

**A. CALL TO ORDER**

Five Planning Commissioners were in attendance. (Jessica Hearn, Jesse Fabula, Derek Biddle, Amy Miller, and Patrick Hummel were present.)

**B. PLEDGE OF ALLEGIANCE**

Commissioner Biddle led the Pledge of Allegiance.

**C. AMENDMENTS TO THE AGENDA**

None

**D. APPROVAL OF THE AGENDA**

COMMISSIONER MILLER MOVED TO APPROVE THE AGENDA

COMMISSIONER FABULA SECONDED THE MOTION

MOTION PASSED 5-0

**E. WITHDRAWN ITEMS**

None

**F. CONTINUED ITEMS**

None

**G. CONSENT ITEMS**

APPROVAL OF MINUTES

January 10, 2023, Planning Commission Meeting.

COMMISSIONER HEARN MOVED TO APPROVE THE MINUTES

COMMISSIONER MILLER SECONDED THE MOTION

MOTION PASSED 5-0

**H. HEARING ITEMS**

Application # 2023-03  
Application Name: Berg  
Application Type: Annexation  
Location: 1806 J 3/10 Road  
Current Zone: Mesa County Zoning AFT  
Description: This is a request to annex approximately 3.4 acre into the city limits.

Staff Presentation: Henry Hemphill

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).

Staff Presentation: Henry Hemphill

Commissioner Hearn brought it to the attention of the Planning Commission that the Hearing items were linked and asked for one combined presentation. It was deemed appropriate. Mr. Hemphill stated that they would need to follow protocol and look at, discuss, and vote on each application separately.

Mr. Henry Hemphill, City of Fruita Planner, gave the Staff presentation.

Slide 1 – Introduction

Slide 2 – Application Details

Application #: 2023-03  
Project Name: Berg  
Application: Annexation  
Representative: Kim Kerk Land Consulting  
Location: 1806 J 3/10 Road  
Current Zone: AFT (County)

Slide 3 – Legal Notice

- All Legal Notice accomplished in accordance with local and state law.
  - Post Cards – February 22, 2023
  - Sign Posting – February 22, 2023
  - Newspaper – February 22, 2023

Mr. Hemphill gave a breakdown of required legal notice.

Slide 4 – Buffer Map and Site Posting Picture

Mr. Hemphill showed where the subject property was located.

Slide 5 – Zoning Map and Aerial Photo

Mr. Hemphill talked about the type of uses that surrounded the subject property.

Slide 6 – Future Land Use Map

Mr. Hemphill explained that the Future Land Use Map helped them have conversations with the public and property owners looking to annex and zone. He added that the map was used to make zoning recommendations.

#### Slide 7 – Zoning Map and Future Land Use Table

Mr. Hemphill gave an overview of the zoning type recommended by the Future Land Use Map. He informed the Planning Commissioners that Residential 4-8 du/acre and Community Residential are used interchangeably and mean the same thing.

#### Slide 8 – 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.

Mr. Hemphill stated that the review criteria needed to be considered. He added that if the subject property never met the requirements of State Statute it would not have come before the Planning Commission. He added that the subject property could be served with City services.

#### Slide 9 – 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 10 – Suggested Motion

- Mr. Chair, I move we recommend **approval** of application 2023-03, the Berg Annexation, to the Fruita City Council with the condition that a 14-foot multipurpose easement be dedicated along all rights-of-ways to the City of Fruita.

#### Slide 11 – Next Steps

- Following Planning Commission
  - City Council 1<sup>st</sup> Reading of the Annexation Ordinance – March 21, 2023
  - City Council 2<sup>nd</sup> Reading of the Annexation Ordinance – April 18, 2023 (public hearing)
  - City Council – action to find the property eligible for Annexation (Resolution required by State Statute)
  - If approved by City Council.

- Annexation is effective 30 days after Ordinance to Annex is adopted (May 18, 2023)

Mr. Hemphill gave details about the steps needed for an annexation.

Slide 12 – Berg Rezone Introduction

Slide 13 – Application Details

Application #:	2023-04
Project Name:	Berg
Application:	Rezone
Representative:	Kim Kerk Land Consulting
Location:	1806 J 3/10 Road
Current Zone:	AFT (County)
Zone Request:	Community Residential

Slide 14 – Legal Notice

- All Legal Notice accomplished in accordance with local law.
- Post Cards – February 22, 2023
- Sign Posting – February 22, 2023
- Newspaper – February 22, 2023

Slide 15 – Site Posting and Legal Notice Buffer Zone Map

Slide 16 – Zoning Map and Aerial Photo

Slide 17 – Future Land Use Map

Slide 18 – Zoning Map and Future Land Use Zoning Table

Mr. Hemphill explained why Residential 4-8 du/acre or Community Residential (CR) zoning fit this property.

Slide 19 – Review Criteria

- Section 17.09.070
- 5 criteria to consider.
  - Zoning Compatibility with surrounding land uses.
  - Consistent with the Master Plan.
  - Is incidental to an annexation application.

Mr. Hemphill talked about compatibility and said this criterion had been met. He added that zoning was incidental to the annexation. He explained that it was more efficient to both annexation and rezone applications through the process together.

Slide 20 – 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 21 – Suggested Motion

- Mr. Chair, I move we recommend **approval** of application 2023-04, the Berg Rezone, zoning the property to Community Residential to the Fruita City Council.

Slide 22 – Next Steps

- Following Planning Commission
  - City Council 1<sup>st</sup> Reading of the Zoning Ordinance – March 21, 2023
  - City Council 2<sup>nd</sup> Reading of the Zoning Ordinance – April 18, 2023 (public hearing)
  - If approved by City Council.
  - Zoning is effective 30 days after Ordinance to Zone is adopted (May 18, 2023)

Mr. Hemphill concluded his presentation.

Commissioner Biddle thanked him.

Kim Kerk from Kerk Land Consulting & Development in Grand Junction went up to speak. She stated that she was the representative for the Bergs. She said that the annexation and rezone did meet all the Code requirements and Future Land Use for the property. She thanked them.

Commissioner Biddle thanked her. He opened the meeting up for public participation. There was no one. He closed the public comment portion for the hearing item.

Commissioner Biddle asked about Mesa County Transportation's comments. He said it appeared that there was some confusion.

Mr. Hemphill stated that there were no concerns. He said that the original annexation map that was submitted looked like a subdivision plat where it was suggesting that the City annex the north 2 ½ acres and not the entire property as was mentioned in the project narrative. The annexation map in the packet has the whole property being annexed and not just a portion of it.

Commissioner Hearn asked what an enclave was.

Mr. Hemphill clarified that an enclave means that it is fully surrounded by the city limits. He stated that there are some county properties east of the subject property there is contiguity for all those properties. He added that they all should be within the city limits. There were some properties that may or may not have elected to petition for annexation. The City of Fruita has

taken the stance that it does not force annexation unless there is a public health issue which would mostly be related to failing septic systems or transportation issues. He continued that there was a list of reasons why someone would have an enclave and a list of reasons someone would want to annex.

Commissioner Hearn pointed out that criteria #3 for the annexation hearing says that the area is contiguous with existing development. In the Staff report it says that subject property is somewhat contiguous. She felt that it was contiguous. She asked Mr. Hemphill if he meant in terms of somewhat contiguous that some of the properties were undeveloped.

Mr. Hemphill said that she was correct.

Commissioner Hearn disagreed with the word somewhat because the criterion is with existing development. She added that considering things that were undeveloped made the word inaccurate in her opinion.

Commissioner Miller agreed with her. She felt that the annexation made perfect sense.

Commissioner Hummel asked about the 1/6 contiguity. He asked if 1/6 of the perimeter of the property is surrounded by the city?

Mr. Hemphill clarified that 1/6 of the property needed to touch existing city limits. He said that the criteria called out a specific code section in the Colorado Revised Statutes that says that it can jump platted right of way. They don't have to have the right of way to have the connection. If it is public right of way, which it is, it works. He added that they have a legal description for J 3/10 Road to include it in the City limits.

Commissioner Hummel asked about Mesa County's comments about confusion over road maintenance. He asked if it was an issue or just a comment that may have been taken out of context.

Mr. Hemphill said that the City of Fruita did a transportation improvement along J 2/10 Road about 8-9 years ago. Part of that was that the City of Fruita would do a Master Plan Annexation Plan of right of way. There is no surveyor on staff that could go out and survey all right of ways. The confusion came about with the Annexation map that showed a portion of the property being annexed. He added that there has been a great working relationship with Mesa County's Transportation Department with regard to joint road maintenance within the city limits and within the Urban Growth Boundary. He added that these are right of ways that need to be acquired and Mesa County would like the City to have and it makes sense for us to include it in the city limits.

Commissioner Hummel asked about the easements. He asked if that was part of the recommendation and he pointed out where they were.

Mr. Hemphill said it was suggested to have an easement along all right of ways. He said that it could do a legal description with an exhibit that shows where those easements are.

Commissioner Hearn asked about criteria #5. She said it talks about making sure that all the utilities along the city's edge will share appropriately in the costs. She asked if when a development plan and there are no utilities there, it was her understanding that the developer / applicant pays for those. She asked if this was correct.

Mr. Hemphill confirmed that she was correct.

Commissioner Hearn continued; she said it mentioned in the Staff report that there was a resolution of a recapture agreement that pays for those things. She asked about the mechanism for making those things for the City. She asked if there needs to be a condition added to the proposed resolution to make sure that those costs are done at the time of the development or is it fine without it?

Mr. Hemphill stated that there were a number of different land use code sections that did require developers to pay their own way. The City should not have to subsidize development. To incentivize future developments they have a clear Transportation Impact fee credit section that states that any improvements that benefit that property and others are eligible for Transportation Impact fee credits. He added that they have a full road section that is built out for J 3/10 Road, they are missing the connection of the sidewalk from the north to the south. Upon a review of a minor or major subdivision, that is when the decision can be made from the city engineering staff and the planning staff on whether or not those impact fee credits would apply for the construction of those improvements based on the level of those improvements. He talked about the recapture agreement. He said that those have been done in the past, they have one right now for everything south of J 2/10 Road and 19 Road. The recapture agreement is to be paid back to the City of Fruita for its extension of Highway 6 & 50 interceptor line that goes by the railroad, under the railroad, under 6 & 50 to Iron Wheel and then to 19 Road and up north. There are some developments that are starting to utilize that and they will have to pay that back. For this property sanitary sewer service is nearby.

Commissioner Hearn summarized. She stated that the necessary part of the annexation would have mechanisms somewhere else down the line in a development plan so they did not have to have a condition in the approval.

Mr. Hemphill said that the subdivision standards would take care of it.

Commissioner Hearn commented that on the Kerk Land documents that are attached Naomi was spelled incorrectly. She asked if this could be fixed? She said it was misspelled as Naomi instead of Neomi.

Commissioner Hearn said that as she was getting used to how resolutions were written in Fruita, she talked about the suggested motion and the verbiage specifically said "the condition that all review comments and issues identified are adequately addressed" but these were not sub-bulleted out and she felt that there is not a lot of clarity. She asked if they had a list of what each of those issues that were identified in the staff report that needed to be adequately addressed would be included in the condition.

Mr. Hemphill stated that the 14' multipurpose easement. He also mentioned that the approval was a catch all in case the City of Fruita Staff is working through the Staff report and drafting up a recommended motion that it captures everything. He said that there are a lot of criteria for major subdivisions and a lot of discussions. He said that at their request, for annexations they could try to make it easier for the Planning Commission to understand what conditions Staff is recommending that the Planning Commission pass onto the City Council. In this case, the Staff recommendation is for the dedication of a 14' multipurpose easement adjacent to the right of ways. He said that if they read the suggested motion it would give Staff, the minutes and City Council enough direction to know what they meant.

Commissioner Fabula talked about why this makes sense for a more complex application.

Commissioner Fabula said that he did not have any comments.

Commissioner Biddle stated that he did not have any other questions. He felt it was a good plan and he was in favor of it.

Commissioner Miller agreed. She said that it was straight forward.

COMMISSIONER HUMMEL MOVED TO RECOMMEND APPROVAL OF APPLICATION #2023-03, THE BERG ANNEXATION, TO THE FRUITA CITY COUNCIL WITH THE CONDITION THAT A 14-FOOT MULTIPURPOSE EASEMENT BE DEDICATED ALONG ALL RIGHTS-OF-WAYS TO THE CITY OF FRUITA.

COMMISSIONER HEARNS SECONDED THE MOTION.

MOTION PASSED 5-0.

Commissioner Biddle opened the Berg Rezone to public comment.

There was none.

Commissioner Biddle closed the public comment portion of the hearing item and opened it to Commissioner discussion.

Commissioner Fabula stated that the questions he had were already answered in the previous discussion and he was comfortable to move forward.

Commissioner Biddle said he had the same opinion.

Commissioner Miller had no questions or comments.

Commissioner Hummel said he felt it was a great addition and mentioned the proximity to schools and public transportation. He was in favor.



Commissioner Hearn said that she felt similarly to Commissioner Fabula. She said that the presentation answered her question. She said that in reading the Staff report she was disappointed that the maps only say what the zone districts are nearby. She added that the Planned Unit Development does include commercial and can be free form and different. She said that maybe they could list the land uses are there because criteria #1 isn't written that it needs to be compatible with existing zoning it has to be compatible with surrounding land uses.

Commissioner Biddle closed the discussion and asked for a motion on the rezone application.

COMMISSIONER MILLER MOVED TO RECOMMEND APPROVAL OF THE ZONE REQUEST TO ZONE THE PROPERTY TO COMMUNITY RESIDENTIAL WITH NO CONDITIONS TO THE FRUITA CITY COUNCIL.

COMMISSIONER HEARN SECONDED THE MOTION.

MOTION PASSED 5-0.

## **I. OTHER BUSINESS**

### **1. Community Development Updates**

Mr. Hemphill spoke about the upcoming development projects which included Rose Creek at 19 Road and Ottley, Copper Creek West on 19 Road east of Iron Wheel Subdivision, Weston Estates at 19 Road and J Road, a development at J.2 Road on the east side of 19 Road, West Aspen Apartments, The Residences at Fruita on Raptor Road, and The Fruita Mews. There was discussion about the future traffic plans for the 19 Road corridor, the new Fruita Building Division, and the new software program.

### **2. Visitors and Guests**

None

### **3. Other Business**

Mr. Hemphill let the Planning Commissioners know that a Conditional Use Permit application would be heard at the next Planning Commission meeting in April.

**Adjournment 7:02 pm**

Respectfully submitted,

Kelli McLean

Planning Technician, City of Fruita