



**PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT
MARCH 14, 2023**

Application #: 2023-04
Project Name: Berg
Application: Rezone
Property Owner: Willie and Neomi Berg
Representative: Kim Kerk Land Consulting & Development
Location: 1806 J 3/10 Road
Zone: Currently zoned Agricultural, Forestry and Transitional (AFT-County zoning)
Request: This is a request for approval to zone of approximately 3.4 acres to Community Residential (CR).

PROJECT DESCRIPTION:

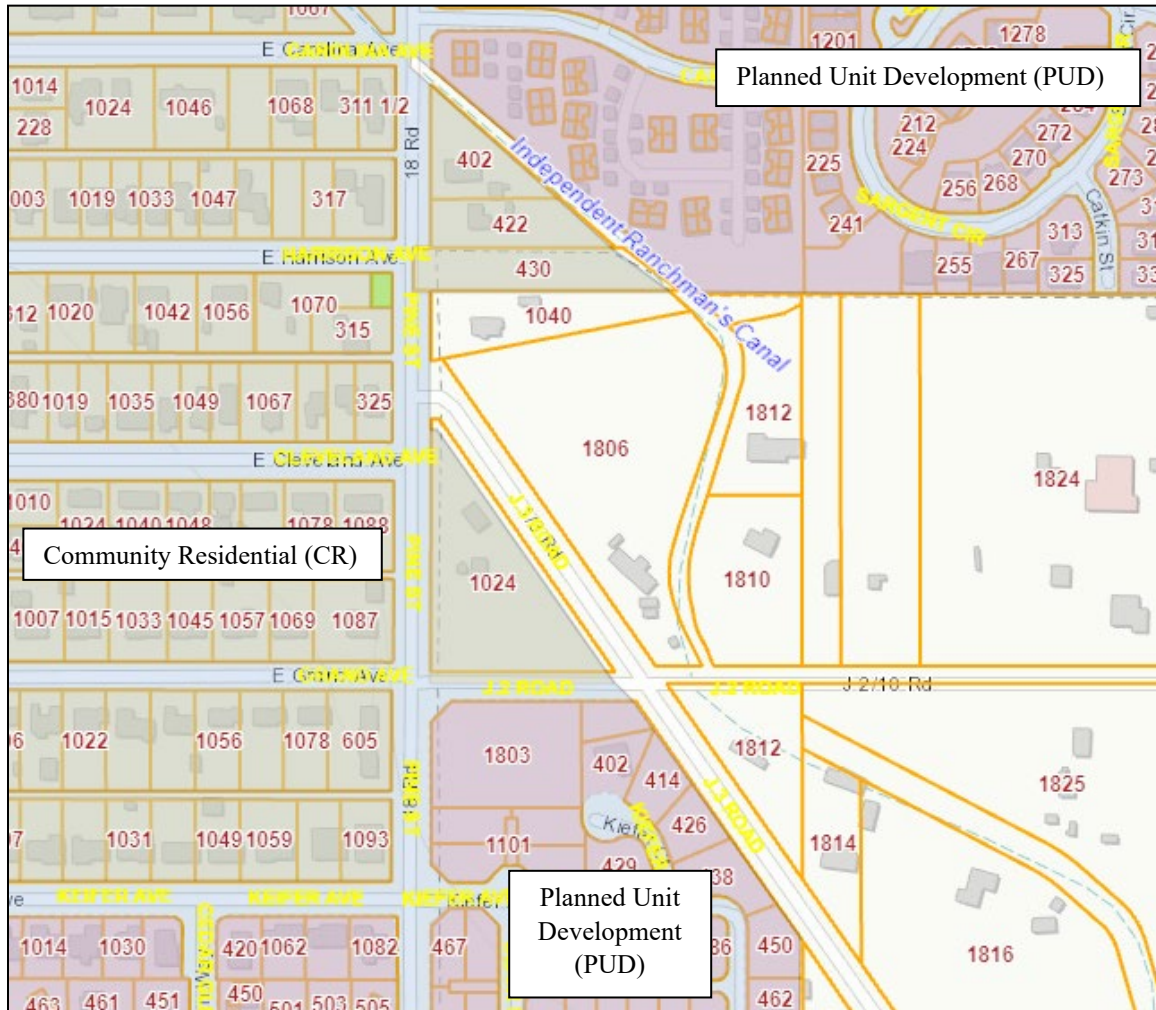
This is a request for approval to zone approximately 3.4 acres of property to Community Residential (CR). The subject property is currently zoned Agricultural, Forestry and Transitional (AFT), which is a Mesa County zoning designation.

In addition to this rezoning application, the property owner has also submitted an annexation application. Typically, annexation applications are accompanied by a rezone application and can run concurrently through the public hearing process.

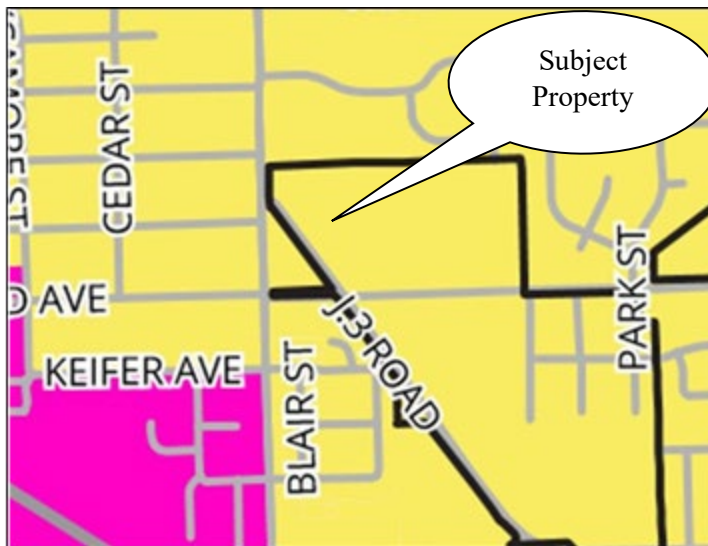
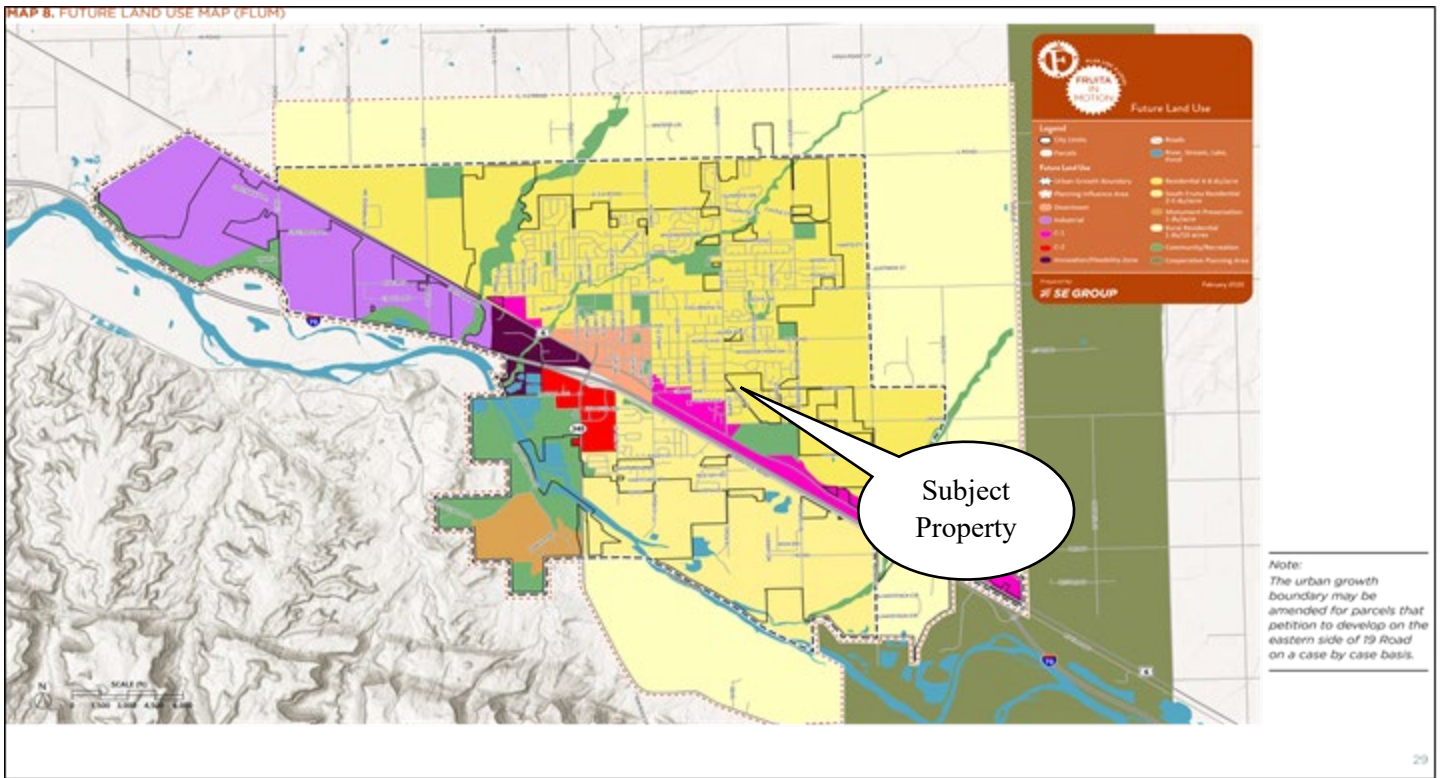
The applicants are requesting a Community Residential (CR) zone. The first step in the process to zone a property outside the city limits, is annexation. Once the subject property has been annexed into the City Limits, zoning the property must take place within 90 days in accordance with Section 17.17.080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

The area in which the subject property is located is supported to have a Community Residential zoning classification as shown on the Future Land Use Map within the City's Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan). The Land Use Code states that the "*The purpose of the CR zone is to allow for moderate density detached single-family residential neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g., apartments and townhouses). Innovative neighborhood design is encouraged in this zone district to provide opportunities for housing diversity. This area is served by public utility infrastructure and is appropriate for density of 4-8 du per acre.*"

Surrounding land uses are primarily single family detached residential. The map below identifies the various zones in this area.



FUTURE LAND USE MAP (FLUM)



2022 AERIAL PHOTOGRAPH



REVIEW OF APPLICABLE LAND USE CODE REQUIREMENTS:

SECTION 17.09.070 AMENDMENT TO OFFICIAL ZONING MAP (REZONING)

- A. **Applicability and Procedures.** The City Council may amend the number, shape, or boundaries of any zone, removing any property from one zone and adding it to another zone, only after recommendation of the Planning

Commission. An amendment to the Official Zoning Map may be initiated by the owner of any property for which a rezoning is sought, or upon application of City Council.

B. Approval Criteria. The Official Zoning Map may be amended when the following findings are made:

- 1. The proposed amendment is compatible with surrounding land uses, pursuant to Section 17.05.080 (C), and is consistent with the city's goals, policies and Master Plan; and**

The purpose of this Section is to provide a fair and consistent manner in which to consider compatibility within the overall context of the Fruita Master Plan, existing adjacent land uses, applicable zoning district requirements, and other city codes and regulations. Nothing in this Section shall prevent the City of Fruita from denying a land use application based on relevant Code requirements or taking enforcement action against a property owner where a nuisance or other Code violation occurs.

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

With regards to compatibility, the zoning of the subject property and anticipated development from a land use perspective should be compatible with foreseeable allowed land uses in the area. This takes into consideration that if surrounding properties were to be incorporated into the city limits, the allowed uses for those parcels would be compatible with the residential land uses.

The Community Residential (CR) zone allows for a density range between 4 and 8 dwelling units per gross acre. The CR zone is also the city’s primary residential zoning district. Below is a table of Land Uses contained in Section 17.05.090 and shows uses that are allowed (A), conditionally allowed (C), and not allowed (*).

Table 17.05.090 - LAND USE TABLE	
	CR
RESIDENTIAL	
Household Living	
Business Residence	C
Dwelling, Single-Family Attached	A
Dwelling, Single-Family Detached	A
Duplex	A
Dwelling, Multi-Family	A
Manufactured Housing Park (See Chapter 31)	C
Mobile Home Park (See Chapter 31)	C
Manufactured Home (See Chapter 31)	C
Mobile Home (See Chapter 31)	C

The Fruita Comprehensive Plan (a major portion of the city's Master Plan) recommends Community Residential (CR) type zoning for this area. 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 Community Residential zone allows 4-6 dwelling units per acre by right. Density Bonuses may be used to increase the density up to 8 dwelling units per acre. Additional features throughout the subdivision (open space, trails, alley access, mix of housing types) would be required through Density Bonuses in order for the density to be increased.

This criterion has been met.

2. **The land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Master Plan; or**

This criterion is not applicable because it has not been given a city zoning designation prior to this request.

3. **The area for which the amendment is requested has changed substantially such that the proposed zoning better meets the needs of the community; or**

Although there have been changes in the area, this criterion is not applicable because the land is not yet in the Fruita city limits.

4. The amendment is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions; or

The Future Land Use Map and associated Comprehensive Plan was recently amended in early 2020. Although this amendment includes this area, the area had been included in past Master Plans and future land use maps. The city has planned for this area to be included in the city limits. This criterion is not applicable because there is no comprehensive revision of the Official Zoning Map for this area.

5. The zoning amendment is incidental to the annexation of the subject property.

The requested zoning amendment is incidental to the annexation and, as explained above, the requested CR zone is consistent with the city's goals and policies as expressed in the Master Plan.

Based on this information, the requested CR zone meets the approval criteria that must be considered for a rezone (Official Zoning Map amendment).

REVIEW COMMENTS:

No reviewer expressed any issues with the proposed zoning request.

PUBLIC COMMENTS:

No written public comments have been received by Staff at this time.

LEGAL NOTICE (17.07.040 (E)):

Legal Notice (minimum of 15 days prior to Planning Commission)	
February 22, 2023	Post Cards
February 22, 2023	Sign Posting
February 22, 2023	Legal Ad

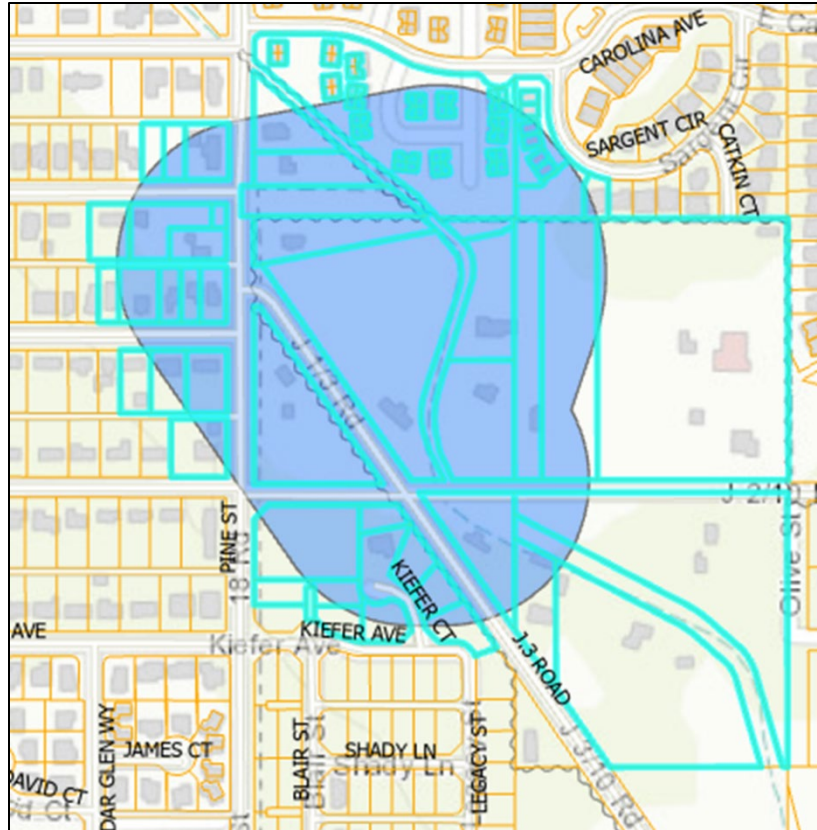


NOTICE OF PUBLIC HEARING

The Fruita Planning Commission will hold a public hearing **Tuesday, March 14, 2023 at 6:00 p.m.** This meeting may be held in person subject to public health orders or by City Council direction. Details on how to access this meeting will be found at www.fruita.org. If the meeting is held in person, the virtual link will remain open for public participation. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on **Tuesday, April 18, 2023 at 7:00 p.m.** Please check www.fruita.org for more details. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

Application #	2023-04
Application Name	Berg
Application Type	Rezone
Location	1806 J 3/10 Road
Current Zone:	Mesa County Zoning AFT
Description	This is a request to rezone approximately 3.4 acres from Mesa County Zoning AFT to Community Residential (CR).

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



STAFF RECOMMENDATION:

Staff recommends that the subject property be zoned Community Residential.

SUGGESTED MOTION (PLANNING COMMISSION):

Mr. Chair, I move to recommend **approval** of the zone request to zone the subject property to Community Residential with no conditions to the Fruita City Council.

FRUITA PLANNING COMMISSION: March 14, 2023

FRUITA CITY COUNCIL: April 18, 2023



FRUITA
COLORADO

LAND DEVELOPMENT APPLICATION

Project Name: Rezone of 1806 J 3/10 Road
 Project Location: 1806 J 3/10 Road
 Current Zoning District: AFT Requested Zone: R-4
 Tax Parcel Number(s): 2697-163-00-039 Number of Acres: 3.4
 Project Type: Minor Subdivision

Property Owner: Willie Berg Developer: _____
 Property Owner: Neomi M Berg Contact: _____
 Address: 1806 J 3/10 Road Address: _____
 City/State/Zip: Fruita, Co 81521 City/State/Zip: _____
 Phone: _____ Fax: _____ Phone: _____ Fax: _____
 E-mail: _____ E-mail: _____

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

Owner Rep: Kim Kerk Land Consulting & Development Engineer: _____
 Contact: Kim Kerk Contact: _____
 Address: 2829 North Ave #105 Address: _____
 City/State/Zip: Grand Junction, Co 81501 City/State/Zip: _____
 Phone: 970-640-6913 Fax: _____ Phone: _____ Fax: _____
 E-mail: kimk355@outlook.com E-mail: _____

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

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

<u>Willie Berg</u>	<u>Willie Berg</u>	<u>9-8-22</u>
Name of Legal Owner	Signature	Date
<u>Neomi M. Berg</u>	<u>Neomi M. Berg</u>	<u>9-8-22</u>
Name of Legal Owner	Signature	Date
_____	_____	_____
Name of Legal Owner	Signature	Date

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 8 day of September, 2022

My Commission expires: 2/12/2024

Isabel G. Fladeland
 Notary Public

ISABEL G. FLADELAND
 Notary Public
 State of Colorado
 Notary ID # 20024033905
 My Commission Expires 02-12-2024

General Project Report- Annexation & Rezone

Berg Estate

1806 J 3/10 Road

Fruita, Co 81521

Date: January 05,2023

Prepared by: Kim Kerk, Project Manager

Submitted to: City of Fruita-City Planning and Development

325 E Aspen Ave

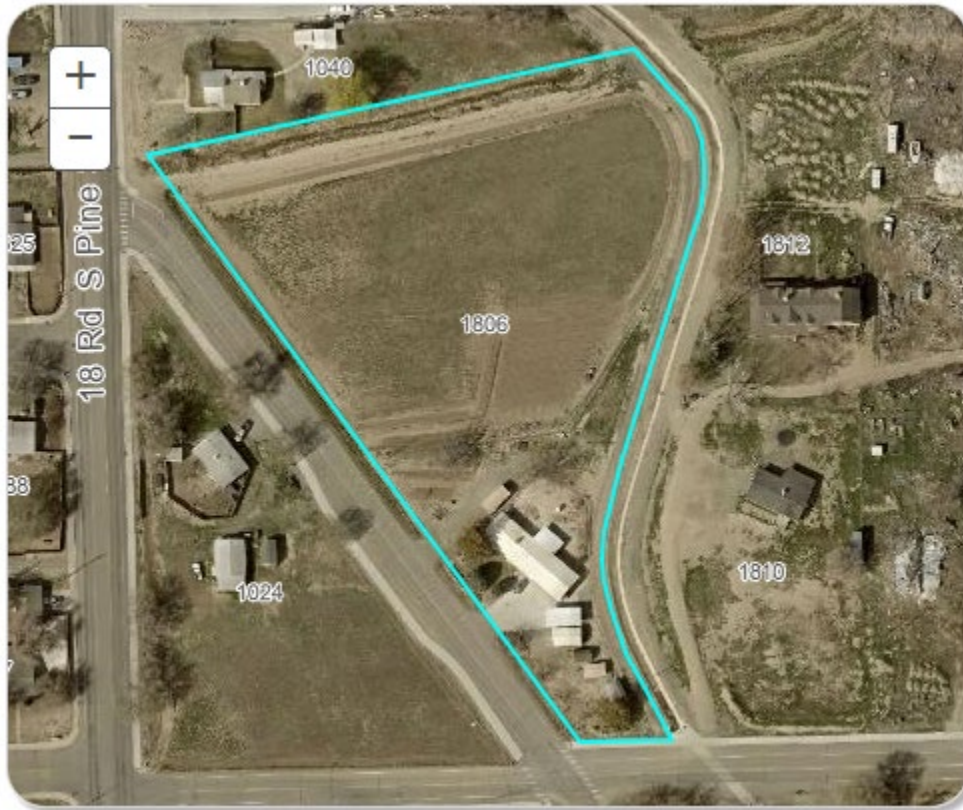
Fruita, Co 81521

Attn: Kelli McLean and Henry Hemphill

Project: Annexation & Rezone

Property Address: 1806 J 3/10 Road

Tax Schedule No.: 2697-163-00-039



Date of Aerial Photo: 2019 & 2022

Project Applicant: Kim Kerk Land Consulting & Development

Property Owner: Willie Berg & Naomi Berg

Project Narrative for Rezone and Annexation
Berg's
1806 j 3/10 Road
Fruita, Co 81521

Berg Project Overview:

Kim Kerk Land Consulting & Development is the representative for the property owners, Willie and Naomi Berg. This annexation and rezone request is submitted on behalf of the Berg's. The subject property containing 3.4 acres +/- and is located on J 3/10 Road Fruita, CO 81521. The address is 1806 J 3/10 Road, the parcel number is 2697-163-00-039 and the zoning is AFT.

Petitioner's Intent:

The Petitioner's Intent is to Rezone and Annex the property into the city limits of Fruita.

Current Land Use:

4.1.2 | AFT Agricultural, Forestry, Transitional District

The AFT, Agricultural, Forestry, Transitional District is primarily intended to accommodate agricultural operations and very low-density single-family residential development within the Rural Planning Area.

Future Land Use:

Community Residential (CR). The purpose of the CR zone is to allow for moderate density detached single-family residential neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g. apartments and townhouses). Innovative neighborhood design is encouraged in this zone district to provide opportunities for housing diversity. This area is served by public utility infrastructure and is appropriate for density of 4-8 du per acre.

Project Narrative: Annexation

This property is within the City's Urban Growth Area and the annexation meets the requirements of State law (Title 31, Article 12). The area to be annexed can be efficiently served by urban services and facilities including police and fire protection, sanitary sewer service, potable water, irrigation water, drainage structures, streets and trails, etc..

New impacts to urban services and facilities will not be created as the existing lot has all services in place.

-The area to be annexed is contiguous with existing urban development boundary and is consistent with the City's Master Plan.

The annexation is supported by local residents and landowners. After 84 invitations mailed to the neighbors, a neighborhood meeting was conducted on 9-22-2022 and no residents attended. The annexation will have a logical social and economic association with the City of Fruita.