Article III. Does this include short-term rentals or allowed home occupations under the City of Fruita's Land Use Code located in Section 17.05.100 (B)?

# Landscaping Plan - 17.11.050

- 1. The project may reduce the number of water dependent trees in return for more drought tolerant landscaping.
- 2. The Pinyon Pine tree at the corner of Wildcat and Pine should be moved somewhere else.
- 3. It's suggested that you could move the taller trees to the east side of the property to help shield them from adjacent uses.
- 4. Please verify irrigation water.

# <u>Lighting Plan – 17.11.120</u>

1. Make sure that lights attached to the exterior of the building do not exceed 20 feet in height, maximum height of pole lights can't exceed 35 feet in height, and that lighting shall be downcast and shielded to prevent light being cast beyond property lines.

# Parking Analysis – 17.37

	1 Bedroom/Studio (1		3+ Bedroom (2 spaces
Building #	space per)	2 Bedroom (1.5 spaces per)	per)
1	18	2	0
2	18	2	0
3	0	0	5
4	0	0	5
5	0	0	5
6	0	0	5
7	0	0	5
	36	4	25
Minimum Spaces Required Per section 17.37.030 (A)	36	6	50

TOTAL SPACES	
REQUIRED	92

Total spaces provided – 143.

- 71 surface parking spaces
- 50 garage spaces (buildings 3, 4, 5, 6, 7)
- 20 exterior garage spaces (buildings 4 & 5)

# CITY OF FRUITA CITY ENGINEER & PUBLIC WORKS REVIEW SHEET

# **REVIEW COMMENTS**

1. **General:** This application is for a Site Plan at the corner of Pine St. and Wildcat Ave. on 3.7 acres. The project proposes 40 traditional apartment units, 25 units in row-home apartments with 10 ADUs.

## 2. **Demolition Plan:**

a. There are a number of cuts through the sidewalk and gutter along Pine Street and Wildcat Ave. The minimum repair should be at least 5-ft in length and any remainder should be at least 5-ft in length or the repair should be made to the next joint.

# 3. Utilities:

- a. There are 2 water services to some of the buildings. A 2-inch and a <sup>3</sup>/<sub>4</sub> inch. I assume that this means the building would not be able to be served by the 2inch alone?
- b. Are the buildings being sprinkled? I do not see a fire line except for possibly the 8-inch line that goes to Buildings 1 and 2.
- c. In general, the description for the units is that they are all apartments. Are some of these intended to be sold in the future? The question is asked because of the individual services to the row apartments.

# 4. Storm Drain Profiles:

- a. In general, there is a common theme of vertical clearances to crossings of other utilities where there is less than minimum separation distances.
- b. Sheet C9
  - i. Less than 12-inches of cover around station 1+09. There should be some protection for that line. Is that cover to the inside of the pipe so that wall thickness may make it worse?
  - ii. At around 4+60 there are 2 waterline crossings that have less than 3 inches of separation from the drain line.
- c. Sheet C10
  - i. Building 3 & 4 Storm line the callout says 0.14' separation to the 12" storm drain

# CITY OF FRUITA CITY ENGINEER & PUBLIC WORKS REVIEW SHEET

- line but it is clearly greater in the profile. Please clarify.
- ii. The 8" sanitary crossing on the same profile indicates there is a 0.09' clearance, It might get a little better if you flattened that leg and possibly the first run as well depending on the resolution to the previous comment.
- d. Sheet C11
  - i. At around Sta. 0+20 the clearance to the 8-inch sanitary sewer is only 0.14'.
- e. Sheet C12
  - i. At around Sta. 1+55, there is a 0.11' clearance to an 8-inch storm drain.
- f. Sheet C13
  - i. At around Sta. 0+33, there is a 0.16' clearance to a 10-inch storm drain.
  - ii. At around Sta. 1+22, there is a 0.09' clearance to a 12-inch storm drain.
- g. Sheet C14
  - i. For Building 1 profile, there is a crossing 8-inch storm drain that has no clearance called out but appears extremely close to the proposed sanitary sewer.
  - ii. In both profiles, there are areas that are around 1-ft of cover on the pipe.

# 5. Grading and Drainage:

- a. Sheet C20
  - a. There is a curb ramp in the island to the Norwest of Building 4 that enters the parking drive isle. The cross slope of that ramp is called out to be 5.13% which does not meet ADA regulations.
  - b. There are catch basins along the south side of Building 1 that have grades adjacent to them of anywhere from about 19-33% slopes toward the parking area. Will these catch basins catch any runoff or what is their purpose?
  - c. The v-pan in front of Building 2 has a slope of 0.3%? Are you comfortable with this slope? Because this is within the site, it is the maintenance of the owner so the City is not going to hold to a min. 0.5%. This same comment applies to Sheet C21.

## **RECOMMENDATION:**

The Engineering Department recommends approval of the Site Plan submittal with satisfactory addressing the above review comments.

# 2023-31 Wildcat Residences Consolidated Review Comments

# **GVDD**

There are no GVDD facilities or easements on the site and evidently the only operational change will be the transition from detained and undetained sheet flow into the Pine Street Storm Drain to detained MS4 water of the same quantity but different quality into the Pine Street Storm Drain.

# **Ute Water**

# Stakeholder comments

- ALL FEES AND POLICIES IN EFFECT AT TIME OF APPLICATION WILL APPLY.
- Domestic water shall not be used for irrigation.
- Developer must secure irrigation rights/water for irrigation purposes, water taps/meters will not be sold for irrigation of landscaping.
- Please include the District's Standard Detail Sheets into the plan set (https://www.utewater.org/specifications).
- Please include Waterline Construction Notes into the plan set (https://www.utewater.org/specifications).
- Domestic water shall not cross parcel boundaries.
- Please submit a fire flow request form to: hydrant@utewater.org
- See attachment regarding existing District infrastructure.
- Initial estimated tap fees: \$195,200 for apartments + \$248,000 for 5 row homes w/ ADU's = \$443,200 in tap fees for the entire project (not including wet taps, double check, etc.).
- Backflow requirements
- A cross connection survey must be submitted and reviewed prior to acceptance, survey may be found at the following link (http://www.utewater.org/backflow) once completed submit it and mechanical drawings (plumbing both domestic and fire suppression only) to the District (Joseph Lambert) for further review and approvals.
- Installation of all backflow equipment shall be per Ute Water approval. Developer will be required to engineer, purchase, install and maintain all necessary equipment.
- An initial test on only the domestic BFPD will be made by the District at no cost for the developer; arrangements for this first test should be made with District personnel for final approval.
- Submit mechanical drawing and a completed survey to:
- Joseph Lambert

Cross Connection Program Administrator

**Ute Water Conservancy District** 

Main Office: 242.7491 Direct Line: 256.2883

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

\*See Utility Composite

# **Mesa County Transportation**

RTPO is please to see a transit supportive development in this location. GVT Route 8 currently runs on Pine St, which circulates around the City of Fruita and connects with 3 other routes at the West Transfer Facility near Mesa Mall. This location is currently served by an inbound stop (toward Grand Junction) at the Wildcat Car Wash, but the site would be an excellent location for a paired outbound stop (into Fruita) stop. This is a unique opportunity as this stretch of Pine St is the only section in Fruita with the potential to be served by inbound and outbound transit service. Most of the City of Fruita is served with a one-way loop. The path connection Pine street between building 6 and 7 would be an optimal location for a transit stop with a bench. GVT requests an additional concrete pad north of the path to accommodate the bench, approximately 5'x10' (the pad could be a variety of dimensions depending on how the bench is oriented) which would remain within the MPE. Review should have been categorized as "Complete." RTPO IS supportive of the project.

\*See GVT Bus Stop Request

# **GVP**

- 1. The project is in the Grand Valley Power (GVP) service area.
- 2. This review does not start the design process with GVP. Please make an application for service by calling 242-0040 to start the design process, a cost estimate will be prepared. An engineering deposit may be required.
- 3. 3-phase power is available for this project, along Wildcat Road and South Pine Street.
- 4. For new projects, some electrical equipment (transformers, metering, etc.) may have an ordering lead time exceeding twelve months. Please plan accordingly.
- 5. Need 14' Multi-Purpose Easement along all Roads and streets.
- 6. Additional easements may be required after the application for service request with electrical load requirements is provided for service to buildings 1 and 2.
- 7. No trees are to be planted over the utility portion of the Multi-Purpose Easement.
- 8. Any Utility / Multi-Purpose Easement that is also used for landscaping will need to have underground power lines buried in a duct system.
- 9. Irrigation and drainage lines should not be in the utility portion of the Multi-Purpose Easement.
- 10. Any relocation of existing overhead power lines, poles, guy/anchors, underground lines, transformers, or any other Grand Valley Power equipment is at the developer's expense.

# **LVFD**

The Fire Department Connection shall follow IFC 2018 Section 912. 912.2 Location. With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of fire department connections shall be approved by the fire code official. 912.2.1 Visible location. Fire department connections shall be located on the street side of buildings or facing approved fire apparatus access roads, fully visible and recognizable from the street. Lower Valley Fire would like the FDC be marked with a sign that has letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches. 912.4.1 Locking fire department connection caps. Lower Valley will require that the caps be locking caps to the FDC from Knox. Hydrants will follow IFC 2018 Section 503 along with Appendix C. Hydrants will be 22 " at the 2 1/2 " connection Nut. Spacing between hydrants will not exceed 500 feet.

# MC Stormwater

Project will require a Mesa County MS4 Construction Stormwater Permit. Application can be completed online at: https://h9.maintstar.co/MesaCounty/portal/#/

Permit Fees will be assessed once application is received. Please note that "Review Fee" must be paid before Stormwater Management Plan and Site Map(s) can be reviewed.

Stormwater Management Plan and Site Map(s) in initial submittal is acknowledged; will be reviewed once permit application is received and review fee is paid.

This project meets the criteria of "New Development or Redevelopment", therefore Water Quality is required. Please complete a "Post-Construction Stormwater Control Measure Operations and Maintenance" Agreement.

O&M Agreement located at:

https://stormwater.mesacounty.us/globalassets/stormwater/forms/documents/post-construction-om-agreement-form.pdf

Project will need to provide a copy of its State Discharge Permit (CDPHE) to Mesa County Stormwater Division.

18 PAGE DOCUMENT

2332710 BK 42 Section A, Item 2)
08/15/2006 10:08

Janice Ward CLK%REC Mesa County, CO
RecFee \$90.00 SurChe \$1.00

# **ORDINANCE 2006-19**

# AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRUITA AND REZONING PROPERTY TO A PLANNED UNIT DEVELOPMENT IN THE CITY OF FRUITA LEGACY SUBDIVISION PUD

WHEREAS, the property to be zoned has been recently annexed to the City of Fruita by Ordinance 2006-18, and

WHEREAS, newly annexed property must be zoned, and

WHEREAS, Vicki & Rick Sanger signed a petition for annexation on September 26, 2005. The City of Fruita has the contiguity to annex this property. The property is presently zoned AFT in Mesa County and the Community Plan 2020 plan shows this properties projected zoning to be Community Residential zone, and

WHEREAS, the property owner has submitted a request to zone the property described in the attached Exhibit A to a Planned Unit Development (PUD) zoning designation, and

WHEREAS, the Fruita Planning Commission has recommended to the City Council approval of the property being zoned as a PUD, and

WHEREAS, the proposal is in conformity with the Community Plan 2020 of the City of Fruita, and

WHEREAS, by placing the development in a PUD zone each use can be evaluated on an individual basis and impacts on surrounding land uses can be mitigated, and

WHEREAS, a Preliminary/Final Plan has been prepared entitled, "LEGACY SUBDIVISION PUD" which identifies the lot sizes, building setbacks, streets and other aspects of the overall plan which is part of this Legacy Subdivision PUD, and

WHEREAS, a PUD Guide entitled, "LEGACY PUD GUIDE" which contains a table with lot by lot setbacks and other design standards has been submitted, and

WHEREAS, based on the evidence, testimony, exhibits, study of the City of Fruita Community Plan, comments of Community Development Department, Review Agencies, and Planning Commission hearing minutes, the recommendation of the Planning Commission, and comments from all interested parties, the City Council finds as follows:

Proper publication and public notice was provided as required by law for the hearing before the Planning Commission and the City Council.

Pursuant to section 17.17 of the Fruita Land Use Code, the City Council makes the following findings in its review of the PUD Application.:

- a) The Application is in general conformance with the city of Fruita Land Use Code.
- b) The proposed plan conforms to all applicable regulations policies and guidelines.
- c) The Applicant has responded to the required Statement of Justification and proposed uses.
- 3. Pursuant to Section 17.17 of the Fruita Land Use Code, the City Council finds as follows:
  - a) The PUD is consistent with the intent and objectives of the Community Plan and the policies therein. Specifically with regard to the Land Use Code the City Council finds the development of this project as a PUD as proposed:
    - i) To have a full range of public services available.
    - ii) To have minimized any negative effects on social and natural environment.
    - iii) To be capable of being phased in order to address current and anticipated market and neighborhood conditions.
  - b) The PUD guide, attached hereto as Exhibit B, pertaining to setbacks, lot sizes, land uses, parks and open space and private water facilities, residential uses, recreational facilities, construction stages, public and private roads, parking, utilities, irrigation and landscape is found to be consistent with the intent of the PUD for the following reasons:
    - The design and construction of the PUD includes adequate, safe, and convenient arrangements for pedestrian and vehicular circulation, off-street parking and loading space.
    - ii) The design of the PUD provides adequate access and fire protection, adequate setbacks to insure proper ventilation, light, air and snow melt between buildings, and insures that the PUD is compatible with other development in the area.
    - open space and pedestrian/bicycle pathway have been planned to produce maximum usefulness to the residents of the development for purposes of recreation and scenery, and to produce a feeling of openness. Areas designated as common or public open space pursuant to the requirements of this section are accessible by proper physical and legal access ways.
    - iv) The developer has provided central water and sewer facilities as required by the Land Use Code, and Colorado Department of Health.
    - v) The PUD has been designed to provide recreational amenities to its residents to alleviate the necessity of increased traffic and traffic congestion.
    - vi) The PUD meets the minimum area requirement for a PUD.
    - vii) The landowner has provided for the ownership and maintenance of common open space, drives, parking, and landscaping.

## THE CITY OF FRUITA HEREBY ORDAINS:

Section 1: That the Zoning Map adopted pursuant to Section 17.13.060 of the Fruita Municipal Code is hereby amended and that the property described and shown on the attached Exhibit A, containing 18.47 acres, more or less, is hereby designated as a Planned Unit Development Zone (PUD);

Section 2: That the PUD guide entitled, "LEGACY PUD GUIDE" attached hereto as Exhibit B establishes the setbacks, square footage and individual lot requirements for each lot within Legacy Subdivision PUD Subdivision;

<u>Section 3:</u> Special Conditions: That the project will be required to adhere to the conditions outlined in the Planned Unit Development Guide for Legacy Subdivision PUD attached hereto as Exhibit B.

<u>Section 4.</u> It shall be a Class B municipal offense, as defined in the Fruita Municipal Code, for any person to knowingly erects, constructs, reconstructs, uses, or alters any building or structure or knowingly uses any land in violation of the PUD Guidelines herein adopted.

# Section 5. The City Clerk is directed to:

- 1. File the original of this Ordinance and attached exhibit in the office of the City Clerk of Fruita, Colorado;
- 2. File one copy of this Ordinance and attached exhibit in the office of the Mesa County, Colorado, Assessor; and
- (3) File for record one certified copy of this ordinance and attached exhibits with the Clerk and Recorder of Mesa County, Colorado.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS 5<sup>TH</sup> DAY OF JULY, 2006

ATTEST:

City of Fruita

ames Adams, Mayor

3 OF 4

# ORDINANCE 2006-19 EXHIBIT A LEGAL DESCRIPTION

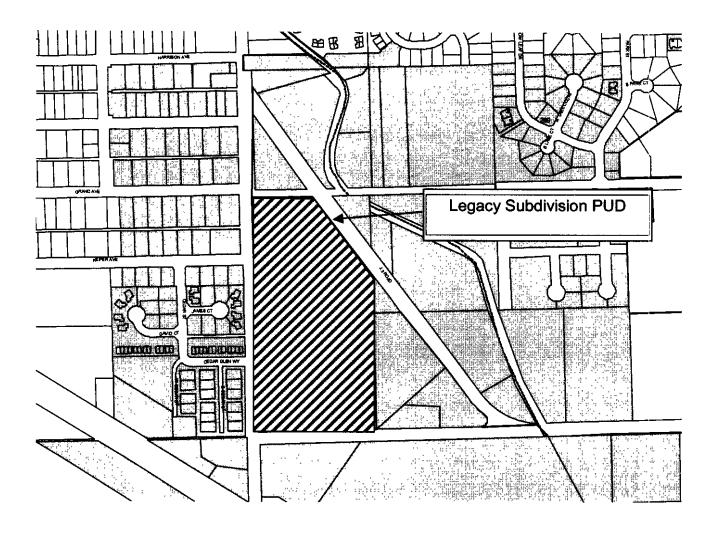
# LEGACY PLANNED UNIT DEVELOPMENT ZONING

# Tax parcel number 2697-163-00-055

The W ½ SW ¼ SW ¼ of Section 16, Township 1 North, Range 2 West of the Ute Meridian lying South of the State Highway, Mesa County, Colorado. Also known as 1002 18 Road, Fruita, CO 81521.

Total Perimeter feet 3572.4, required contiguity 595.4 feet.

Contiguity from Cedar Park and Fruita Monument High School = 2863.54



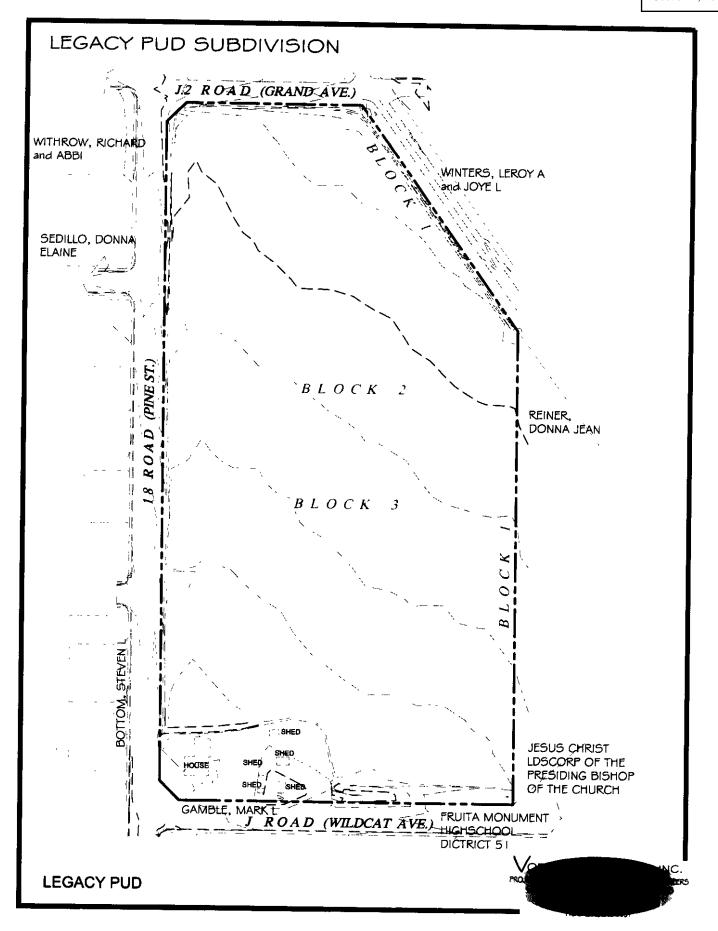
RECORDER NOTE: POOR QUALITY DOCUMENT PROVIDED FOR REPRODUCTION

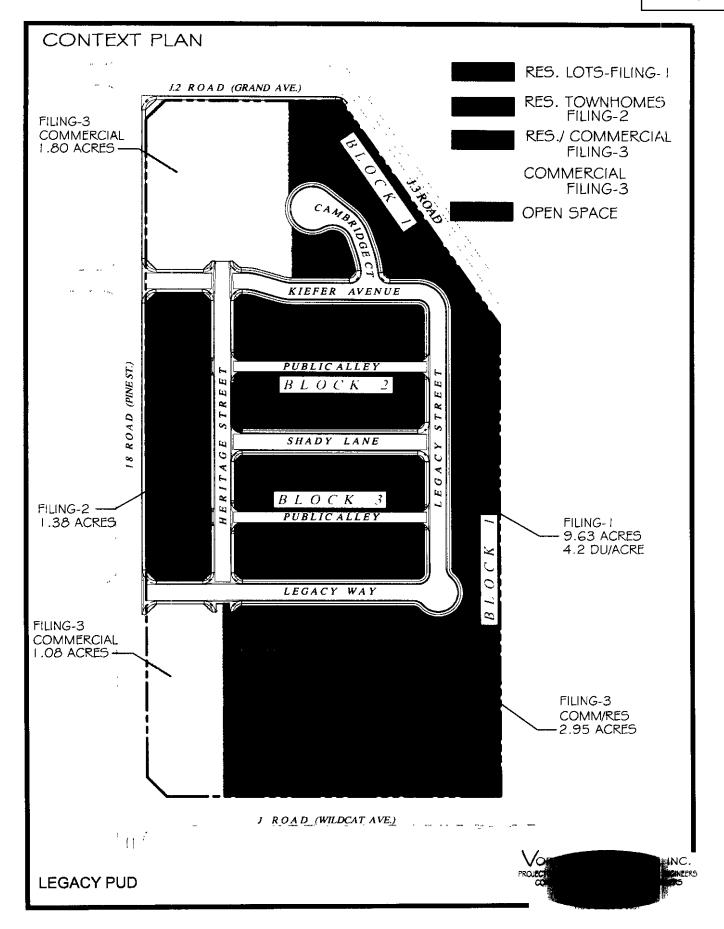


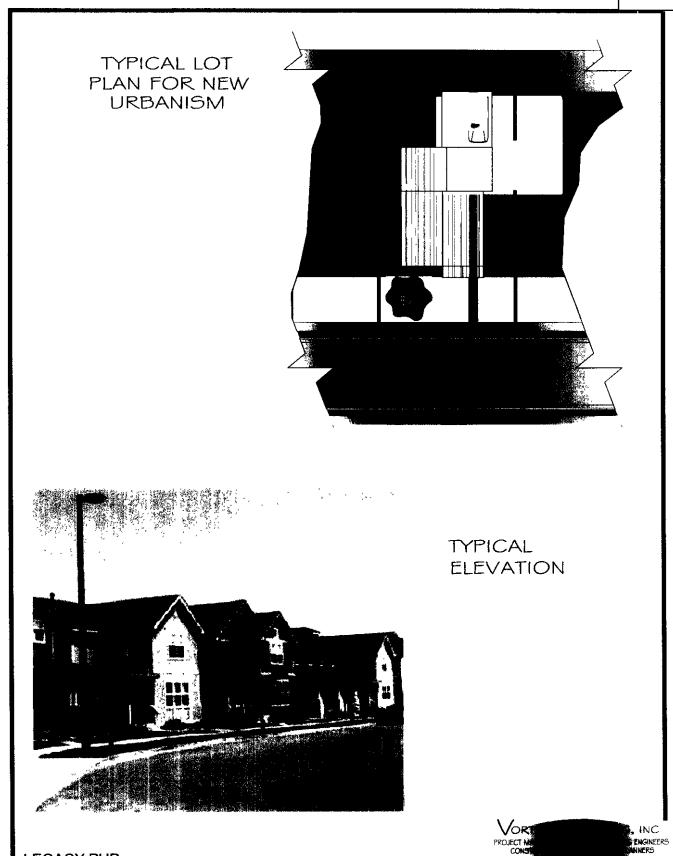
# ~P.U.D. GUIDE ~

Legacy PUD is a neighborhood for the future, built with a sense of the past - and a clear understanding of what makes people feel at home.

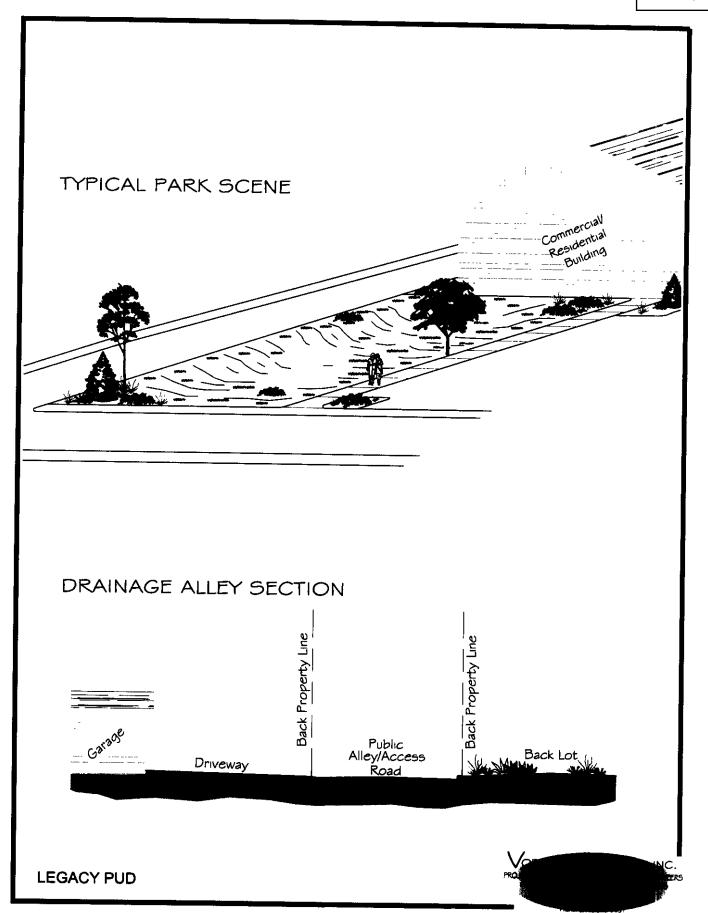


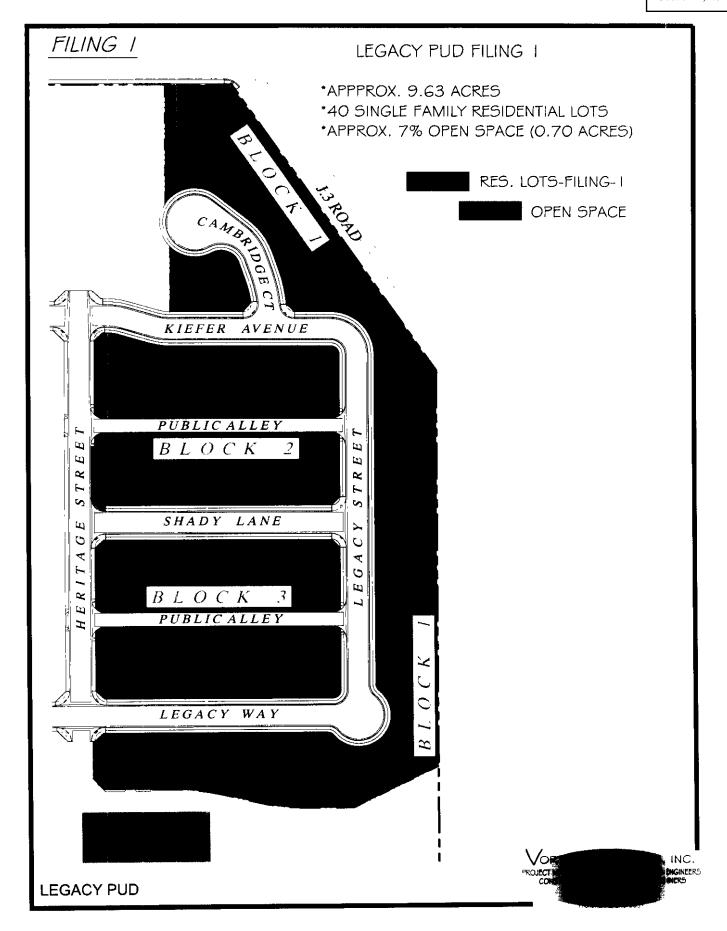






**LEGACY PUD** 





# BK 4225 PG 867

#### Notes:

- 1. / Indicates setbacks or height limitations for accessory buildings which must be located on the rear half of the lot.
- 2. This P.U.D. must conform to sect. 17.17.130 with exceptions of sections: 17.17.130.D.2.e, 17.17.130.E.3, 17.17.130.F.4.d, and 17.17.130.F.5.b.
- 3. For all lots, no structures, including sheds, slabs, and raised landscaping are allowed in identified drainage easements. See plat and composite site plan for easement locations.

Front Setback	Side Yard Setback	Rear Yard Setback	Max. Bldg Height	Max. Lot Coverage
25' (From R.O.W.)	8'/3' setback	15'/3'	35' / 16'	40% / 3%

# INDIVIDUAL LOT GUIDELINES/REQUIREMENTS:

Landscaping & accessory structure restrictions apply within all drainage easements. See covenants and Composite Site Plan for additional restrictions and location.

- 14' Multipurpose easement along R.O.W. lines
- 8'-10' drainage/irrigation easements. See covenants and Composite Site Plan for additional restrictions and location.

Architectural review of property landscaping is required prior to homeowner placement.

# BK 4225 PG 868

#### Notes:

- 1. / Indicates setbacks or height limitations for accessory buildings which must be located on the rear half of the lot.
- 2. This P.U.D. must conform to sect. 17.17.130 with exceptions of sections: 17.17.130.D.2.e, 17.17.130.E.3, 17.17.130.F.4.d, and 17.17.130.F.5.b.
- 3. For all lots, no structures, including sheds, slabs, and raised landscaping are allowed in identified drainage easements. See plat and composite site plan for easement locations.

Front Setback	Side Yard Setback	Rear Yard Setback	Max. Bldg Height	Max. Lot Coverage
15' (From R.O.W.)	10' on one side, 5' on other/3'	15'/3'	35' / 16"	42% / 3%

# INDIVIDUAL LOT GUIDELINES/REQUIREMENTS:

Landscaping & accessory structure restrictions apply within all drainage easements. See covenants and Composite Site Plan for additional restrictions and location.

14' Multipurpose easement along R.O.W. lines

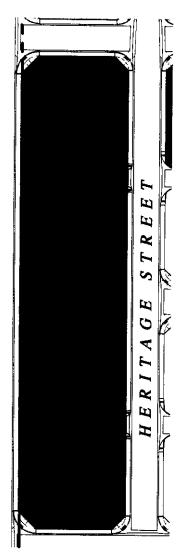
8'-10' drainage/irrigation easements. See covenants and Composite Site Plan for additional restrictions and location.

Architectural review of property landscaping is required prior to homeowner placement.

NEW URBANISM: Dwellings built under this standard must have a front porch which is at least ten feet (10') long by eight (8)' wide and must have a garage, a carport, or parking area located in the rear half of the lot. Driveway access from alley.

# FILING 2

LEGACY PUD FILING 2
\*APPPROX. 1.38 ACRES
\*23 TOWN HOMES



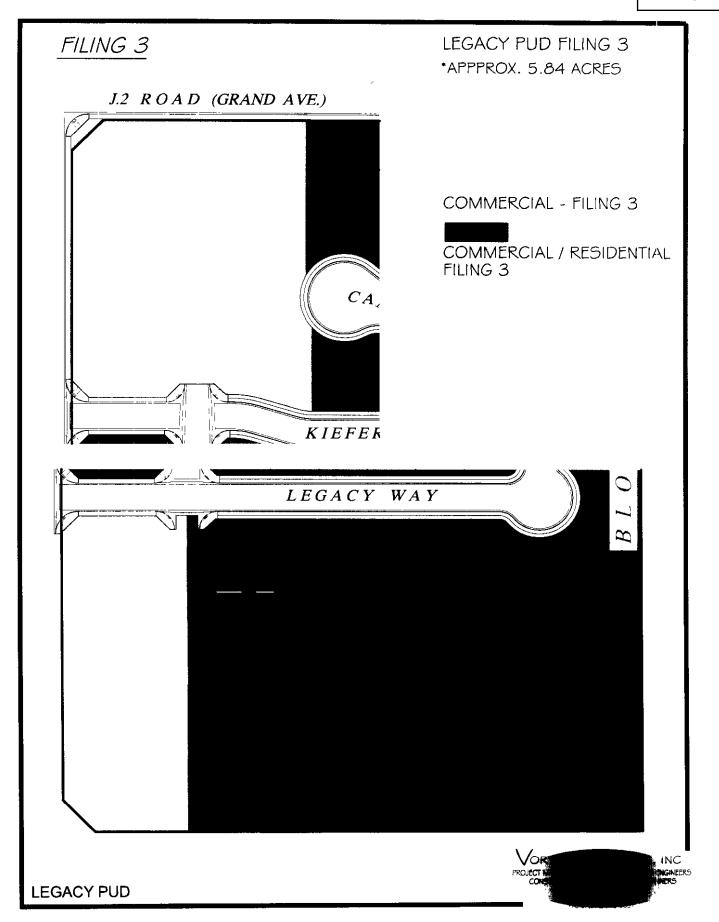
RESIDENTIAL TOWN HOMES FILING-2

MINIMUM LOT AREA	MINIMUM FRONT YARD	MINIMUM SIDE YARD		MAXIMUM BUILDING HEIGHT
N/A	15'	0'	10'	35'

- \* I TREE \$ 2 SHRUBS SHALL BE PLANTED IN THE FRONT YARD OF EVERY UNIT.
- \* MIN. 3 PARKING SPACES PER UNIT
- \* NO ACCESSORY STRUCTURES ALLOWED
- \* 10' BUILDING SETBACK FROM LEGACY WAY # KIEFER AVE.

**LEGACY PUD** 





# COMMERCIAL DEVELOPMENT - FILING 3

LEGACY PUD COMMERCIAL SITE: 2.89 ARCES

MAXIMUM BUILDING HEIGHT: 35'

# BUILDING SETBACK

#### LANDSCAPE BUFFER

20' (J.2 Rd / Grand Ave) 20' (18 Rd / Pine St) 20' (J Rd / Wildcat Ave.) 10' (South) 10' (East) O' (Southern extension of Heritage St.)

10' (From Legacy Way)

14' (J.2 Rd / Grand Ave) 14' (18 Rd / Pine St) 14' (J Rd / Wildcat Ave.) 10' (South / Kiefer Ave.) 10' (East)

O' (Southern extension of

Heritage St.) 10' (Legacy Way)

This P.U.D. must conform to sect. 17.17.130 w/ exceptions of sections:

17.17.130.D.2.e, 17.17.130.E.3, 17.17.130.F.4.d, and 17.17.130.F.5.b

"CERTAIN COMMERCIAL LAND USES SUCH AS DRIVE-THROUGH USES LOCATED ADJACENT TO RESIDENTIAL LAND USES MAY REQUIRE ADDITIONAL LANDSCAPING AND SCREENING TO MITIGATE NOISE AND VISUAL IMPACTS. \*GROUP LIVING FACILITIES MAY EXCEED THE 10,000 SQ. FT. LIMIT ON INDIVIDUAL BUSINESSES AS REQUIRED BY SECTION 17.17.130.C.2.
\*OUTDOOR OPERATIONS AND STORAGE IS PROHIBITED FOR ALL COMMERCIAL LAND USES WITH THE EXCEPTION OF MINIATURE GOLF AND OUTDOOR RESTAURANT.

Note: Assisted living/daycare center uses may utilize L/S buffer as playground and recreation area.

## See Below For Allowed Uses

Small Group Living Facility/ State Licenced Residential Recieving Homes

Nursing Home! Assisted Living for the aged

Large Group Living Facility (will require approval of a CUP)

institutional & Civic uses:

\*Coileges and Vocational Schools

Colleges and Universities

Vocational, Technical # Trade

\*Community Service

Public Buildings

\*Cultural

Museum, Art Galleries, Opera Houses

Home-Based Daycare, Family Foster Home

Childcare Facility, Nursery School

\*Hospital/Clinic

Medical and Dental Clinics

Counseling Centers (nonresidential)

Hospital

Physical and Mental Rehabilitation (resident)

\*Parks and Open Space

Parks, Lakes, Reservoirs, Greenways

\*Religious Assembly/ Church

Αli

\*Schools

Boarding Schools

Elementry Schools

Secondary Schools

\*Utility, Basic Utility Service Facilities, (Underground)

Commercial uses:

\*Entertainment Event, Major

Indoor Facilities

\*Lodging

Hotels and Motels, Lodges, Transient Housing Bed and Breakfast (1-5 guest rooms)

\*Office General Offices Offices with Drive-In Facilities

\*Recreation and Entertainment, Outdoor

Miniature Golf

\*Recreation and Entertainment, Indoor

\*Recreation and Entertainment, indoor
Movie Theater
Skating Rink
Arcade
\*Retail Sales and Service
Animal Clinic/ Hospital/ Boarding/ Sales, Indoor
Drive-In Facilities (Restaurants Retail)
Food Service, Catering
Food Service, Restaurant (Including alchol)
Farm (Implement/ Equipment Sales/ Service

Feed Store

Fuel Sales, Automotive/ Appliance General Retail Sales, Indoor Operations, Display and Storage

Sales, Indoor Operations, Display and Storage
Nursery/ Greenhouse
Manufactured Building Sales and Service
Rental, Home Oriented, Indoor Display/ Storage
Repair, Small Appliance
Repair, Large Appliance
Personal Services
All Other Retail Sales and Service
\*Self Service Storage
Mini Warehouse/ Self Service Storage Facility
\*Volved & Pagestry

\*Vehicle Repair Auto and Light Truck Mechanical Repair Shop

Body Shop

\*Vehicle Service Limited Car Wash

Gasoline Service Station

Quick Lube

Industrial uses:

\*Aviation or Surface Passenger Bus/ Commuter Stops



#### LEGACY PUD

# COMMERCIAL/RESIDENTIAL DEVELOPMENT - FILING 3

LEGACY PUD COMMERCIAL/RESIDENTIAL SITE: 2.95 ARCES

MAXIMUM BUILDING HEIGHT: 35'

# BUILDING SETBACK

# LANDSCAPE BUFFER

O' (Southern extension of

Heritage St.)

25' (J Rd / Wildcat Ave)

14' (J Rd / Wildcat Ave)

8' (East)

25' (East) 25' (North)

8' (North)

This P.U.D. must conform to sect. 17.17.130 w/ exceptions of sections: 17.17.130.D.2.e, 17.17.130.E.3, 17.17.130.F.4.d, and 17.17.130.F.5.b

See Below For Allowed Uses

For the commercial/residential development, all residential uses are allowed

\*CERTAIN COMMERCIAL LAND USES SUCH AS DRIVE-THROUGH USES LOCATED ADJACENT TO RESIDENTIAL LAND USES MAY REQUIRE ADDITIONAL LANDSCAPING AND SCREENING TO MITIGATE NOISE AND VISUAL IMPACTS.

\*GROUP LIVING FACILITIES MAY EXCEED THE 10,000 SQ. FT. LIMIT ON INDIVIDUAL BUSINESSES AS REQUIRED BY SECTION 17 17.130.C.2.

\*OUTDOOR OPERATIONS AND STORAGE IS PROHIBITED FOR ALL COMMERCIAL LAND USES WITH THE EXCEPTION OF MINIATURE GOLF AND OUTDOOR RESTAURANT.

## See Below For Allowed Uses

Residential uses:

\*Household living

Business Residence

Dwelling, Caretaker

Home Occupation

\*Group living

Small Group Living Facility/ State Licenced Residential Recieving Homes

Nursing Home/ Assisted Living for the aged

Large Group Living Facility (will require approval of a CUP)

institutional \$ Civic uses:

\*Colleges and Vocational Schools

Colleges and Universities

Vocational, Technical & Trade

\*Community Service

Public Buildings

\*Cultural

Museum, Art Galleries, Opera Houses

\*Daycare

Home-Based Daycare, Family Foster Home

Childcare Facility, Nursery School

"Hospital/ Clinic

Medical and Dental Clinics

Counseling Centers (nonresidential)

Physical and Mental Rehabilitation (resident)

\*Parks and Open Space

Parks, Lakes, Reservoirs, Greenways

\*Religious Assembly/ Church

Αli

\*Schools

Boarding Schools

Elementry Schools

Secondary Schools

\*Utility, Basic

Utility Service Facilities, (Underground)

#### Commercial uses:

\*Entertainment Event, Major

Indoor Facilities

\*Lodging

Hotels and Motels, Lodges, Transient Housing Bed and Breakfast (1-5 guest rooms)

General Offices Offices with Drive-In Facilities

\*Recreation and Entertainment, Outdoor

Miniature Golf

Recreation and Entertainment, Indoor

Movie Theater Skating Rink

Arcade

Arcade
\*Retail Sales and Service
Animal Clinic/ Hospital/ Boarding/ Sales, Indoor
Drive-In Facilities (Restaurants Retail)
Food Service, Catering
Food Service, Restaurant (Including aichol)
Farm Implement/ Equipment Sales/ Service

Farm Implement/ Equipment Sales/ Service Feed Store
Feed Store
Fuel Sales, Automotive/ Appliance
General Retail Sales, Indoor Operations, Display and Storage
Nursery/ Greenhouse
Manufactured Building Sales and Service
Rental, Home Oriented, Indoor Display/ Storage
Repair, Small Appliance
Repair, Large Appliance
Personal Services
All Other Retail Sales and Service
"Self Service Storage

\*Self Service Storage
Mini Warehouse/ Self Service Storage Facility

\*Vehicle Repair Auto and Light Truck Mechanical Repair Shop

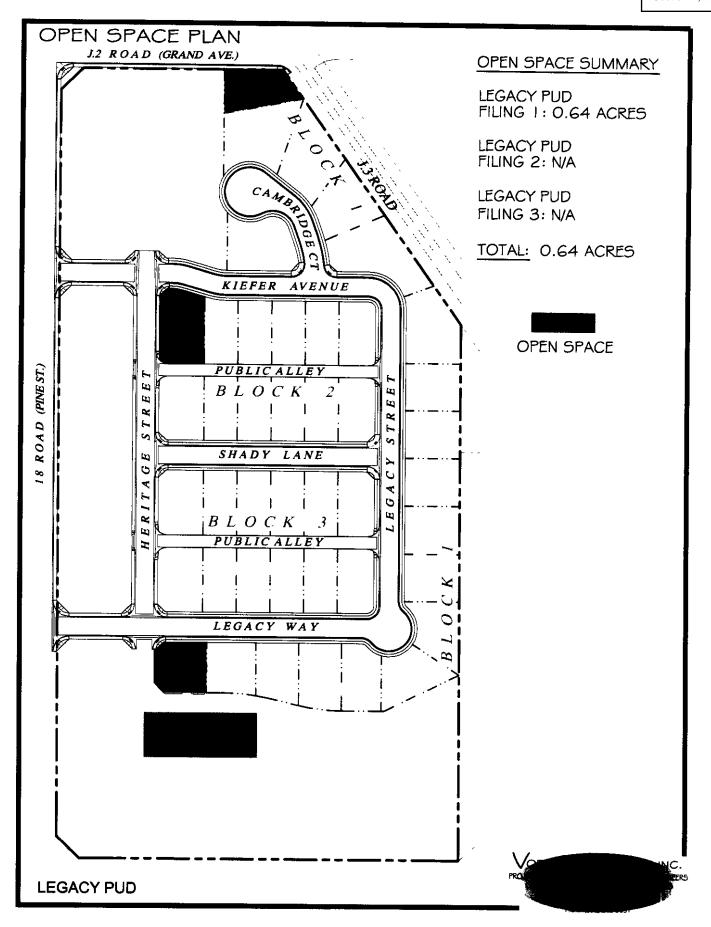
Body Shop

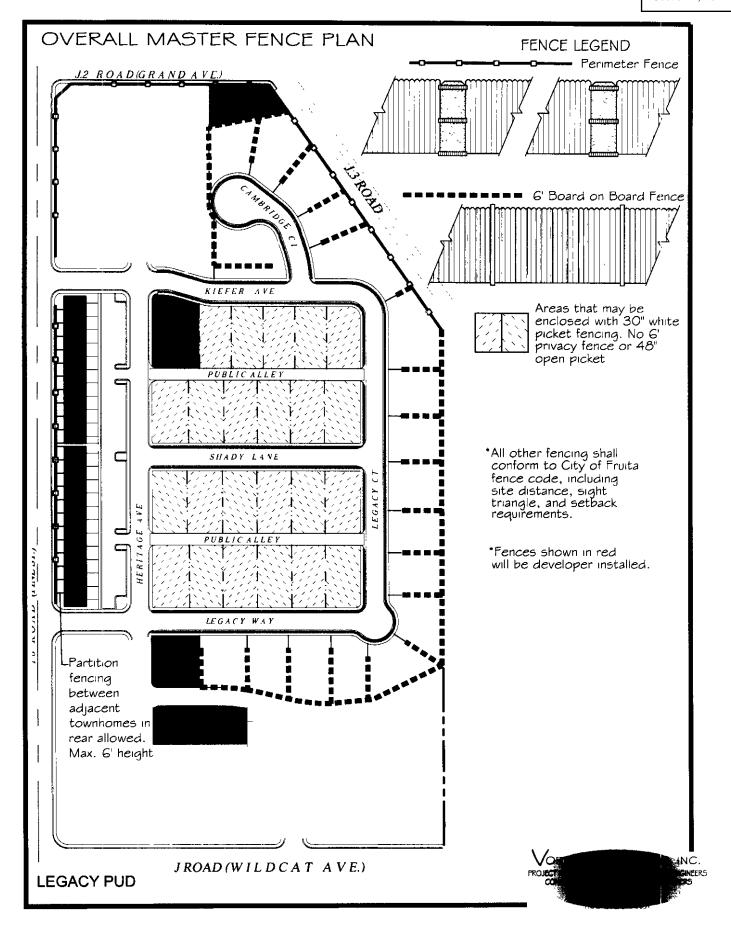
\*Vehicle Service Limited Car Wash Gasoline Service Station

Quick Lube

Industrial use: Bus/ Commuter Stops

**LEGACY PUD** 





# General Project Report For Wildcat Residences

## <u>Project Description (location, Acreage, Proposed Use):</u>

The purpose of this application is to obtain approval from the City of Fruita to construct two, 20-unit apartment buildings and five, 5-unit "row home" apartment buildings at 1807 Wildcat Avenue in Fruita, Colorado. The project location area is depicted below:



1807 Wildcat Avenue Project Location

The 3.7-acre size is Filing 3 area of the Legacy PUD Subdivision Planned Unit Development which was approved by the City of Fruita in 2006. The Legacy PUD development anticipated higher density apartment type development and commercial type uses on this portion of the PD.

The Wildcat Residence project is proposing to construct two, two story 20unit apartment buildings. Each building will include 18 one-bedroom units and 2 two-bedroom units.

The project is also proposing five "row home" apartment buildings. Each one of these buildings includes 5 four-bedroom apartments with a two-car garage. The two end units will also include an Alternate Dwelling Unit, for a total of 2 ADU's per building.

Two storage unit buildings are proposed to be provided at the west side of the site. The northern most building anticipates 22 storage units and the southern building anticipates 13 units.

# General Project Report For Wildcat Residences

The project is required to provide 113 parking spaces, which is broken down as follows:

20 Plex Building @ 21 Spaces Per Building

18ea 1 Bedroom Apartments @ 1 Space/Apt. 18 spaces 2 ea 2 Bedroom Apartments @ 1.5 Space/Apt. 3 spaces

Row Home Building @ 12 Spaces Per Building

5 ea 4 Bedroom Apartments @ 2 Spaces/Apt 10 Spaces 2 ea ADU Units @ 1 Space/ADU 2 Spaces

1 Addition Parking Space per 6 Apts = 65 Units / 6 = 11 Spaces

The project provides 143 parking spaces, which consists of 73 surface parking spaces, 50 interior garage parking spaces, 20 exterior parking spaces in front of garages (Building 4 & 5).

#### Surrounding Land Uses and Zoning:

The site is currently zoned PUD. C1 commercial zoning is located to the east and south of the site and the areas to the north and west are zoned PUD. Listed below is the City of Fruita zoning map;



**Current City Zoning** 

## **Utilities**

All utilities required to service the property are located on or near the project site.

A new 8-inch sanitary sewer is proposed to be extended from Wildcat Avenue north into the project site which will service all new units within the complex.

# General Project Report For Wildcat Residences

Domestic and Fire water are provided by Ute Water. Ute Water has existing water mains in Wildcat Avenue and Pine Street. Each unit in the five plex buildings will have their own water meter. The two apartment buildings (Building 1 and Building 2), will be serviced from a 4-inch meter off the Wildcat Avenue driveway entry and will also construct and above ground double check enclosure for a 8-inch private fire line lateral and hydrant that will be located interior to the site to service Building 1 and 2.

## **Stormwater Drainage**

The project was originally part of The Legacy PUD which has already constructed drainage facilities designed to address development on the 1807 Wildcat Avenue site. Therefore, no detention or water quality facilities are proposed.

The existing detention facilities currently were not designed to provide water quality treatment. Because the Wildcat Residence project will disturb more than one acre, water quality treatment of stormwater runoff from this site is required. Therefore, the project will modify the southernmost detention facilities outlet control structure to provide a "water quality capture volume" using an extended basin design standards. The modifications will occur in front of the existing outlet control structure and will slowly release the water quality capture volume over a 40-hour time period.

The project will install onsite infrastructure to convey stormwater runoff to the existing detention facility north of the project site.

### **Project Phasing:**

The applicant anticipates constructing the project in six phases.

Phase I anticipates constructing both 20-plex unit buildings and the surface parking lot to the southeast of this building, as well as both site access locations off of Wildcat Avenue and Blair Street.

Phase II anticipates construction of Row Home building 5.

Phase III anticipates construction of Row Home building 4.

Phase IV anticipates construction of Row Home building 3.

Section A, Item 2)

# General Project Report For Wildcat Residences

Phase V anticipates construction of Row Home building 6 and the 13-unit storage building.

Phase VI anticipates construction of Row Home building 7 and the 22-unit storage building.

# **Schedule:**

The applicant anticipates starting construction in spring of 2024.

# Traffic Impact Study

Prepared For:

# Legacy Filing 3

Residential Development

Northeast Corner of Pine St. & Wildcat Way Fruita, CO



October 16, 2023

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# 1 Introduction & Executive Summary

This report documents the traffic impact study for buildout of the Legacy Filing 3 residential development (Project) in Fruita, Colorado. The Project would be located on the northeast corner of Pine St. & Wildcat Way. Figures 1 and 2 show the Project location. The traffic study methodology was reviewed and accepted by the CDOT Region 3 Traffic Section and the City of Fruita.

# 1.1 Study Area

The Study Area included these intersections, as shown on Figure 2:

- Int. #1: Wildcat Way & South Access,
- Int. #2: S. Pine St. & Legacy Way,
- Int. #3: S. Pine St. & Wildcat Way,
- Int. #4: S. Pine St. & US-6&50

# 1.2 Project Development Plan

Figure 3 shows the Project site plan concept. It would include 50 multi-family residential units (apartment and ADU), 25 single-family attached residential units (townhome). The Project would have two site access points, a North Access to Legacy Way and a South Access to Wildcat Way. This Study assumed completion of the entire Project (buildout) by year 2025. 2045 was evaluated for the 20-yr condition.

The Project is part of the Legacy PUD Subdivision that started development in 2006. This included a Transportation Overview report by Vortex Engineering dated 2/25/06. That report was based on a much more intensive set of land use assumptions than is currently envisioned with the Project. That report is 17 years old and other traffic information is dated. It was not used in this Study.





Figure 1 – Project Vicinity Map in Fruita







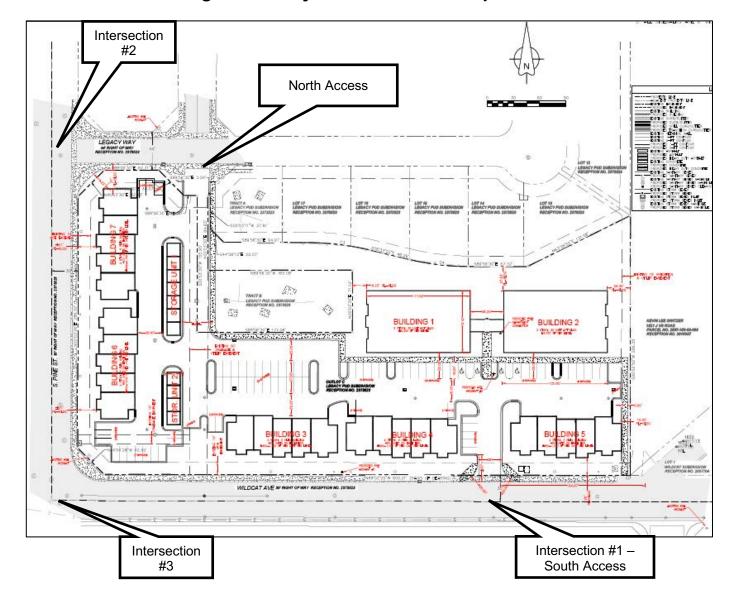


Figure 3 - Project Site Plan Concept

#### 1.3 Conclusions & Considerations

The three existing intersections in the Study Area could accommodate the total future traffic in their current configuration without any changes or improvements. The North Access and South Access should have one inbound lane and one outbound lane. Auxiliary turn lanes would not be warranted on Wildcat Way at the South Access. A CDOT access permit on US-6&50 at Pine St. would not be required in 2025, but it would be required sometime before 2045 as background traffic grows.

# 2 Project Trips

This section includes Project trip generation, distribution, and assignment to the roadway network. The number of Project trips at each intersection were identified by calculating the number of trips and then calculating how they would be distributed by direction and assigned to the site access points and the roadway network.

# 2.1 Project Trip Generation

The trip generation was calculated for the proposed land uses. Given the residential nature of the Project, there were not any trip reduction factors for pass-by capture or internal capture. The following tables show the number of trips based on ITE Trip Generation Manual (11<sup>th</sup> Edition). The Appendix includes the detailed calculation worksheets. The Project would include 25 single family attached residential units and 50 multi-family residential units.

Table 1 – Single Family Attached Residential Trips (ITE LUC 215)

Period	<b>Project</b>	Project Trip Ends (25 units)							
Period	ln	Out	Total						
Weekday	90	90	180						
AM Peak Hour	3	9	12						
PM Peak Hour	8	6	14						

Table 2 – Multi-Family Residential Trips (ITE LUC 220)

Period	Project Trip Ends (50 Units)								
Periou	ln	Out	Total						
Weekday	198	198	396						
AM Peak Hour	9	29	38						
PM Peak Hour	26	26	42						

Table 3 - Total Project Trips

Period	Project Trip Ends								
Period	In	Out	Total						
Weekday	288	288	576						
AM Peak Hour	12	38	50						
PM Peak Hour	34	32	56						

# 2.2 Project Trip Distribution

The following steps were necessary to identify the trip distribution assumptions. The amount of traffic on Pine St. and on Wildcat Way are about the same so that was not a factor in these calculations. The Appendix includes the detailed calculations.

- Determine the general split of Project trips to each of the two site access points.
   This initial calculation does not consider the effects of the southbound left turn restriction at the intersection of Pine St. & Wildcat Way, which will be done in the next steps. It was assumed that 14 units (19%) would use the North Access and 61 units (81%) would use the South Access.
- For the North Access, determine Project trip distribution to each of the intersections in the Study Area. Due to restrictions on inbound traffic at Pine St. & Wildcat Way, the distribution calculations were based on outbound traffic. Inbound traffic was adjusted to account for southbound left turn restriction at the intersection of Pine St. & Wildcat Way.
  - a. Distribution at the intersection of Pine St. & Legacy Way. This calculation was based on the existing traffic patterns shown in the traffic counts, as follows:
    - To the north on Pine St. = 11% (AM) & 16%(PM)
    - To the south on Pine St. = 89% (AM) & 84% (PM)
  - b. Distribution at the intersection of Pine St. & Wildcat Way Only southbound through movements are allowed.
    - To the south on Pine St. = 100% (AM & PM)
  - c. Distribution at the intersection of Pine St. & US-6&50. This calculation was based on the existing traffic patterns shown in the traffic counts, as follows:
    - To the west on US-6&50 = 53% (AM) & 47%(PM)
    - To the east on US-6&50 = 47% (AM) & 53% (PM)



- For the South Access, determine Project trip distribution to each of the intersections in the Study Area. Due to restrictions on inbound traffic at Pine St. & Wildcat Way, the distribution calculations were based on outbound traffic. Inbound traffic was adjusted to account for southbound left turn restriction at the intersection of Pine St. & Wildcat Way.
  - a. Distribution at the intersection of Wildcat Way & South Access. This calculation was not based on the existing two-way traffic patterns on Wildcat Way shown in the traffic counts. CDOT thought the existing patterns were overly influenced by High School traffic and shouldn't be used. CDOT provided the following assumption.
    - To the west on Wildcat Way = 80% (AM & PM)
    - To the east on Wildcat Way = 20% (AM & PM)
  - b. Distribution at the intersection of Pine St. & Wildcat Way. This calculation was based on the existing traffic patterns shown in the traffic counts, as follows:
    - To the north on Pine St. = 8% (AM) & 31%(PM)
    - To the south on Pine St = 92% (AM) & 69% (PM)
  - c. Distribution at the intersection of Pine St. & SH-6. This calculation was based on the existing traffic patterns shown in the traffic counts, as follows:
    - To the west on US-6&50 = 53% (AM) & 47%(PM)
    - To the east on US-6&50 = 47% (AM) & 53% (PM)
  - d. Distribution at the intersection of Pine St. & Legacy Way. Only northbound (outbound) through movements would occur at this location.
    - To the north on Pine St. = 100% (AM & PM)

The following table summarizes the general trip distribution patterns in and out of the Study Area for both analysis periods.

Table 4 – General Trip Distribution Summary

Road Segment	To/From Reference	AM Peak	PM Peak
Pine St.	To/from north of Legacy Way	7%	23%
Wildcat Way	To/from east of South Access	16%	16%
US-6&50	To/from east of Pine St.	36%	32%
US-6&50	To/from west of Pine St	41%	29%

The following figures show the detailed results of these calculations.

Figure 4 - Project Trip Distribution Assumptions – AM Peak

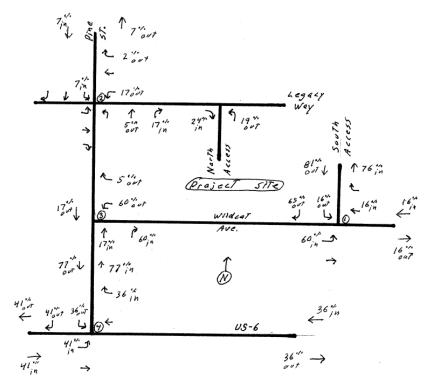
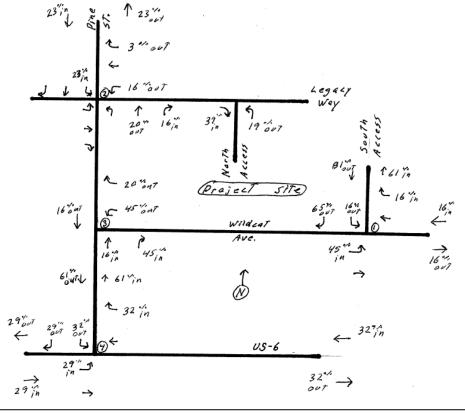


Figure 5 - Project Trip Distribution Assumptions - PM Peak



# 2.3 Project Trip Assignment by Intersection and Movement

The following set of tables show the inbound and outbound project trip distribution percentages and project trip assignment for each intersection & movement.

# Table 5 – Project Trip Distributions & Assignments to Movements

INT 1 Wildcat Way & South Access

		Weekday AM Condition											
		Eastbound			Westbound			Northbound			Southbound		
Description	L	TH	R	L	TH	R	L	TH	R	L	TH	R	
Trip Distribution % Inbound Period 1 & 2	60%	0%	0%	0%	0%	16%	0%	0%	0%	0%	0%	0%	
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	0%	0%	16%	0%	65%	
Driveway Enter "1" Yes, or "0" No Period 1 & 2	0	0	0	0	0	0	0	0	0	0	0	0	
Project Trip Volume Inbound - Period 1	7	0	0	0	0	2	0	0	0	0	0	0	
Project Trip Volume Outbound - Period 1	0	0	0	0	0	0	0	0	0	6	0	25	
Project Trip Volume Total - Period 1	7	0	0	0	0	2	0	0	0	6	0	25	
Project Trip Volume Inbound - Period 2	7	0	0	0	0	2	0	0	0	0	0	0	
Project Trip Volume Outbound - Period 2	0	0	0	0	0	0	0	0	0	6	0	25	
Project Trip Volume Total - Period 2	7	0	0	0	0	2	0	0	0	6	0	25	

		Weekday PM Condition											
		Eastbound			Westbound			Northbound			Southbound		
Description	L	TH	R	L	TH	R	L	TH	R	L	TH	R	
Trip Distribution % Inbound Period 1 & 2	45%	0%	0%	0%	0%	16%	0%	0%	0%	0%	0%	0%	
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	0%	0%	16%	0%	65%	
Project Trip Volume Inbound - Period 1	15	0	0	0	0	5	0	0	0	0	0	0	
Project Trip Volume Outbound - Period 1	0	0	0	0	0	0	0	0	0	5	0	21	
Project Trip Volume Total - Period 1	15	0	0	0	0	5	0	0	0	5	0	21	
Project Trip Volume Inbound - Period 2	15	0	0	0	0	5	0	0	0	0	0	0	
Project Trip Volume Outbound - Period 2	0	0	0	0	0	0	0	0	0	5	0	21	
Project Trip Volume Total - Period 2	15	0	0	0	0	5	0	0	0	5	0	21	

#### INT 2 Pine St. & Legacy Way

		Weekday AM Condition											
		Eastbound			Westbound			Northbound			Southbound		
Description	L	TH	R	L	TH	R	L	TH	R	L	TH	R	
Trip Distribution % Inbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	0%	17%	7%	0%	0%	
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	17%	0%	2%	0%	5%	0%	0%	0%	0%	
Driveway Enter "1" Yes, or "0" No Period 1 & 2	0	0	0	0	0	0	0	0	0	0	0	0	
Project Trip Volume Inbound - Period 1	0	0	0	0	0	0	0	0	2	1	0	0	
Project Trip Volume Outbound - Period 1	0	0	0	6	0	1	0	2	0	0	0	0	
Project Trip Volume Total - Period 1	0	0	0	6	0	1	0	2	2	1	0	0	
Project Trip Volume Inbound - Period 2	0	0	0	0	0	0	0	0	2	1	0	0	
Project Trip Volume Outbound - Period 2	0	0	0	6	0	1	0	2	0	0	0	0	
Project Trip Volume Total - Period 2	0	0	0	6	0	1	0	2	2	1	0	0	

		Weekday PM Condition											
		Eastbound			Westbound	estbound			Northbound		Southbound		
Description	L	TH	R	L	H	R	L	TH	R	L	TH	R	
Trip Distribution % Inbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	0%	16%	23%	0%	0%	
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	16%	0%	3%	0%	20%	0%	0%	0%	0%	
Project Trip Volume Inbound - Period 1	0	0	0	0	0	0	0	0	5	8	0	0	
Project Trip Volume Outbound - Period 1	0	0	0	5	0	1	0	6	0	0	0	0	
Project Trip Volume Total - Period 1	0	0	0	5	0	1	0	6	5	8	0	0	
Project Trip Volume Inbound - Period 2	0	0	0	0	0	0	0	0	5	8	0	0	
Project Trip Volume Outbound - Period 2	0	0	0	5	0	1	0	6	0	0	0	0	
Project Trip Volume Total - Period 2	0	0	0	5	0	1	0	6	5	8	0	0	

#### INT 3 Pine St & Wildcat Way

		Weekday AM Condition											
		Eastbound			Westbound	/estbound			Northbound		Southbound		
Description	L	TH	R	L	TH	R	L	TH	R	L	TH	R	
Trip Distribution % Inbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	17%	60%	0%	0%	0%	
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	60%	0%	5%	0%	0%	0%	0%	17%	0%	
Driveway Enter "1" Yes, or "0" No Period 1 & 2	0	0	0	0	0	0	0	0	0	0	0	0	
Project Trip Volume Inbound - Period 1	0	0	0	0	0	0	0	2	7	0	0	0	
Project Trip Volume Outbound - Period 1	0	0	0	23	0	2	0	0	0	0	6	0	
Project Trip Volume Total - Period 1	0	0	0	23	0	2	0	2	7	0	6	0	
Project Trip Volume Inbound - Period 2	0	0	0	0	0	0	0	2	7	0	0	0	
Project Trip Volume Outbound - Period 2	0	0	0	23	0	2	0	0	0	0	6	0	
Project Trip Volume Total - Period 2	0	0	0	23	0	2	0	2	7	0	6	0	

		Weekday PM Condition										
		Eastbound			Westbound			Northbound		Southbound		
Description	L	TH	R	L	TH	R	L	TH	R	L	TH	R
Trip Distribution % Inbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	16%	45%	0%	0%	0%
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	45%	0%	20%	0%	0%	0%	0%	16%	0%
Project Trip Volume Inbound - Period 1	0	0	0	0	0	0	0	5	15	0	0	0
Project Trip Volume Outbound - Period 1	0	0	0	14	0	6	0	0	0	0	5	0
Project Trip Volume Total - Period 1	0	0	0	14	0	6	0	5	15	0	5	0
Project Trip Volume Inbound - Period 2	0	0	0	0	0	0	0	5	15	0	0	0
Project Trip Volume Outbound - Period 2	0	0	0	14	0	6	0	0	0	0	5	0
Project Trip Volume Total - Period 2	0	0	0	14	0	6	0	5	15	0	5	0

#### INT 4 Pine St. & US-6&50

		Weekday AM Condition										
		Eastbound			Westbound			Northbound		Southbound		
Description	L	TH	R	L	TH	R	L	TH	R	L	TH	R
Trip Distribution % Inbound Period 1 & 2	41%	0%	0%	0%	0%	36%	0%	0%	0%	0%	0%	0%
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	0%	0%	36%	0%	41%
Driveway Enter "1" Yes, or "0" No Period 1 & 2	0	0	0	0	0	0	0	0	0	0	0	0
Project Trip Volume Inbound - Period 1	5	0	0	0	0	4	0	0	0	0	0	0
Project Trip Volume Outbound - Period 1	0	0	0	0	0	0	0	0	0	14	0	16
Project Trip Volume Total - Period 1	5	0	0	0	0	4	0	0	0	14	0	16
Project Trip Volume Inbound - Period 2	5	0	0	0	0	4	0	0	0	0	0	0
Project Trip Volume Outbound - Period 2	0	0	0	0	0	0	0	0	0	14	0	16
Project Trip Volume Total - Period 2	5	0	0	0	0	4	0	0	0	14	0	16

		Weekday PM Condition										
		Eastbound			Westbound			Northbound		Southbound		
Description	L	TH	R	L	TH	R	L	TH	R	L	TH	R
Trip Distribution % Inbound Period 1 & 2	29%	0%	0%	0%	0%	32%	0%	0%	0%	0%	0%	0%
Trip Distribution % Outbound Period 1 & 2	0%	0%	0%	0%	0%	0%	0%	0%	0%	32%	0%	29%
Project Trip Volume Inbound - Period 1	10	0	0	0	0	11	0	0	0	0	0	0
Project Trip Volume Outbound - Period 1	0	0	0	0	0	0	0	0	0	10	0	9
Project Trip Volume Total - Period 1	10	0	0	0	0	11	0	0	0	10	0	9
Project Trip Volume Inbound - Period 2	10	0	0	0	0	11	0	0	0	0	0	0
Project Trip Volume Outbound - Period 2	0	0	0	0	0	0	0	0	0	10	0	9
Project Trip Volume Total - Period 2	10	0	0	0	0	11	0	0	0	10	0	9

# 3 Existing Roadway Conditions

This section describes the existing roadways and intersections.

# 3.1 Existing Road & Intersection Information

The functional classification of the roads in the Study Area are shown in the following Figure.

Figure 6 – Roadway Functional Classification

Red – Arterial Gold – Major Collector Blue – Minor Collector



#### Pine St.

This is a 3-lane, urban, major collector road that has a speed limit of 35 mph.

#### Wildcat Way

This is a 3-lane, urban, major collector road. There isn't a posted speed limit within the Study Area but there are school zone speeds of 20 mph.

#### **US-6&50** Information

CDOT's OTIS system provided the following information about US-6&50 in the Study Area.



Characteristic	US-6&50 West of Pine St.	US-6&50 East of Pine St.		
Access Category	NR-B	R-A		
Functional Class	Principal Arterial	Principal Arterial		
NHS	Yes	Yes		
Speed Limit	45 Mph	45 Mph		
AADT (2022)	7,900 vpd	8,700 vpd		
Peak-to-daily Factor (DHV)	10.5	11		
Peak Truck Percentage	5%	5%		
20-year growth factor:	1.28	1.25		

The Study Area included the following existing intersections, as shown on the following figures.

- Int. #2: S. Pine St. & Legacy Way,
- Int. #3: S. Pine St. & Wildcat Way,
- Int. #4: S. Pine St. & US-6&50

Intersection #2

Figure 7 - Existing Intersection Geometry Images

Int. #3 - Pine St. & Legacy Way





Int. #3 – Pine St. & Wildcat Way Int #4 – Pine St & US-6&50

# 3.2 Peak Hour Intersection Traffic Counts & Adjustment Factors

TurnKey Consulting obtained traffic counts on 8/16/23 and 8/23/23 when the adjacent schools were in session (see Appendix). CDOT data for US-6&50 is also provided in the Appendix. Late August is peak travel season, so it was not necessary to apply a peak season adjustment factor to the counts.

# 4 Future Roadway & Traffic Conditions

This section addresses the planned roadway system changes, growth of background traffic, and the total future traffic volumes. There are not any publicly funded roadway projects in the Study Area.

# 4.1 Future Background Traffic Volumes

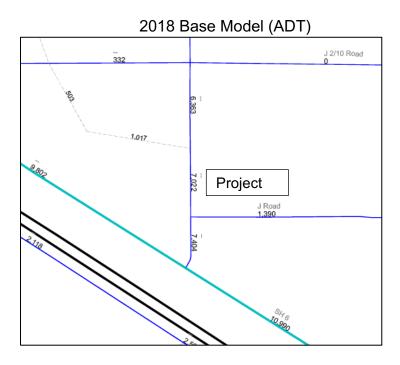
The future background traffic volumes would be a function of existing traffic and traffic growth rates.

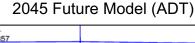


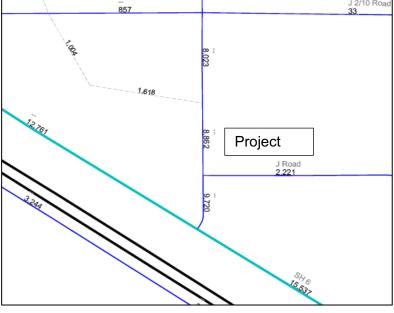
#### **Traffic Growth Rates**

The study years will be 2025 for project build out and 2045 for the 20-yr condition. The traffic counts were taken in 2023. The Regional Travel Model is used by planners to identify future traffic volumes on road segments. The following figure shows the regional model exhibits of daily traffic volumes for years 2018 and 2045.

Figure 8 – Regional Travel Model – Daily Traffic Volumes









There were five road segments that had data for both model years, and the following table shows the calculation of segment traffic growth factors. These growth factors will be applied to the existing traffic counts to obtain future background traffic volumes.

Table 7 – Traffic Growth Factor Calculation Summary

		RTM Daily V	olumes (vpd)	Model Period	Ave Annual	2 year growth	22 year Growth
Road	Segment				Growth Rate (%)	factor (2023-2025)	factor (2023-2045)
SH-6	West of Pine St.	9,802	12,761	1.30	0.98	1.020	1.239
SH-6	East of Pine St.	10,990	15,537	1.41	1.29	1.026	1.326
Pine St.	Between SH-6 & J Rd.	7,404	9,720	1.31	1.01	1.020	1.247
Pine St.	North of J Rd.	7,022	8,862	1.26	0.87	1.017	1.210
J Rd. Wildcat Way	East of Pine St.	1,390	2,221	1.60	1.75	1.035	1.465
Model Period (years) =	27		Ave of 5 =	1.38	1.18	1.024	1.297

Model Period (years) = 27 Inverse period = 0.037037037

The growth factor will be 1.0 for all movements associated with travel to/from Legacy Way, which is built out.

Consideration of Other Future Adjacent Land Development Projects

There were not any future land development projects in the Study Area to consider.

# 4.2 Total Future Traffic Volumes (Background + Project)

Future total traffic is the sum of Project trips and background traffic. The following Figures show the future total future traffic volumes at each intersection for years 2025 and 2045.

The Total Future Background Traffic volumes are shown in the appendices for Traffic Volume Calculations.

Figure 9 - Total Future Traffic Volumes – 2025 AM

Figure 10 - Total Future Traffic Volumes – 2025 PM

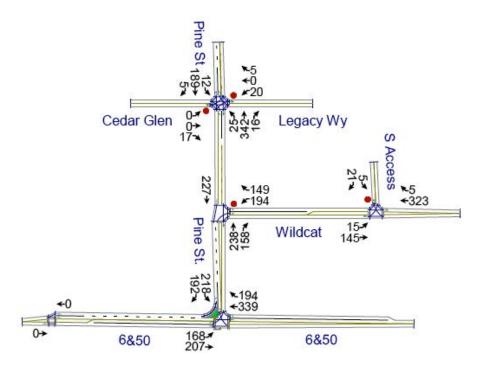
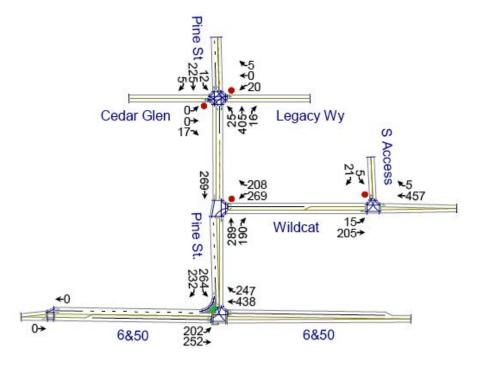


Figure 11 - Total Future Traffic Volumes – 2045 AM



6&50

6&50





# 5 Peak Hour Safety & Traffic Operations Analysis

This analysis included turn lane warrant evaluations and traffic operations calculations.

## 5.1 Turn Lane Warrant Evaluation

The intersections were evaluated to determine if turn lanes would be warranted to reduce vehicle conflicts points and crash potential. This included evaluation of turn lane lengths. The City of Fruita does not have specific requirements for exclusive turn lanes, but they refer to Mesa County Standards.

## **CDOT Turn Lane Warrants and Requirements**

This criterion includes turn lane warrants, turn lane waiver volumes, and lengths for acceleration and deceleration lanes. The criteria are different for various roadway access classifications and various speed limits. The roads in the Study area would have the access classification of R-A (rural level A) or NR-B (non-rural level B). The following table shows the CDOT turn lane warrant criteria, per State Highway Access Code

**Table 8 – CDOT Turn Lane Warrant Criteria – RA Highways**On SH-6&50, east of Pine St.

Auxiliary Lane	CDOT Warrant Requirements (RA)
Left Turn Deceleration Lane	More than 10 vph
Right Turn Deceleration Lane	More than 25 vph
Left Turn Acceleration Lane	May be req'd if benefit to safety and operations.  Generally, not required if speed less than 45 mph
Right Turn Acceleration Lane	More than 50 vph

Turn lane length for R-A Roads should be:

- Left turn deceleration = Decel length + storage
- Right turn deceleration = Decel length
- Acceleration = acceleration distance

**Table 9 – CDOT Turn Lane Warrant Criteria – NR-B Highways**On SH-6&50, west of Pine St.

Auxiliary Lane

CDOT Warrant Requirements (NR-B)

More than 25 vph (speed <40 mph) or more than 10 vph (speed >40 mph)

Right Turn Deceleration Lane

More than 50 vph (speed <40 mph) or more than 25 vph (speed >40 mph)

May be req'd if benefit to safety and operations. Generally, not required if speed less than 40 mph

May be req'd if benefit to safety and operations. Generally, not required if speed less than 40 mph

May be req'd if benefit to safety and operations. Generally, not required if speed less than 40 mph



Turn lane length for NR-B Roads should be:

- Left turn deceleration = taper + storage
- Right turn deceleration = taper + storage
- Acceleration = acceleration distance

## Fruita Turn Lane Warrants and Requirements

The City of Fruita uses turn lane evaluation criteria identified in the Mesa County Design Standards document, as follows. These warrants would apply to intersections on Pine St. and Wildcat Way

#### C. Left Turn Lane Warrants

	Exhibit 6.15 Left Turn Lane Warrants								
Posted speed of road in MPH									
	25	30 to 40	45 to 50	55	For a				
Where DHV of road	500	400	200	150	2 lane road				
exceeds	1000	900	500	400	4 or more lanes				
	DHV/ADT	DHV/ADT	DHV/ADT	DHV/ADT					
and the left turning DHV or ADT into	30/250	20/175	15/125	12/100	2 lane road				
the access approach will exceed	45/375	30/250	20/175	12/100	4 or more lanes				

#### D. Left Turn Acceleration Lanes

Acceleration lanes for left turns are not required:

- When the posted speed is below 40 MPH
- When the intersection is signalized
- · Where the acceleration lane would interfere with turn ingress movements to other driveways

#### E. Right Turn Lane Warrants

	Exhibit 6.16 Right Turn Lane Warrants									
Posted speed of road in MPH										
	25	30 to 40	45 to 50	55	For a					
Where DHV	500	400	200	150	2 lane road					
exceeds	1400	1200	800	600	4 or more lanes					
	DHV/ADT	DHV/ADT	DHV/ADT	DHV/ADT						
and the DHV or ADT of the	50/450	40/350	20/175	15/150	2 lane road					
access approach will exceed	70/625	60/550	40/350	25/225	4 or more lanes					

#### F. Right Turn Acceleration Lanes

A right turn acceleration lane is typically not required when:

- The posted speed is 40 mph or less
- There is a signalized intersection



## **Turn Lane Evaluation Results**

The following information summarizes the results of the turn lane evaluation.

#### 1. Int. #1: South Access & Wildcat Way

The assumed speed limit on Wildcat Way was 35 mph (not posted). The two-way DHV on Wildcat Way would be at lease 468 vph for all analysis conditions, which would be above the mainline warrant volume of 400 vph.

- The maximum westbound right turn volume would be 5 vph, which would be below the warrant volume of 40 vph. Therefore, a westbound right turn deceleration lane would not be warranted.
- The maximum eastbound left turn volume would be 15 vph, which would be below the warrant volume of 20 vph. Therefore, an eastbound left turn deceleration lane would not be warranted.
- Acceleration lanes are generally not warranted with a 35 mph speed limit.

#### 2. Int. #2: Pine St. & Legacy Way

This intersection connects two local roads. The speed limit was 35 mph (posted) on Pine St. The two-way DHV on Pine St. would be at lease 531 vph in the 2025 condition, which would be above the mainline warrant volume of 400 vph.

- With Project traffic included, the maximum northbound right turn volume would be 16 vph, which would be below the warrant volume of 40 vph. Therefore, a westbound right turn deceleration lane would not be warranted.
- With Project traffic included, the maximum southbound left turn volume would be 12 vph, which would be below the warrant volume of 20 vph. Therefore, an eastbound left turn deceleration lane would not be warranted. However, there is an existing two-way-left turn lane on Pine St. that would accommodate this movement.
- Acceleration lanes are generally not warranted with a 35 mph speed limit.

### 3. Int. #3: Pine St. & Wildcat Way

This intersection connects two local roads. The speed limit was 35 mph (posted) on Pine St. The two-way DHV on Pine St. would be at lease 416 vph in all conditions, which would be above the mainline warrant volume of 400 vph.

- With Project traffic included, the maximum northbound right turn volume would be a minimum of 158 vph (2025, PM condition) which would be above the warrant volume of 40 vph. Therefore, a northbound right turn deceleration lane would be warranted. The maximum amount of Project traffic would be 15 vph, which would be less than 10% of total traffic volumes in the 2025 PM condition. In the 2025 AM condition, Project traffic would be 7 vph, which would be less than just over 2% of total traffic volumes. In summary, this lane is warranted now without any Project traffic, but right of way acquisition would be necessary to construct the lane.
- Southbound left turns are not allowed at this intersection. Therefore, a southbound left turn deceleration lane would not be required.
- Acceleration lanes are generally not warranted with a 35 mph speed limit.
   However, there is a short existing westbound to southbound left turn



acceleration lane on Pine St. that would accommodate this movement. This lane turns into the southbound left turn lane at Intersection #4.

#### 4. Int. #4: Pine St. & US-6&50

The posted speed limit on US-6&50 was 45 mph. The eastbound and westbound through movements are currently above 150 vph at this signalized intersection, which is the CDOT turn lane waiver volume. Project traffic would have minor impacts on four movements at this intersection, which are evaluated as follows.

- Eastbound Left Turn Deceleration Lane (NR-B access category). This lane
  is warranted now with 155 vph turning in the PM Peak, and a 530-ft long lane
  is currently in place. The required lane length is 237-ft long (162-ft taper +
  75-ft storage). The existing lane is adequate.
- Westbound Right Turn Deceleration Lane (R-A access category). This lane
  is warranted now with 120 vph turning. The required lane length is 435-ft
  long. A 570-ft long lane is currently in place as a combined accel/decel lane
  between Pine St. and the high school access. The existing lane is adequate.
- Southbound to Westbound Right Turn Acceleration Lane (NR-B access category). This movement has 161 vph now and the acceleration lane is warranted. The required lane length is 550-ft, and a 570-ft long lane is currently in place. The existing lane is adequate.
- Southbound to Eastbound Left Turn Acceleration Lane (R-A access category). This type of acceleration lane is generally not required with traditional traffic signal operations because all conflicting traffic would be stopped at the signal.

# 5.2 Unsignalized Intersection Sight Distance

Another important element of unsignalized intersection safety is sight distance for mainline traffic and turning traffic. Both Pine Street (Intersections #2 and #3) are flat and straight so sight distance is unlimited by physical features. The same is true for Wildcat Way at Intersection #1 (South Access).

# **5.3 Traffic Operations Analysis**

The analysis used the latest version of Synchro Software to evaluate the existing and future traffic operations at the intersections and driveways within the study area. The concept of Level of Service (LOS) is used as a basis for computing combinations of roadway operating conditions and delay, which accommodate various level of traffic activity. By definition, six different LOS are used - A, B, C, D, E, and F. LOS "A" represents free-flow conditions with little to no delay. LOS "E" represents the maximum capacity of an intersection or roadway, where delay and/or congestion are severe.



Table 10 - Intersection Delay & LOS Thresholds

Level of Service (LOS)	Signalized Intersections (seconds/vehicle)	Unsignalized Intersection (seconds/vehicle)
А	0.0 – 10.0	0.0 – 10.0
В	10.1 – 20.0	10.1 – 15.0
С	20.1 – 35.0	15.1 – 25.0
D	35.1 – 55.0	25.1 – 35.0
Ē	55.1 – 80.0	35.1 – 50.0
F	Greater than 80.0	Greater than 50.0

Source: Transportation Research Board, Highway Capacity Manual, 2010 Edition

CDOT does not have any specific LOS standards, but they generally reference the AASHTO "Green Book" as a guideline when absent CDOT standards. The Green Book indicates that LOS C is desirable in rural conditions and LOS D is desirable in urban conditions. However, CDOT recognizes that funding limitations are a constraint that results in many existing intersections experiencing poor LOS.

The operational analysis included the following assumptions:

- The peak hour factor was 0.92.
- This area is flat, so grade adjustments were not necessary.
- Per CDOT data, truck percentages are 5% on US-6&50. The truck factor for all other local road movements was 2%.
- Each intersection would include 30 pedestrian groups per hour.

The following table shows the operation analysis results for the proposed conditions at each intersection and analysis period. This includes evaluation of alternatives when necessary.

## Table 11 – Intersection LOS Summary for Peak Hour Conditions

Traffic	N 1 0 1	Year 2025		Year 2045		
Control	New Lane Geometry	Background	Total	Background	Total	
1-way Stop						
			Α		Α	
			Α		Α	
Stop	Construct North Leg		В		В	
			SBL (11)		SBL (12)	
1-way Stop						
			Α		Α	
			Α		Α	
Stop	Construct North Leg		В		В	
			SBL (12)		SBL (14)	
			_		-	
					В	
Stop					C	
					A	
					A	
2 way Stan		VVB (14)	VVD (14)	WB (13)	WB (15)	
		D	D	D	В	
					C	
Otop				_	Ä	
					A	
					WB (19)	
		()	()	()	112 (10)	
		_		_		
Stop					Ç	
					A	
					Α (20)	
4 04		WBL (15)	WBL (16)	WBL (20)	WBL (23)	
		В	С	_	С	
Cton				С		
Stop					Λ	
Stop		A A	A A	A A	A A	
	Control  1-way Stop  Stop  1-way Stop	Stop Construct North Leg  1-way Stop  Stop Construct North Leg  2-way Stop Stop Stop Stop Stop Stop Stop Stop	Control         New Lane Geometry         Background           1-way Stop         Stop         Construct North Leg           2-way Stop Stop Stop         B B A A WB (14)           2-way Stop Stop         B B A WB (16)           1-way Stop Stop         B B A A WB (16)           1-way Stop Stop         B B A A A WBL (15)	Control         New Lane Geometry         Background         Total           1-way Stop         A A A A B B SBL (11)           1-way Stop         A A A A A A A A A A A A A A A A A A A	Control         New Lane Geometry         Background         Total         Background           1-way Stop         A A A B B SBL (11)         A A A A B B SBL (11)           1-way Stop         A A A B B SBL (12)           2-way Stop Stop         B B B B B C C A A A A A A A A A A A A A	



Location Deviced Marrament	Traffic	Traffic New Lane Geometry		025	Year 2045	
Location - Period - Movement	Control			Total	Background	Total
Int #4 US-6&50 & Pine St AM	<u>Signalized</u>					
Eastbound			Α	Α	Α	Α
Westbound			В	В	В	В
Southbound			В	В	С	С
Overall Intersection LOS & Delay (ave sec/veh)			B (11)	B (11)	B (13)	B (14)
Critical Movement Delay (ave. sec/veh)			SBL (17)	SBL (17)	SBL (20)	SBL (21)
Int #4 US-6&50 & Pine St PM	<u>Signalized</u>					
Eastbound	-		Α	Α	Α	Α
Westbound			В	В	В	В
Southbound			В	В	В	В
Overall Intersection LOS & Delay (ave sec/veh)			A (10)	B (11)	B (11)	B (12)
Critical Movement Delay (ave. sec/veh)			SBL (17)	SBL (17)	SBL (19)	SBL (19)

## 6 CDOT Access Permitting on US-6&50

The State Highway Access Code requires CDOT access permitting for new access connections and when approach traffic volumes increase by more than 20% at existing intersections, or when intersection improvements are to be constructed. In this case, the north leg of Intersection #4 was evaluated. Project traffic would access US-6&50 on the north leg (Pine St.)

- In the year 2025, the change of two-way traffic volume on the north leg would be no more than 8%, and a permit wouldn't be necessary to accommodate Project traffic unless CDOT decides to issue a permit to establish a traffic volume only. The 2025 permit volume would be 894 vph (AM condition).
- In the year 2045, the change of two-way traffic volume on the north leg would be 32%, and a permit would be necessary to accommodate future background and Project traffic. The Permittee would be the City of Fruita unless they delegate this responsibility to a third party. The 2045 permit volume would be 1,091 vph (AM condition).

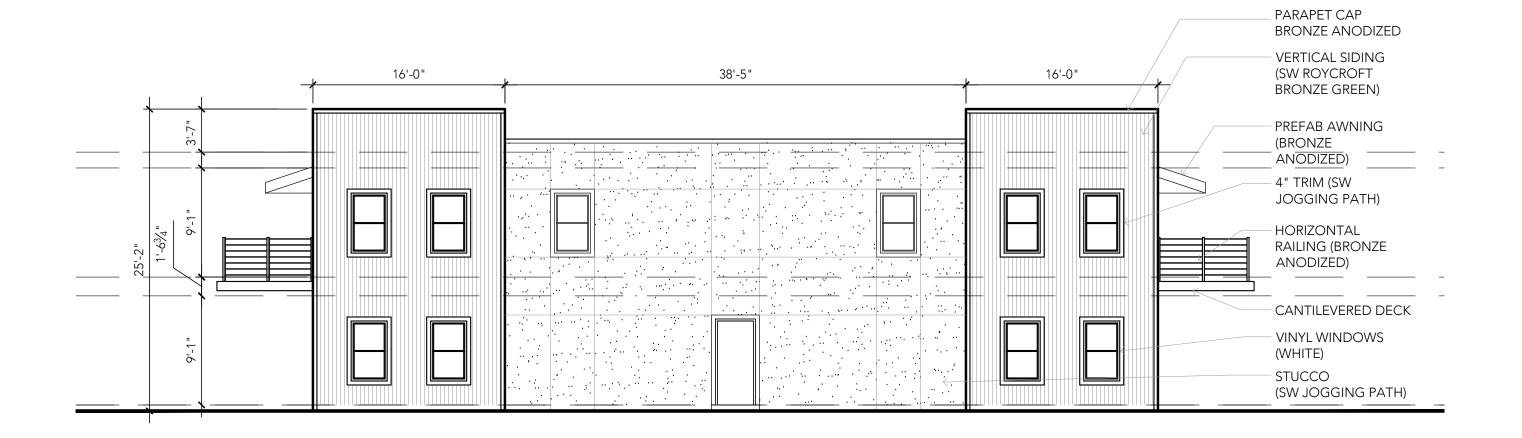
## 7 Conclusions & Considerations

The three existing intersections in the Study Area could accommodate the total future traffic in their current configuration without any changes or improvements. The North Access and South Access should have one inbound lane and one outbound lane. Auxiliary turn lanes would not be warranted on Wildcat Way at the South Access. A CDOT access permit on US-6&50 at Pine St. would not be required in 2025, but it would be required sometime before 2045 as background traffic grows.





BUILDING 2 - SOUTH ELEVATION CONTINUATION



3 BUILDING 1 - WEST ELEVATION

1/8"=1'-0"

PARAPET CAP (BRONZE

ANODIZED)

(BRONZE ANODIZED)

WHITE VINYL WINDOW

DEVELOPMENT STANDARDS, SUBJECT THE PROFESSIONAL OF RECORD. REVIEW THE PLAN DESIGN. THE CITY NEITHER	JTES GENERAL COMPLIANCE WITH THE CITY'S TO THESE PLANS BEING SEALED, SIGNED, AND DATED BY EW BY THE CITY DOES NOT CONSTITUTE APPROVAL OF ACCEPTS NOR ASSUMES ANY LIABILITY FOR ERRORS OR OR CALCULATIONS REMAIN THE RESPONSIBILITY OF THE
CONSTRUCTION MUST COMMENCE W	ITHIN ONE YEAR FROM THE DATE OF PLAN SIGNATURE.
CITY DEVELOPMENT ENGINEER	DATE
CITY DEVELOPMENT ENGINEER  CITY PLANNER	DATE

PARAPET CAP BRONZE ANODIZED

VERTICAL SIDING (SW ROYCROFT BRONZE GREEN)

PREFAB AWNING

- 4" TRIM (SW JOGGING PATH)

— CANTILEVERED DECK

(SW JOGGING PATH)

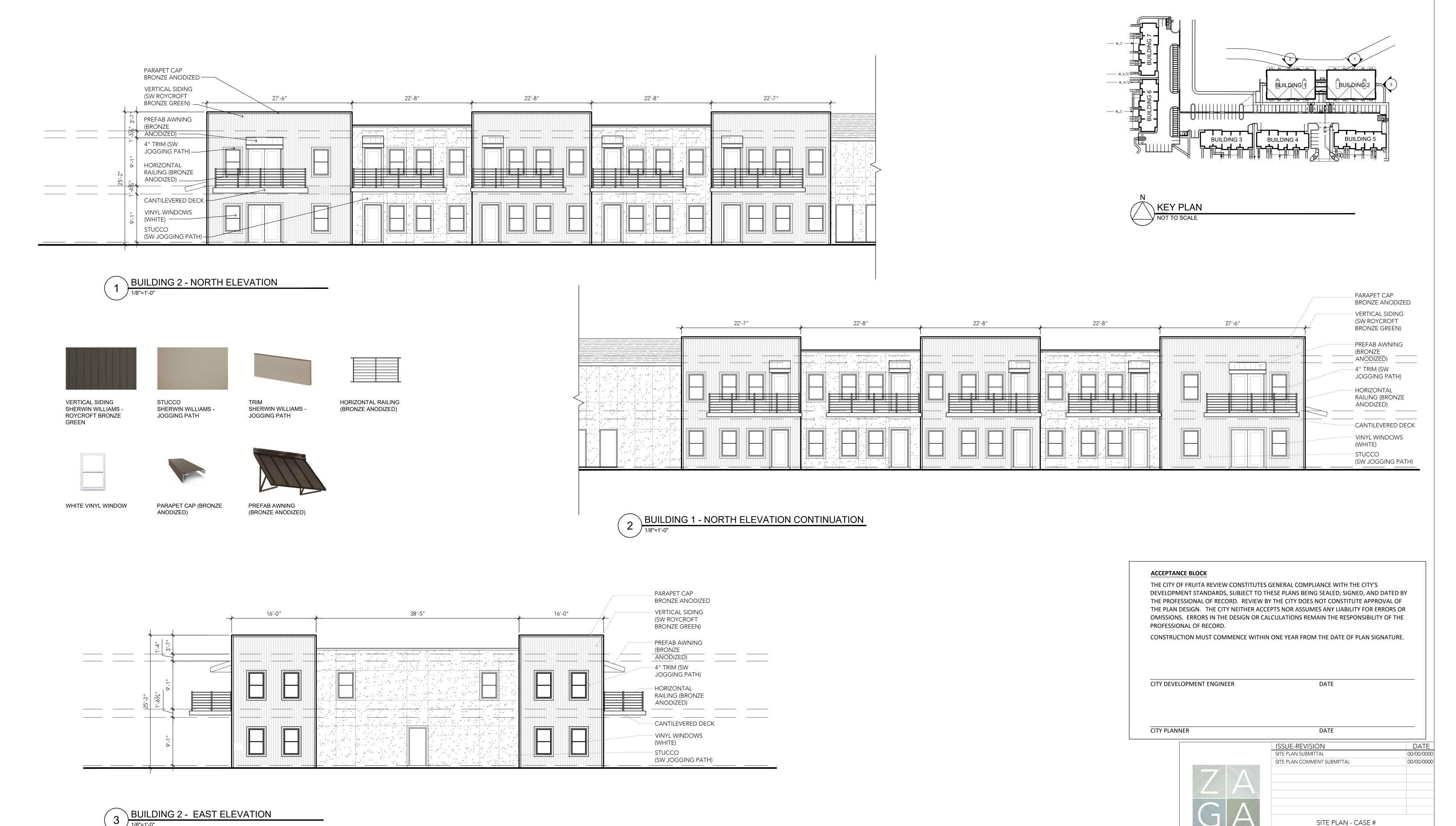
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DENVER, CO 80211 PHONE: 303.437.8622	BUILDING ELEVATIONS	
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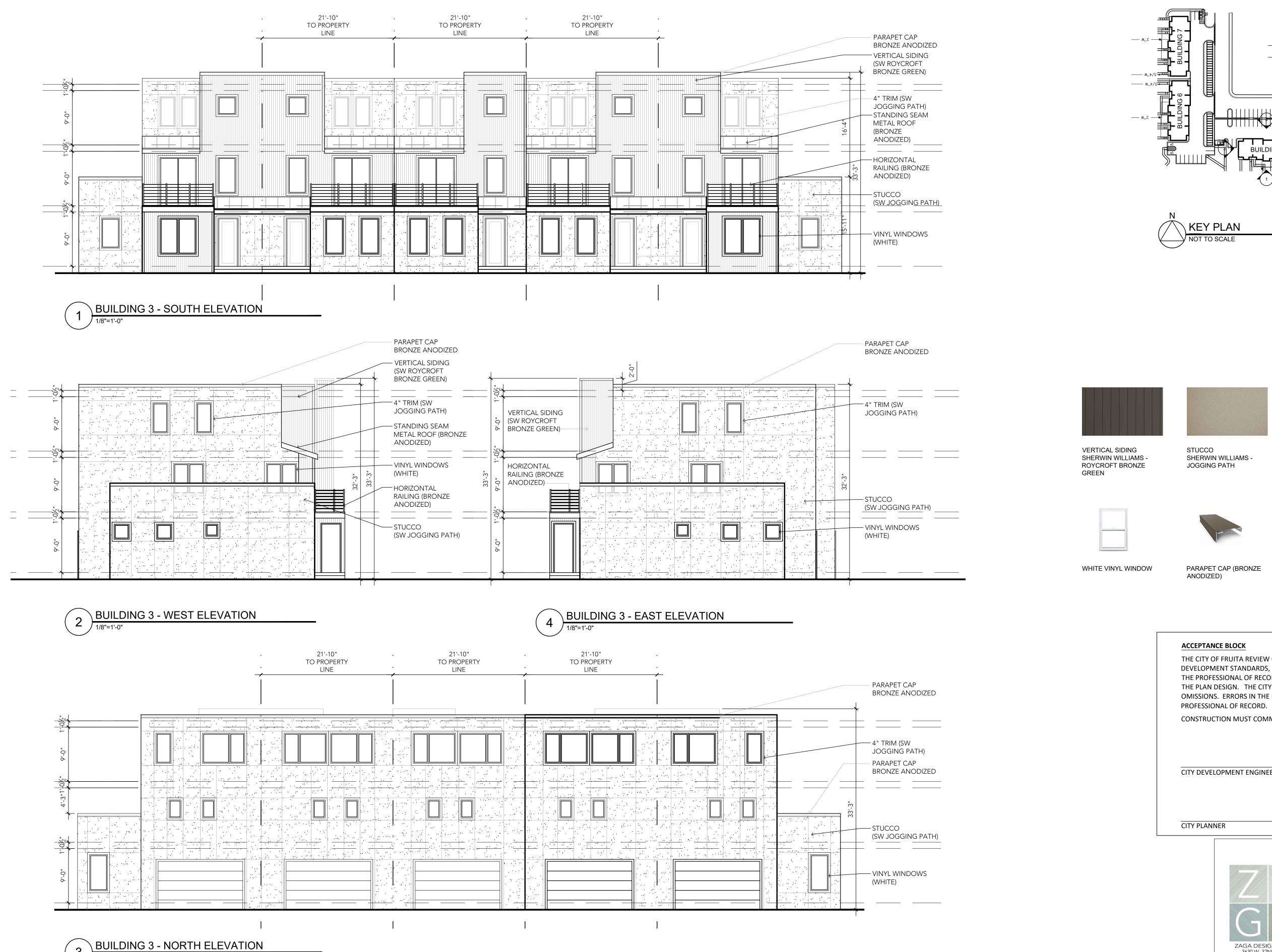
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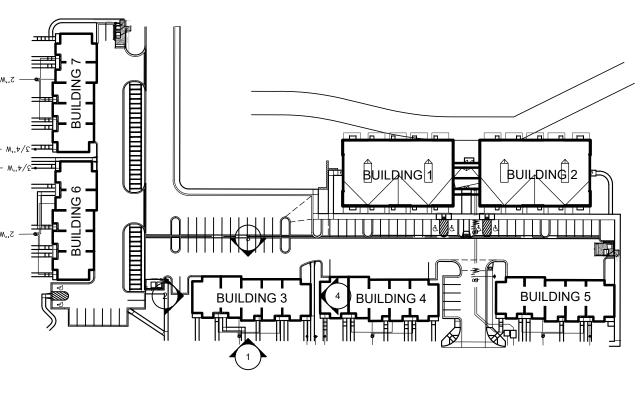
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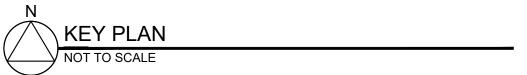
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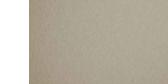
**BUILDING ELEVATIONS** 

ZAGA DESIGN GROUP 3630 W. 32ND AVE #2 DENVER, CO 80211 PHONE: 303.437.8622















HORIZONTAL RAILING

(BRONZE ANODIZED)

SHERWIN WILLIAMS -JOGGING PATH



PARAPET CAP (BRONZE

(BRONZE ANODIZED)

THE CITY OF FRUITA REVIEW CONSTITUTES GENERAL COMPLIANCE WITH THE CITY'S DEVELOPMENT STANDARDS, SUBJECT TO THESE PLANS BEING SEALED, SIGNED, AND DATED BY THE PROFESSIONAL OF RECORD. REVIEW BY THE CITY DOES NOT CONSTITUTE APPROVAL OF THE PLAN DESIGN. THE CITY NEITHER ACCEPTS NOR ASSUMES ANY LIABILITY FOR ERRORS OR OMISSIONS. ERRORS IN THE DESIGN OR CALCULATIONS REMAIN THE RESPONSIBILITY OF THE

CONSTRUCTION MUST COMMENCE WITHIN ONE YEAR FROM THE DATE OF PLAN SIGNATURE.

CITY DEVELOPMENT ENGINEER DATE

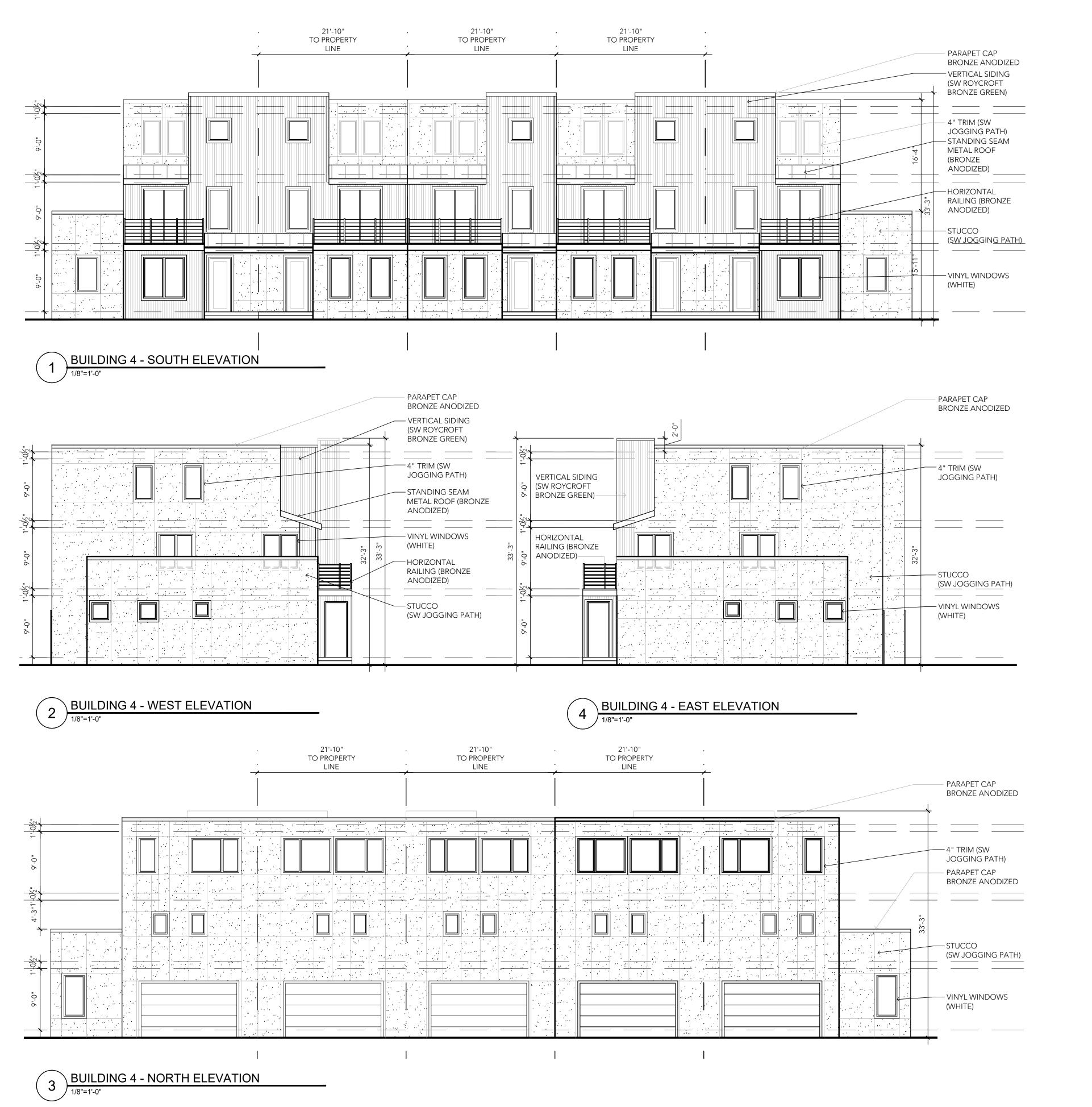
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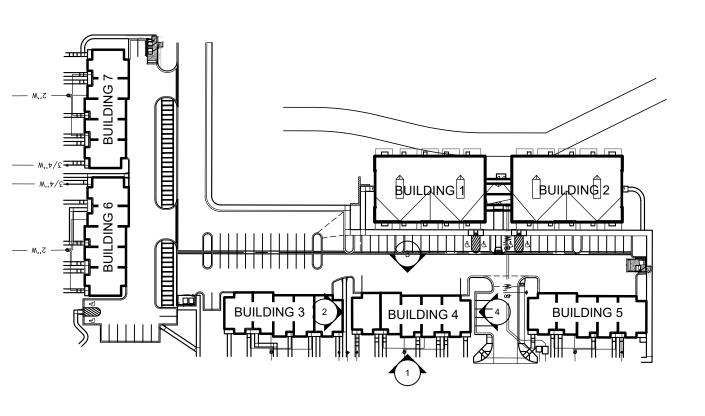


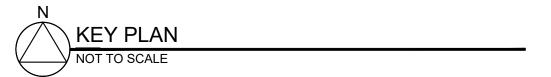
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SITE PLAN - CASE # 1807 WILDCAT AVE

**BUILDING ELEVATIONS** 







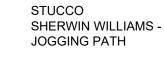


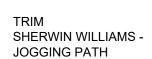






VERTICAL SIDING SHERWIN WILLIAMS -ROYCROFT BRONZE GREEN





HORIZONTAL RAILING (BRONZE ANODIZED)







WHITE VINYL WINDOW

PARAPET CAP (BRONZE ANODIZED)

PREFAB AWNING (BRONZE ANODIZED)

## ACCEPTANCE BLOCK

THE CITY OF FRUITA REVIEW CONSTITUTES GENERAL COMPLIANCE WITH THE CITY'S DEVELOPMENT STANDARDS, SUBJECT TO THESE PLANS BEING SEALED, SIGNED, AND DATED BY THE PROFESSIONAL OF RECORD. REVIEW BY THE CITY DOES NOT CONSTITUTE APPROVAL OF THE PLAN DESIGN. THE CITY NEITHER ACCEPTS NOR ASSUMES ANY LIABILITY FOR ERRORS OR OMISSIONS. ERRORS IN THE DESIGN OR CALCULATIONS REMAIN THE RESPONSIBILITY OF THE PROFESSIONAL OF RECORD.

CONSTRUCTION MUST COMMENCE WITHIN ONE YEAR FROM THE DATE OF PLAN SIGNATURE.

CITY DEVELOPMENT ENGINEER DATE

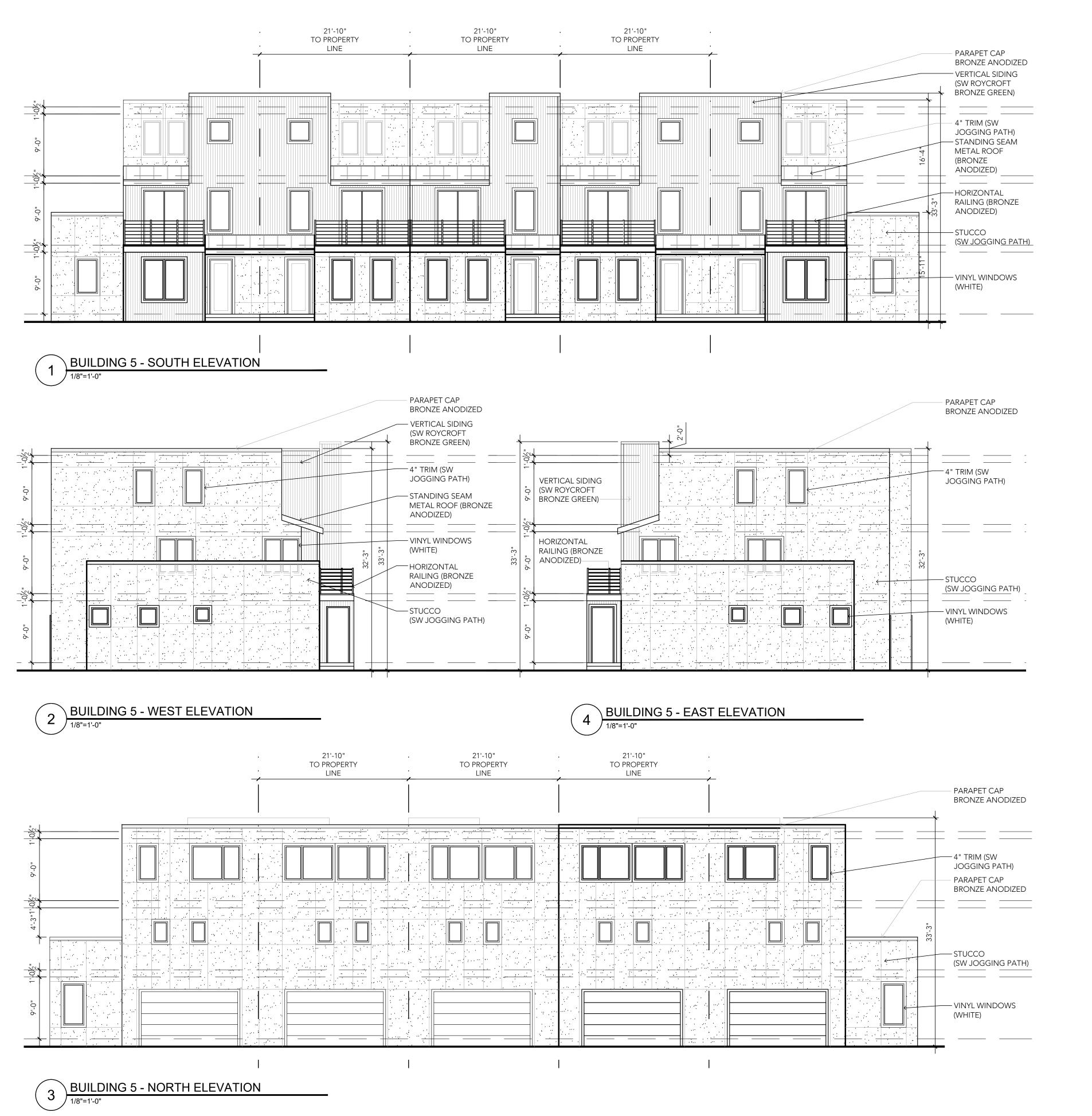
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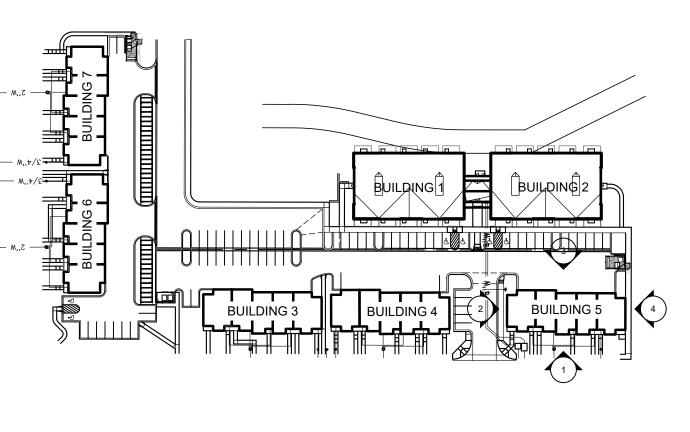


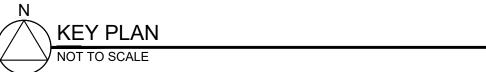
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SITE PLAN - CASE #
1807 WILDCAT AVE

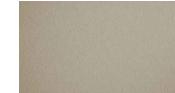
BUILDING ELEVATIONS





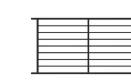






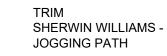






VERTICAL SIDING SHERWIN WILLIAMS -ROYCROFT BRONZE GREEN





HORIZONTAL RAILING
.LIAMS - (BRONZE ANODIZED)







WHITE VINYL WINDOW PA

PARAPET CAP (BRONZE ANODIZED)

PREFAB AWNING (BRONZE ANODIZED)

## ACCEPTANCE BLOCK

THE CITY OF FRUITA REVIEW CONSTITUTES GENERAL COMPLIANCE WITH THE CITY'S DEVELOPMENT STANDARDS, SUBJECT TO THESE PLANS BEING SEALED, SIGNED, AND DATED BY THE PROFESSIONAL OF RECORD. REVIEW BY THE CITY DOES NOT CONSTITUTE APPROVAL OF THE PLAN DESIGN. THE CITY NEITHER ACCEPTS NOR ASSUMES ANY LIABILITY FOR ERRORS OR OMISSIONS. ERRORS IN THE DESIGN OR CALCULATIONS REMAIN THE RESPONSIBILITY OF THE PROFESSIONAL OF RECORD.

CONSTRUCTION MUST COMMENCE WITHIN ONE YEAR FROM THE DATE OF PLAN SIGNATURE.

CITY DEVELOPMENT ENGINEER DATE

CITY PLANNER

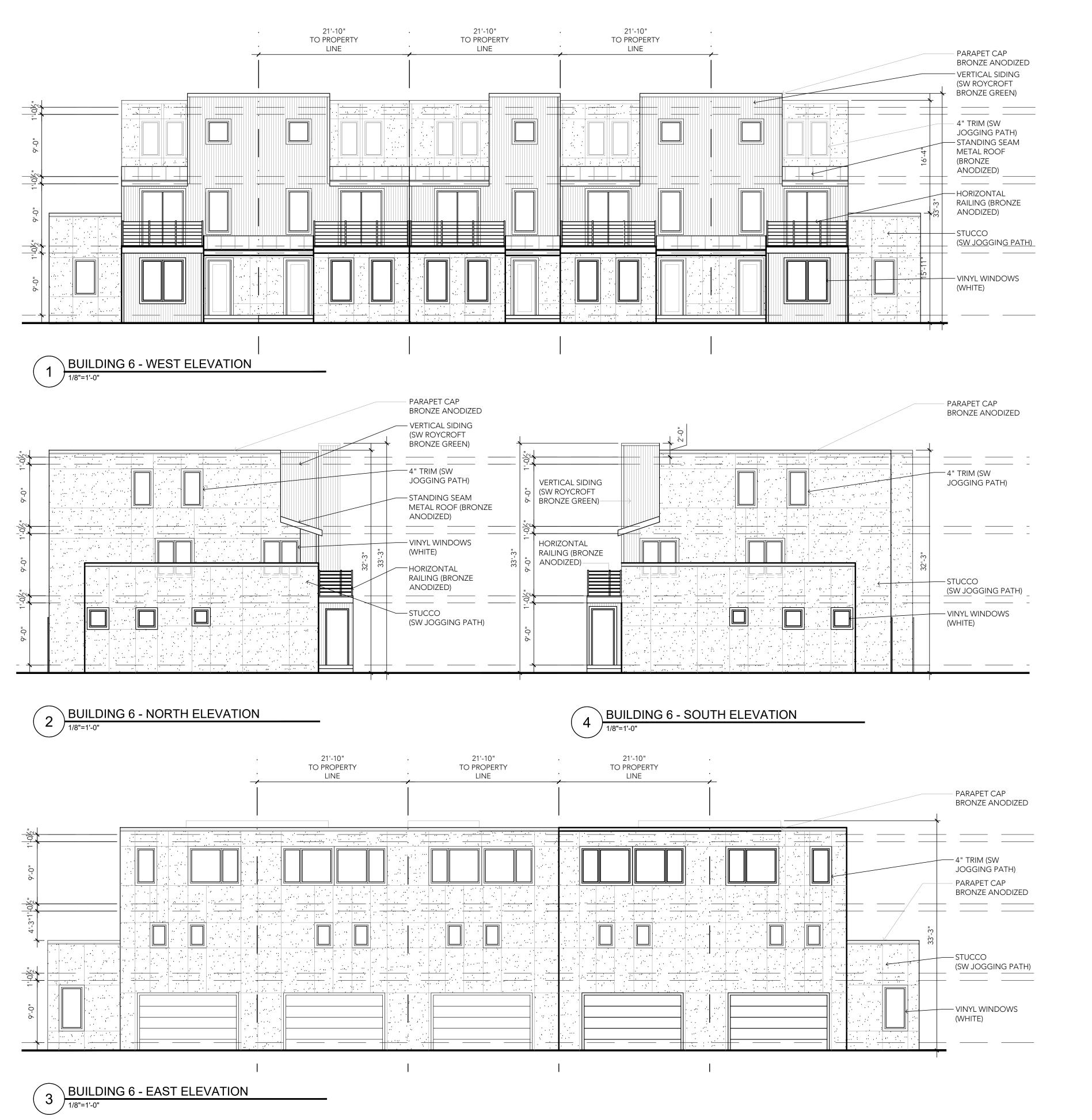


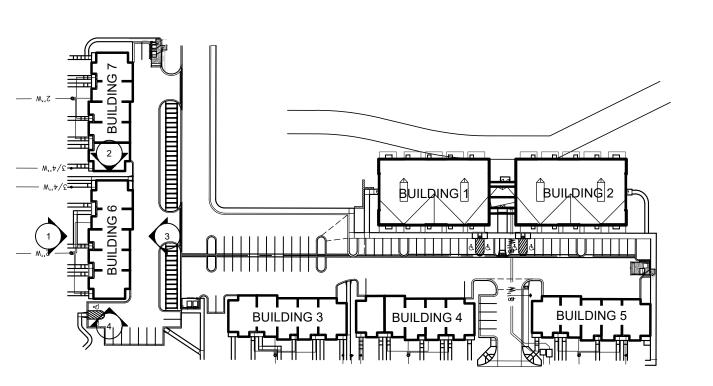
ISSUE-REVISION	DATE
SITE PLAN SUBMITTAL	00/00/0000
SITE PLAN COMMENT SUBMITTAL	00/00/0000

SITE PLAN - CASE # 1807 WILDCAT AVE

BUILDING ELEVATIONS

DATE











SHERWIN WILLIAMS -

JOGGING PATH









WHITE VINYL WINDOW

VERTICAL SIDING

SHERWIN WILLIAMS -

ROYCROFT BRONZE



PARAPET CAP (BRONZE



(BRONZE ANODIZED)

## ACCEPTANCE BLOCK

ANODIZED)

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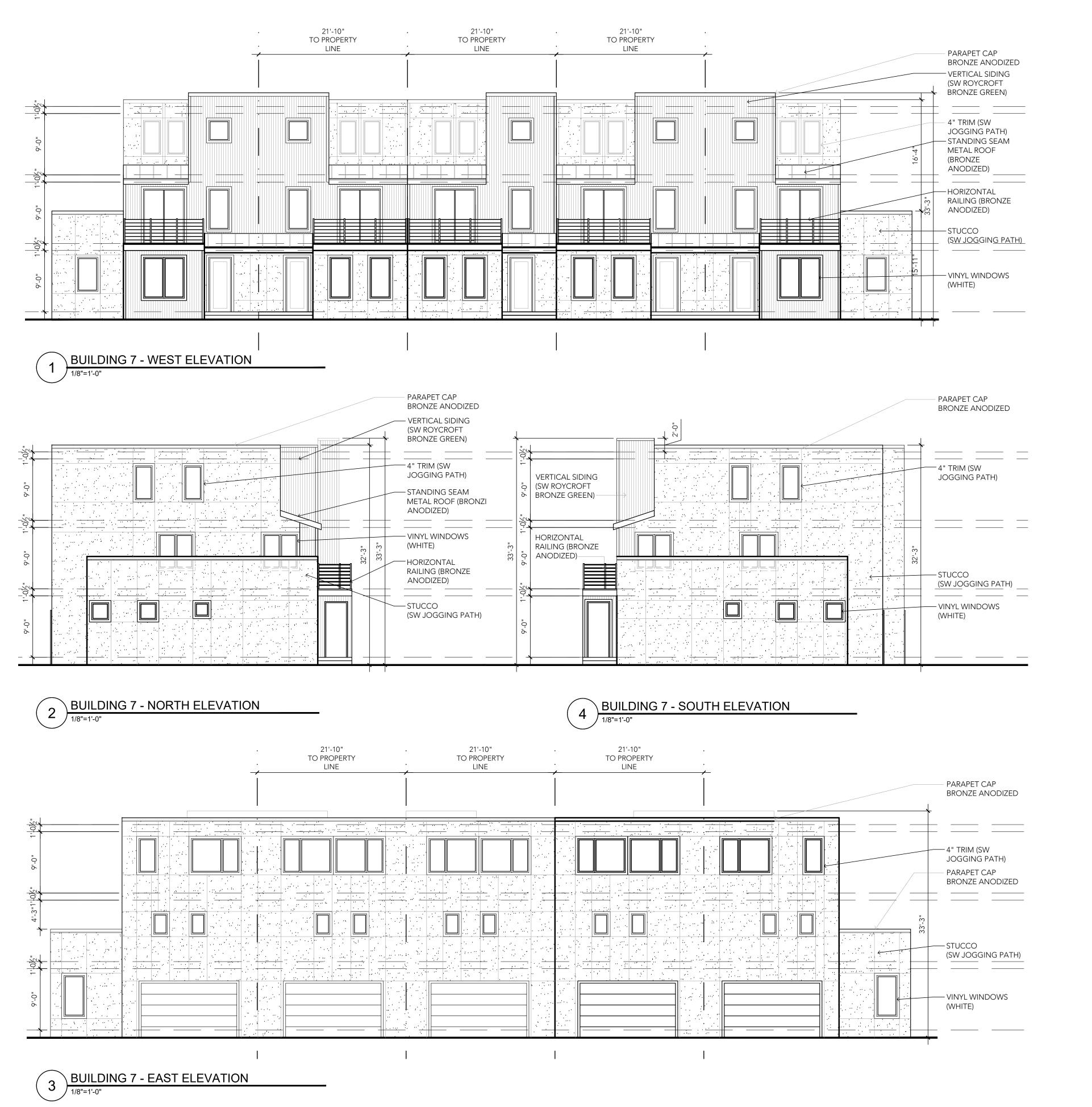
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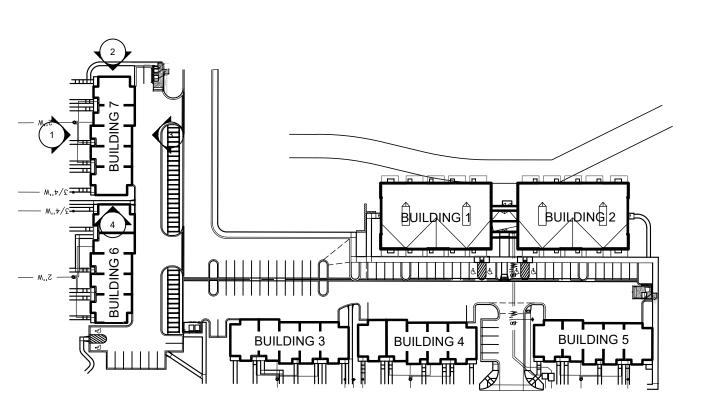
CITY PLANNER DATE



ISSUE-REVISION	DATE
SITE PLAN SUBMITTAL	00/00/0000
SITE PLAN COMMENT SUBMITTAL	00/00/0000
	-

SITE PLAN - CASE # 1807 WILDCAT AVE **BUILDING ELEVATIONS** 









VERTICAL SIDING

SHERWIN WILLIAMS -

ROYCROFT BRONZE





STUCCO SHERWIN WILLIAMS -JOGGING PATH



TRIM SHERWIN WILLIAMS -JOGGING PATH





WHITE VINYL WINDOW



PARAPET CAP (BRONZE

PREFAB AWNING (BRONZE ANODIZED)

## ACCEPTANCE BLOCK

ANODIZED)

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CITY DEVELOPMENT ENGINEER DATE

CITY PLANNER

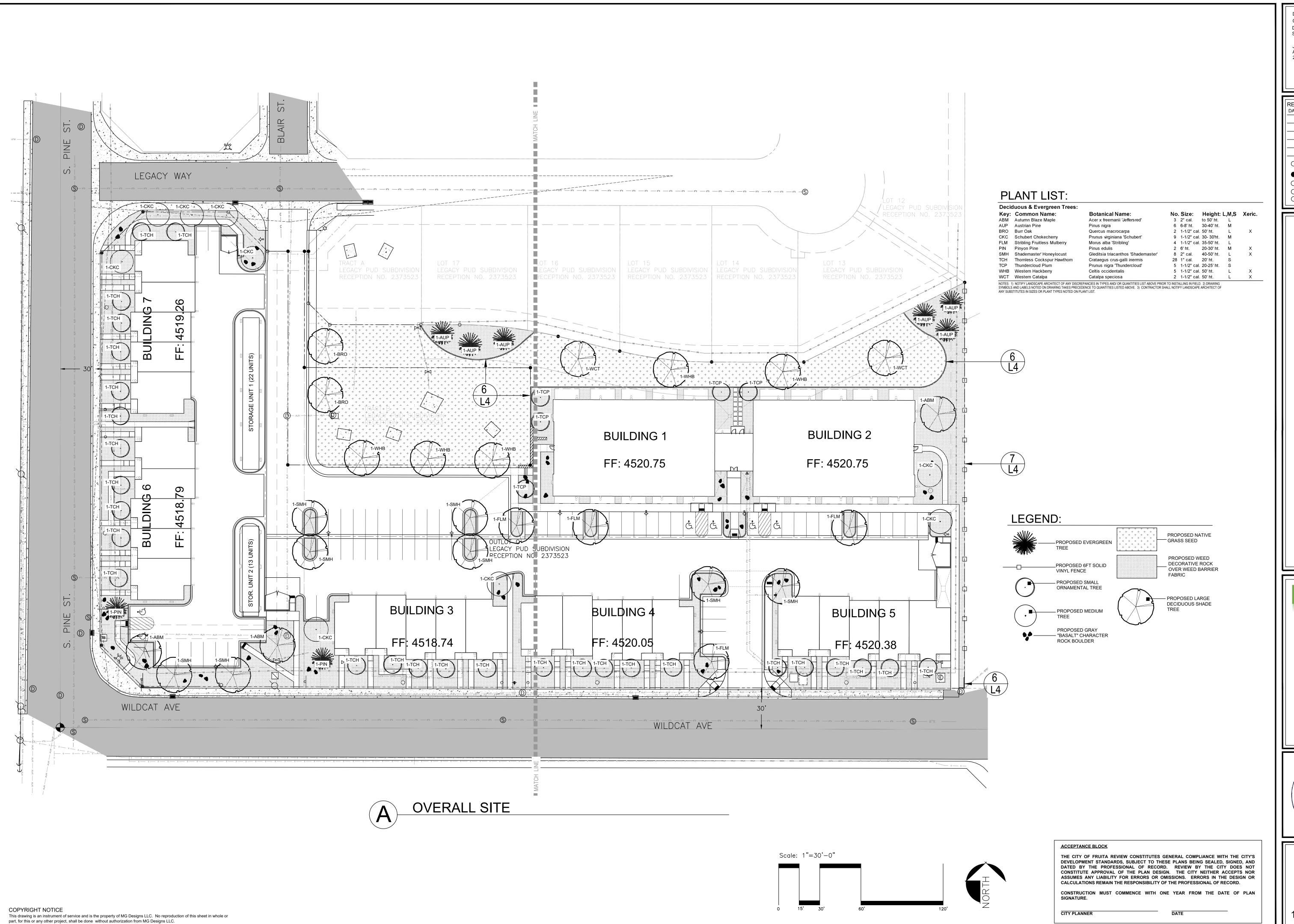


ISSUE-REVISION	DATE
SITE PLAN SUBMITTAL	00/00/0000
SITE PLAN COMMENT SUBMITTAL	00/00/0000

DATE

SITE PLAN - CASE # 1807 WILDCAT AVE

BUILDING ELEVATIONS



DRAWN BY: M.G.
CHECKED BY: M.G.
DATE: 8/2/2023
SCALE: 1"=30'-0"

JOB#: 2023-28
ACAD FILE#:
2023-28.dwg

REVISIONS:
DATE: BY:

O PRELIMINARY-NOT FOR CONSTRUCTION
SUBMITTAL SET FOR REVIEW
BID SET

# PRELIMINARY-NOT FOR CONSTRUCTION SUBMITTAL SET FOR REVIEW BID SET FOR CONSTRUCTION AS BUILT

1807 WILDCAT AVENUE FRUITA, COLORADO

Designs, LLC
MARK GIBBONS, PLA

MARK GIBBONS, PLA
2049 Barberry Avenue
Grand Junction, CO 81506
c.970.260.7386
gibbgreen2@gmail.com

Tree Overstory & Fence Plan



SHEET

L

1 OF 4 SHEETS

CHECKED BY: M.G. DATE: 8/2/2023 SCALE: 1"=20'-0"

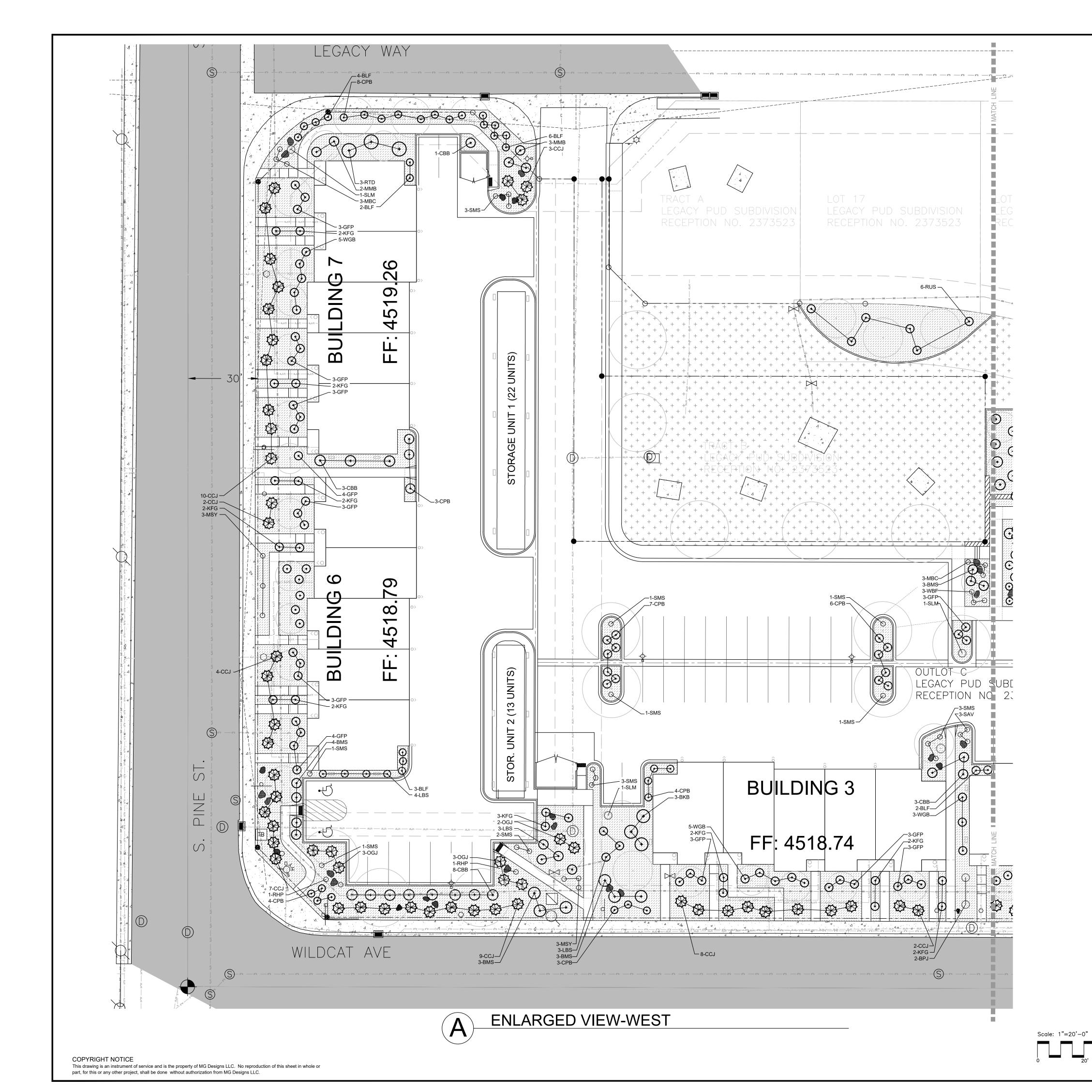
JOB#: 2023-28 ACAD FILE#: 2023-28.dwg

REVISIONS:

○ BID SET

O PRELIMINARY-NOT FOR CONSTRUCTION SUBMITTAL SET FOR REVIEW

FOR CONSTRUCTION

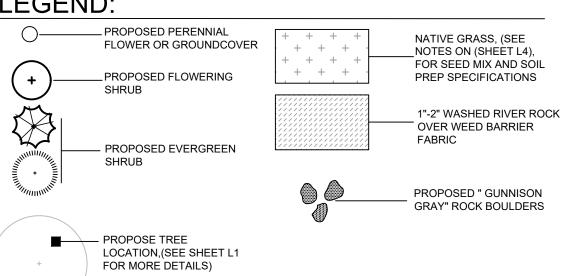


PLANT LIST: (REFER TO SHEET "L4" FOR PLANT QUANTITIES)

Key:	Common Name:	Botanical Name:	No.	Size:	Height: I	_,M,S	Xerio
BKB	Black Knight Buddleia	Buddleia davidii 'Black Knight'	6		4-8' ht.	Ĺ	
BMS	Blue Mist Spirea (Dark Knight)	Caryopteris x clandonensis	14	5 gal.	3-5' ht.	S	
CBB	Compact Winged Euonymus	Euonymus alata 'Compacta'		5 gal.	5' ht.	M	
CPB	Crimson Pygmy Barberry	Berberis thunbergii 'Atropurpurea Nana'	43	5 gal.	2-2.5' ht.	S	Χ
GFP	Goldfinger Potentilla	Potentilla fruticosa 'Goldfinger'	59	5 gal.	3-4' ht.	S	Χ
<b>KDW</b>	Kelsey's Dwarf Dogwood	Cornus sericea 'Kelseyi'	8	5 gal.	2-3' ht.	S	
ММВ	Miss Molly Butterfly Bush	Buddleia davidii 'Miss Molly'	7	5 gal.	4-5' ht.	S	
PKC	Peking Cotoneaster	Cotoneaser acutifolia	5	5 gal.	8-10' ht.	L	Χ
RTD	Red Twig Dogwood	Cornus sericea 'Baileyi'	8	5 gal.	6-10' ht.	L	Χ
TLS	Threeleaf Sumac	Rhus tribolata	4	5 gal.	3-6' ht.	M	Χ
WGB	Winter Gem Boxwood	Buxus microphylla	27	5 gal.	to 4' ht.	S	
Everg	greens Shrubs:						
BPJ	Blue Point Juniper	Juniperus chinensis 'Blue Point'	15	5 gal.	15-18' ht.	M	
CCJ	Calgary Carpet	Juniperus sabina 'Calgary Carpet'	63	1 gal.	18" ht.	M	Χ
GGJ	Grey Gleam Juniper	Juniperus scopularum 'Gray Gleam'	6	5 gal.	3-4' ht.	L	Χ
OGJ	Old Gold Juniper	Juniperus chinensis	13	5 gal.	3-4' ht.	M	X
SLM	Slowmound Mugo Pine	Pinus mugo 'Slowmound'	7	5 gal.	3' ht.		
Perer	nnials:						
BEF	Bellflower, Peachleaf	Campanula persicifolia	4	1 gal.	20" ht.	S	
BES	Black Eyed Susan	Rudbeckia fulgida	6	1 gal.	18-24" ht.	S	X
HCL	Hidcote Lavender	Lavandula angustifolia 'Hidcote'	6	1 gal.	12-18" ht.	S	Χ
MBC	Moonbeam Coreopsis	Coreopsis verticillata 'Moonbeam'	6	1 gal.	18" ht.	S	Χ
MSY	Moonshine Yarrow	Achillea millefolium	9	1 gal.	18-24" ht.	S	Χ
RHP	Red Hot Poker	Kniphofiea uvaria 'Royalcastle Hybrid's'	4	1 gal.	30-36" ht.	M	Χ
SAV	Salvia 'May Night'	Salvia nemorosa	7	1 gal.	18-30" ht.	S	Χ
SMS	Silvermound	Artemesia schmidtiana	28	5 gal.	1-3' ht.	S	Χ
WBF	Whirling Butterflies Gaura	Guara linheimer 'Whirling Butterflies'	6	1 gal.	30" ht.	M	
Orna	mental Grasses:						
BLF	Blue Fescue	Festuca ovina glauca		1 gal.	12-15" ht.	S	X
KFG	Feather Reed Grass, 'Karl Forester'	Calamagrostis x acutiflora 'Karl Forester'	53	1 gal.	3-4' ht.	M	
LBS	Little Bluestem	Schizachyrium scoparium 'Prairie Blues'	18	1 gal.	24"-36" ht.	M	Χ

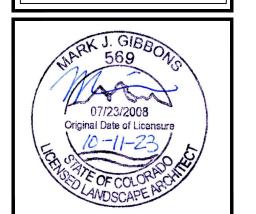
NOTES: 1) NOTIFY LANDSCAPE ARCHITECT OF ANY DISCREPANCIES IN TYPES AND/ OR QUANTITIES LIST ABOVE PRIOR TO INSTALLING IN FIELD. 2) DRAWING SYMBOLS AND LABELS NOTED ON DRAWING TAKES PRECEDENCE TO QUANTITIES LISTED ABOVE. 3) CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT OF ANY SUBSTITUTES IN SIZES OR PLANT TYPES NOTED ON PLANT LIST.





Landscape Plan

MARK GIBBONS, PLA 2049 Barberry Avenue Grand Junction, CO 81506 c.970.260.7386 gibbgreen2@gmail.com



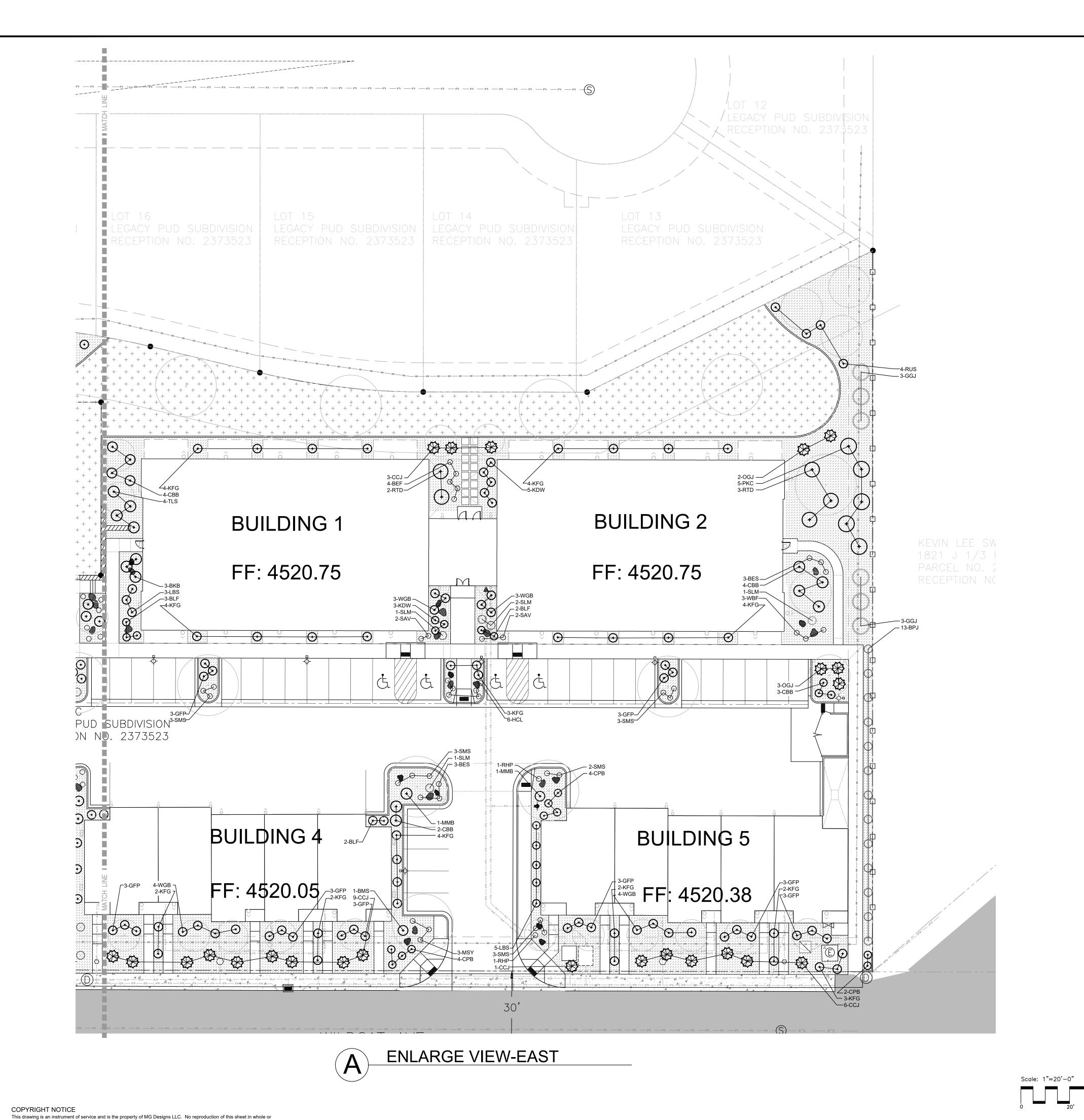
1807 W FRUITA,

SHEET 2 OF 4 SHEETS

ACCEPTANCE BLOCK

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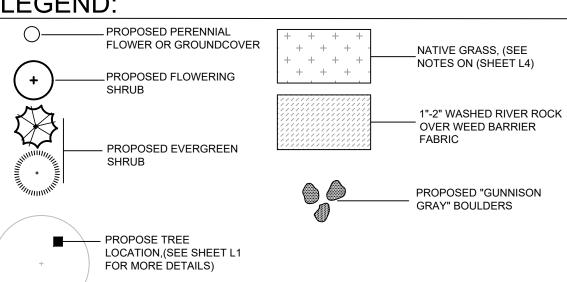


part, for this or any other project, shall be done without authorization from MG Designs LLC.

PLANT LIST: (REFER TO SHEET "L4" FOR PLANT QUANTITIES)

Shru	bs:						
Key:	Common Name:	Botanical Name:	No.	Size:	Height:	L,M,S	Х
BKB	Black Knight Buddleia	Buddleia davidii 'Black Knight'	6	5 gal.	4-8' ht.	L	
BMS	Blue Mist Spirea (Dark Knight)	Caryopteris x clandonensis	14	5 gal.	3-5' ht.	S	
CBB	Compact Winged Euonymus	Euonymus alata 'Compacta'	28	5 gal.	5' ht.	M	
CPB	Crimson Pygmy Barberry	Berberis thunbergii 'Atropurpurea Nana'	43	5 gal.	2-2.5' ht.	S	
GFP	Goldfinger Potentilla	Potentilla fruticosa 'Goldfinger'	59	5 gal.	3-4' ht.	S	
KDW	Kelsey's Dwarf Dogwood	Cornus sericea 'Kelseyi'	8	5 gal.	2-3' ht.	S	
MMB	Miss Molly Butterfly Bush	Buddleia davidii 'Miss Molly'	7	5 gal.	4-5' ht.	S	
PKC	Peking Cotoneaster	Cotoneaser acutifolia	5	5 gal.	8-10' ht.	L	
RTD	Red Twig Dogwood	Cornus sericea 'Baileyi'	8	5 gal.	6-10' ht.	L	
TLS	Threeleaf Sumac	Rhus tribolata	4	5 gal.	3-6' ht.	M	
WGB	Winter Gem Boxwood	Buxus microphylla	27	5 gal.	to 4' ht.	S	
Ever	greens Shrubs:						
BPJ `	Blue Point Juniper	Juniperus chinensis 'Blue Point'	15	5 gal.	15-18' ht.	M	
CCJ	Calgary Carpet	Juniperus sabina 'Calgary Carpet'	63	1 gal.	18" ht.	M	
GGJ	Grey Gleam Juniper	Juniperus scopularum 'Gray Gleam'	6	5 gal.	3-4' ht.	L	
OGJ	Old Gold Juniper	Juniperus chinensis	13	5 gal.	3-4' ht.	M	
SLM	Slowmound Mugo Pine	Pinus mugo 'Slowmound'	7	5 gal.	3' ht.		
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BEF	Bellflower, Peachleaf	Campanula persicifolia	4	1 gal.	20" ht.	S	
BES	Black Eyed Susan	Rudbeckia fulgida	6	1 gal.	18-24" ht.	S	
HCL	Hidcote Lavender	Lavandula angustifolia 'Hidcote'	6	1 gal.	12-18" ht.	S	
MBC	Moonbeam Coreopsis	Coreopsis verticillata 'Moonbeam'	6	1 gal.	18" ht.	S	
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SAV	Salvia 'May Night'	Salvia nemorosa	7	1 gal.	18-30" ht.	S	
SMS	Silvermound	Artemesia schmidtiana	28	5 gal.	1-3' ht.	S	
WBF	Whirling Butterflies Gaura	Guara linheimer 'Whirling Butterflies'	6	1 gal.	30" ht.	M	
Orna	mental Grasses:						
BLF	Blue Fescue	Festuca ovina glauca	24	1 gal.	12-15" ht.	S	
KFG	Feather Reed Grass, 'Karl Forester'	Calamagrostis x acutiflora 'Karl Forester'	53	1 gal.	3-4' ht.	М	
LBS	Little Bluestem	Schizachyrium scoparium 'Prairie Blues'		1 gal.	24"-36" ht.	М	

LEGEND:

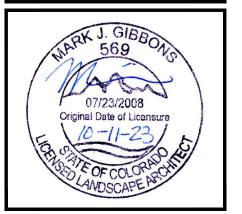


CHECKED BY: M.G. DATE: 8/2/2023 SCALE: 1"=20'-0" JOB#: 2023-28 ACAD FILE#: 2023-28.dwg

REV	ISIONS: E:	BY:
-	PRELIMINARY-NOT FOR CONSTRUCTION	
	SUBMITTAL SET FOR REVIEW	
	BID SET	
	FOR CONSTRUCTION	
	AS BUILT	

# 1807 W FRUITA,





SHEET 3 OF 4 SHEETS

ACCEPTANCE BLOCK

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CONSTRUCTION MUST COMMENCE WITH ONE YEAR FROM SIGNATURE. CITY PLANNER

DRAWN BY: M.G.

CHECKED BY: M.G.

SCALE: See Drawings

DATE: 8/2/2023

JOB#: 2023-28

ACAD FILE#:

2023-28.dwg

**REVISIONS:** 

PRELIMINARY-NOT FOR

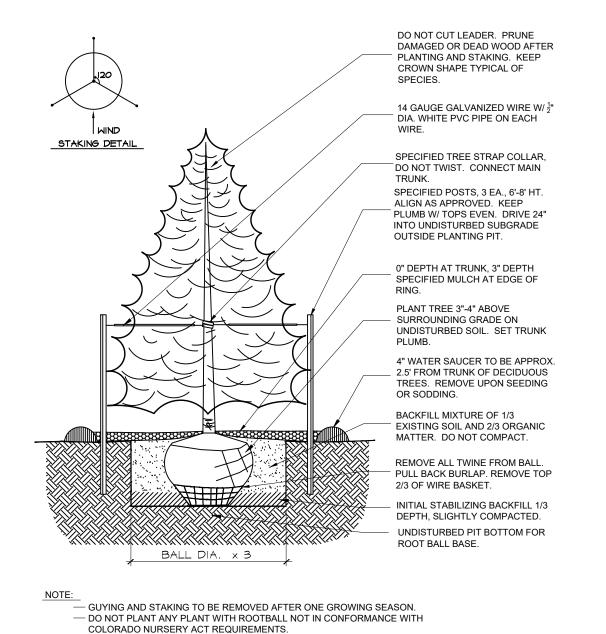
CONSTRUCTION

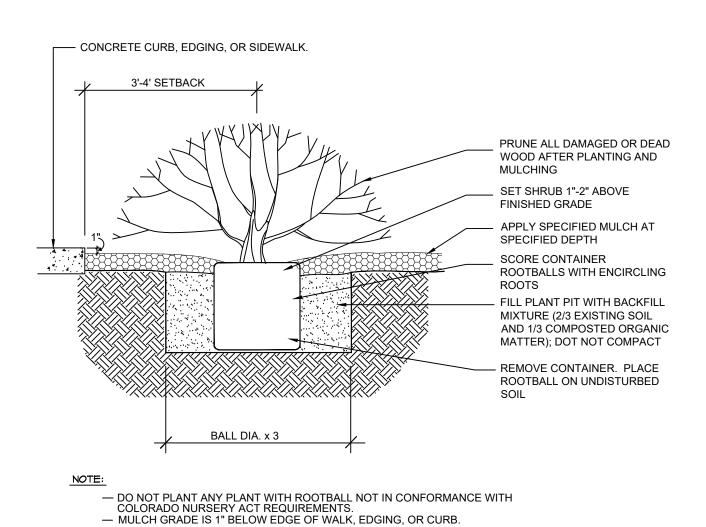
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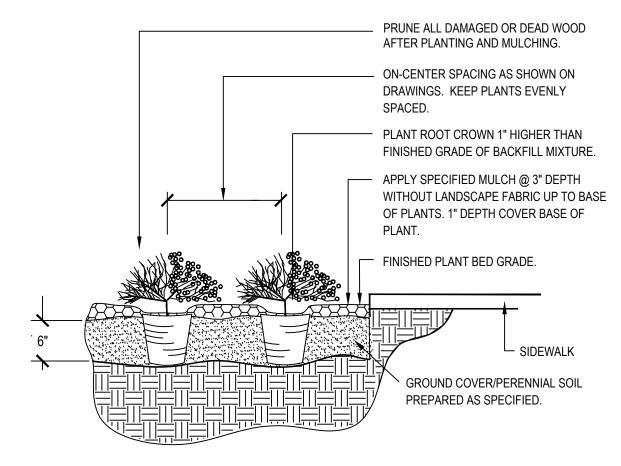
FOR CONSTRUCTION

○ BID SET

AS BUILT







NOTE: HOLD MULCH GRADE 1" BELOW EDGE OF WALK, EDGING, OR CURB, HOLD BACK PLANTS 18" FROM EDGES.

NPERENNIAL FLOWER PLANTING DETAIL

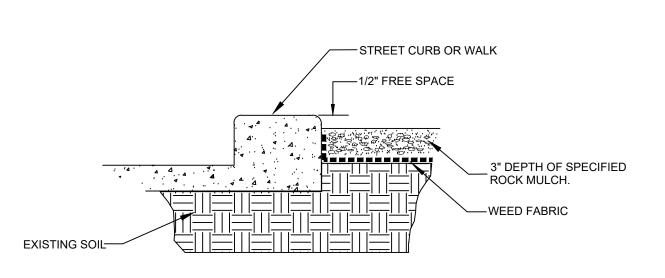
## TREE PLANTING DETAIL

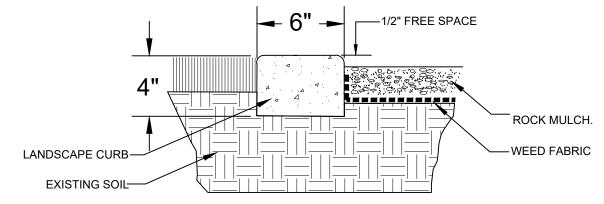
COLORADO NURSERY ACT REQUIREMENTS.

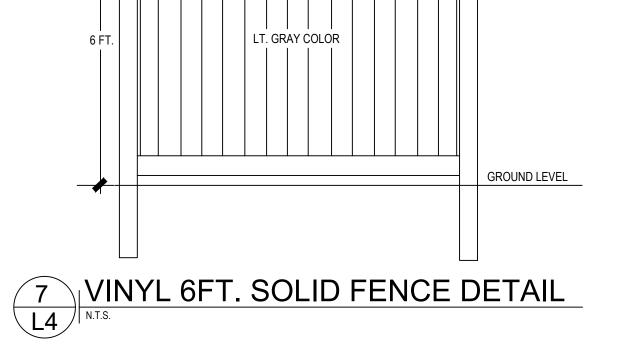
— DO NOT PLANT ANY PLANT WITH ROOTBALL NOT IN CONFORMANCE WITH















## LANDSCAPE CALCULATIONS: **Landscape Quantities and Calculations:** Required Unit Shown Total Parcel = 3.66 Acres or 159,430 S.F. Parking Lot =73 Spaces Trees: 1 tree per 7 spaces = 11 EA 12 Parking Lot Square Footage = 52,725 Shrubs: 52,725 S.F. @ 10% of surface area = 5,273 S.F. (5,273/25 s.f. per shrub) =211 EA Remaining 10% of Parcel = 159,430 S.F.= 159,430 x 10% = 15,943 S.F. x 50% coverage = 7,972 S.F. 7,972/ 25 per shrub = Total Shrubs for Parcel Including Parking Lot & Parcel Development = Total Trees for Parcel Development =159,430 x 10% = 15,943 S.F. Shade Trees: (15,943/1500 S.F. Per Tree = Medium Trees: (15,943/1000 S.F. Per Tree) = Small Trees: (15,943/500 S.F. Per Tree) =

23,430

EΑ

## **GENERAL & LANDSCAPE NOTES**

1. ALL PLANTING BEDS SHALL BE INSTALLED WITH GOOD QUALITY WEED BARRIER FABRIC AND TOPDRESS WITH 3 INCHES OF SPECIFIED MULCH, (SEE "LEGENDS" SHEETS L2 & L3).

2. ALL AREAS TO BE PLANTED SHALL BE PREP WITH COMPOSTED ORGANIC MATTER, "MESA MAGIC OR EQUAL) AND TILLED TO A 6 INCH DEPTH AT A RATE OF 4 CU. YDS. PER 1,000 S.F. FINE GRADE ALL AREA PRIOR TO PLANTING. 4. INSTALL 5FT DIA. AT TREES PLANTED IN NATIVE GRASS AREA. TREE RINGS SHALL BE CONSTRUCTED FROM COMMERCIAL STEEL EDGER, (MIN.  $\frac{1}{8}$ " THICK, ). INSTALL WEED BARRIER FABRIC AND TOPDRESS WITH MIN. 3 INCH DEPTH

OF SHREDDED CEDAR BARK MULCH. THIN TO 1" COVER WITH 12 INCHES OF TREE TRUNK. 5. ALL LANDSCAPE EDGER SHALL BE A 4"X6" CONCRETE EDGER. PROVIDE SMOOTH CURVES AND STRAIGHT LINES AS INDICATED ON DRAWING. (SEE SHEET "L4" FOR MORE DETAILS) 6. WEED BARRIER FABRIC SHALL BE ("DEWITT PRO-5" OR EQUAL); MIN. 5 OZ; FOLLOW ALL MANUFACTURES RECOMMENDATIONS DURING INSTALLATION.

7. REFER TO (SHEET "L4"), FOR FURTHER SPECIFICATIONS REGARDING PLANTING PROCEDURES AND METHODS. 8. ALL AREAS TO BE LANDSCAPED SHALL BE IRRIGATED WITH AN UNDERGROUND PRESSURIZED SYSTEM. USE LOW VOLUME DRIP APPLICATIONS TO PLANTING AREA. ROTOR SPRINKLERS FOR LARGER NATIVE SEED AREAS. PROVIDE PROPER FILTRATION. 9. PROTECT ALL PLANT MATERIALS OUTSIDE THE CONSTRUCTION LIMITS WITH APPROVED PROTECTION BARRIERS

TO PROTECT TREE'S DRIP LINE COVERING ROOT MASS. 10. CONTRACTOR SHALL BE RESPONSIBLE TO IDENTIFY AND LOCATE ANY EXISTING UTILITIES PRIOR TO START OF THEIR WORK. CONTRACTOR SHALL TAKE EXTRA CARE NOT TO DAMAGE EXISTING UTILITIES IN THE VICINITY OF THE 11. ALL PLANTS NOTED ON THESE DRAWINGS HAVE BEEN SELECTED FROM THE CITY OF FRUITA-SUITABLE PLANT LIST RECOMMENDATIONS

12. MG DESIGNS, LLC. SHALL NOT BE HELD RESPONSIBLE FOR THE MEANS, METHODS AND/ OR APPROPRIATENESS OF

CONSTRUCTION OR SAFETY PROCEDURES CHOSEN BY ANY CONTRACTORS WORKING ON THIS PROJECT SITE.

## **SEED MIX:**

SEED MIX: "LOW GROW MIX" -30% EPHRIAM CRESTED WHEAT GRASS -30% SR3200 BLUE FESCUE -25% DWARF PERENNIALS RYEGRASS -15% CANADA BLUEGRASS : SOW AT A RATE OF 40 LBS PER ACRE. (ADJUST SEED SOWING RATES FOR DRILL SEEDING APPLICATIONS)

RIP SUBSOIL 6 TO 10 INCHES DEEP. TILL IN COMPOSTED ORGANIC MATTER, ("MESA MAGIC" OR EQUAL) AT A RATE OF 4 CU YDS PER 1,000 S.F. . FINE GRADE ALLOWING FOR A SMOOTH SEED ROOTING BED.

4. APPLY SEED WITH A DRILL SEEDING METHOD UTILIZING MOVEMENT WHEN SOWING IN BOTH DIRECTION TO DISTRIBUTE THE SEED EVENLY. 5. SEE SHOULD BE RAKED OR DRAGGED FOR SOIL EMBEDMENT OF 1/2". HYDRO-MULCH AREA WITH FIBER MULCH AFTER SEEDING. SEEDING SHOULD BE COMPLETED BY LATE SPRING. DO NOT SEED IN

WINDY CONDITIONS. 8. WATER FREQUENTLY WITH AN INSTALLED IRRIGATION SYSTEM. MAKING ANY ADJUSTMENT NECESSARY TO PROVIDE EVEN COVERAGE. 9. PROTECT AREA FROM TRAFFIC AND OTHER DISTURBANCES UNTIL SEED HAS ESTABLISHED. 10. RE-SEED AREAS AS NEEDED AFTER ESTABLISHMENT TO FILL IN BARE SPOTS UNTIL 100% COVERAGE IS ACHIEVED.

Decid	luous & Evergreen Trees:						
Key:	Common Name:	Botanical Name:	No.	Size:	Height:	L,M,S	Xe
ABM	Autumn Blaze Maple	Acer x freemanii 'Jeffersred'	3	2" cal.	to 50' ht.	L	
AUP	Austrian Pine	Pinus nigra	6	6-8' ht.	30-40' ht.	M	
BRO	Burr Oak	Quercus macrocarpa	2	1-1/2" cal.	50' ht.	L	)
CKC	Schubert Chokecherry	Prunus virginiana 'Schubert'	9	1-1/2" cal.	30- 30'ht.	M	
FLM	Stribling Fruitless Mulberry	Morus alba 'Stribling'	4	1-1/2" cal.	35-50' ht.	L	
PIN	Pinyon Pine	Pinus edulis	2	6' ht.	20-30' ht.	М	
SMH	Shademaster' Honeylocust	Gleditsia triacanthos 'Shademaster'	8	2" cal.	40-50' ht.	L	
TCH	Thornless Cockspur Hawthorn	Crataegus crus-galli inermis	28	1" cal.	20' ht.	S	
TCP	Thundercloud Plum	Prunus nigra 'Thundercloud'	5	1-1/2" cal.	20-25' ht.	S	
WHB	Western Hackberry	Celtis occidentalis	5	1-1/2" cal.		Ĺ	
WCT	Western Catalpa	Catalpa speciosa	2	1-1/2" cal.		L	
	vvootom Gutaipu	Total Trees =	74	Juli	00 111.	_	•
Shrul	os:						
Key:	Common Name:	Botanical Name:	No.	Size:	Height:	L,M,S	Хe
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Everg	greens Shrubs:						
BPJ	Blue Point Juniper	Juniperus chinensis 'Blue Point'	15	5 gal.	15-18' ht.	M	
CCJ	Calgary Carpet	Juniperus sabina 'Calgary Carpet'	63	1 gal.	18" ht.	М	)
GGJ	Grey Gleam Juniper	Juniperus scopularum 'Gray Gleam'	6	5 gal.	3-4' ht.	L	
OGJ	Old Gold Juniper	Juniperus chinensis	13	5 gal.	3-4' ht.	М	;
SLM	Slowmound Mugo Pine	Pinus mugo 'Slowmound'		5 gal.	3' ht.		
	-	Total Evergreen Shrubs =	104				
Perer	nnials:						
BEF	Bellflower, Peachleaf	Campanula persicifolia	4	1 gal.	20" ht.	S	
BES	Black Eyed Susan	Rudbeckia fulgida	6	1 gal.	18-24" ht.	S	
HCL	Hidcote Lavender	Lavandula angustifolia 'Hidcote'	6	1 gal.	12-18" ht.	S	
MBC	Moonbeam Coreopsis	Coreopsis verticillata 'Moonbeam'	6	1 gal.	18" ht.	S	
MSY	Moonshine Yarrow	Achillea millefolium	9	1 gal.	18-24" ht.	S	
RHP	Red Hot Poker	Kniphofiea uvaria 'Royalcastle Hybrid's'	4	1 gal.	30-36" ht.	M	
SAV	Salvia 'May Night'	Salvia nemorosa	7	1 gal.	18-30" ht.	S	
SMS	Silvermound	Artemesia schmidtiana	28	5 gal.	1-3' ht.	S	
WBF	Whirling Butterflies Gaura	Guara linheimer 'Whirling Butterflies'	6	1 gal.	30" ht.	M	
		Total Perennial Flowers & GC =	76	-			
	mental Grasses:						
BLF	Blue Fescue	Festuca ovina glauca	24	1 gal.	12-15" ht.	S	;
KFG	Feather Reed Grass, 'Karl Forester'	Calamagrostis x acutiflora 'Karl Forester'	53	1 gal.	3-4' ht.	M	
LBS	Little Bluestem	Schizachyrium scoparium 'Prairie Blues'		_1 gal.	24"-36" ht	. <b>M</b>	>
		Total O. Grasses =	95	_			

Total O. Grasses = NOTES: 1) NOTIFY LANDSCAPE ARCHITECT OF ANY DISCREPANCIES IN TYPES AND/ OR QUANTITIES LIST ABOVE PRIOR TO INSTALLING IN FIELD. 2) DRAWIN SYMBOLS AND LABELS NOTED ON DRAWING TAKES PRECEDENCE TO QUANTITIES LISTED ABOVE. 3) CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT OF

ANY SUBSTITUTES IN SIZES OR PLANT TYPES NOTED ON PLANT LIST

## **ACCEPTANCE BLOCK**

THE CITY OF FRUITA REVIEW CONSTITUTES GENERAL COMPLIANCE WITH THE CITY'S DEVELOPMENT STANDARDS, SUBJECT TO THESE PLANS BEING SEALED, SIGNED, AND DATED BY THE PROFESSIONAL OF RECORD. REVIEW BY THE CITY DOES NOT CONSTITUTE APPROVAL OF THE PLAN DESIGN. THE CITY NEITHER ACCEPTS NOR ASSUMES ANY LIABILITY FOR ERRORS OR OMISSIONS. ERRORS IN THE DESIGN OR CALCULATIONS REMAIN THE RESPONSIBILITY OF THE PROFESSIONAL OF RECORD.

CONSTRUCTION MUST COMMENCE WITH ONE YEAR FROM THE DATE OF PLAN SIGNATURE.

CITY PLANNER

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Character Rock Boulders, (Avg. Size 2.5' x 2.5')

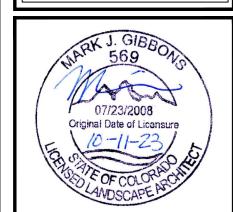
Other Improvements:

Native Grass Areas

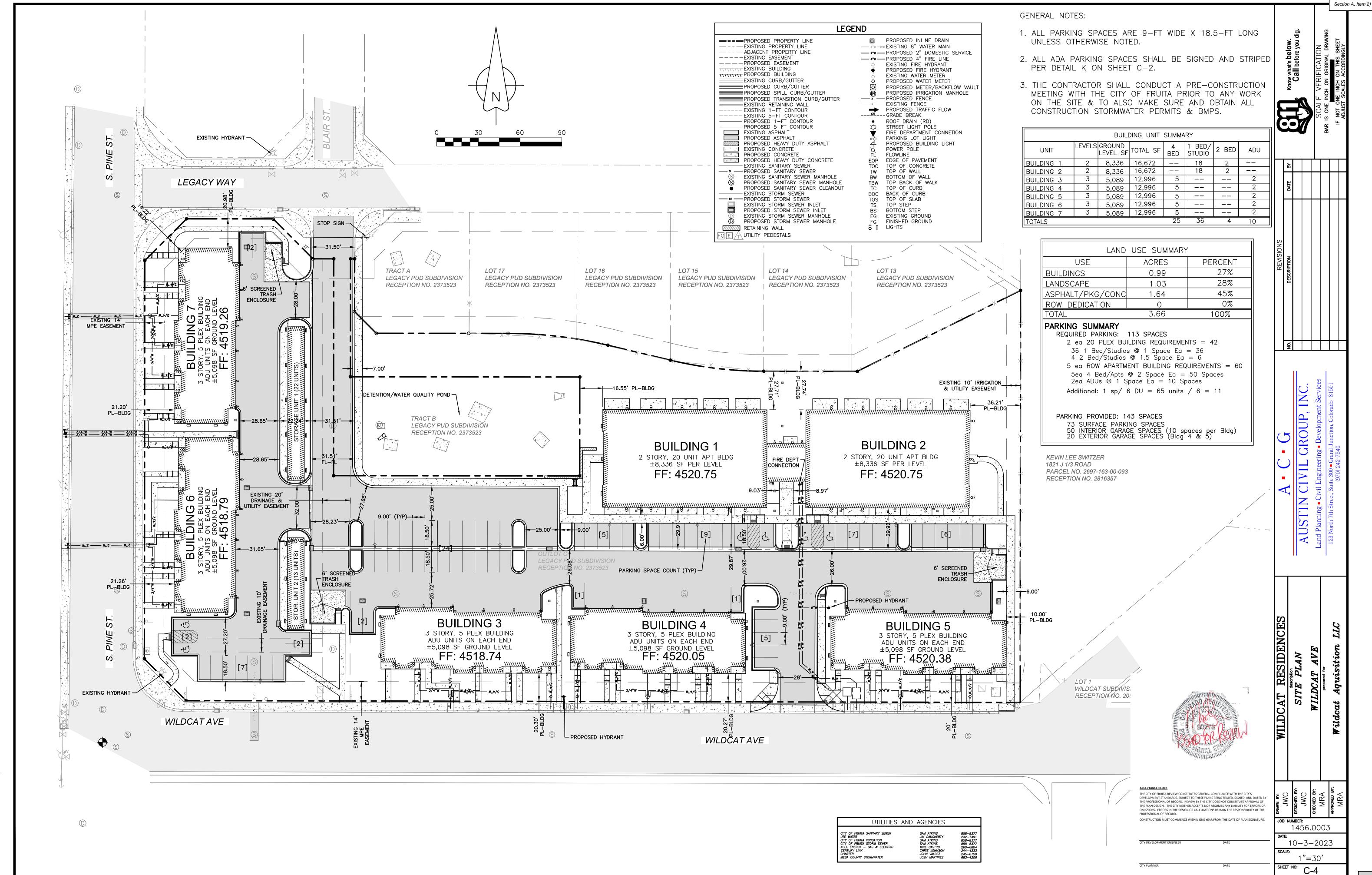
80

MARK GIBBONS, PLA 2049 Barberry Avenue Grand Junction, CO 81506 c.970.260.7386 gibbgreen2@gmail.com

> NOTES & **DETAILS**







P:\1456.0003 - Wildcat Ave Apartments\Dwg\C3d\Production Dwg\PROD-SITE WILDCAT.dwg, C-4 SITE PLAN, 10/11/203

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## **Planning Commission Meeting**

December 12 Section A, Item 2)

Location: 1873 K Road

Applicant: Hays Development LLC Current Zone: Mesa County Zoning AFT

Description: This is a request to rezone approximately 14.5 acres from Mesa County

Zoning AFT to Community Residential (CR).

Mr. Henry Hemphill gave the Staff presentation with the previous application.

Commissioner Biddle opened the meeting to public comment for application 2023-34 1873 K Road Rezone. There were no public comments. He closed public comment and opened to Commissioner discussion.

Commissioner Biddle stated that it was a very clean application.

COMMISSIONER FABULA MOVED TO APPROVE THE REZONE REQUEST FOR COMMUNITY RESIDENTIAL WITH NO CONDITIONS TO THE FRUITA CITY COUNCIL

## COMMISSIONER MULDER SECONDED THE MOTION

## **MOTION PASSED 7-0**

Application #: 2023-31

Project Name: Wildcat Residences
Application: Site Design Review
Representative: Wildcat Acquisition LLC

Zone: PUD – Commercial/Residential

Location: 1807 Wildcat Avenue

Description: This is a request for approval of a Site Design Review of two (2) twenty

(20) unit apartment buildings and five (5) 5-unit row home apartment

buildings for a total of 65 units on approximately 3.7 acres.

Mr. Henry Hemphill gave the Staff presentation.

Slide 1 – Introduction

Slide 2 – PUD Process

- Concept Plan (optional step) 17.19.030 (A)
- This step is optional.
- The Planning Commission and City Council both review the application in a workshop setting.
- Decisions and discussions are non-binding.
- **Preliminary PUD Plan 17.19.030 (B)**
- This step is required.
- The Planning Commission will make its recommendation to the City Council.

- As part of the Preliminary PUD Plan, the City Council shall enact an ordinance zoning the property to PUD.
- \*No zoning ordinance needed; property already zoned.
- Final PUD Plan 17.19.030 (C)
- This step is required after the Preliminary PUD Plan.
- This application is reviewed administratively in accordance with review agencies and City Councils' decision on the Preliminary PUD Plan.

## Slide 3 – Planned Unit Developments

- "The purpose of this Chapter is to encourage flexibility and innovation in developments in exchange for a community benefit that could not otherwise be realized through the strict adherence to the Code."
  - Section 17.19.010

Slide 4 – Application Information

Slide 5 – Aerial View

Slide 6 – Zoning and Businesses nearby

## Slide 7 – History

- Preliminary Development Plan approved in 2007 with the Legacy PUD Subdivision.
  - Included zoning.
  - Vacant since.
- Commercial & Residential uses allowed.
- Focus on neighborhood commercial areas.

## Slide 8 – Development Plan

- 2, 20-unit buildings.
- 5, 5-unit row home buildings.
- Access from Blair Street (stub) and Wildcat Avenue.

Slide 9 – Renderings

## Slide 10 – Code Requirements

## **Planned Unit Developments**

- Section 17.19.030 (A)(1) (a-d)
- Comprehensive Plan
- Flexibility
- Surrounding character

## **Site Design Review**

- Section 17.09
- Comprehensive Plan

<sup>\*</sup>Property already zoned

- Design Standards Section 17.13
- Compatibility
- Ability to resolve recommendations from reviewers.

## Slide 11 – Parking

• The proposed application is required to have 92 total parking spaces per Section 17.37.030. The project is proposing a total of 143 total parking spaces.

## Slide 12 – Code Requirements

- Review agency comments can be adequately resolved.
- No major concerns from:
  - Ute Water
  - Lower Valley Fire Department
  - Grand Valley Power (GVP)
  - City Engineer

## Slide 13 – Review Comments & Public Comments

## • REVIEW COMMENTS:

- All review comments received are included with this Staff Report. All review comments must be adequately resolved with the Final Plat application.
- PUBLIC COMMENTS:
- Public comments received on 12/12/23. Provided to the Planning Commission and applicant.

## Slide 14 – Staff Recommendation

• Because the application meets the requirements of a Planned Unit Development Site Design Review, Staff recommends <u>approval</u> of the proposed Wildcat Residences Site Design Review with the condition that the application adequately resolve outstanding review agency concerns with the Final PUD application and/or approval of a Building Permit.

## Slide 15 – Suggested Motion – Pg. 69

• Mr. Chair, because the application meets or can meet all applicable approval criteria for a Site Design Review, I move to recommend **approval** to the Fruita City Council with the condition that the applicant adequately resolve outstanding review agency concerns with the Final PUD application and/or approval of a Building Permit.

Mr. Hemphill concluded his presentation.

Commissioner Biddle thanked him and invited the applicant to speak.

Mr. Mark Austin, Austin Civil Group, went up to speak. He stated that they were there tonight to request their approval to proceed with the Wildcat Residence project located at the northeast

corner of Wildcat Avenue and South Pine Street. He complimented Mr. Hemphill on his presentation. He presented a PowerPoint. He introduced his design team, the owners Mackenzie Flanders, their architects from Zaga Architect, and Sandy and Becky with Zaga and their traffic engineering consultant Skip Hudson with Turnkey Consultants.

He showed the site plan that demonstrated how they were proposing to develop the project site. He stated that they had 65 units on the site, 2 apartment buildings with 20 units and the outside edge of the project were lined with row homes. He said it was a townhome looking product, they have garages on the back side and up along the street frontage which is one of the new urbanism principles that this PUD is encouraging. There are some small storage units that they are looking to provide for the residents. They will completely relandscape all the detention and open space areas that abut the residential properties. He added that they were providing 143 parking spaces throughout the project site. This consists of 73 surface parking places, 50 parking spaces within garages, and 20 parking spaces out front. He thought that they had done a good job of making sure all the parking can happen within the project and it doesn't spill out into the adjacent neighborhoods. They are proposing their access location off Wildcat Avenue on the eastern portion of the project site where traffic can come in and circulate and park. They also have access of off Legacy Way that aligns with Blair. There is two access points which helps meet their requirements for the Fire Department as well. All utilities needed to serve this project are on or adjacent to the project site. He mentioned the detention facility that was constructed as part of the original Legacy subdivision PUD. He said that this assumed the full development on this parcel. He said that they don't have to expand the detention facility for this project, but there are newer State requirements for water quality treatment that has kicked in and will require them to modify the detention facility to provide water quality treatment and as part of this they will be relandscaping and providing a new irrigation system. He said that the detention area is roughly around .3 acres in size. He spoke about traffic and said that they knew it would be of concern. They hired Turnkey Consultants to look at this area of concern. They prepared a traffic study that has been submitted and reviewed by both the City and CDOT. The analysis indicated that all of their intersections perform as designed, there are no modifications to adjacent streets or lights or any intersection improvements that are required. He felt that they did a good job of addressing both the circulation and keeping their access locations away from existing intersections to reduce congestion. He called Becky and Sandy up to discuss the colored renderings.

Sandy Thompson with Zaga Design went up to speak. She stated that the goal architecturally of the project was to develop something that integrated but also promoted some of the new urbanism principles. They have a mix of two- and three-story buildings and tried to create individuality within each unit by creating planes that pushed and pulled and using a palette similar to the materials in the neighborhoods that surround the project. She showed what the row homes looked like. They were trying to create housing for the missing middle which is something that is needed. To be able to provide two different types of products on this property with the row home mix that has an attached garage and apartment complexes that are two stories and are flats providing a mix of which a majority are bedrooms but a couple of two-bedroom options as well. She showed another look at the apartments. Basically, two buildings with a connector piece creating a lot of outdoor spaces and an option for different income levels.

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Mr. Austin wrapped it up stating that they were there to answer any questions.

Commissioner Biddle opened the meeting to public comment.

Mr. Don Ami, who lives at 1183 Shady Lane in the Legacy Subdivision went up to speak. He said that this project was going to directly impact his quality of life. He thought that as it is proposed it is a disaster. He said it was high density housing in an area that should never have high density housing. He added that this was one of the primary reasons they chose Fruita in the first place. He said that they have been here a year and a half, moved from a Chicago suburb which was all high density, they liked the open spaces, they liked the fact that there were many multi-unit apartment buildings in the area. When they bought the house the sign on the land said that it was zoned for commercial, they thought at some point that they would either put a strip mall or a restaurant there. They never dreamed that would be putting high density multi apartment buildings there. He added that the Legacy Subdivision as it currently stands is single family homes, they have one of those, and a couple of townhouses that are right on the border with Pine Street. He felt that this is all that should be in this one. Single family homes, townhouses so that it integrated seamlessly with its immediate neighbor. He said that if they were going to put that many people in this subdivision, he would at least ask that the entrance off Blair have an electrically operated gate with a code for first responders. They are going to make that entrance to their subdivision unusable. There are going to be too many people there. He said if it was just the row houses, he wouldn't have an objection to it but those apartment buildings pour a lot of people in there that shouldn't be.

## Commissioner Biddle thanked him.

Mrs. Kris Sudrovech Ami, who lives at 1183 Shady Lane went up to speak. Her biggest concern was traffic. She said that the subdivision is right across the street from the high school. She said that she didn't know if any of them had been around the high school at their starting or ending times but there is a ton of traffic going in and off 18 Road. She said that she could see how the entrance onto 18 Road right now off Legacy is already busy at those times. She is really concerned. She knew that the gentleman said that there was a traffic report about this, she wanted to see a little bit more information about that. She added that 18 Road itself as they have been living there has gotten busier great north/south access in the village but there aren't too many other ones like that. She wanted them to consider the traffic considerations of adding 143 parking spaces in a small area. She echoed what Don said and that it is not consistent with the neighborhood as far as looks. Their neighborhood is single-family homes, this is not single-family homes. She wanted them to consider this before approving something like this.

## Commissioner Biddle thanked her.

Ms. Lori Strate, who lives at 1154 Legacy Way went up to speak. She said that she agreed with Kris and Don that the traffic is a huge concern. There are a lot of students driving in there that pull out right in front of you and adding more cars was a real concern to her. She thought the design of it is attractive and it goes with the neighborhood, she is concerned about the density and population there.

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Commissioner Biddle thanked her. He closed the meeting to public comment as there was no one else. He opened the meeting to Commissioner discussion.

Commissioner Handley stated that he was sympathetic to the residents that made comment. He said that he has lived the situation where they moved from. He bought a house in a single family detached neighborhood and then projects and zoning were changed to the point that multiple large apartment complexes moved in. It does have an impact on property values in the neighborhood. He thought that this was one consideration is this was going to impact property values of the existing properties and having lived this experience himself he was also concerned about the traffic load at Pine and Wildcat. They have all the traffic from the middle school moving now to what is now the 8/9 school. They have substantial development along J Road and if you think about the overall traffic flow that they are looking at in the next few years on J and at that intersection at rush hour and school start hours the concern is the traffic load. He asked if the existing intersection is configured to handle that overall load increase in the coming years as this development is completed, all the other developments are completed along J Road.

Commissioner Hearns said that she didn't quite understand the garages. She said it states it is on the first floor of the three-story row houses, but on Wildcat or do they enter all the way through the house?

Mr. Austin responded that the row homes are configured along Wildcat and South Pine Street and the garages are on the opposite side of those, so they don't face the street frontage, they are on the back side.

Commissioner Hearns clarified that she would drive into the parking lot where her storage units are and then get into my garage through the street they are creating.

Mr. Austin said that they were coming in off the access off Wildcat and would then turn left or right and then he showed her on the screen where it was on the site plan.

Commissioner Hearns thanked him.

Commissioner Hummel wanted clarification from the traffic engineer. He asked if he saw any concern with traffic loads? He asked if he could summarize.

Mr. Skip Hudson answered. He stated that he understood that traffic could be confusing. He appreciated everyone's comments related to concerns about traffic safety, especially around a high school. He had a couple of points that he wanted to make. He said that this would be considered a low traffic generating project. It is lower than what was originally proposed as part of Legacy PUD. He said he had the list, and it was a lot of residential and commercial restaurant much like the citizen said. Commercial would have generated a lot more traffic. He commented that it was the first time he had been at a hearing where someone was unobjecting to a commercial but not residential. What he means by low traffic generating project, the number of parking spaces does not equal the amount of traffic. Those are different calculations. The project trip generation would be around 50 vehicles an hour and that is in the morning and afternoon. It is about one vehicle per minute over the peak hour. They did the counts when

school was in session and the afternoon peak hour was when school was letting out. His analysis was done on that peak period when school was in. The other thing that he is required to do by CDOT, and the City is look at the 20-year condition. In terms of how is going to work in the future with the growth that was mentioned, that is all included in his report. Relatively low volume, he looked at two things, two technical aspects of the intersections and there were three intersections that he looked at. Pine Street, Highway 6 & 50, Wildcat, and Legacy. He then looked at the access, the south access on Legacy. He had a minor clarification on an earlier statement, there was one improvement that was recommended and that is a turn lane north on Pine Street turning onto Wildcat. This was based on traffic volumes, the amount of through traffic and the amount of right turning traffic. That lane is warranted now, but to build it you would need right of way from the trailer park. With traffic growth and project traffic it would add a little more. That would be an improvement that the city could consider in the future. He looked at turn lanes and didn't see a need for any other than the one he mentioned. The other thing he said he looked at was the traffic operations analysis which is level of service. He continued, that this measured vehicle delay, and it grades a test score, A is free flowing or not much delay, F is a lot of delay and a lot of conflicts. At the back of his report, he tried to simplify it a little bit so that they can see all this information in a snapshot. He added that table 11 of the report provides these results of this intersection operational analysis. Intersections in all periods, not just the intersections but the individual movements, left turns through a right turn all operate a level service C or better. For all the analysis conditions, morning, afternoon, opening near the project and a year or so and the 20-year condition. He said that he couldn't identify any operational problems that would require anything like traffic signals or things like that. He continued that there are some turn restrictions in this study area, as you all know that southbound left turn from Pine onto Wildcat is restricted. He stated that this would be a compelling reason to have access to the north side. People coming from the north, if they couldn't turn left on Legacy and get into the project, they couldn't turn left at Wildcat, where would they go? How would they get back to where they live? He felt that this would be problematic. He said that traffic is busy for some periods during the day, but he could safely say that for 23 hours a day the traffic works fine out there and even during the peak periods when he analyzed it, it showed that it worked okay.

Commissioner Hummel thanked him and said that this was helpful.

Commissioner Handley had a follow up question. He stated that District 51 has made it clear that they will close the current middle school and move all the middle school students to the current 8/9 building which is right next door to the high school. All the drop off and pick up traffic is now centered around the current middle school is moving to that new location. He asked in his traffic study if he anticipated that additional load in traffic during at least two periods of the day.

Mr. Hudson responded that nobody saw that coming. He certainly didn't when he did this study 3-4 months ago. It wasn't on the radar as something that was going to happen. He said that his report didn't look at possible changes in traffic and it would be tough to predict what those changes would be. He added that there would be a lot of assumptions and guest work in that, but in these cases the better situation is to look at it after it happens. The city can do some traffic counts after it happens and see if it has created some problems. It was not in his study.

Commissioner Hummel asked where is that intersection on your radar in terms of redevelopment and the Wildcat / Pine intersection? How high is that on the priority level for the city currently?

Mr. Sam Atkins, City Engineer, stated that it was not very high. He stated that the intersections that would be or the construction that would occur well before that would be Fremont and the intersection of Fremont and Wildcat. He said that should relieve some of that pressure. He added that the other thing to keep in mind is what wasn't mentioned is that except for Kingsview, all the Redlands and all of Appleton are going to be shipped to Grand Junction High School. The school district wasn't going to send all the kids that are currently at Fruita to the 8/9 and High School or that school would be over capacity. This is going to change some of the dynamics with the traffic.

Commissioner Biddle asked what trending have we done or noticed in the past in the traffic that those students driving from Redlands to high school, what path might they have typically taken?

Mr. Atkins responded that it depends. He said that they have already shipped Broadway and Scenic to Grand Junction. Formally if you lived on the east end of the Redlands, you would probably take the parkway and come in on the highway. If you were far enough west within the Redlands, you are going to take 340 into town, get out on the highway and then take a left onto Pine Street and a right onto Wildcat. He added that those are the students that are driving. He thought that most of traffic that is going to the 8/9 is probably coming from J and coming down J.3. He said that they can't make the left onto Wildcat coming southbound.

Commissioner Mulder stated that he became a Planning Commissioner because he thought that he could see problems in advance. He remembered 20 years ago when they put the light at the highway and 18 Road. He said that it surprised a lot of people, but it was a good light, and it was necessary. He added that they have had a lot of discussions about Wildcat and Pine Street since and the school traffic that was going on. Rimrock and the 8/9 got built. The traffic multiplied. Along with the fact that he lived north of the highway with many citizens going to work in the morning and coming home in the evening. He continued that when they thought about the load going to the schools in the morning, the loads coming out of the schools in the afternoon and people going to work in the morning, the people coming home din the evening, Pine Street has a load. He said that he has been involved in a double light change more than once waiting to get from Pine Street to the highway. Along with the fact that Maverick gas station has a substantial amount of traffic that comes out onto 18 Road, some of it turns a short turn to make a double left, some of it turns a long turn left to make a right. The car wash empties in the back of Pizza Hut and comes out on the highway. He continued that some of the car wash people come back out to the front and empty out in front of the car wash. He said that he had hopes that this property would be open space or at least minimum development. He said that this was a bit much. As a Commissioner for Planning and as a citizen of Fruita who uses that area frequently, it is not right. He stated that there will be a lot of people living there that will be trying to get out on the road, they will work in Grand Junction so they will come out onto Pine Street, go down to the light, take a left onto the highway and go into town. How many light changes will they have to wait on Pine Street and the highway, he couldn't say. What he felt that he could tell them was that when the high school kids are driving in and driving out, that is one mess. He hoped that there would be a reduction in the density of this project or at the very least two lights, one at

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Wildcat and one at Legacy Way. He added that the traffic from Kiefer down Pine to the light at the highway gets substantial.

Mr. Dan Caris, Planning Director, stated that he wanted to make sure that the Planning Commission and members of the audience are aware that two things were discussed. What are the basic entitlements that already exist that this project is attempting to exercise and the site related plan as it specifically trying to meet the site design review criteria. He stated that when they mesh those two things together, they lose some consistency with what they are trying to render a decision or recommendation on. Do they disagree that this project has entitlements because it is their view and in the Staff recommendation this project already has entitlements, it is already zoned. This then becomes a conversation about the site plan and what is being proposed. There is a set of approval criteria specifically that the Code contemplates. He also mentioned that there is a conversation around the surrounding transportation network and how this project doesn't do anything to solve those problems. They would argue that they have taken a lot of steps that would fly in the face of that analysis, they collect capacity related transportation impact fees that go towards enhancing and increasing the capacity in the network that is surrounding this project for all projects. They do the traffic studies to find out not just if there are recommendations but there are requirements for improvements, and they collect money at building permit or CO and they go towards the improvements that they are going to see next year which is the 19 Road project and some others. These contribute to the overall transportation network as it relates to their impacts.

Commissioner Mulder stated that the word entitlement sets him on edge. Somewhere along the line a developer is going to do the right thing. He added that this project was not the right thing for that location.

Commissioner Biddle stated that there was no rezoning here, so by right they can build what they are looking to build. It was not up to them to decide if they could build it or not. They are there to recommend or not recommend the site plan and what it looked like.

Mr. Caris added that also whether they agreed that they have achieved the approval criteria that is in the Code.

Commissioner Biddle added that part of it, by right, is the density as it stood.

Mr. Caris said he was correct. He added that this was their view and analysis of the PUD guide and the densities that were afforded to the project at the time of zoning.

Commissioner Biddle said that looking at this, he could appreciate that they have gone over on the parking spaces. He said that this was a positive. He saw a concern with traffic flowing into it and not having that left hand turn on Wildcat. That means that they are either taking the long way around or cutting through Legacy. He didn't know what to do about that. He didn't know if there was an answer right of way.

Mr. Skip Hudson said that the city didn't have much say, nor does CDOT when a traffic signal goes in. The requirements for a traffic signal are relatively high and they needed to have more than 15-20 minutes of traffic, they needed to have 4 – 8 hours of a certain volume of threshold where they meet the federal guidelines and requirements for when a traffic signal goes in. He added that there are a lot of CDOT studies that show when a signal goes in, crash rates go up. In the peak hours when you must wait for a cycle, you can get through the intersection safely and not compete with the side traffic. He stated that he was asked to talk about more details related to what quantifies the traffic, the volumes, and the percentage of what goes where. He spoke specifically about Legacy and Pine, they had 7% of project traffic making a southbound left to go onto Legacy and they had 17% going in from the south going northbound making a right onto Legacy. The same 17 % comes out and makes a left. Overall, no more than 17% are project traffic would be on Legacy Way. He asked what that meant in terms of actual volumes? This would be project trips, he showed the morning condition, this would be five vehicles making a left turn out of Legacy and heading south on Pine, there would be one vehicle making a right and heading north, there would be some through traffic on the main line that doesn't turn, two vehicles heading through, two vehicles turning right and the volume on the southbound left was one. The combination of the low trip generation, about 50 trips in an hour in the peak hour that is a combination of inbound and outbound, combined with the low distribution at that means it is less than five vehicles an hour making some of these movements at that intersection.

Commissioner Hearns asked staff why a traffic study is required. She said that she was failing to see where it fitted in the four criteria that she must make the decision on the PUD.

Mr. Atkins said that a traffic study was required once they met a certain threshold of units. What the studies produce are the required improvements based on national standards to the road network if a left turn is warranted, or a free right into the site. Those kinds of things are generated from traffic studies. It gives them a feel for if it is or isn't going to work and it is based on professional traffic engineers that put it together.

Mr. Hudson added that the other part is that the purpose of the traffic study is to give CDOT what they are looking for as well. In this case, if this project would have generated increased traffic by more than 20% where Pine connects into Highway 6 & 50 then a CDOT access permit would've been required that the city would have applied for. He said that they have involved CDOT all the way through this. He did a methodology document that told everyone what his assumptions would be, CDOT and the City approved that and then his final traffic study. In addition to the stuff Sam was talking about identifying improvements on a local road network, that applies to CDOT and state highways as well.

Commissioner Hearns talked about the criteria in the Land Use Code section 17.19.030, Staff outlined the criteria in the Staff report. The more she read them, she didn't interpret that her job tonight is to decide on these four criteria with a traffic study. She felt strongly that the traffic study is part of the other technical admin things that the city does, and she was looking to see if her interpretation is correct. She asked if the traffic study is necessary for the four criteria or for some other criteria.

Mr. Atkins said it was part of the overall site plan and not necessarily part of their criteria. It is part of the Staff's criteria to evaluate the project from a traffic standpoint.

Commissioner Handley complimented the design team. He thought this was a very attractive development. He stated that over the past 2-3 years they have had a lot of discussion about the need for attainable housing. He said that he has advocated for projects like this as part of the solution to our attainable housing problem. He didn't have a problem with this project, and he thought they were being unfairly taken to task on the traffic issue, but it is an issue. He has heard comments from residents that use 18 Road to go to work and come home, regular complaints about the back-up and delays on 18 Road. Part of their job is to look at the historic and current traffic conditions but to also anticipate the future traffic conditions that this project in addition to all the other developments going on will bring. He agreed with Commissioner Mulder that he had a concern about adding not much more traffic load but another piece of the traffic load in addition to everything else they know is coming. He was not sure where they would find the answer to this, the traffic problem isn't theirs to solve, it is the City's problem. How does the current City circulation plan fit into developments like this? He is in favor of this type of development to address attainable housing.

Mr. Hudson responded to traffic growth and how he factored in future development. He said that there is a travel model for the urban areas within Mesa County. He stated that it was administered by the County's Regional Transportation Planning office. That model is updated every five years, he has been on some of the teams that do the updates in the past. If you look at a map of the city, it is broken up by streets into different zones. The model identifies the land use, employment, and population in each of the zones called Traffic Analysis zones. He said that this comes from the local governments, the model goes from Fruita to Palisade and south and includes the major roadways in those communities. The local governments sign off on the land use assumptions that go with the model the existing roadwork is known and then it is asked to run, and the model runs, and it identifies congestion hot spots and the project to address those. He added that this regional model doesn't exist in any other community in Western Colorado, and it is a privilege to have something that looks into the future where the land use from the local governments is an input, and the partners are involved and producing these projections for the future traffic. In his study he looks at the base year model which is 2018 and they count traffic and make sure it matches and then they do the future model which is 2045. He has an estimate of what the future volumes are going to be on Highway 6 & 50 and Pine Street and Wildcat in the 2045 condition which includes the growth that they are talking about.

Commissioner Handley said he thought it was a difficult question. He is a computer scientist and understood flow and event modeling and how the process worked. He spoke about the people of Fruita who use the road today and will use 18 Road increasingly in the future.

Commissioner Hummel said that what he took from Mr. Atkins' response to Commissioner Hearns question was that the traffic study was not really part of their criteria. To him it seemed like a technicality that they leave to the professionals. He was left with what does this project do for the community and does it or not comply with their Comp Plan goals? It is an infill property, it provides a good mix of housing types that hits the missing middle, it gives them a good number of units in a relatively short time frame, it has amazing proximity to GVT with a stop outside and good for commuters who don't have a car and from a design perspective the buildings have good engagement with the pedestrian traffic which he appreciated. In his mind, it checks all the boxes that they have been looking for in terms of growth and development within

a community. He said that they should leave the traffic engineering to the professionals and decide based on the design criteria.

Commissioner Fabula added that if the project didn't go forward with residential and instead goes to commercial, they would see a greater traffic impact. He felt that they needed to recognize that they could have something going to this property that would create a greater traffic impact.

Commissioner Hummel stated that this was the nature of growth. People move here because they are an inclusive community, people like the outdoors, and many people have moved here recently, and it seemed counter to him to say that they can't have this kind of development because they are concerned about traffic or property values. This is something that the community needs, and he is in full support of that.

Commissioner Fabula asked if the property would allow short term rentals?

Mr. Caris responded that it would. He added that it is outside the triangle. He mentioned that it was covenant controlled and that they could disallow those like any other covenant-controlled communities.

Commissioner Fabula thanked the developer for doing the row homes facing Wildcat and Pine. He appreciated the garage access on the back. He understood that the original PUD was in 2007 and he knew a lot happened in 2008. He thought it was a great-looking project. He asked them to describe to him what the detention area will look like. He asked if there was going to be a fence around it prohibiting people from walking through it or will they be able to walk through it? What would the residents on the adjoining property see when they looked out their back window towards the new development?

Mr. Austin pulled up the site plan. He stated that the original 2007 plans for the Legacy PUD, there was a concrete pad down in the bottom of the detention pond that had a picnic table, and they were trying to use the detention facility as an open space recreational amenity. The modifications that they must make to provide water quality treatment won't change the configuration of that detention facility. It changes the outlet control structure. He added that if they went out there now the irrigation system that used to be provided around the detention facility is in shambles and the lines are broken. He added that it is a weed patch right now. He said that the detention facility is in the center core of their development. Their project is going to redo the landscape area in that entire detention facility. It will still be a detention pond, but will be landscaped, better maintained, and irrigated. The original PUD commercial development had a road that ran along the backside of the residential development with all the commercial property out front. They tried to keep the vehicle traffic impacts away from the existing neighborhood area and their apartment project abuts to the back side of the residential units, but they did have a landscape strip that runs along the back side. All that area will be landscaped out. He showed an overall view of the landscape plan for the project.

Commissioner Fabula asked what the distance between building 1 and 2 and the property line to the north?

Mr. Austin showed that it was 27 ½ feet.

Commissioner Fabula asked if people would be able to walk their dogs in that 27 ½ feet?

Mr. Austin confirmed that they would and added that it was meant to be open space. The detention facility is open space right now.

Commissioner Fabula asked what the height of building 1 and 2?

Mr. Austin responded that they were two stories.

Commissioner Fabula asked Zaga Design if they have ever designed a project in Fruita?

Mr. Austin said that their project team has worked on the project on West Aspen that is under construction now. He added that Zaga has worked on other projects here as well.

Commissioner Fabula thanked them again for the row homes on the front, the garages in the back, and he appreciated the parking allotment. He talked about standards nationwide and talked about his personal experience with driving. He stated that it was nice to know that there are 50 garage units and that there are 97 parking spots. He said that he appreciated that they noticed it and that it has been a concern for other developments. He spoke regarding the people's comments on the density, he said that density is always a concern for him, and he appreciated them coming to the meeting and making comments and thanked them.

Commissioner Hearns asked if the City of Fruita had suggestions or requirements for which types of trees or landscape plantings they would like?

Mr. Hemphill responded that there is an appendix at the back of the Code that calls out certain landscape materials that are supported in this region based on the growth, soils, moisture, and seasonality. Those are in the Land Use Code. The landscape plan is required by state statute to be stamped and sealed by a landscape architect that is registered with the state. There are multiple vetting opportunities for landscaping plans to have the right materials in the right location. He added that they review the landscape plan in accordance with the utility plan to make sure that there are no conflicts with overhead power or growth underneath the ground with water lines and power and gas and clear site at the intersections.

Commissioner Hearns stated that she had not read that list of trees. She asked if Fruita allowed for a community amenity like fruit trees or blackberry bushes?

Mr. Hemphill said that they could consult the appendix and the applicant and with the architect they could figure out if that is something they want to do. He added that there were multiple pages of landscape materials allowed in the Code in the appendix that was drafted by the CSU extension. If it is stamped and sealed by the landscape architect, they are looking at heights and any conflicts that the landscape plan has or any opportunities to conserve irrigation water and place some drought tolerant landscaping.

Commissioner Hearns said that what she reviews is what she would like for the community and how she interpreted the community plan. She loved that they were speaking to open space for Commissioner Fabula's questions. She asked if they were interested in a different planting schedule that could be more of a community amenity.

Mr. Austin stated that they were open and if the city wanted us to look at different plant materials, they could do that.

Commissioner Biddle asked what the build out would look like? Would it be a quick process or in phased?

Mr. Austin said that they included a phasing plan with their application. He stated that it would depend on the market conditions. Their initial approach would be to build out the apartment units first and then move into the row homes. It will be market driven and they are hoping to get started next fall with construction.

Commissioner Hearns asked about the storage units. She wanted to know how many and how large they would be.

Mr. Austin responded that they were smaller units. Their client has them on other projects that they have done in Grand Junction. It is mainly to have room to store bikes and gear.

Commissioner Hearns liked the idea. She couldn't find the number of units.

Mr. Austin said that there were 35 total.

Commissioner Hearns felt strongly that this plan was thoughtfully designed and meets the four criteria that are required for a PUD Site Plan development.

COMMISSIONER HEARNS MOVED THAT BECAUSE THE APPLICATION MEETS OR CAN MEET ALL THE APPLICABLE APPROVEL CRITERIA FOR A SITE DESIGN REVIEW, SHE MOVED TO RECOMMEND APPROVEL TO THE CITY COUNCIL WITH FRUITA THE CONDITION THAT THE APPLICATION ADEQUATELY RESOLVE THE OUTSTANDING REVIEW AGENCY CONERNS WITH THE FINAL PUD APPLICATION AND/OR APPROVAL OF A BUILDING PERMIT.

## COMMISSIONER MCGUIRE SECONDED THE MOTION

## **MOTION PASSED 6-1**

There was a short recess.

Mr. Henry Hemphill gave the Staff presentation.

Application #: 2023-35

Application Name: City Market Fueling Station

From: Henry Hemphill
To: Joyce Raney

**Subject:** RE: application # 2023-31

**Date:** Tuesday, December 12, 2023 12:54:00 PM

Attachments: <u>image001.png</u>

Joyce,

Thank you for submitting a public comment on this application. I will make sure the Planning Commission and City Council have these comments.

Thanks,

Henry Hemphill City Planner 970-858-0786



From: Joyce Raney <joyceraney1941@gmail.com>
Sent: Tuesday, December 12, 2023 12:33 PM
To: Henry Hemphill <hhemphill@fruita.org>

**Subject:** application # 2023-31

Regarding the request to build apartment buildings at 1807 Wildcat ave. I would object as the traffic is bad with the Fruita Monument high school and 8 & 9 schools. If they build apartments, we will never be able to get on 18 Road. Since the schools are changing for the next school year, traffic will be worse. If the apartments are built I would request

traffic lights on Wildcat Avenue and Legacy Way. We would need some sort of traffic control.

I live at 1171 Legacy Way. Name Joyce Raney

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## Kelli McLean

From: Mike Bennett

Sent: Monday, January 8, 2024 11:42 AM

To: Donald Ami

Cc: Kelli McLean; Dan Caris

**Subject:** RE: Proposed Wildcat Residences

Mr. Ami,

Thank you for providing your comments and planning to attend the City Council meeting. I wanted to let you know that your comments have been received and will be included in the record of the public hearing. Since this will be a Quasi-Judicial Public Hearing, state law prohibits City Council from participating in any ex parte communication outside of the public hearing. While it is completely appropriate, and encouraged, for you to send your thoughts and comments, the Council is not able to engage outside of the public hearing. I only mention this, so you are not surprised if you do not receive a response from Council members prior to the meeting.

Thank you for being engaged in the community,



## **Mike Bennett**

City Manager, ICMA-CM



**City of Fruita** 

Phone: 970-858-3663
Email: mbennett@fruita.org
Fruita.org | GoFruita.com



**Stay Connected** 

From: Donald Ami <donaldami1@gmail.com> Sent: Monday, January 8, 2024 10:03 AM

**To:** Joel Kincaid <jkincaid@fruita.org>; Matthew Breman <mbreman@fruita.org>; Ken Kreie <kkreie@fruita.org>; Jeannine Purser <jpurser@fruita.org>; James Williams <jwilliams@fruita.org>; amiller@fruia.org; Aaron Hancey <a href="mailto:ahancey@fruita.org">ahancey@fruita.org>; Mike Bennett <mbennett@fruita.org>

**Subject:** Proposed Wildcat Residences

I wish to voice my opposition to the proposed Wildcat Residences as currently shown on the published site plan. My opposition is based on the fact that if the Wildcat Residences are built as proposed, it will destroy the property value of my home. I do not believe that any housing anywhere should take precedence over existing houses that current homeowners have paid a lot of money for. I know that the developers and even some council members will tell me that this isn't true and that I am overreacting. However, I have already lived this experience once and that experience has left a paper trail of documents that prove my point.

I attached a site map of our subdivision in Palatine, Illinois. Our house was number 905 in Briar Cove. As you can see the distance from our house to the Countryside Apartments was about the same distance as our current house is to the

Section A, Item 2)

time, we put well over \$50,000 of improvements into it. Those improvements included installing hardwood floors, replacing all windows and sliding patio doors and remodeling two bathrooms and the kitchen. In 2022 when we moved to Fruita we sold the house for \$26,000 more than we paid for it which represented a capital gains loss. I can produce closing documents, improvement receipts and tax returns proving the capital gains loss.

In spite of a successful open house when we were selling our house that had over twenty-five people walk through it, we only received one offer to buy. I asked my realtor why no one bid on the house with all the improvements that were made. The answer was the Countryside Apartments that were across the street from our subdivision. Like the proposed Wildcat apartments, the Countryside apartments were two-story high-density apartments. The Countryside Apartments were not "Affordable Housing". Rents there are currently \$2,000 a month. That didn't matter. No one wanted to buy a house and live that close to rental apartments. The reason is obvious. Renters do not take care of the property the way owners do. Renters have no money invested in the property, so they don't care what happens to it. There is no pride of ownership because there is no ownership.

We bought our current house in the Legacy subdivision a year and a half ago. We paid \$497,000 for it. In addition, in the short time we have been here we have already made improvements to the house that total \$40,000. These improvements include all new stainless-steel appliances in the kitchen and laundry room, new entrance and storm doors for our front and patio doors and a completely remodeled bathroom from our master bedroom. We have pride of ownership.

Had the Wildcat apartments been in place when we purchased our house, we would not have bought it. We definitely would not have paid almost a half million dollars for it. There are forty homeowners in the Legacy subdivision. If the Wildcat apartments as proposed are built the loss of property values to me and every homeowner in the Legacy subdivision will be deep and they will be permanent, no matter how long we own the home.

We are not against affordable housing. Almost every city in America today has some form of affordable housing. However, none of them place that housing directly next door to expensive homes negatively affecting the value of those homes. There are better places in Fruita where it can be built that would not affect the property values of current homeowners. A much better use of this land that would complement the existing homes in the area would be owner-occupied single-family homes or townhomes like the ones located in the Village at Country Creek subdivision only one mile north of us on Pine Street, also owner-occupied.

And so, in closing I will ask all the council members, would you invest a half million dollars of your personal money in a house in the shadow of high-density rental apartments? If the answer is no, then the council needs to deny approval of the current site plan. Thank you for your time.

Donald Ami 1183 Shady Lane

donaldami1@gmail.com 224-489-8814 [EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

## Kelli McLean

**From:** Mike Bennett

**Sent:** Monday, January 8, 2024 11:43 AM

**To:** Kristine Sudrovech Ami

**Cc:** Kelli McLean; Dan Caris; Donald Ami

**Subject:** RE: For Review prior to 1/16/24 Fruita City Council Public Hearing

Mrs. Ami,

Thank you for providing your comments and planning to attend the City Council meeting. I wanted to let you know that your comments have been received and will be included in the record of the public hearing. Since this will be a Quasi-Judicial Public Hearing, state law prohibits City Council from participating in any ex parte communication outside of the public hearing. While it is completely appropriate, and encouraged, for you to send your thoughts and comments, the Council is not able to engage outside of the public hearing. I only mention this, so you are not surprised if you do not receive a response from Council members prior to the meeting.

Thank you for being engaged in the community,



## **Mike Bennett**

City Manager, ICMA-CM

City of Fruita

Phone: 970-858-3663

Email: mbennett@fruita.org

Fruita.org | GoFruita.com

OON

From: Kristine Sudrovech Ami <ksudrovech@yahoo.com>

Sent: Monday, January 8, 2024 9:56 AM

**To:** Joel Kincaid <jkincaid@fruita.org>; Matthew Breman <mbreman@fruita.org>; Ken Kreie <kkreie@fruita.org>; Jeannine Purser <jpurser@fruita.org>; James Williams <jwilliams@fruita.org>; Amy Miller <amiller@fruita.org>; Aaron

Hancey <ahancey@fruita.org>; Mike Bennett <mbennett@fruita.org>

Cc: Don Ami <donaldami1@gmail.com>

Subject: For Review prior to 1/16/24 Fruita City Council Public Hearing

My name is Kris Sudrovech Ami and I am an owner of 1183 Shady Lane in Fruita. My husband and I attended the Fruita Planning Commission meeting on Tuesday, December 12 to provide our concerns on the Wildcat Residences project, application #2023-31. This development was approved by the Planning Commission at the meeting, with one member in dissent. We will also be attending the Fruita City Council meeting on January 16, but I wanted to give you my feedback for your serious consideration before that meeting.

Our house is in the neighborhood just to the north of this project, in the Legacy PUD development. We purchased the home and moved to Fruita from Illinois in July, 2022. We thought the vacant land to the

Section A, Item 2)

south of our subdivision was zoned Commercial, but learned at the Planning Commission med zoned for both Commercial and Residential mix. That was a bit of a surprise as the open lot is not that big and doesn't appear to be big enough for a residential development.

Our subdivision is made up of single family detached homes, 40 in total. To the east of us on J Road, the subdivisions are also single family homes. Also to the East across from Fruita Monument High School there are businesses that fall under the Commercial zoning category. Across Pine Street/18 Road to the West, there are coach houses and townhouses. At the meeting, the City Developer said they try to approve new developments that are consistent with the neighborhood. Clearly, this is not the case with the proposed Wildcat Residences development.

This proposed development is Apartment Buildings and Rowhomes with ADUs. No where have I seen that these will be owner occupied, so assume all of the new proposed housing will be rentals. This does not seem to follow the City guideline of being "consistent with the neighborhood". While this might be a good affordable housing development for Fruita's Master Plan to increase available housing, the density of the project doesn't fit the current proposed site or neighborhood makeup. It should not be approved as proposed to go into this vacant area. It would be much better served if it was moved somewhere else in Fruita that has more land to develop and something with a more consistent neighborhood makeup.

One of the biggest concerns I have is the probable increase in traffic in this area with the addition of the 65 units in the development. The stated required parking for the additional 65 units is 113 spaces, and the developer is proposing 143 parking spaces in total. This development is being proposed across from the Fruita Monument High School. For those of you who aren't familiar with this area, there is already a significant amount of traffic during the school year in the morning and afternoons on both Wildcat/J Street and along Pine Street/18 Road coming and going from both schools on Wildcat. Pine Street/18 Road is also a very heavy trafficked north/south street in Fruita. It is one of the only north/south streets that accesses the whole village and all of the newest developments to the north. So Pine Street/18 Road is already a very busy street in Fruita at any given time already.

Although it has always been there since we have lived here, we surmise the Stop Light at 6 & 50 with Pine Street/18 Road was installed there because of the increase in traffic in this area due to the issues described above. As it is the only one of very few stop lights in Fruita, that's very telling and supports our concerns about increasing traffic in the area with this development. In addition, is it currently not possible to turn left from Pine Street/18 Road onto Wildcat Road when traveling south. This means anyone living in the new development driving south on Pine Street will have to access the development from Legacy Way, the south entrance into our subdivision. We already experience delays on a regular basis exiting Legacy Way to go left/south on Pine Street. Adding all of the additional traffic from the new development will only increase those delays for us and our neighbors.

I brought up the traffic concerns at the Planning Meeting on December 12. Although it was discussed by the committee members before the vote to approve the proposed development, the Commission determined that the traffic issues would have to be dealt with in some other fashion. It was stated "the purpose of the Planning Commission is to approve developments, not deal with traffic issues". That statement raised a red flag for me. I think the increased traffic issues are substantial and need to be looked at in more detail before this development plan goes forward.

I hope the City Council will take these concerns more seriously and address it before moving forward to approve this new development as currently proposed in Fruita. Thank you for your time and attention with this matter.

Respectfully,

Kris Sudrovech Ami

1183 Shady Lane

970-639-2838

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## AGENDA ITEM COVER SHEET

**TO:** Fruita City Council and Mayor

**FROM:** Planning & Development Department

**DATE:** January 16, 2024

**AGENDA TEXT:** RESOLUTION 2024-02, A Resolution of the Fruita City Council finding

approximately 14.52 acres of property located at 1873 K Road eligible to be

annexed into the City of Fruita.

(1873 K Road Annexation)

## BACKGROUND

The property owner of 1873 K Road has submitted an application to annex and zone the property. Staff has reviewed this annexation request and finds that the property meets the city and state laws that must be met to find a property eligible for annexation.

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

At their December 12, 2023, public meeting the Planning Commission recommended approval of the annexation by a vote of 7-0 to the Fruita City Council. No public comments have been received nor were there any public comments made at the Planning Commission meeting.

## FISCAL IMPACT

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

There will be services extended with this annexation. Conditions of approval are explained in the Staff Report.

## APPLICABILITY TO CITY GOALS AND OBJECTIVES

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

#### OPTIONS AVAILABLE TO THE COUNCIL

- 1. Approve Resolution 2024-02, finding the property eligible for annexation.
- 2. Deny Resolution 2024-02

#### RECOMMENDATION

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

APPROVE RESOLUTION 2024-02, A RESOLUTION OF THE FRUITA CITY COUNCIL FINDING APPROXIMATELY 14.52 ACRES OF PROPERTY LOCATED AT 1873 K ROAD ELIGIBLE TO BE ANNEXED INTO THE CITY OF FRUITA.

#### **RESOLUTION 2024-02**

## A RESOLUTION OF THE FRUITA CITY COUNCIL FINDING APPROXIMATELY 14.52 ACRES OF PROPERTY LOCATED AT 1873 K ROAD ELIGIBLE TO BE ANNEXED INTO THE CITY OF FRUITA.

**WHEREAS**, the City of Fruita has received a petition to annex property which is described and shown on the attached Exhibit A, and

**WHEREAS**, the Planning Commission recommended approval of the annexation petition at their December 12, 2023 public meeting.

## NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT THE CITY COUNCIL FINDS AND DETERMINES:

**THAT** a properly constituted petition signed by 100% of the owners of the real property described and shown on Exhibit A has been submitted to the City of Fruita and an election is not required under C.R.S. 31-12-107, and

**THAT** the real property described on Exhibit A has at least 1/6 of its perimeter contiguous to existing city limits of the City of Fruita, and

**THAT** annexation of the property complies with all pertinent requirements of C.R.S. 31-12-104, 105 & 106 to be eligible for annexation, and

**THAT** all special districts encompassing the subject property were noticed as required under C.R.S. 31-12-108, and

**THAT** a notice of the public hearing was properly advertised having appeared once per week for four consecutive weeks in a local publication, and

**THAT** the property shown and described on Exhibit A is eligible for annexation into the City of Fruita.

**BE IT FURTHER RESOLVED BY THE FRUITA CITY COUNCIL,** that based on the above findings, it is the intent of the City of Fruita to annex the real property described and shown in Exhibit A.

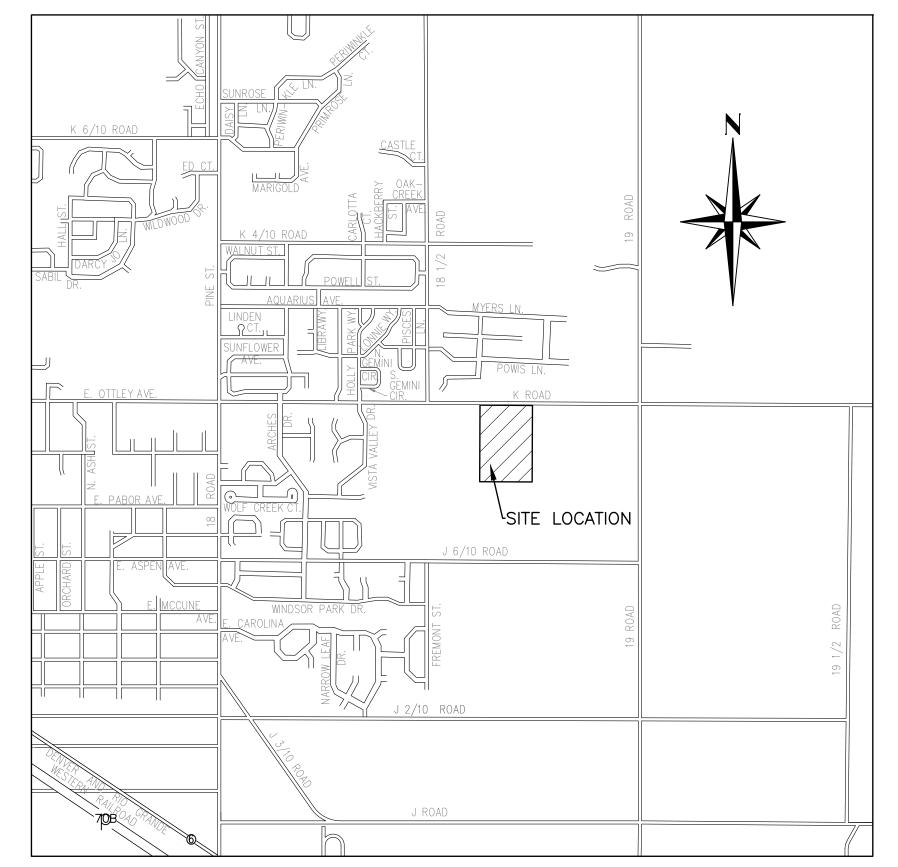
## PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS 16<sup>th</sup> DAY OF JANUARY 2024.

ATTEST:	City of Fruita	
Margaret Sell, City Clerk	Joel Kincaid, Mayor	

## EXHIBIT A

## ANNEXATION

SITUATED IN THE NW1/4 NE1/4 SECTION 16 TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO



VICINITY MAP : NOT TO SCALE

### **ABBREVIATIONS:**

- NORTH SOUTH EAST
- WEST TOWNSHIP
- RANGE MESA COUNTY SURVEY MARKER
- RIGHT OF WAY
- SURVEY INFORMATION MANAGEMENT SYSTEM
- PROFESSIONAL LAND SURVEYOR
- No. NUMBER GLOBAL POSITIONING SYSTEM
- **IDENTIFICATION** SQUARE

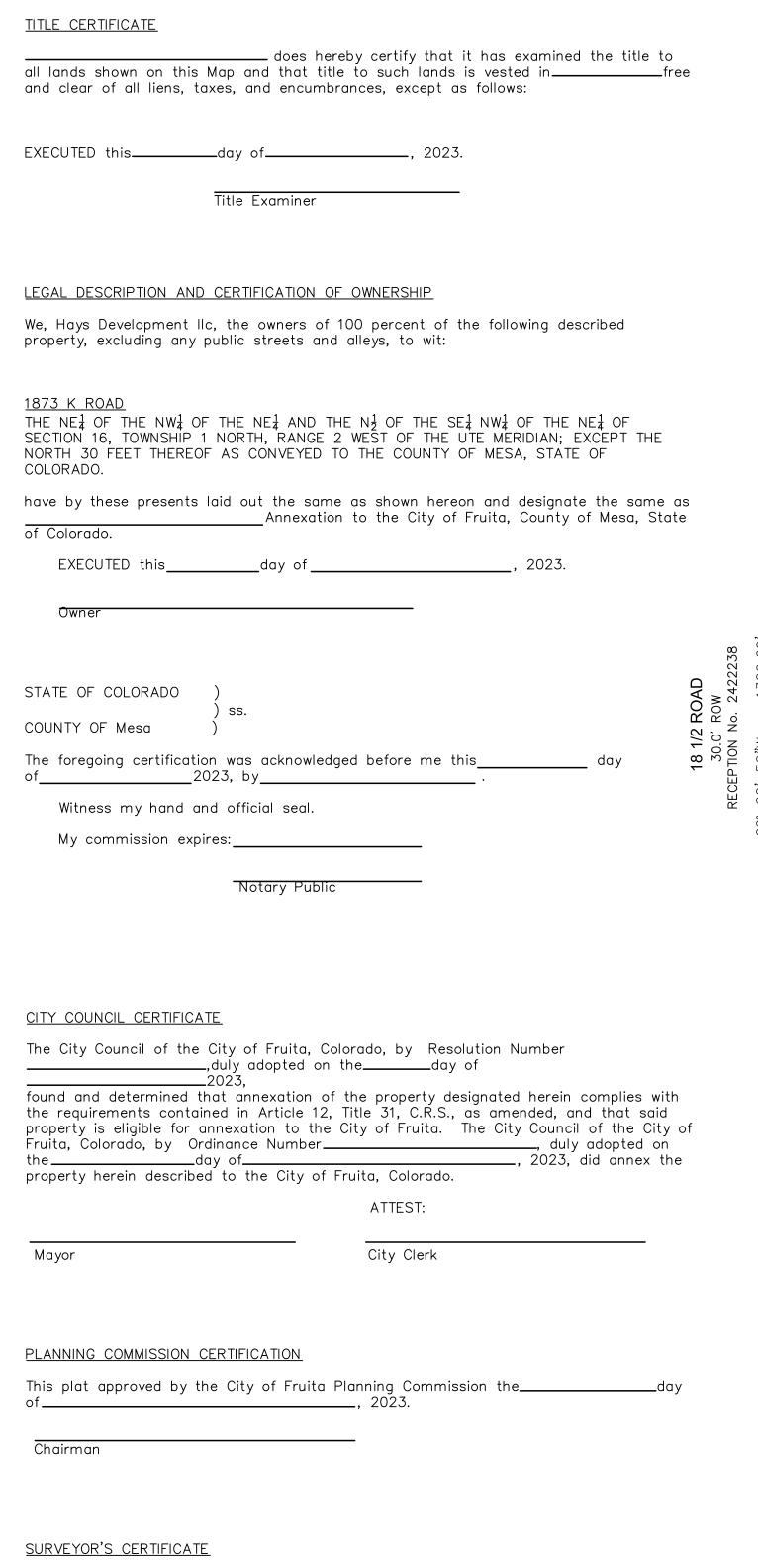
STREET

- FT FEET AVE. **AVENUE**
- CT. COURT

ST.

- LANE
- DR. DRIVE UNITED STATES U.S.
- LIMITED COMMON ELEMENT
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. **POINT OF BEGINNING** W.C. WITNESS CORNER

1. BEARINGS ARE BASED ON THE NORTH LINE OF NW1/4 NE1/4 SECTION 16, TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN. THE VALUE USED S89°54'52"E, WAS CALCULATED USING THE MESA COUNTY LOCAL COORDINATE SYSTEM. MESA COUNTY SURVEY MARKERS WERE FOUND AT THE EAST AND WEST ENDS OF SAID LINE AS SHOWN HEREON.



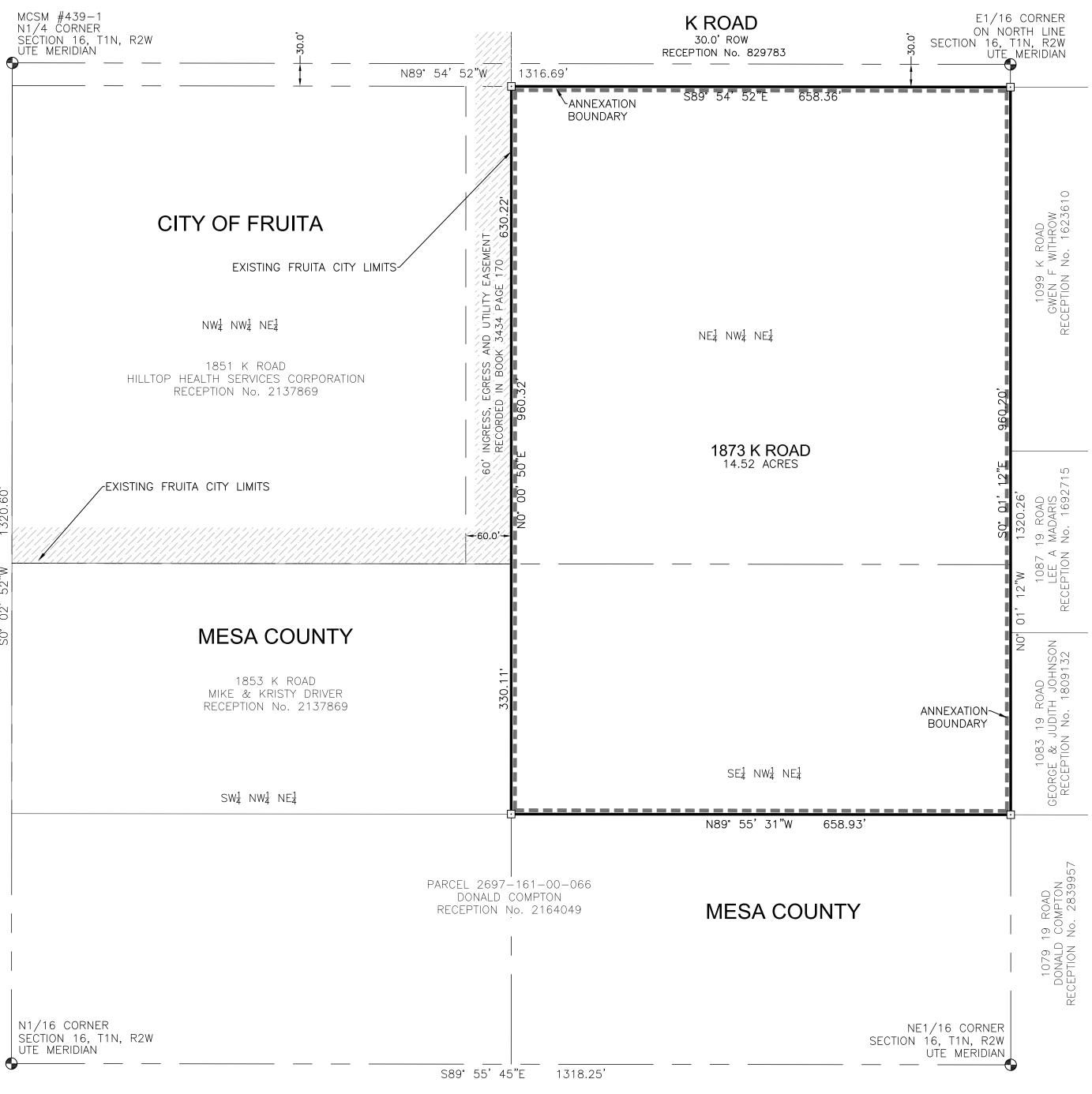
I, Patrick W. Click, a registered land surveyor licensed under the laws of the State of Colorado, do hereby certify that this survey was made under my direct supervision and

that the information hereon is correct to the best of my knowledge and belief, and that no less than one—sixth (1/6) of the perimeter of the area as shown hereon is contiguous with the existing boundaries of the City of Fruita, Colorado. I further certify

that the external boundaries of the property shown on this Map have been

monumented on the ground.

Registered Land Surveyor



# 1873 K ROAD ANNEXATION

GRAPHIC SCALE:

1"=100'

LINEAR UNITS ARE U.S. SURVEY FEET

SET No. 5 REBAR WITH 2 INCH ALUMINUM CAP PLS 37904

TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO JOB #: 2023-161 FIELD WORK: SL DRAWN BY: NB

DATE: 10/26/23 DRAWING NAME: 1851 & 1873 K RD CHECKED BY: PC

POLARIS SUR VEYING

PATRICK W. CLICK P.L.S. 3194 MESA AVE. #B

SITUATED IN THE NW1/4 NE1/4 SECTION 16



#### PLANNING & DEVELOPMENT DEPARTMENT STAFF REPORT DECEMBER 12, 2023

Application #: 2023-33

**Project Name:** 1873 K Road Annexation

Application: Annexation

Property Owner: Hays Development LLC

Representative: Griffin Design and Construction, LLC

Location: 1873 K Road

Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-

County zoning)

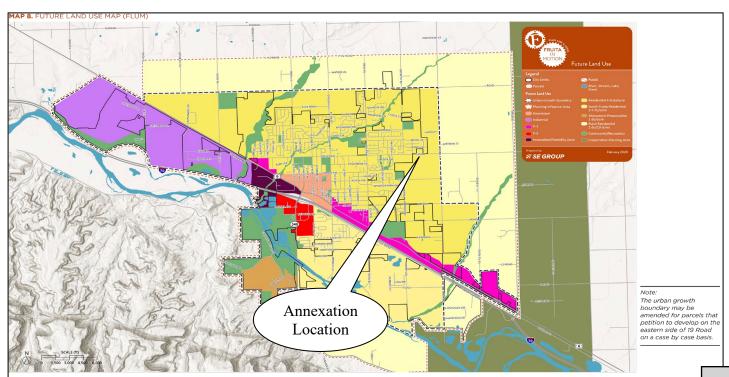
Request: This is a request for approval of the annexation of approximately

14.52 acres into the Fruita City Limits.

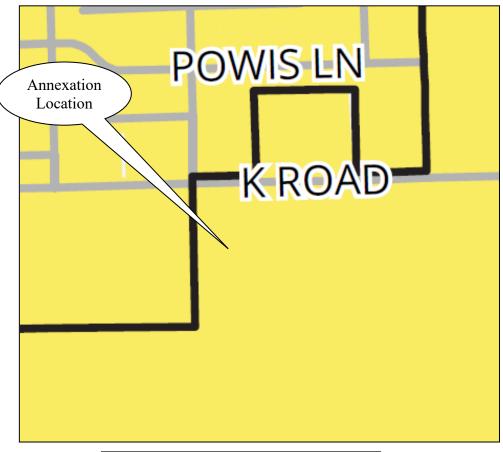
#### **PROJECT DESCRIPTION:**

The property owner of 1873 K Road has applied for an application to annex approximately 14.52 acres of property located on the south side of K Road and south of the Brandon Estates Subdivision. The subject property currently contains a single-family dwelling unit along with some other agricultural outbuildings.

#### **FUTURE LAND USE MAP (FLUM)**



292

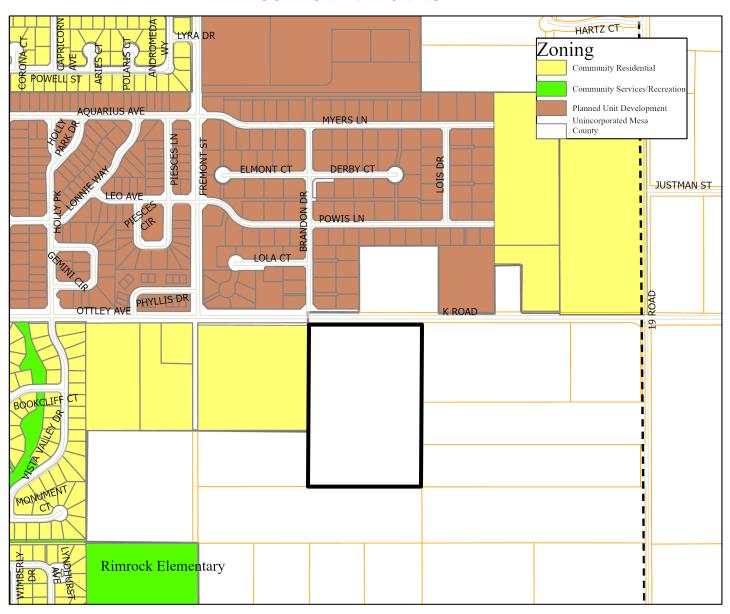




#### **SURROUNDING LAND USES AND ZONING:**

Surrounding land uses are primarily single family detached residential. The Brandon Estates Subdivision is located to the north, Vista Valley Subdivision to the west, and Rimrock Elementary to the south.

#### **LOCATION AND ZONING MAP**



#### **2022 AERIAL PHOTOGRAPH**



#### **ANNEXATION**

Section 17.17.050 (A) - If the subject property is located within the city's Urban Growth Boundary (UGB) as defined by the Fruita Community Plan, annexation may be approved only after considering the following criteria:

#### 1. The annexation meets the requirements of the applicable State Statutes;

This annexation request meets the requirements of state laws. The property has the required 1/6<sup>th</sup> contiguity with existing city limits which is required per Section 31-12-104 of the Colorado Revised Statutes (CRS).

The total perimeter measures 3,237.81 feet. The city limits border this property on the west side by approximately 630.22 feet, meeting the requirement for a 1/6<sup>th</sup> contiguity.

Additionally, the Fruita Comprehensive Plan supports this area to be incorporated within the city limits as referenced in the above map. This criterion <u>has been met</u>.

## 2. The area is or can be efficiently served by city utilities and capital investments, including water, sewer, parks, drainage systems and streets;

Annexation of the subject property will not trigger an extension of city utility services. The subject property is currently being served by Ute Water, Excel Energy services, and has direct access from K Road. The subject property currently has a septic system to treat wastewater and will need to connect to the City's sewer system if/when developed. If the subject property were to develop, there would be adequate review of additional utilities and infrastructure associated with residential development.

In addition to this annexation, the city will be annexing the adjacent K Road right-of-way as a condition of approval.

This criterion <u>can be met</u> as the city has planned for the subject property to be incorporated into the city limits within the Comprehensive Plan.

#### 3. The area is contiguous with existing urban development;

The subject property is contiguous with urban development on the north side, with Brandon Estates. The remaining properties nearby that are undeveloped and/or remain in Unincorporated Mesa County are supported for residential development within the City of Fruita.

This <u>criterion has been met</u>.

## 4. The area is or can be efficiently served by police and other municipal services;

The subject property is within the service area for the Fruita Police Department, the Lower Valley Fire District. The City of Fruita's wastewater services are located in K Road and have the capacity to serve the subject property when needed or when the property develops in the future. Since the subject property is already being served by these services, this criterion <u>has been met and can be met with regard to wastewater services</u>.

## 5. The development is consistent with community goals, principles, and policies as expressed in the Fruita Comprehensive Plan;

Annexation within the Comprehensive Plan states that the city should, "Approve annexation of parcels within the UGB (Urban Growth Boundary) at the desired densities as described in the FLUM (Future Land Use Map). Annexation should help ensure that new development at the edge of the city is consistent with the goals and policies of this plan."

Additionally, the city should "Ensure that new development pays its own way and does not burden the existing community with additional capital or operating costs. Ensure that new annexations at the city's edge share appropriately in the costs of connecting all utility, park, drainage, pedestrian, and road systems."

Furthermore, the city should "Avoid 'leapfrog' developments that leave discontinuous street and utility systems. Consider annexation proposals on the basis of the logical and cost-effective extension of utilities, pedestrian connections, parks, drainage, and road systems. Also consider the fiscal burden of the annexation in terms of major capital investments that would be needed by the City (wastewater, roads)."

Annexation of the subject property has been considered as meeting the intents and purposes of the basis of logical and cost-effective extensions of utilities and road systems.

Annexation of the property is consistent with the Fruita Comprehensive Plan. These approval criteria are intended to implement the goals and policies of the Fruita Comprehensive Plan regarding annexations. It appears that the approval criteria either have been met or can be met, therefore, this annexation is consistent with the Fruita Comprehensive Plan.

#### 6. The annexation is supported by local residents and landowners;

The Fruita Comprehensive Plan (Fruita In Motion: Plan Like A Local) was adopted by the Fruita City Council on February 4, 2020 (Resolution 2020-09). Fruita in Motion: Plan like a Local speaks to the community's significant role in the planning process. Residents helped shape every element of the plan, from sharing what they valued about Fruita and identifying issues for the plan to address, to reviewing drafts, and providing feedback on goals and policies. The process reached a large swath of the community, through traditional outreach (open houses, an advisory committee) and meeting people where they are, with booths at farmers markets, the art stroll, and other city events and the draft plan tour, where City staff met with HOAs and other local groups to share the plan and hear input from the community.

With regards to the subject property, 49 landowners were noticed of this annexation application. The number of property owners noticed of this application is set forth with the legal notice requirements contained in the Land Use Code. Staff has not received written public comments regarding this application.

The annexation is supported by the landowner and the landowner has signed the annexation petition. This is in accordance with C.R.S 31-12-107.

This criterion has been met.

## 7. Water and ditch rights can be provided, as applicable, in accordance with city policies;

The city standard is 1 - 1.5 irrigation shares per irrigated acre.

This application was sent to Grand Valley Irrigation Company (GVIC) for review and they had no comments regarding this application.

Additionally, this application was sent to Ute Water and review comments indicate no objections.

This criterion can be met.

## 8. The area will have a logical social and economic association with the city, and:

Annexation of the subject property will not provide much with respect to an economic association with the city at this time. Once the subject property is developed, the additional dwelling units should provide for a logical social impact to the city. This criterion can be met.

## 9. The area meets or can meet the existing infrastructure standards set forth by the city.

Staff recommends approval of the annexation petition with the condition that there will be dedication of additional multi-purpose easements as follows:

- 1. Dedication of a 14-foot multipurpose easement adjacent to the right of way adjoining the subject property.
- 2. Dedication of an additional 5 feet of right-of-way along Ottley Avenue (K Road).
- 3. Legal Description of Ottley Avenue adjacent to the subject property.

This criterion can be met.

Based on this information, the annexation of the subject property <u>meets or can meet the approval criteria</u> that must be considered for annexations.

#### **REVIEW COMMENTS:**

No reviewer expressed any issues with the proposed annexation.

#### **PUBLIC COMMENTS:**

No written public comments have been received by Staff at this time.

#### **LEGAL NOTICE**

Legal Notice (minimum of 15 days prior to Planning Commission)	
November 22, 2023	Post Cards
November 22, 2023	Sign Posting
November 24, 2023	Legal Ad



#### **STAFF RECOMMENDATION:**

Staff recommends <u>approval</u> of the annexation petition with the condition that there will be dedication of a 14-ft multipurpose easement adjacent to the right of way, additional right-of-way dedication along Ottley Avenue, and a prepared legal description of Ottley Avenue adjacent to the subject property.

#### **SUGGESTED PLANNING COMMISSION MOTION:**

Mr. Chair, I move that we recommend <u>approval</u> to City Council, of application #2023-33, the 1873 K Road Annexation with the condition that all review comments and issues identified in the Staff Report be adequately addressed or included with the Annexation Ordinance.

#### **ANNEXATION SCHEDULE:**

1873 K Road Annexation Schedule	
Date	Action
November 21, 2023	Resolution to set a hearing date to determine eligibility.
	Published in Daily Sentinel (Once a week for 4 consecutive weeks)
	• December 1, 2023
	• December 8, 2023
	• December 15, 2023
	• December 22, 2023
December 12, 2023	Planning Commission considers Annexation & Zone
December 19, 2023	<ul> <li>1st Reading of an Ordinance to Zone</li> <li>1st Reading of an Ordinance to Annex</li> </ul>
January 16, 2024	<ul> <li>Resolution to find the property eligible for</li> <li>Annexation 2nd Reading of an Ordinance to         Annex     </li> </ul>
7 137 ( )	2nd Reading of an Ordinance to Zone
Legal Notice (minimum of 15 days prior to Planning Commission)	
November 22, 2023	Post Cards
November 22, 2023	Sign Posting
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#### ANNEXATION IMPACT REPORT

#### CITY OF FRUITA November 14, 2023

**Application #: 2023-33** 

**Project Name:** 1873 K Road Annexation

Application: Annexation

Property Owner: Hays Development LLC

Representative: Griffin Design and Construction, LLC

Location: 1873 K Road

Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-

County zoning)

Request: This is a request for approval of the annexation of approximately 14.52

acres into the Fruita City Limits.

Section 17.17.040 of the Fruita Land Use Code states that any annexation not requiring an election shall be accompanied by an annexation impact report which contains the following elements.

## A. Plans of the municipality for extending to or otherwise providing for municipal services;

The Future Land Use Map (FLUM) within The Fruita In Motion: Plan Like A Local Comprehensive Plan shows the subject property within the City's Urban Growth Boundary. The Urban Growth Boundary was developed with the anticipation of providing the necessary municipal services. With that said, the city <u>does</u> have plans to provide municipal services to this area.

Historically, the City of Fruita has not forced the extension of municipal services. The city has been proactive in planning for future extensions of the city limits with regards to providing municipal services to the areas designated in the Urban Growth Boundary. This includes the municipal services provided by the City of Fruita (sanitary sewer and police).

#### B. The City of Fruita's anticipated financing of the extension of services;

The City of Fruita will <u>not</u> be financing the extension of services (water, sewer, gas, etc.) to the subject property at this time.

#### C. The special districts included in the territory to be annexed;

No special districts are included within the territory to be annexed. Below are the agencies or entities that have taxing authority over the territory to be annexed. These agencies have been notified of the annexation application.

- 1. Lower Valley Fire Protection District.
- 2. Mesa County School District 51.
- 3. Grand Valley Irrigation Company.
- 4. Grand Valley Mosquito Control District.
- 5. Mesa County Public Library District.
- 6. Grand Valley Drainage District.
- 7. Colorado River Water District.
- 8. Library District.
- 9. Mesa County Social Services.

## D. The effect of annexation on the public school district system including the estimated number of students generated and capital construction required to educate each student;

The school district boundaries for Rimrock Elementary School, Fruita Middle School, Fruita 8/9, and Fruita Monument High School already include the subject property. This implies that no new impacts on the school system would be generated from this annexation application. The impacts to the school district system will be evaluated by the Mesa County Valley School District when this property develops. The School District has been made aware of this annexation.

#### E. Traffic/pedestrian/bicycle impacts;

Traffic, pedestrian and bicycle impacts should not change with the annexation of the subject property. Traffic, pedestrian and bicycle impacts will remain the same.

#### F. Wastewater, water, drainage, and irrigation impacts, and;

Impacts on these facilities shouldn't change with the annexation itself. When the property develops, necessary regulations from review agencies will be reviewed with a land development application.

## G. Other relevant information as required by the Community Development Department.

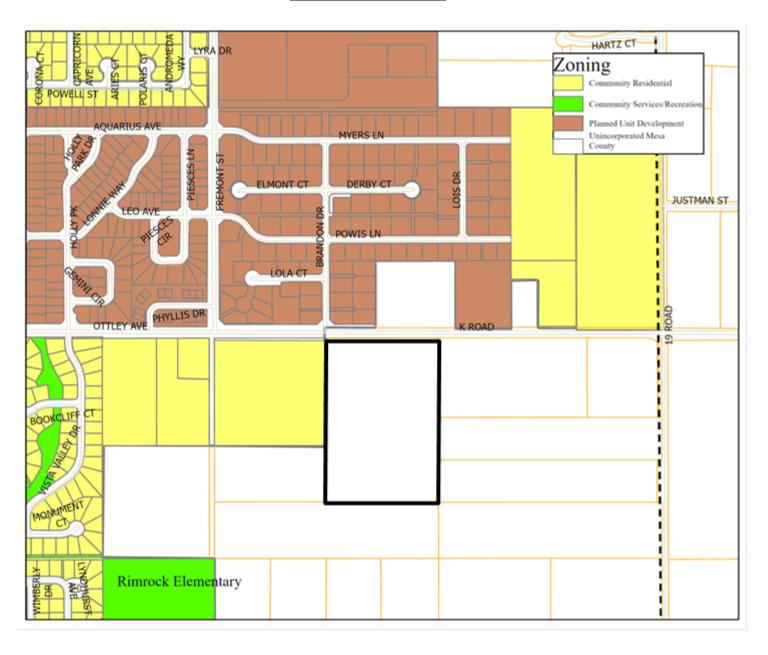
#### **Review Agencies:**

- 1. Xcel Energy
- 2. Grand Valley Power Company
- 3. Charter Communications

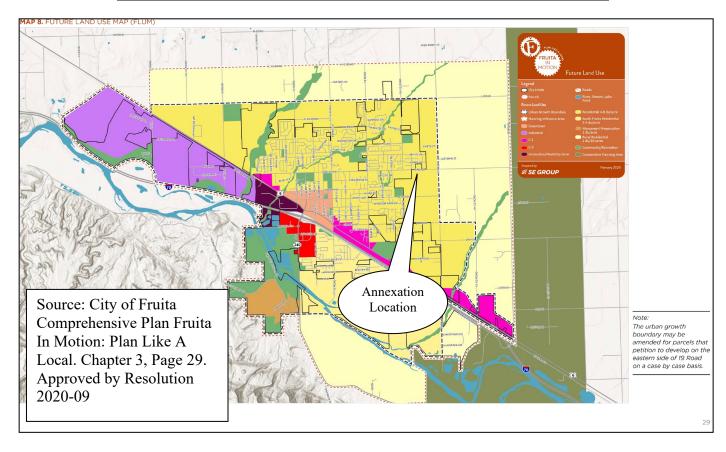
- 4. Century Link
- 5. Ute Water
- 6. Grand Valley Drainage District
- 7. Grand Valley Irrigation Company
- 8. Mesa County Community Development Department
- 9. Fruita Building Department
- 10. Mesa County Surveyor
- 11. Mesa County Valley School District (School District 51)
- 12. 5-2-1 Drainage Authority
- 13. Lower Valley Fire Protection District
- 14. Grand River Mosquito District

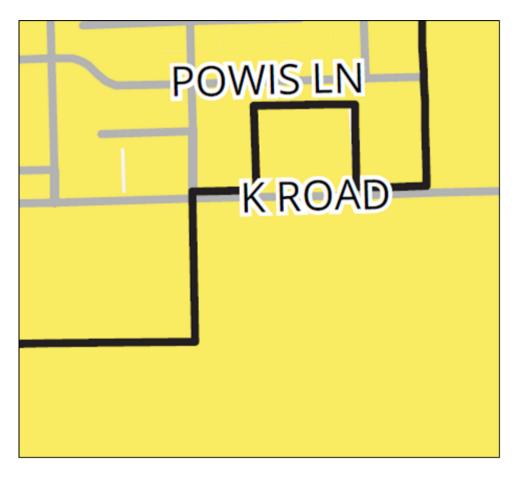
### **Map Exhibits:**

#### **Present City boundary**



#### Proposed City Boundary set forth in the Future Land Use Map (FLUM)









#### AGENDA ITEM COVER SHEET

**TO:** Fruita City Council and Mayor

**FROM:** Planning & Development Department

**DATE:** January 16, 2024

**AGENDA TEXT:** ORDINANCE 2024-03, SECOND READING, An Ordinance annexing

approximately 14.52 acres of property located at 1873 K Road into the City of

Fruita.

(1873 K Road Annexation)

#### BACKGROUND

The property owner of 1873 K Road has submitted an application to annex and zone the property. Staff has reviewed this annexation request and finds that the property meets the city and state laws that must be met to find a property eligible for annexation.

The property has at least  $1/6^{th}$  of its perimeter contiguous with existing city limits and it is within the city's Urban Growth Boundary. Urban development exists on the west side of the property and is identified for urban development by the city's Master Plan. The City Council approved Resolution 2023-36 on November 21, 2023, which set a public hearing date to determine the eligibility for this application. This Resolution is required by section 31-12-107 of the Colorado Revised Statutes.

At their December 12, 2023, public meeting the Planning Commission recommended approval of the annexation petition by a vote of 7-0 to the Fruita City Council. No public comments have been received nor were there any public comments made at the Planning Commission meeting.

#### FISCAL IMPACT

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

There will be services extended with this annexation. Conditions of approval are explained in the Staff Report.

#### APPLICABILITY TO CITY GOALS AND OBJECTIVES

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

#### OPTIONS AVAILABLE TO THE COUNCIL

- 1. Adopt Ordinance 2024-03, An Ordinance annexing approximately 14.52 acres of property located at 1873 K Road into the City of Fruita.
- 2. Deny Ordinance 2024-03.

#### RECOMMENDATION

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

ADOPT ORDINANCE 2024-03 ANNEXING APPROXIMATELY 14.52 ACRES OF PROPERTY LOCATED AT 1873 K ROAD INTO THE CITY OF FRUITA.

#### **ORDINANCE 2024-03**

### AN ORDINANCE ANNEXING APPROXIMATELY 14.52 ACRES OF PROPERTY LOCATED AT 1873 K ROAD INTO THE CITY OF FRUITA

**WHEREAS**, the Fruita City Council finds that it is necessary to annex certain real property contiguous to the City of Fruita in order to:

- 1. Promote the public health, safety, and welfare of the community;
- 2. Insure efficient provision of municipal services and fair and equitable distribution of cost amongst those who use services provided by the community; and,
- 3. Provide for orderly growth of the community; and,

**WHEREAS,** the City Council adopted a Resolution finding that the real property described and shown on Exhibit A is eligible for annexation pursuant to C.R.S. 31-12-104 and 105, stating their intent to annex same and initiating the annexation procedures.

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

<u>Section 1</u>: The Fruita City Council, having reviewed a properly constituted petition of all the owners of real property in the area proposed for annexation, hereby annexes the property as described and shown in Exhibit A, and the Fruita City limits are hereby modified to reflect said annexation.

#### **Section 2:** Conditions of said annexation include:

- 1. Dedication of a 14-foot multipurpose easement adjacent to all the right of way adjoining the subject property.
- 2. Dedication of an additional 5 feet of right-of-way along Ottley Avenue (K Road).
- 3. Legal Description of Ottley Avenue adjacent to the subject property.

### PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS 16<sup>th</sup> DAY OF JANUARY 2024.

ATTEST:	City of Fruita:	
Margaret Sell, City Clerk	Joel Kincaid, Mayor	

E1/16 CORNER

ON NORTH LINE SECTION 16, T1N, R2W UTE MERIDIAN

## EXHIBIT A

## ANNEXATION

SITUATED IN THE NW1/4 NE1/4 SECTION 16 TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO

MCSM #439-1 N1/4 CORNER

N1/16 CORNER

UTE MERIDIAN

SECTION 16, T1N, R2W

SEĆTION 16, T1N, R2W UTE MERIDIAN

CITY OF FRUITA

 $NW_4^1 NW_4^1 NE_4^1$ 

1851 K ROAD HILLTOP HEALTH SERVICES CORPORATION

RECEPTION No. 2137869

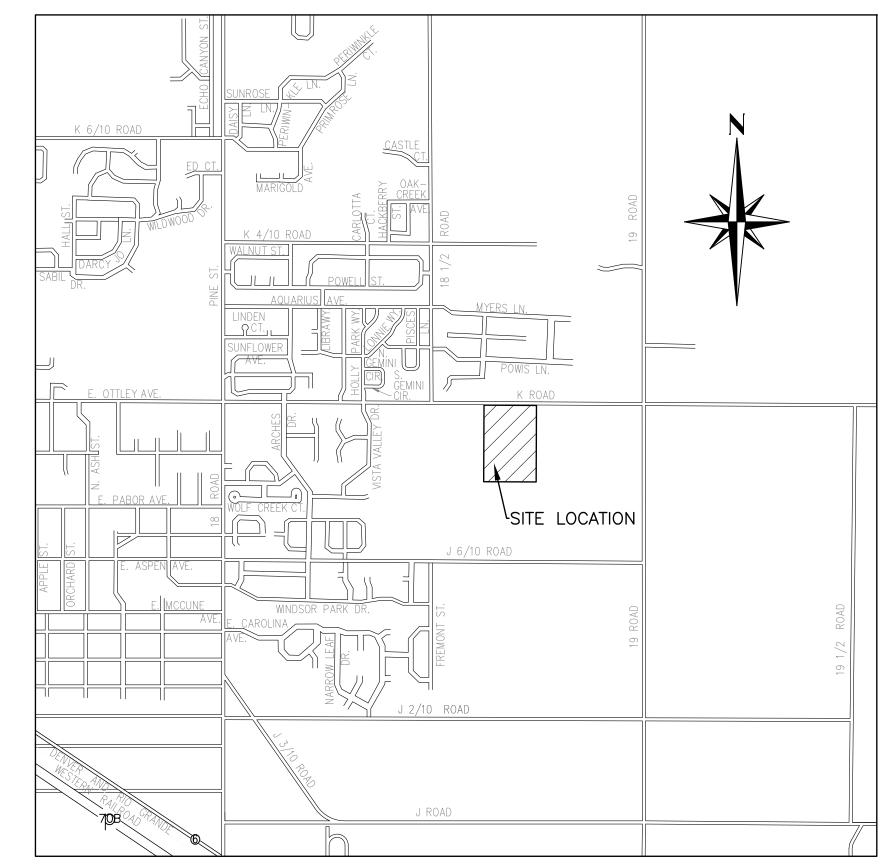
**MESA COUNTY** 

1853 K ROAD MIKE & KRISTY DRIVER RECEPTION No. 2137869

 $SW_{4}^{1}$   $NW_{4}^{1}$   $NE_{4}^{1}$ 

EXISTING FRUITA CITY LIMITS

EXISTING FRUITA CITY LIMITS

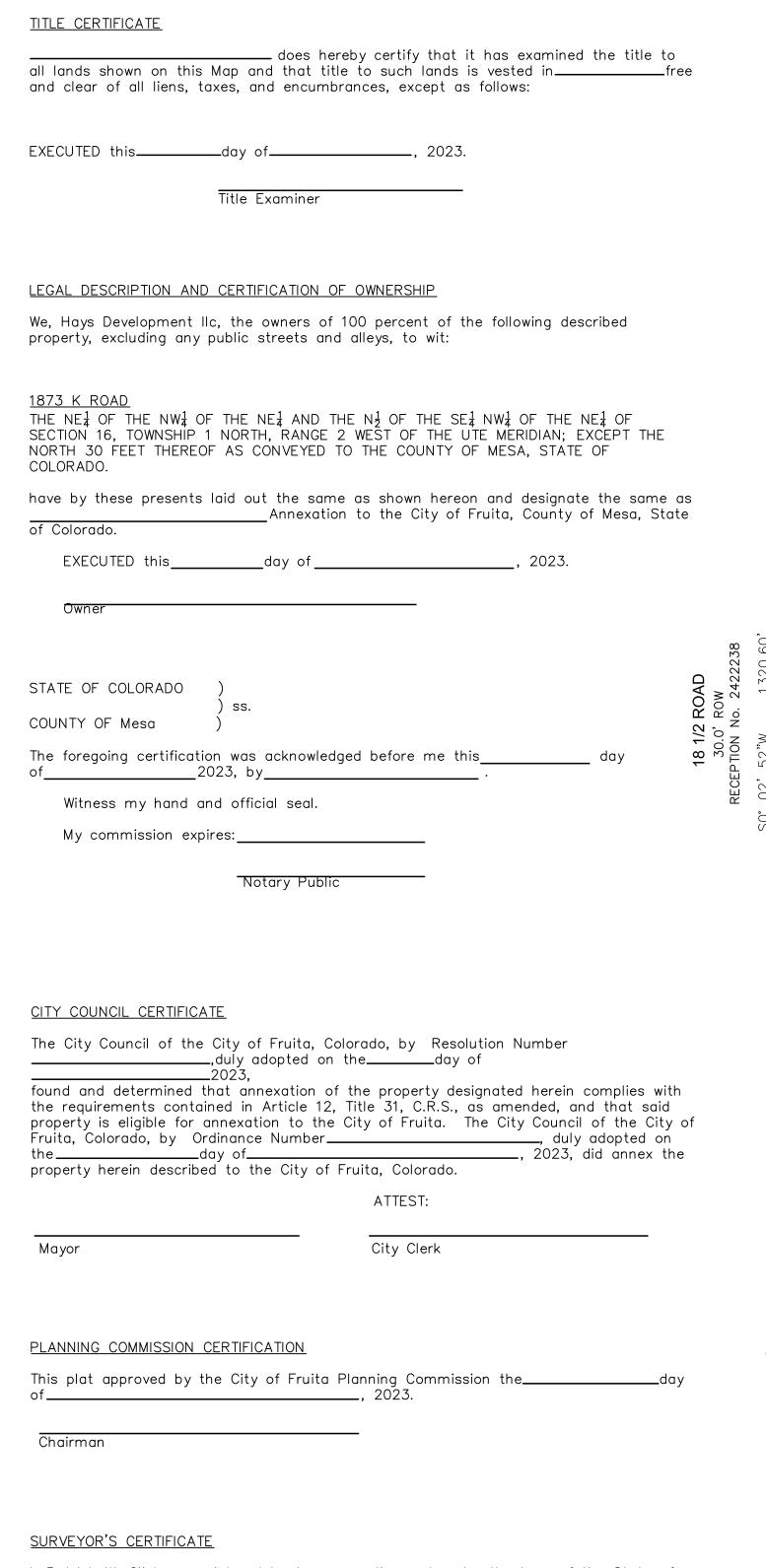


VICINITY MAP : NOT TO SCALE

### **ABBREVIATIONS:**

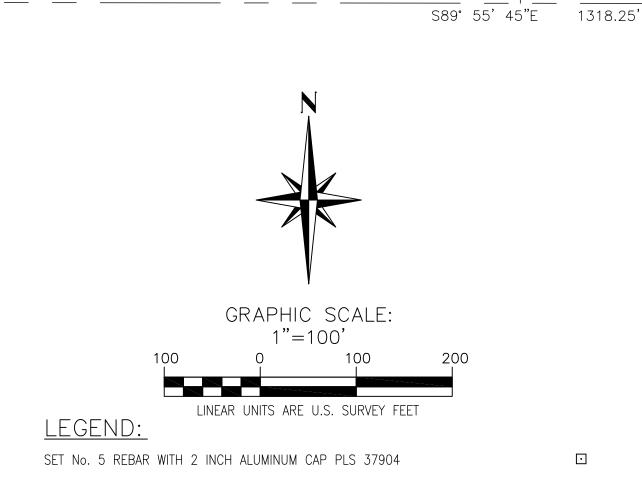
- NORTH SOUTH EAST
- WEST TOWNSHIP
- RANGE MESA COUNTY SURVEY MARKER
- RIGHT OF WAY
- SURVEY INFORMATION MANAGEMENT SYSTEM
- PROFESSIONAL LAND SURVEYOR
- No. NUMBER GLOBAL POSITIONING SYSTEM
- **IDENTIFICATION** SQUARE
- FT FEET AVE. **AVENUE**
- ST. STREET CT. COURT
- LANE DR. DRIVE
- UNITED STATES U.S.
- LIMITED COMMON ELEMENT
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. **POINT OF BEGINNING** W.C. WITNESS CORNER

1. BEARINGS ARE BASED ON THE NORTH LINE OF NW1/4 NE1/4 SECTION 16, TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN. THE VALUE USED S89°54'52"E, WAS CALCULATED USING THE MESA COUNTY LOCAL COORDINATE SYSTEM. MESA COUNTY SURVEY MARKERS WERE FOUND AT THE EAST AND WEST ENDS OF SAID LINE AS SHOWN HEREON.



I, Patrick W. Click, a registered land surveyor licensed under the laws of the State of Colorado, do hereby certify that this survey was made under my direct supervision and that the information hereon is correct to the best of my knowledge and belief, and that no less than one—sixth (1/6) of the perimeter of the area as shown hereon is contiguous with the existing boundaries of the City of Fruita, Colorado. I further certify that the external boundaries of the property shown on this Map have been monumented on the ground.

Registered Land Surveyor



### 1873 K ROAD ANNEXATION

ANNEXATION-BOUNDARY

NE1/16 CORNER SECTION 16, T1N, R2W

UTE MERIDIAN

SITUATED IN THE NW1/4 NE1/4 SECTION 16 TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO

JOB #: 2023-161 FIELD WORK: SL

K ROAD

30.0' ROW

RECEPTION No. 829783

 $NE_4^1 NW_4^1 NE_4^1$ 

1873 K ROAD

 $SE_{4}^{1} NW_{4}^{1} NE_{4}^{1}$ 

N89° 55′ 31″W 658.93′

**MESA COUNTY** 

N89° 54' 52"W 1316.69'

<del>/-</del>60.0'/

PARCEL 2697-161-00-066

DONALD COMPTON

RECEPTION No. 2164049

-ANNEXATION BOUNDARY

> DRAWN BY: NB DATE: 10/26/23 DRAWING NAME: 1851 & 1873 K RD CHECKED BY: PC

## POLARIS SUR VEYING

PATRICK W. CLICK P.L.S.

3194 MESA AVE. #B GRAND JUNCTION, CO 81504 PHONE (970)434-7038



#### PLANNING & DEVELOPMENT DEPARTMENT STAFF REPORT DECEMBER 12, 2023

**Application #: 2023-33** 

**Project Name:** 1873 K Road Annexation

Application: Annexation

Property Owner: Hays Development LLC

Representative: Griffin Design and Construction, LLC

Location: 1873 K Road

Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-

County zoning)

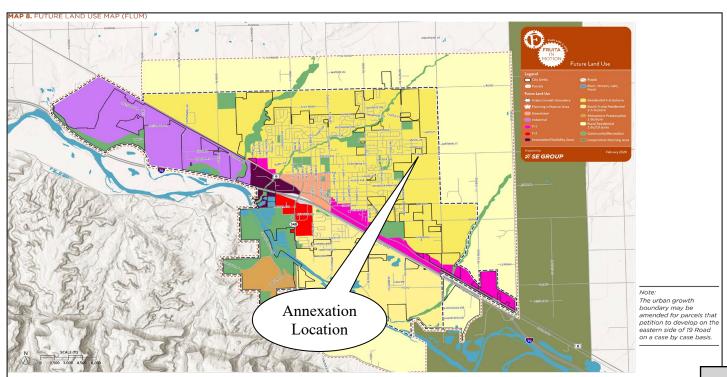
Request: This is a request for approval of the annexation of approximately

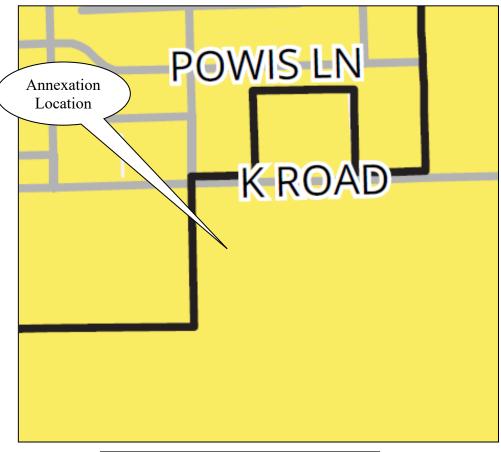
14.52 acres into the Fruita City Limits.

#### **PROJECT DESCRIPTION:**

The property owner of 1873 K Road has applied for an application to annex approximately 14.52 acres of property located on the south side of K Road and south of the Brandon Estates Subdivision. The subject property currently contains a single-family dwelling unit along with some other agricultural outbuildings.

#### **FUTURE LAND USE MAP (FLUM)**



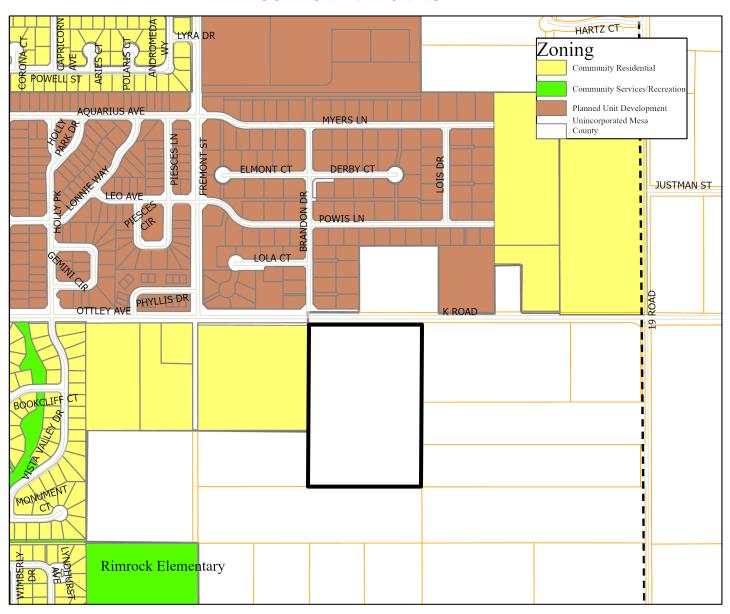




#### **SURROUNDING LAND USES AND ZONING:**

Surrounding land uses are primarily single family detached residential. The Brandon Estates Subdivision is located to the north, Vista Valley Subdivision to the west, and Rimrock Elementary to the south.

#### **LOCATION AND ZONING MAP**



#### **2022 AERIAL PHOTOGRAPH**



#### **ANNEXATION**

Section 17.17.050 (A) - If the subject property is located within the city's Urban Growth Boundary (UGB) as defined by the Fruita Community Plan, annexation may be approved only after considering the following criteria:

#### 1. The annexation meets the requirements of the applicable State Statutes;

This annexation request meets the requirements of state laws. The property has the required 1/6<sup>th</sup> contiguity with existing city limits which is required per Section 31-12-104 of the Colorado Revised Statutes (CRS).

The total perimeter measures 3,237.81 feet. The city limits border this property on the west side by approximately 630.22 feet, meeting the requirement for a 1/6<sup>th</sup> contiguity.

Additionally, the Fruita Comprehensive Plan supports this area to be incorporated within the city limits as referenced in the above map. This criterion <u>has been met</u>.

## 2. The area is or can be efficiently served by city utilities and capital investments, including water, sewer, parks, drainage systems and streets;

Annexation of the subject property will not trigger an extension of city utility services. The subject property is currently being served by Ute Water, Excel Energy services, and has direct access from K Road. The subject property currently has a septic system to treat wastewater and will need to connect to the City's sewer system if/when developed. If the subject property were to develop, there would be adequate review of additional utilities and infrastructure associated with residential development.

In addition to this annexation, the city will be annexing the adjacent K Road right-of-way as a condition of approval.

This criterion <u>can be met</u> as the city has planned for the subject property to be incorporated into the city limits within the Comprehensive Plan.

#### 3. The area is contiguous with existing urban development;

The subject property is contiguous with urban development on the north side, with Brandon Estates. The remaining properties nearby that are undeveloped and/or remain in Unincorporated Mesa County are supported for residential development within the City of Fruita.

This <u>criterion has been met</u>.

## 4. The area is or can be efficiently served by police and other municipal services;

The subject property is within the service area for the Fruita Police Department, the Lower Valley Fire District. The City of Fruita's wastewater services are located in K Road and have the capacity to serve the subject property when needed or when the property develops in the future. Since the subject property is already being served by these services, this criterion has been met and can be met with regard to wastewater services.

## 5. The development is consistent with community goals, principles, and policies as expressed in the Fruita Comprehensive Plan;

Annexation within the Comprehensive Plan states that the city should, "Approve annexation of parcels within the UGB (Urban Growth Boundary) at the desired densities as described in the FLUM (Future Land Use Map). Annexation should help ensure that new development at the edge of the city is consistent with the goals and policies of this plan."

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Annexation of the subject property has been considered as meeting the intents and purposes of the basis of logical and cost-effective extensions of utilities and road systems.

Annexation of the property is consistent with the Fruita Comprehensive Plan. These approval criteria are intended to implement the goals and policies of the Fruita Comprehensive Plan regarding annexations. It appears that the approval criteria either have been met or can be met, therefore, this annexation is consistent with the Fruita Comprehensive Plan.

#### 6. The annexation is supported by local residents and landowners;

The Fruita Comprehensive Plan (Fruita In Motion: Plan Like A Local) was adopted by the Fruita City Council on February 4, 2020 (Resolution 2020-09). Fruita in Motion: Plan like a Local speaks to the community's significant role in the planning process. Residents helped shape every element of the plan, from sharing what they valued about Fruita and identifying issues for the plan to address, to reviewing drafts, and providing feedback on goals and policies. The process reached a large swath of the community, through traditional outreach (open houses, an advisory committee) and meeting people where they are, with booths at farmers markets, the art stroll, and other city events and the draft plan tour, where City staff met with HOAs and other local groups to share the plan and hear input from the community.

With regards to the subject property, 49 landowners were noticed of this annexation application. The number of property owners noticed of this application is set forth with the legal notice requirements contained in the Land Use Code. Staff has not received written public comments regarding this application.

The annexation is supported by the landowner and the landowner has signed the annexation petition. This is in accordance with C.R.S 31-12-107.

This criterion <u>has been met.</u>

## 7. Water and ditch rights can be provided, as applicable, in accordance with city policies;

The city standard is 1 - 1.5 irrigation shares per irrigated acre.

This application was sent to Grand Valley Irrigation Company (GVIC) for review and they had no comments regarding this application.

Additionally, this application was sent to Ute Water and review comments indicate no objections.

This criterion can be met.

## 8. The area will have a logical social and economic association with the city, and:

Annexation of the subject property will not provide much with respect to an economic association with the city at this time. Once the subject property is developed, the additional dwelling units should provide for a logical social impact to the city. This criterion <u>can be met</u>.

## 9. The area meets or can meet the existing infrastructure standards set forth by the city.

Staff recommends approval of the annexation petition with the condition that there will be dedication of additional multi-purpose easements as follows:

- 1. Dedication of a 14-foot multipurpose easement adjacent to the right of way adjoining the subject property.
- 2. Dedication of an additional 5 feet of right-of-way along Ottley Avenue (K Road).
- 3. Legal Description of Ottley Avenue adjacent to the subject property.

This criterion can be met.

Based on this information, the annexation of the subject property <u>meets or can meet the approval criteria</u> that must be considered for annexations.

#### **REVIEW COMMENTS:**

No reviewer expressed any issues with the proposed annexation.

#### **PUBLIC COMMENTS:**

No written public comments have been received by Staff at this time.

#### **LEGAL NOTICE**

Legal Notice (minimum of 15 days prior to Planning Commission)	
November 22, 2023	Post Cards
November 22, 2023	Sign Posting
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#### **STAFF RECOMMENDATION:**

Staff recommends <u>approval</u> of the annexation petition with the condition that there will be dedication of a 14-ft multipurpose easement adjacent to the right of way, additional right-of-way dedication along Ottley Avenue, and a prepared legal description of Ottley Avenue adjacent to the subject property.

#### **SUGGESTED PLANNING COMMISSION MOTION:**

Mr. Chair, I move that we recommend <u>approval</u> to City Council, of application #2023-33, the 1873 K Road Annexation with the condition that all review comments and issues identified in the Staff Report be adequately addressed or included with the Annexation Ordinance.

#### **ANNEXATION SCHEDULE:**

1873 K Road Annexation Schedule	
Date	Action
November 21, 2023	Resolution to set a hearing date to determine eligibility.
	Published in Daily Sentinel (Once a week for 4 consecutive weeks)
	• December 1, 2023
	• December 8, 2023
	• December 15, 2023
	• December 22, 2023
December 12, 2023	Planning Commission considers Annexation & Zone
December 19, 2023	<ul> <li>1st Reading of an Ordinance to Zone</li> <li>1st Reading of an Ordinance to Annex</li> </ul>
January 16, 2024	<ul> <li>Resolution to find the property eligible for</li> <li>Annexation 2nd Reading of an Ordinance to         Annex     </li> </ul>
7 137 ( )	2nd Reading of an Ordinance to Zone
Legal Notice (minimum of 15 days prior to Planning Commission)	
November 22, 2023	Post Cards
November 22, 2023	Sign Posting
November 24, 2023	Legal Ad

#### ANNEXATION IMPACT REPORT

#### CITY OF FRUITA November 14, 2023

**Application #: 2023-33** 

**Project Name:** 1873 K Road Annexation

Application: Annexation

Property Owner: Hays Development LLC

Representative: Griffin Design and Construction, LLC

Location: 1873 K Road

Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-

County zoning)

Request: This is a request for approval of the annexation of approximately 14.52

acres into the Fruita City Limits.

Section 17.17.040 of the Fruita Land Use Code states that any annexation not requiring an election shall be accompanied by an annexation impact report which contains the following elements.

## A. Plans of the municipality for extending to or otherwise providing for municipal services;

The Future Land Use Map (FLUM) within The Fruita In Motion: Plan Like A Local Comprehensive Plan shows the subject property within the City's Urban Growth Boundary. The Urban Growth Boundary was developed with the anticipation of providing the necessary municipal services. With that said, the city <u>does</u> have plans to provide municipal services to this area.

Historically, the City of Fruita has not forced the extension of municipal services. The city has been proactive in planning for future extensions of the city limits with regards to providing municipal services to the areas designated in the Urban Growth Boundary. This includes the municipal services provided by the City of Fruita (sanitary sewer and police).

#### B. The City of Fruita's anticipated financing of the extension of services;

The City of Fruita will <u>not</u> be financing the extension of services (water, sewer, gas, etc.) to the subject property at this time.

#### C. The special districts included in the territory to be annexed;

No special districts are included within the territory to be annexed. Below are the agencies or entities that have taxing authority over the territory to be annexed. These agencies have been notified of the annexation application.

- 1. Lower Valley Fire Protection District.
- 2. Mesa County School District 51.
- 3. Grand Valley Irrigation Company.
- 4. Grand Valley Mosquito Control District.
- 5. Mesa County Public Library District.
- 6. Grand Valley Drainage District.
- 7. Colorado River Water District.
- 8. Library District.
- 9. Mesa County Social Services.

## D. The effect of annexation on the public school district system including the estimated number of students generated and capital construction required to educate each student;

The school district boundaries for Rimrock Elementary School, Fruita Middle School, Fruita 8/9, and Fruita Monument High School already include the subject property. This implies that no new impacts on the school system would be generated from this annexation application. The impacts to the school district system will be evaluated by the Mesa County Valley School District when this property develops. The School District has been made aware of this annexation.

#### E. Traffic/pedestrian/bicycle impacts;

Traffic, pedestrian and bicycle impacts should not change with the annexation of the subject property. Traffic, pedestrian and bicycle impacts will remain the same.

#### F. Wastewater, water, drainage, and irrigation impacts, and;

Impacts on these facilities shouldn't change with the annexation itself. When the property develops, necessary regulations from review agencies will be reviewed with a land development application.

## G. Other relevant information as required by the Community Development Department.

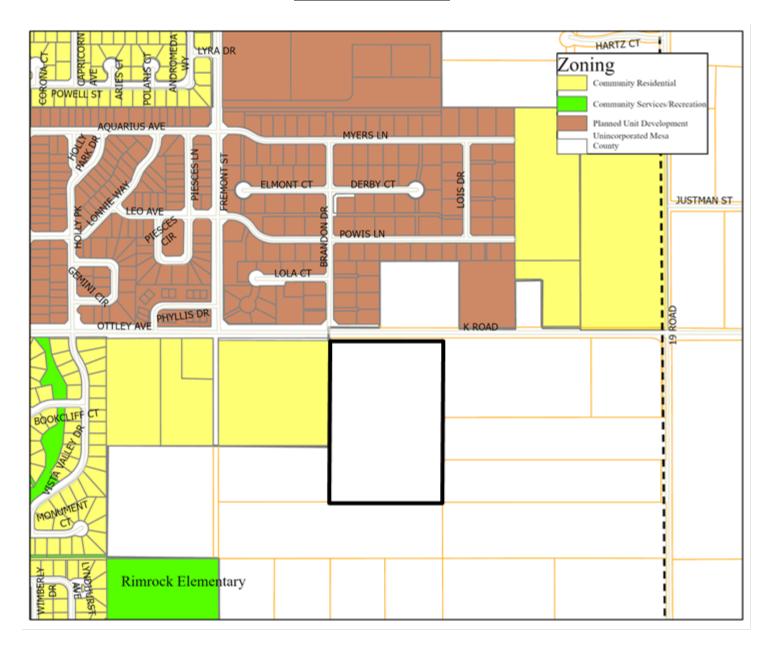
#### **Review Agencies:**

- 1. Xcel Energy
- 2. Grand Valley Power Company
- 3. Charter Communications

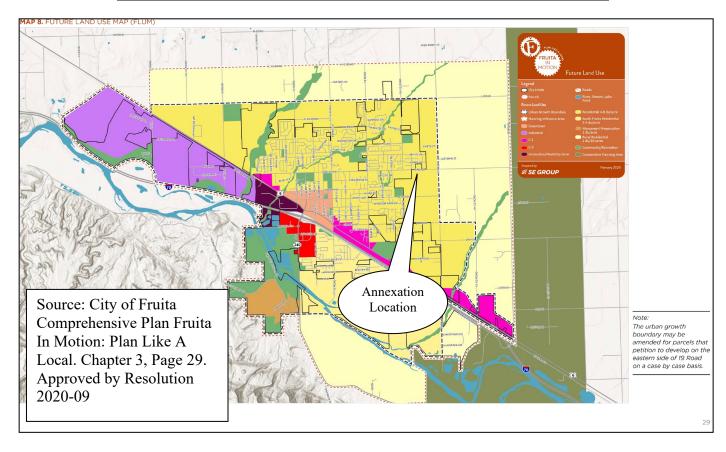
- 4. Century Link
- 5. Ute Water
- 6. Grand Valley Drainage District
- 7. Grand Valley Irrigation Company
- 8. Mesa County Community Development Department
- 9. Fruita Building Department
- 10. Mesa County Surveyor
- 11. Mesa County Valley School District (School District 51)
- 12. 5-2-1 Drainage Authority
- 13. Lower Valley Fire Protection District
- 14. Grand River Mosquito District

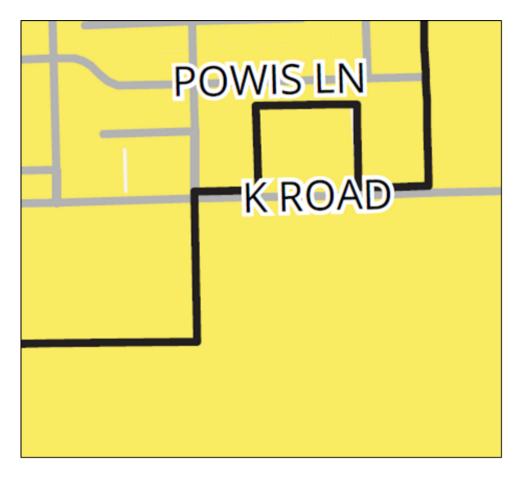
# **Map Exhibits:**

### **Present City boundary**



### Proposed City Boundary set forth in the Future Land Use Map (FLUM)







### 1873 K Road - Annexation

### **Consolidated Review Agency Comments**

Lower Valley Fire has no issues the annexation of 1873 K Road into the City of Fruita. All future development will be required to follow IFC 2018 Codes.

Ute Water - No objection to the annexation.

Grand Valley Drainage District (GVDD) - has no objection to the annexation.

Grand Valley Power (GVP) - Thanks for the opportunity to review this project. It is not in the GVP Service Area.

Mesa County Stormwater Division - has no comments nor objections regarding the annexation of this parcel.

# 1873 K Road – ANNEXATION NARRATIVE

## 1873 K Road – Fruita, CO 81521

Location: 1873 K Road

Fruita, CO 81521

Tax ID: 2697-161-00-008

Property Owner: Hays Development, LLC

Date: October 30, 2023

### Purpose:

The purpose of this application is to propose the Annexation of a 14.52 acre parcel located at 1873 K Road into the City of Fruita. This application has been prepared on behalf of LC Fruita, LLC and the property is currently owned by Hays Development, LLC.

### State Law:

This annexation meets the requirements of State Law Title 31, Article 12.

### **Site Utilities and Services:**

- Utilities:
  - a. Ute Water Conservancy District Currently serves this property
  - b. Grand Valley Irrigation Company Currently serves this property
  - c. Fruita Sewer District Sewer is available at K Road along the Norther border of this property. This property currently utilizes an ISDS
  - d. Xcel Energy Natural Gas / Electric Currently serves this property

### Impact:

- 1. Public Safety No impact to public safety is anticipated
- 2. Streets No impact to traffic volume is anticipated
- 3. Irrigation No change to the irrigation system

### Surrounding Area & City Master Plan:

The property to be annexed is contiguous with the existing urban development boundary and coincides with the City's 2020 Master Plan. The Future Land Use Map identifies this property as Residential 4-8 units/acre and there are existing development applications for nearby properties consistent with the expansion of the Fruita City Limits.

### Local Support:

No neighborhood meeting was required/held for this application

### Aerial View:



### PETITION FOR ANNEXATION

WE, THE UNDERSIGNED, in accordance with the Municipal Annexation Act of 1965, Part 1, Article 12, Title 31, Colorado Revised Statutes, as amended, hereby petition the City Council of the City of Fruita, Colorado, for the annexation of the unincorporated area located in the County of Mesa, State of Colorado, as described on attached Exhibit A.

In support of this Petition, the Petitioners state:

- 1. It is desirable and necessary that the above-described area be annexed to the City of Fruita, Colorado.
- 2. The requirements of Section 31-12-104, C.R.S., as amended, exist or have been met, to wit:
  - Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City of Fruita;
  - A community interest exists between the area proposed to be annexed and the City of Fruita;
  - The area proposed to be annexed is urban or will be urbanized in the near future; and
  - d. The area proposed to be annexed is integrated with or is capable of being integrated with the City of Fruita.
- 3. The requirements of Section 31-12-105 C.R.S., as amended, exist or have been met, to wit:
  - a. In establishing the boundaries of the territory to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way;
  - b. In establishing the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty acres or more (which, together, with the buildings and improvements situated thereon) has a valuation for assessment in excess of two hundred thousand dollars for ad valorem tax purposes for the year

- next preceding the annexation is included within the area proposed to be annexed without the written consent of the landowner or landowners;
- No annexation proceedings have been commenced for the annexation of part or all of the subject property to another municipality;
- d. The annexation of the area proposed to be annexed will not result in the detachment of the area from any school district and the attachment of same to another school district;
- e. The annexation of the area proposed to be annexed will not have the effect of extending the boundary of the City of Fruita more than three miles in any direction from any point of the City's boundary in any one year;
- f. If any portion of the platted street or alley is to be annexed, the entire width of said street or alley is included within the area to be annexed; and
- g. Reasonable access shall not be denied to landowners, owners of easements, or the owners of franchises, adjoining any platted street or alley to be annexed that will not be bordered on both sides by the City of Fruita.
- 4. The Petitioners are the landowners of more than fifty percent (50%) of the area sought to be annexed, exclusive of streets and alleys.
- 5. This Petition for Annexation satisfies the requirements of Article II, Section 30, of the Colorado Constitution in that it is signed by persons comprising more than fifty percent (50%) of the landowners in the area proposed to be annexed who own more than fifty percent (50%) of said area, excluding public streets and alleys and any land owned by the City of Fruita.
- 6. Attached hereto and incorporated by reference is an Annexation Map showing:
  - a. The boundary of the area proposed to be annexed including a legal description of the area to be annexed:
  - b. The location of each ownership tract in unplatted land and the boundaries and the plat numbers of plots or of lots and blocks; and
  - c. The contiguous boundary of the City of Fruita abutting the area proposed to be annexed.

7.	All of the petitioners signed this Petition for Annexation no more than 180 day	ys
	prior to the date of the filing of this Petition for Annexation.	

**WHEREFORE**, the Petitioners request that the Fruita City Council approve the annexation of the area proposed to be annexed.

Dated this 24th day of October, 2023.
House
Property Owner Property Owner
County of Mesa ) ) ss. State of Colorado )
Subscribed and sworn to before me this 24th day of October, 2023 by
Jack Huyas manager of Hays Development, L.C. a Coloracto Cimited Liability Company Witness my hand and official seal.
My commission expires:  JUL!ANNA MCNEILL NOTARY PUBLIC STATE OF COLORADO NOTARY ID #19934017213 My Commission Expires November 15, 2025 County of Mesa
Mailing address of each property owner:
Jack W. Hays
2613 Partridge Court
Grand Jet. Co 81506

### AFFIDAVIT OF CIRCULATOR

The undersigned, being of lawful age, being first duly sworn upon oath, deposes and says:

That he/she was the circulator of the foregoing Petition for Annexation consisting of \_\_\_\_\_\_ pages, including this page and that each signature thereon was witnessed by your affidavit and is the true signature of the person whose name it purports to be.

DANE GRIFFIN

State of Colorado ) ) ss.
County of Mesa )

The foregoing Affidavit of Circulator was subscribed and sworn to before me this 7 day of November, 2023, by Dane Gnffin

Witness my hand and official seal.

My commission expires: 10 October 2017

Notary Public

JENNIFER M MILES

NOTARY PUBLIC

STATE OF COLORADO

NOTARY ID 20154040882

MY COMMISSION EXPIRES 10/16/2027

E1/16 CORNER

ON NORTH LINE SECTION 16, T1N, R2W UTE MERIDIAN

# ANNEXATION

# SITUATED IN THE NW1/4 NE1/4 SECTION 16 TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO

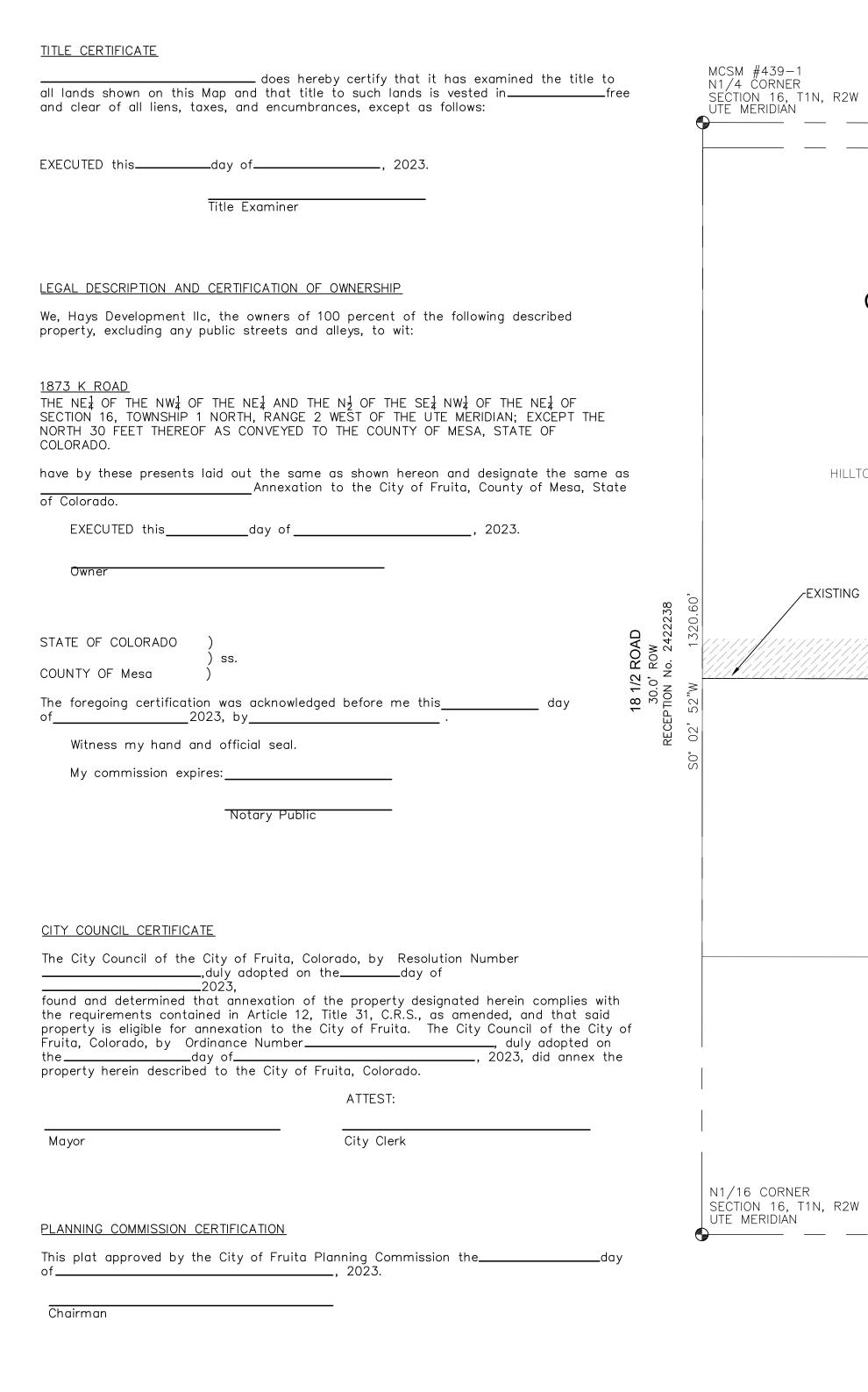
# <sup>L</sup>SITE LOCATION J 6/10 ROAD

VICINITY MAP : NOT TO SCALE

# **ABBREVIATIONS:**

- NORTH SOUTH EAST
- WEST TOWNSHIP
- RANGE MESA COUNTY SURVEY MARKER
- RIGHT OF WAY
- SURVEY INFORMATION MANAGEMENT SYSTEM
- PROFESSIONAL LAND SURVEYOR
- No. NUMBER
- GLOBAL POSITIONING SYSTEM **IDENTIFICATION**
- SQUARE
- FT FEET AVE. **AVENUE**
- ST. STREET
- CT. COURT LANE
- DR. DRIVE
- UNITED STATES U.S. LIMITED COMMON ELEMENT
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. **POINT OF BEGINNING** W.C. WITNESS CORNER

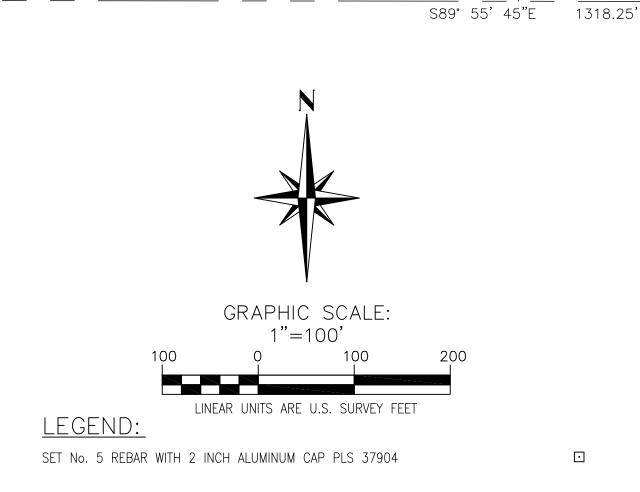
1. BEARINGS ARE BASED ON THE NORTH LINE OF NW1/4 NE1/4 SECTION 16, TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN. THE VALUE USED S89°54'52"E, WAS CALCULATED USING THE MESA COUNTY LOCAL COORDINATE SYSTEM. MESA COUNTY SURVEY MARKERS WERE FOUND AT THE EAST AND WEST ENDS OF SAID LINE AS SHOWN HEREON.



# SURVEYOR'S CERTIFICATE

I, Patrick W. Click, a registered land surveyor licensed under the laws of the State of Colorado, do hereby certify that this survey was made under my direct supervision and that the information hereon is correct to the best of my knowledge and belief, and that no less than one—sixth (1/6) of the perimeter of the area as shown hereon is contiguous with the existing boundaries of the City of Fruita, Colorado. I further certify that the external boundaries of the property shown on this Map have been monumented on the ground.

Registered Land Surveyor



# 1873 K ROAD ANNEXATION

ANNEXATION-BOUNDARY

NE1/16 CORNER SECTION 16, T1N, R2W

UTE MERIDIAN

SITUATED IN THE NW1/4 NE1/4 SECTION 16 TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE UTE MERIDIAN COUNTY OF MESA, STATE OF COLORADO

JOB #: 2023-161 FIELD WORK: SL DATE: 10/26/23 DRAWING NAME: 1851 & 1873 K RD CHECKED BY: PC

K ROAD

30.0' ROW

RECEPTION No. 829783

 $NE_4^1 NW_4^1 NE_4^1$ 

**1873 K ROAD** 14.52 ACRES

 $SE_{4}^{1}$   $NW_{4}^{1}$   $NE_{4}^{1}$ 

N89° 55′ 31″W 658.93′

**MESA COUNTY** 

N89° 54' 52"W 1316.69'

<del>/-</del>60.0'/

PARCEL 2697-161-00-066

DONALD COMPTON

RECEPTION No. 2164049

CITY OF FRUITA

 $NW_4^1 NW_4^1 NE_4^1$ 

1851 K ROAD HILLTOP HEALTH SERVICES CORPORATION

RECEPTION No. 2137869

**MESA COUNTY** 

1853 K ROAD MIKE & KRISTY DRIVER RECEPTION No. 2137869

 $SW_{4}^{1}$   $NW_{4}^{1}$   $NE_{4}^{1}$ 

EXISTING FRUITA CITY LIMITS

EXISTING FRUITA CITY LIMITS

-ANNEXATION BOUNDARY

DRAWN BY: NB

# POLARIS SURVEYING

PATRICK W. CLICK P.L.S.

3194 MESA AVE. #B GRAND JUNCTION, CO 81504 PHONE (970)434-7038

### A. CALL TO ORDER

Seven Planning Commissioners were in attendance. (Jessica Hearns, Jesse Fabula, Mel Mulder, Derek Biddle, Josh McGuire, Patrick Hummel, and Michael Handley were present.)

### **B. PLEDGE OF ALLEGIANCE**

Commissioner Biddle led the Pledge of Allegiance.

### C. AMENDENTS TO THE AGENDA

None

### D. APPROVAL OF THE AGENDA

COMMISSIONER FABULA MOVED TO APPROVE THE AGENDA

COMMISSIONER MULDER SECONDED THE MOTION

**MOTION PASSED 7-0** 

### E. WITHDRAWN ITEMS

None

### F. CONTINUED ITEMS

None

### G. CONSENT ITEMS

APPROVAL OF MINUTES

October 10, 2023, Planning Commission meeting

COMMISSIONER HANDLEY MOVED TO APPROVE THE MINUTES

COMMISSIONER HUMMEL SECONDED THE MOTION

MOTION PASSED 6-0 (COMMISSIONER FABULA ABSTAINED FROM THE VOTE AS HE WAS NOT PRESENT AT THE LAST MEETING)

### H. HEARING ITEMS

Application #: 2023-33
Application Name: 1873 K Road
Application Type: Annexation

Applicant: Hays Development LLC

Location: 1873 K Road

Current Zone: Mesa County Zoning AFT

Description: This is a request to annex approximately 14.5 acres into the city limits.

Mr. Henry Hemphill, City Planner, gave the Staff presentation. He explained that the 1873 K Road annexation and rezone would be presented together but each application would need to be discussed and voted on separately.

Slide 1 – Introduction – 1873 K Road Annexation

Slide 2 – Application Details

Slide 3 – Legal Notice Images of the postcards and 350' buffer zone

Slide 4 – Legal Notice

Dates and photo of Site Posting

- Post Cards:
  - November 22, 2023
- Sign Posting:
  - November 22, 2023
- Newspaper:
  - November 24, 2023

Slide 5 – Zoning Map and Aerial View

Slide 6 – Future Land Use Map

Slide 7 – Review Criteria

- Section 17.17.050 (A)
- 9 criteria to consider.
  - Must meet the requirements of State Statutes -1/6<sup>th</sup> contiguity.
  - Must be within the UGB.
  - Can be served with police and other municipal services.
  - The area meets or can meet the existing infrastructure standards set forth by the City.

Slide 8 – Review Comments & Public Comments

- REVIEW COMMENTS:
- No reviewer expressed concerns with this annexation.
- PUBLIC COMMENTS:
- No written public comments have been received by Staff at this time.

Slide 9 – Suggested Motion – Pg. 29

• Mr. Chair, I move that we recommend <u>approval</u> to City Council, of application #2023-33, the annexation of 1873 K Road with the condition that there will be dedication of a 14-ft multipurpose easement adjacent to the right of way, additional right-of-way dedication along Ottley Avenue, and a prepared legal description of Ottley Avenue adjacent to the subject property.

### Slide 10 – Next Steps

- City Council on January 16, 2024
  - If approved the annexation will be effective 30 days after the Ordinance is adopted

Slide 11 – Introduction – 1873 K Road Rezone

Slide 12 – Legal Notice Images of the Post Cards and 350' Buffer Zone

Slide 13 – Legal Notice

Dates and Site Posting

- Post Cards:
  - November 22, 2023
- Sign Posting:
  - November 22, 2023
- Newspaper:
  - November 24, 2023

Slide 14 – Zoning Map and Aerial View

Slide 15 – Future Land Use Map

Slide 16 – Review Criteria

- Section 17.09.070
- 5 Criteria in total to consider
  - Zoning Compatibility with surrounding land uses.
  - Consistent with the Master Plan.
  - Is incidental to an annexation application.

Slide 17 – Review Comments & Public Comments

- REVIEW COMMENTS:
  - No reviewer expressed concerns with the zone request.
- PUBLIC COMMENTS:
  - No written public comments have been received by Staff at this time.

Slide 18 – Suggested Motion – Pg. 53

• Mr. Chair, I move we recommend <u>approval</u> of Application 2023-34, 1873 K Road Rezone, zoning the property to Community Residential to the Fruita City Council.

Mr. Hemphill concluded his presentation.

Mr. Dane Griffin, Griffin Design and Construction, spoke on behalf of the current and future owner of 1873 K Road. He stated that it meets or can meet the criteria for annexation and rezone. He said that he appreciated their consideration.

Commissioner Biddle opened the meeting to public comment. There were none. He closed public comment and opened the meeting to Commissioner discussion.

Commissioner Hummel said that the annexation seemed to be a good fit as per the Land Use Code. He talked about the  $1/6^{th}$  contiguity and that the property could be serviced by utilities, police department, and fire department. He thanked Staff for the report. It made it clear to him that it was a simple application.

Commissioner Hearns asked if there was a change to the code? Are annexations and rezones required to have a public meeting?

Mr. Hemphill responded that annexations and zoning were required to have a public hearing. If a subdivision were to happen once the annexation has been finished that is an administrative process currently with a call-up option to the council.

Commissioner Hearns asked if there was a public meeting?

Mr. Hemphill asked if she meant a neighborhood meeting.

Commissioner Hearns said yes.

Mr. Hemphill stated that it was an optional choice. He said that the contiguity was so close with the urbanized development to the north it made sense to have the neighborhood meeting as a public hearing.

Commissioner Hearns thanked him.

Commissioner Biddle said it was a clean application and presentation.

COMMISSIONER HEARNS MOVED THAT THEY RECOMMEND APPROVAL TO THE CITY COUNCIL THE APPLICATION 2023-33 1873 K ROAD ANNEXATION WITH THE CONDITION THAT ALL REVIEW COMMENTS AND ISSUES IDENTIFIED IN THE STAFF REPORT ADEQUATELY ADDRESS OR INCLUDED WITH THE ANNEXATION ORDINANCE

### COMMISSIONER HUMMEL SECONDED THE MOTION

### **MOTION PASSED 7-0**

Application #: 2023-34 Application Name: 1873 K Road Application Type: Rezone



# AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DAVE KROUSE, CHIEF OF POLICE

**DATE: JANUARY 16, 2024** 

AGENDA TEXT: ORDINANCE 2024-02 - Second Reading - Approving a long-term lease with

Capital Business Systems, Inc. for a copier system and related services at the Fruita

Police Department

### BACKGROUND

The Fruita Police Department has a copier agreement that expired in September of 2023. Copier services are currently provided on a month-to-month basis until a new lease agreement goes into effect. The police department has experienced positive customer support from Capital Business Systems, and reliable operation of copier services. The department compared this with other copier services at use in the city and believe the Capital Business Systems product provides the best alternative. The new contract will be for an image RUNNER ADVANCE DX C3926i copier system.

### FISCAL IMPACT

Term: The Contract is for 60 months.

Amount: The monthly billable amount is \$325, which includes 3,600 B&W and 800 color copies/prints

per month. Any excesses will be billed quarterly at \$.0125 per black and white image and \$.072 per color image. The base payments and excess charges may be increased up to a maximum

of 15% on an annual basis.

Services: The initial installation, ongoing training, all service, parts and labor, toner and backup toner

are included in the monthly charge with an all-inclusive maintenance agreement. This contract

is approximately \$10 more per month than the current copier contract.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

Engaging in a contract for copier services allows the police department to conduct necessary day-to-day operations supporting the core service of public safety.

### OPTIONS AVAILABLE TO THE COUNCIL

- Approve the new five-year contract for the Fruita Police Department.
- Request staff obtain new quotes for copier services and resubmit a request to approve a new contract

### RECOMMENDATION

It is staff's recommendation that the Council, by motion:

• APPROVE ORDINANCE 2024-02 FOR A LONG-TERM LEASE WITH CAPITAL BUSINESS SYSTEMS, INC. FOR A COPIER SYSTEM AND RELATED SERVICES AT THE FRUITA POLICE DEPARTMENT

### **ORDINANCE 2024-02**

AN ORDINANCE OF THE CITY OF FRUITA, COLORADO APPROVING A LONG TERM LEASE WITH CAPITAL BUSINESS SYSTEMS, INC. FOR A COPIER SYSTEM AND RELATED SERVICES

WHEREAS, the City has determined it is in its best interest to upgrade the copy system currently utilized at the Fruita Police Department; and enter into an agreement with Capital Business Systems, Inc., attached hereto as Exhibit A and incorporated herein, for the lease of a Canon imageRUNNER ADVANCE DX C3926i (the "System") and ongoing service and maintenance of the System (the "Agreement"); and

**WHEREAS**, the Agreement provides that the City shall lease the system for a term of sixty (60) months with monthly payments for the first 12 months of \$325 plus excess copy charges of \$0.0125 for black and white copies, and \$0.072 for color copies. Annual increases to the base amount and excess copy charges shall not exceed 15%, and

**WHEREAS**, pursuant to Section 8.25 of the City's Home Rule Charter, the Council may enter into long-term rental or leasehold agreements by ordinance, and such payments may be made by general appropriations, by imposition of usage fees on the rental of leasehold property, or a combination of both general appropriations and usage fees.

# NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:

**Section 1: Approval of Agreement**. The City Council hereby approves of the Agreement attached hereto as Exhibit A subject to annual appropriation and payment required thereunder and hereby authorizes the City Manager to execute the Agreement and take all other steps necessary to effectuate its implementation.

<u>Section 2: Effective Date</u>. This Ordinance shall take effect thirty days after the date of final passage in accordance with Section 6.4 of the Fruita Home Rule Charter.

<u>Section 3: Publication</u>. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13 of the Fruita Municipal Code.

# PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS 16TH DAY OF JANUARY, 2024

ATTEST:	CITY OF FRUITA	
City Clerk	Joel Kincaid, Mayor	



### MASTER AGREEMENT

Section B, Item 2)

Capital Business Systems Inc. 3001 East Pershing Blvd, Cheyenne WY 82001

MASTER AGREEMENT NO .:

CUSTOMER ("You" OR "Your")

**FULL LEGAL NAME:** City of Fruita

ADDRESS:

157 South Mesa Fruita, CO 81521

### **MASTER AGREEMENT**

The parties anticipate the terms of this Master Agreement shall be incorporated into and constitute a part of one or more Schedules to Master Agreement entered into between Customer and Owner (each a "Schedule"). As used herein, "Agreement" refers to an individual Schedule which incorporates this Master Agreement and "Equipment" refers to the equipment referenced on an individual Schedule.

### ADDITIONAL TERMS AND CONDITIONS

AGREEMENT. You want us to provide you the Equipment under the Schedule and you agree to pay us the amounts set forth on such Schedule each period by the due date. The Agreement will begin on the date the Equipment is delivered to you or any later date we designate. If we designate a later date, you agree to pay us an additional amount equal to the periodic payments due under this Agreement prorated for the period between the date the Equipment is delivered to you and the commencement date. We may charge you a \$150.00 fee to cover documentation and investigation costs. If any amount payable to us is not paid when due, you will pay a late charge equal to: 1) the greater of ten (10) cents for each dollar overdue or twenty-six dollars (\$26.00); or 2) the highest lawful charge, if less. Any security deposit will be commingled with our assets, will not earn interest, and will be returned at the end of the term, provided you are not in default.

NET AGREEMENT. THE AGREEMENT IS NON-CANCELABLE FOR THE ENTIRE AGREEMENT TERM. YOU AGREE THAT YOU ARE UNCONDITIONALLY OBLIGATED TO PAY ALL AMOUNTS DUE UNDER THE TERMS OF THE AGREEMENT FOR THE ENTIRE TERM. YOU ARE NOT ENTITLED TO REDUCE OR SET-OFF AGAINST AMOUNTS DUE UNDER THE AGREEMENT FOR ANY REASON.

EQUIPMENT USE. You will keep the Equipment in good working order, use it for business purposes only and not modify or move it from its initial location without our consent. If we have entered into a separate arrangement with you for maintenance, service, supplies, support, etc. with respect to the Equipment, payments under the Agreement may include amounts owed under that arrangement, which amounts may be invoiced as one payment for your convenience. You agree that you will look solely to us for performance under any such arrangement and for the delivery of any applicable supplies.

SOFTWARE/DATA. Except as provided in this paragraph, references to "Equipment" include software included as part of, or installed on, the Equipment. We do not own the software and cannot transfer any interest in it to you. We are not responsible for the software and have no rights or obligations under any related license agreement. You agree that you will look only to the publisher, licensor, or other third parties, if any, who actually granted you your right to use the software to determine those rights. You are solely responsible for protecting and removing any confidential data/images stored on the Equipment prior to its return for any reason.

LIMITATION OF WARRANTIES. EXCEPT TO THE EXTENT THAT WE HAVE PROVIDED YOU A WARRANTY IN WRITING, WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, YOU CHOSE ANY/ALL THIRD-PARTY SERVICE PROVIDERS BASED ON YOUR JUDGMENT, YOU MAY CONTACT US OR THE MANUFACTURER FOR A STATEMENT OF THE WARRANTIES, IF ANY, THAT THE MANUFACTURER IS PROVIDING. WE ASSIGN TO YOU ANY WARRANTIES GIVEN TO US.

ASSIGNMENT. You may not sell, assign, or sublease the Equipment or the Agreement without our written consent. We may sell or assign the Agreement and our rights in the Equipment, in whole or in part, to a third party without notice to you. You agree that if we do so, our assignee will have our assigned rights under the Agreement, but none of our obligations, and will not be subject to any claim, defense, or set-off that may be assertable against us or anyone else.

LAW/FORUM. You agree that the Agreement and any claim related to the Agreement shall be governed by the internal laws of the state in which our (or, if we assign the Agreement, our assignee's) principal place of business is located and any dispute concerning the Agreement will be adjudicated in a federal or state court in such state. You hereby consent to personal jurisdiction and venue in such courts and waive transfer of venue. Each party waives any right to a jury trial. LOSS OR DAMAGE. You are responsible for any damage to or loss of the Equipment. No such loss or damage will relieve you from your payment obligations under the Agreement. Except for claims, losses, or damages caused by our gross negligence or willful misconduct, you agree to indemnify us and our assignee, if applicable, against any claims, losses, or damages, including attorney fees, in any way relating to the Equipment. In no event will we be liable for any consequential or indirect damages.

UCC. If we assign rights in the Agreement for financing purposes, you agree that the Agreement, in the hands of our assignee, qualifies as an agreement of the type defined in Section 2A-103(1)(g) of the Uniform Commercial Code ("UCC"). You agree to forgo the rights and remedies provided

under sections 507-522 of Article 2A of the UCC.

INSURANCE. You agree to maintain comprehensive liability insurance acceptable to us. You also agree to: 1) keep the Equipment fully insured against loss at its replacement cost, with us named as loss payee; and 2) provide proof of insurance satisfactory to us no later than 30 days following the commencement of the Agreement, and thereafter upon our written request. If you fail to maintain property loss insurance satisfactory to us and/or you fail to timely provide proof of such insurance, we have the option, but not the obligation, to secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we secure insurance on the Equipment, we will not name you as an insured party, your interests may not be fully protected, and you will reimburse us the premium which may be higher than the premium you would pay if you obtained insurance, and which may result in a profit to us through an investment in reinsurance. If you are current in all of your obligations under the Agreement at the time of loss, any insurance proceeds received will be applied, at our option, to repair or replace the Equipment, or to pay us the remaining payments due or to become due under the Agreement, plus our booked residual, both discounted at 3% per annum.

TAXES/OWNERSHIP. You will pay when due, either directly or by reimbursing us, all taxes and fees relating to the Equipment and the Agreement. Sales or use tax due upfront will be payable over the term with a finance charge. Unless the Agreement includes a \$1-purchase option, we own the Equipment (excluding any software). If the Agreement includes a \$1purchase option, you acknowledge that the Agreement shall be deemed to be a conditional sales contract, any ownership we have in the Equipment will be deemed transferred to you upon the commencement of the applicable Schedule, you grant us a security interest in the Equipment to secure your obligations under the Agreement and you agree to file any required personal property tax returns relating to the Equipment.

END OF TERM. At the end of the term of the Agreement (or any renewal term) (the "End Date"), the Agreement will renew for an additional one year period under the same terms unless a) you provide us written notice, at least 30 days prior to the End Date, of your intent to return the Equipment, and b) you timely return the Equipment to the location designated by us, at your expense. If the returned Equipment is not immediately available for use by another without need of repair, you will reimburse us for all repair costs. If the Agreement includes a purchase option and you are not in default on the End Date, you may purchase the Equipment from us "AS IS" for the purchase option price. If the Agreement includes a \$1purchase option, you will be deemed to have exercised your option to purchase the Equipment as of the commencement date of the applicable Schedule. You cannot pay off the Agreement or return the Equipment prior to the End Date without our consent. Unless the Agreement includes a \$1-purchase option, if we consent to an early prepayment, we may charge you, in addition to other amounts owed, an early termination fee equal to 5% of the price of the Equipment.

DEFAULT AND REMEDIES. If you do not pay any sum within 10 days after its due date, or if you breach any other term of the Agreement or any other agreement with us, you will be in default, and we may require that you return the Equipment to us at your expense and pay us: 1) all past due amounts and 2) all remaining payments for the unexpired term, plus our booked residual, both discounted at 4% per annum. We may also use all other legal remedies available to us, including disabling or repossessing the Equipment. You agree to pay all our costs and expenses, including reasonable attorney fees, incurred in enforcing the Agreement. You also agree to pay interest on all past due amounts, from the due date, at 1.5% per month.

MISCELLANEOUS. The Agreement is the entire agreement between you and us relating to our providing and your use of the Equipment and supersedes any prior representations or agreements, including any purchase orders. Amounts payable under the Agreement may include a profit to us. The parties agree that the original of the Agreement for enforcement and perfection purposes shall be that paper copy of the applicable Schedule which: (A) bears (i) the original or a facsimile of your manually applied signature, or (ii) a stamped or electronically applied replica of your signature or other indication of your intent to enter into the Agreement; and (B) bears the original of our manually applied signature. The parties agree that such original shall be the sole "record" constituting "chattel paper" under the UCC.

		Any change to the Agreement must be in	writing signed by each party.	
OWNER ("WE", "US", "OUR")	A CONTRACTOR OF THE PARTY.	CUSTOMER'S AUTHORIZED SI	GNATURE	
OWNER: Capital Business Systems Inc.	ĭ	CUSTOMER: City of Fruita		
SIGNATURE:	DATE:	SIGNATURE:	DATE:	
PRINT NAME & TITLE:		PRINT NAME & TITLE:		



# SCHEDULE TO MASTER AGREEMENT (Imaging Equipment)

MASTER AGREEMENT NO. APPLICATION NO. AGREEMENT/SCHEDULE NO.

CHETOMED		- V	*	25 11 4	1000				
CUSTOMER ("YOU" or "YOUR") FULL LEGAL NAME: City of Fruita						e completion		1 - 1023 - Lon	
ADDRESS: 157 South Mesa Fruita, CO 81521				=					
MASTER AGREEMENT			200	- FI - 1	6.0		10000		
REFERS TO THE AGREEMENT BETWEEN CUSTOMER	AND OWNE	D IDENTI	EIED IV	OWNER'S	PECOPOS	DV THE MASTE	D ACREEMENT	NO ABOVE	
DESCRIPTION OF EQUIPMENT, IMAG							NAGNELWILINI	NO. ABOVE.	1000
DESCRIPTION OF EQUILIBRITY, IMAG	-141-CA	NO			O CITA	NC150			
		FINAN		BEGINNII	NG METER	MONTH	LY IMAGE	EXCESS F	PER IMAGE
TYPE, MAKE, MODEL NUMBER,		UNDER		REA	DING		WANCE	CHARGE (	PLUS TAX)
QTY AND INCLUDED ACCESSORIES		AGREE	MENT	B&W	COLOR	B&W	COLOR	B&W	COLOR
1 imageRUNNER ADVANCE DX C3926i						3,600	800	\$0.0125	\$0.072
1 Cassette Feeding Unit-AW1			-			-	-		
1 Inner Finisher L1	_		-						
1 Super G3 FAX Board-BH1 1 imageRUNNER ADVANCE DX C3926i			-			001000	hoth		
1 imageRUNNER ADVANCE DX C3926i 1 Cabinet Type-W			-		-	across	both		
TOTAL CONSOLIDATED MONTHLY IMAGE ALLOWANCE AN	ID EXCESS PE	FR IMAGE C	HARGE	S (IF CONSO	LIDATED)	1		l	l
EQUIPMENT LOCATION: 157 South Mesa	ID ENGLOUT.	LIVINI IOL O	,,,,,,,,,	o (ii ooiioo	LIDITIED	-	METER FREQU	ENCY: Quarterly	,
SEE ATTACHED EQUIPMENT OR GROUP BILLING SC	HEDULE								
* THE CONSOLIDATED IMAGE ALLOWANCE AND EXCESS	PER IMAGE	AMOUNTS	SHOW	N ABO <u>VE (</u> O	R ON THE A	TTACHED EQUIP	MENT OR GROU	IP BILLING SCHED	ULE), IF ANY,
APPLIES TO (CHECK ONE): X EQUIPMENT INSTALLED	UNDER THIS	SCHEDU	LE ONL	Y. OR	EQUIPMENT	INSTALLED UND	DER THIS SCHED	ULE, TOGETHER V	WITH EQUIPMENT
LISTED ON ANY OTHER APPLICABLE SCHEDULES TO M. EXCESS PER IMAGE AMOUNTS ARE SHOWN ABOVE (C	ASTER AGRE	EMENT (F	OR IMA	GING EQUII	PMENT) (I.E.	., AN AGGREGAT	E CONSOLIDATI	ON). IF NO IMAGE	E ALLOWANCE OR
SCHEDULE WILL BE INCLUDED IN DETERMINING YOUR II	MAGE AND O	VERAGE C	HARGE	S UNDER T	HE APPLICA	BLE PRIOR SCH	EDULE TO MAST	ER AGREEMENT.	ENT UNDER THIS
TERM (CHECK ONE TERM OPTION)				THE LOT	24.7	F 62 1 1 1 1			
TERM: THE END OF THE TERM OF THIS SCHEDULE I	S THE END O	F THE TER	RM OF T	HE SCHEDU	JLE TO MAS	TER AGREEMEN	T IDENTIFIED AS	SCHEDULE NO.	
X TERM IN MONTHS: 60 (APPLIES TO THIS SCHEDULE									
PAYMENT (CHECK ONE TERM OPTION)	W. Line	Sec.	11.5	100	B 57.4	35.00			
X MONTHLY BASE PAYMENT AMOUNT: \$325.00 (PLUS	TAX) (INCLUI	DES AMOU	INTS DI	IE LINDER T	HIS SCHED	LILE ONLY)			
TOTAL CONSOLIDATED MONTHLY BASE PAYMENT A	10° 10°	DEO / IIIOO					ITO DI IE I INDED	THIS SCHEDULE	AND ANY OTHER
APPLICABLE SCHEDULES TO THE MASTER AGREEMENT		NG EQUIPA	MENT) [				113 DOE ONDER	THIS SCHEDULE /	AND ANT OTHER
ADDITIONAL TERMS AND CONDITION		TO E GOII II		OTHER THE		THE PARTY OF THE P			A 10 10 10 10 10 10 10 10 10 10 10 10 10
IMAGE ALLOWANCE CHARGES AND OVERAGES. You are entitled to m		nhas of image	o ohoum	indor Imago All	oumnee Des Me	obine (or Total Conce	lidated Image Allewan	oo if applicable) agab r	oried during the term of
this Agreement. If you make more than the allowed images in any period,									
Regardless of the number of images made in any period, you will never pay	ess than the Bas	e Payment An	nount Yo	agree to provi	de us with the a	ctual meter readings o	n any business day as	designated by us; we m	nay estimate the number
of images used if such meter readings are not received within five days afte Excess Per Image Charges may be proportionately increased at any time in									
thereafter, the Base Payment Amount and the Excess Per Image Charges (a									
the terms of the Master Agreement) may be increased by a maximum of 15	% of the then exis	sting payment	or charge	. Images made	on equipment n	narked as not financed	under this Agreemen	t will be included in dete	ermining your image and
overage charges.	NEFEA	ONI V	-	Service of		-	- Carrier - Carr	100000000000000000000000000000000000000	
APPLICABLE TO GOVERNMENTAL E			F044	# F-5.				75.00	
You hereby represent and warrant to us that as of the date of the Agreement									
make the Agreement a legal and binding obligation against you have been all payments due and payable for the current fiscal year are within the curre	ollowed; (c) the t	e within an av	be opera	ted and controll texhausted, and	ea by you and v Lunencumbered	MII be used for essent	ial government purpos i intend to nav all amo	ies for the entire term of	tne Agreement; (d) that terms of the Agreemen
when due, if funds are legally available to do so; (f) your obligations to remit	amounts under th	ne Agreement	constitute	a current exper	nse and not a de	ebt under applicable st	ate law, (g) no provision	on of the Agreement con	stitutes a pledge of your
tax or general revenues; and (h) you will comply with any applicable informa									
Agreement for any future fiscal period, you shall have the right to return the the expense of returning the Equipment to the location designated by us), pr	equipment and to ovided that at lea	st thirty (30) d	ays prior t	o the start of the	fiscal period for	r which funds were not	ere available, without appropriated, your Ch	penalty or adoltional exp nief Executive Officer (or	Legal Counsel) delivers
to us a certificate (or opinion) certifying that (a) you are a state or a fully con	stituted political s	ubdivision or a	agency of	the state in whi	ch you are locat	ed; (b) funds have not	been appropriated for	the applicable fiscal pe	riod to pay amounts due
under the Agreement; (c) such non-appropriation did not result from any act shall only apply if, and to the extent that, state law precludes you from enter								r the Agreement. You a	igree that this paragraph
AGREEMENT	ing into the rigid	SINCIR'II BIC 7	recinent	constitues a m	ara year uncomo	itonar payment obliga	DOI:		
1 5 553 35 5 5 5 5 6 6 6	ad tame of the 1	Jacks Assess			Chales as assess	man babwan Cuntan		eneral to the continuous	referenced basels for an
This Schedule to Master Agreement ("Schedule"), together with the preprin the attached Equipment or Group Billing Schedule) (excluding equipment may	ed terms of the r arked as not finan	waster Agreer iced under this	Schedul	menoed), cons e), separate and	lititles an agree I distinct from ar	ment between Custon by other Schedule to M	ler and Owner with re: laster Agreement ente	red into between Custor	ner and Owner pursuan
to the Master Agreement. Customer agrees to be bound by the terms of this	Schedule, which	h includes the	preprinte	d terms of the N	laster Agreeme	nt (as amended), and	agrees this Schedule	shall constitute an "Agr	eement" as such term is
used in the Master Agreement. The original of this Schedule shall be that co other indication of your intent to enter into this Schedule; and (B) bears the									
control. This Schedule shall commence on the date of our acceptance.	Original Of Our III	ianually applic	u signatu	ic. ii aliy piovis	ion in and other	due connets mui a p	TOVISION III DIG MIDSIGI	Agreement, the provisa	on in this ocheoole shall
<b>CUSTOMER'S AUTHORIZED SIGNATI</b>	JRE								
ONCE YOU SIGN THIS SCHEDULE AND OWNER A		, THIS SC	HEDU	LE WILL B	E NON-CA	NCELABLE FO	OR THE FULL T	ERM.	
City of Fruita	X				M	lichael Benne	ett, City Mana	ager	
CUSTOMER			SIGNA	TURE			AME & TITLE		DATE
OWNER ("WE", "US", "OUR")	, i j. Tr								
Capital Business Systems Inc.									
OWNER		SIC	SNATU	RE		PRINT NAI	ME & TITLE		DATE
3001 East Pershing Blvd Ste 100, Cheyenne, WY 82001		0=							
CERTIFICATE OF DELIVERY AND AC									
The Customer hereby certifies that all the Equipment: 1) h	as been rece	eived, insta	lled, an	d inspected	, and 2) is fu	ılly operational ar	nd unconditionally	y accepted.	
SIGNATURE: X		NAME	ANDT	ITI F				DATE:	



**Customer Information:** 

# Installation & Integration Agreement

<b>Customer Name:</b>	City of Fruita Police Departm	nent				
Street Address: 1	57 South Mesa		City, State, & Zip: Fruita, CO 81521			
Contact Name: F	Paula Rajewich		Phone: (970) 858-30			
Email: prajewich(	@fruita.org					
Software/Serv	vices:					
Product # CANO	N imageRUNNER ADVANCE [	OX C3926i	Serial #			
	N imageRUNNER ADVANCE (		Serial #			
	FUNCTION	NUMBER O	F USERS	PRICE TO CLIENT		
X Print	X Email Folder	10				
And the Anthony Market	e scope of work document prepor on above-listed product/softwar		only.			
will not be re  II. LIMITATIONS  A. Hardware & B. Backup or re  C. Liability for c Systems, Inc.  III. DISCLAIMER OF  A. Except as sp for a partic s or conseque moneys actunegligence. A  IV. GENERAL  A. The terms are and Custome	esponsible for Customers failure to do software support other than those iterstores delay or failure to furnish services if sufficiently AND WARRANTY pecifically provided herein; there are all ar purpose. It all Capital Business Systems, Inc. be intial damages, even if advised of the pually paid by Customer for the service any action brought against Capital Business Capital Bus	so, or for the cost of reconstructions listed on this or another support children is caused by an act of Government of the cost of the cos	ion of files and data lost during out agreement;  od, strike, government action of or implied, including, but from loss of data, loss of profit omer's right to recover dama ability shall apply regardlessinght within three (3) months of any order submitted by the nout specific provisions to do its terms and conditions. Furtless	n, or any cause beyond reasonable control of Capital Busines to not limited to, warranties of merchantability and fitness its, loss of use of products or Equipment, or for any incidentages caused by Capital's fault or negligence shall be limited to of the form of action, whether in contract or tort including of the alleged act or omission in giving rise to damages.  • Customers for services under this agreement. • So. By signing this agreement, Capital Business Systems, Incher which, the parties agree that it is their complete statemen		
Signatures:			(gen			
Customer:			Capital Business Syste	ens, Inc.:		
Title:	City Manager		Fitle:	p. coc. 115		
Date:			Date:			



Date

## Contract Acknowledgement in lieu of Purchase Order

I, Michael Bennett (Purchasing Agent Name)	as an authorized agent of	f City of Fruita (Agency Name)	_am making
the attached purchase I lease I ren	ntal as specified in agreen	nent NASPO #140595 (Purchase Agreement Number)	under the
terms and conditions of State/Associ	ciation Contract Number	Colorado PA 160002 (State/Association Contract Number	
Signature			
City Manager			
Title			



### AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: SHANNON VASSEN, ASSISTANT CITY MANAGER

**DATE:** JANUARY 16, 2024

AGENDA TEXT: Ordinance 2024-01 -An Ordinance Amending Section 2.10.040 of the Fruita

Municipal Code Regarding City Council Compensation.

### BACKGROUND

The City Council has completed a review of comparable elected official compensation across Western Colorado and has requested an update to the City Council compensation. The intent of this request is to reflect inflation in pay, encourage demographic diversity of future councils, and to streamline the process for adjustments to compensation rates in the future.

Compensation for the Mayor, Mayor Pro-Tem, and members of the City Council is detailed in the Fruita Municipal Code, and can be amended by ordinance, as is defined by 2.03 and 3.02 of the Fruita Charter. The Charter states that no salary increases shall be effective during the current term of the Council members enacting such ordinance. Any ordinance on compensation, therefore, may take effect at the beginning of each term for a Council Member or each term for a Mayor.

Attached is an ordinance for the City Council to consider that provides an update of compensation for future Council members in addition to providing an automatic escalator. As has been discussed, and as is comparable to the municipalities reviewed when researching municipal officials' compensation, this ordinance sets a new monthly rate of each position at an additional \$50 per month, following the April 2024 election for the new members of the City Council. New monthly pay will be \$525 for the Mayor, \$400 for the Mayor Pro-Tem, and \$350 for City Council members.

The ordinance also includes an automatic escalation tied to the Denver/Aurora/Lakewood Consumer Price Index ("CPI") each year. Using a standardized index is recommended as the mechanism for allowing the automatic increases rather than tying it to the City's pay range increases for employees. Since each position within the City is individually matched to the a market-rate, the data does not change as frequently for elected officials. However, at any time, the City Council can request staff analyze current City compensation rates and recommend changes to this automatic escalation.

### FISCAL IMPACT

There is minimal fiscal impact to this ordinance, as it will only impact future City Councils and budgets which will be subject to approval from the elected body.

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

The adoption of this ordinance updates the City Council's pay and compensation to reflect current rates of elected officials with the goal of encouraging diverse and additional participation of residents as elected officials in the future.

### OPTIONS AVAILABLE TO THE COUNCIL

- Approve the Ordinance as presented, or with amendments,
- Continue the public hearing to a future date and advise staff to revise the Ordinance.

### RECOMMENDATION

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

ADOPT ORDINANCE 2024-01 AMENDING TITLE II OF THE FRUITA MUNICIPAL CODE REGARDING CITY COUNCIL AND MAYOR COMPENSATION.

### **ORDINANCE 2024-01**

# AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO AMENDING SECTION 2.10.040 OF THE FRUITA MUNICIPAL CODE REGARDING COMPENSATION OF THE CITY COUNCIL AND MAYOR

WHEREAS, Section 2.10.040 of the Fruita Municipal Code provides that "each member of the City Council shall be compensated for expenses incurred in serving his/her office in the amount of three hundred dollars (\$300) per month. The Mayor Pro Tem shall receive an additional fifty dollars (\$50) per month. The Mayor shall be compensated in the amount of four hundred seventy five dollars (\$475) per month;" and

WHEREAS, the Fruita Charter details that salary for the City Council (Article II, Section III) shall be effective during the current term of the Council members enacting such ordinance; and

WHEREAS, the Fruita Charter also details that salary for the Mayor (Article III, Section II) shall be determined by ordinance, and that no increase in shall take affect until after the next regular City election; and

**WHEREAS**, the aforementioned compensation currently paid to members of the City Council and Mayor was established in 2007; and

**WHEREAS**, the compensation for the City Council and Mayor needs to be increased to make it more equitable in light of the amount of time required to serve as a local elected official and the high level of involvement in various government functions and to reflect inflation; and

WHEREAS, the intent of this Ordinance is to increase the monthly compensation paid to the Mayor and Council members elected or appointed to a term of office following the enactment of this Ordinance; and

WHEREAS, an additional intent of this Ordinance is to include future increases in compensation to an annual inflation adjustment to encourage participation and demographic diversity of future Councils and to streamlines for the process for adjustments to compensation rates in the future; and

WHEREAS, the City Council finds that the increase in compensation provided hereby will not cause an increase in compensation for any part of any term of office of Council Members or Mayor that is in effect at the time of final adoption of this Ordinance.

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

<u>Section 1:</u> Section 2.10.040 of the Fruita Municipal Code and Ordinance 2007-09 are hereby amended to read as follows:

**2.10.040 COMPENSATION**. Each member of the City Council shall be compensated for expenses incurred in serving his/her office in the amount of three hundred dollars (\$300) three hundred and fifty dollars (\$350) per month. The Mayor Pro Tem shall receive an additional fifty dollars (\$50) per month. The Mayor shall be compensated in the amount of four hundred seventy five dollars (\$475) per month five hundred and twenty five dollars (\$525) per month. The monthly compensation for the Mayor, Mayor Pro-Tem, and City Council shall automatically increase on January 1<sup>st</sup> of each year beginning on January 1, 2027, in an amount equal to the percentage increase in the Denver-Aurora-Lakewood Consumer Price Index ("CPI"). Should the CPI decrease in any given year, the monthly compensation shall not decrease, but instead, shall remain the same as the prior year.

# PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS 16<sup>th</sup> DAY OF JANUARY, 2024.

CITY OF FRUITA
Mayor Joel Kincaid

### **Regional Comparison of Mayor and Council Pay**

No.	Organization	Mayor		May	or Pro-Tem	Cou	ıncil Member	Population
1	Craig	\$	25.00		N/A	\$	200.00	8,969
2	Delta	\$	150.00	\$	100.00	\$	100.00	9,224
3	Grand Junction	\$	750.00		N/A	\$	500.00	66,964
4	Meeker	\$	500.00	\$	300.00	\$	300.00	2,336
5	Montrose	\$	1,000.00	\$	900.00	\$	900.00	20,648
6	New Castle	\$	1,000.00		N/A	\$	500.00	4,923
7	Ouray	\$	500.00		N/A	\$	200.00	923
8	Parachute	\$	200.00	\$	120.00	\$	120.00	1,381
9	Palisade	\$	300.00	\$	200.00	\$	200.00	2,584
10	Ridgway	\$	387.50	\$	250.00	\$	250.00	1,207
	Average	\$	481.25	\$	311.67	\$	327.00	11,916
	City of Fruita Pay (Current)	\$	475.00	\$	350.00	\$	300.00	
	Fruita Placeholder	\$	525.00	\$	400.00	\$	350.00	
	Annual Change	\$	600.00	\$	600.00	\$	600.00	