

**GRAND JUNCTION CITY COUNCIL
MINUTES OF THE REGULAR MEETING**

October 18, 1995

The City Council of the City of Grand Junction, Colorado, convened into regular session the 18th day of October, 1995, at 7:35 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, David Graham, R.T. Mantlo, Janet Terry, Reford Theobald and President of the Council Ron Maupin. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Maupin called the meeting to order and Councilmember Graham led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Charlie Hill, Valley Bible Church.

PROCLAMATION DECLARING OCTOBER 23-31, 1995 AS "NATIONAL RED RIBBON WEEK" IN THE CITY OF GRAND JUNCTION

APPOINTMENT TO WALKER FIELD AIRPORT AUTHORITY

Upon motion by Councilmember Terry, seconded by Councilmember Graham and carried, Judith Humphries was appointed to a term on the Walker Field Airport Authority; said term to begin November 1, 1995, and end May 31, 1997.

CONSENT ITEMS

Councilmember Baughman requested Consent Item 8 be removed from the consent agenda for full discussion. Upon motion by Councilmember Mantlo, seconded by Councilmember Afman and carried by roll call vote with Councilmember **GRAHAM ABSTAINING** on Items 4 and 5, Consent Item 8 was removed for full discussion, and the following Consent Items 1-7 were approved:

1. **Approving** the minutes of the Regular Meeting October 4, 1995
2. *** Resolution No. 90-95** - A Resolution Authorizing the Use of Public Service Company Undergrounding Funds for the 5th Street Viaduct Project from South Avenue to the Colorado River

The Colorado Department of Transportation (CDOT) has scheduled the reconstruction of the 5th Street Viaduct in 1996. As a result of the project, the existing overhead power facilities must be relocated. The City's 5th Street Lighting and Street-scape project had anticipated the use of PSCo's underground funds to convert the overhead facilities to underground. As required by the PSCo franchise agreement, a City resolution is required to commit the funds towards the project.

3. *** Resolution No. 91-95** - A Resolution Authorizing the Issuance of a Revocable Permit to Cheryl J. Jacobson and Mildred Miller for the Installation of a Buried Domestic Water Service Line across City Owned Property on Purdy Mesa

Cheryl Jacobson and Mildred Miller are building a home on Purdy Mesa and have purchased a water tap from the Purdy Mesa Livestock Water Company. The Revocable Permit will allow Ms. Jacobson and Ms. Miller to install their service line from the PMLWC transmission line, located on City property on the north side of Purdy Mesa Road, to their new home located on the south side of Purdy Mesa Road.

4. **Proposed Ordinance** - An Ordinance Annexing Territory to the City of Grand Junction, Colorado - Round Hill Enclave Annexation, Approximately 1.86 Acres, Located at 651 Horizon Drive [File #ANX-95-150]

The Round Hill Enclave consists of 1.86 acres of land located at 651 Horizon Drive. This area is totally surrounded by the City limits and is eligible for annexation under State Statutes.

a. First Reading of Proposed Ordinance

5. **Proposed Ordinance** - An Ordinance Zoning the Round Hill Enclave Annexation RSF-1 [File #ANX-95-150]

The Round Hill Enclave Annexation consists of 1.86 acres of land. The Annexation is before City Council. The City has to zone all property annexed into the City within 90 days of the annexation.

a. First Reading of Proposed Ordinance

6. **Proposed Ordinance** - An Ordinance Vacating a Utility Easement Located on the West Side of Lot 4, Block 3, Ptarmigan Ridge North Subdivision [File #VE-95-154]

The applicant requests vacation of a 10' utility easement that was mistakenly recorded on a subdivision plat. No use of the easement has been found. Staff and Planning Commission recommend approval.

a. First Reading of Proposed Ordinance

7. **Proposed Ordinance** - An Ordinance Rezoning Land Located on

the East and West Sides of 7th Street South of Patterson Road and on Patterson Road West of 12th Street and Adopting a Master Site Plan as the Development Standards for St. Mary's Hospital
[File #PDR-95-159]

The preliminary plan (also referred to as Master Site Plan) for St. Mary's Hospital has been prepared by the hospital at the direction of the Planning Commission. The purpose of the plan is to set forth the plans for upgrade, improvement and expansion of St. Mary's facilities over a ten (10) year planning horizon. The preliminary plan includes proposed phasing, density of development, setbacks, height and involves rezoning parts of St. Mary's property to PB (Planned Business) to be consistent with the remaining lands. Planning Commission approved the preliminary plan at their October 3, 1995 meeting. Staff recommends approval of the rezone request.

a. First Reading of Proposed Ordinance

8. **Authorizing** the City Manager to Transfer \$10,000 from General Fund Contingency to City Council Contributions for the Mesa County Kids Voting Colorado Project - **REMOVED FOR FULL DISCUSSION**

* * * END OF CONSENT CALENDAR * * *

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

AUTHORIZING THE CITY MANAGER TO TRANSFER \$10,000 FROM GENERAL FUND CONTINGENCY TO CITY COUNCIL CONTRIBUTIONS FOR THE MESA COUNTY KIDS VOTING COLORADO PROJECT

Councilmember Baughman feels this project could lead to allowing minors in the future to cast votes once they are used to voting in mock elections. Minors lack the judgement to make an informed decision. They are also very impressionable, especially by parents and teachers and public opinion. Councilmember Baughman feels the answer to the problem of lack of voter turnout is to educate children on the political process and get them involved in the precinct caucus system through the County and State Assemblies.

Councilmember Graham thinks this program could be presented in such a way that it's clear to everyone that the minors are merely

casting a mock vote. It is not real. It does not count. The real purpose is to give them the experience to start them on their way to understanding the political process. The polling place is the place where the focus must begin. He agreed the caucus system and the political process must be analyzed to understand it fully. A constitutional amendment would be required to allow those under the age of 18 to vote. He felt this project could lead to a better and greater informed electorate.

Councilmember Afman feels the voting booth is the end result of what this program is designed to accomplish. This project will allow young people at various grade levels to examine issues, to have discussions and debates, and to analyze the process. By the time they get to the mock voting process, they will probably have spent more time on candidates and issues than the average voter. Councilmember Afman stated the project does not concentrate on who you are going to vote for, but concentrates on processing the information so the students can make their own decisions.

Councilmember Afman stated the \$10,000 is a one time contribution to get the project set up with materials and equipment.

Upon motion by Councilmember Terry, seconded by Councilmember Afman and carried with Councilmember **THEOBOLD ABSTAINING** since he was not present for the original presentation on this item, and Councilmember **BAUGHMAN** voting **NO**, the City Manager was authorized to transfer \$10,000 from the General Fund Contingency to City Council Contributions for the Mesa County Kids Voting Colorado Project.

PUBLIC HEARING - LOMA RIO ANNEXATION - RESOLUTION NO. 92-95 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE LOMA RIO ANNEXATION IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURISDICTION - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - LOMA RIO ANNEXATION, APPROXIMATELY 127.91 ACRES, LOCATED NORTH AND WEST OF THE REDLANDS PARKWAY AND HIGHWAY 340 [FILE #ANX-95-129]

The City desires to annex lands along the Redlands Parkway and west along Highway 340 around 22 1/2 Road. Powers of Attorney have been obtained for various properties within the proposed annexation area. These POA's along with adjoining lands are being considered as part of the Loma Rio Annexation. The Petition for Annexation is now before City Council. Staff requests that City Council accept the annexation petition and approve on first

reading the Loma Rio Annexation.

A hearing was held after proper notice. Dave Thornton, Community Development Department, reviewed this item. This is a City initiated annexation. The City met with the neighborhood two times in August, 1995. Mr. Thornton, as a professional planner for the City, testified that Loma Rio annexation meets the statutory requirements regarding annexation. An area known as Tiffany Park comprised of Tiffany Drive and Kingston Road is located in the center of the annexation. The majority of the homes in this particular area are on septic systems and do not have an available sewer to hook into at this time. Staff has considered three options:

1. Continue with the annexation as presented;
2. Remove the Tiffany Park neighborhood which would result in there being two "pods" of annexations that would have to meet the requirements independently; one "pod" is the area to the north (POA's received for all properties in the area), and a "pod" to the south (POA's received for a small portion of the properties in the area). In order for the "pod" on the south to be annexed, it would have to be attached to the north area as it does not meet statutory requirements of the petition process by itself. If the Council chooses to connect the two areas, and leave Tiffany Park neighborhood out of the annexation, they would need to include three homes and a vacant parcel in Tiffany Park to tie the south and the north area together.
3. Annex the north "pod" and leave everything else out at this time, come back in the future with a new petition once sufficient numbers of POA's are obtained for the south section to annex.

Mr. Thornton answered various questions of Councilmembers. The continued building and development of the Rio Vista area along Redlands Parkway needs to move forward, and if the two areas are separated it would not jeopardize that development. Vista del Rio has submitted its third filing with the City and is requesting to develop to City Standards. The City can continue with the north "pod" without delaying Vista del Rio's development.

Councilmember Theobald felt it would be wise to refuse to annex any areas that do not have available sewer, so the City will not inherit the problem and be expected to finance a solution to failing septic.

Mr. Thornton stated sewer is available for the entire south area. Three of the fourteen lots in Redlands Estates are hooked up to sewer, 11 are not. Broadway School is on sewer. All of Pine Terrace and Park Ridge townhomes are on sewer. Vista del Rio subdivision, Loma Rio subdivision and the 7-lot El Rio Villas would be included in the north "pod."

Councilmember Theobold suggested mailing one letter to those in the non-sewered area (Tiffany Park) telling them they have been withdrawn from the annexation because of the unavailability of sewer. He feels the residents need to understand the issue involved. A letter to the residents of the south section should state their area will begin anew for annexation under a different time table.

Mr. Thornton entered into the record a signed affidavit stating that even the entire area meets the requirements of Section 104 of the State Statutes regarding annexation.

There were no public comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Afman carried by roll call vote with Councilmembers **BAUGHMAN, GRAHAM** and **TERRY** voting **NO**, Resolution No. 92-95 was adopted.

City Manager Mark Achen recommended the proposed ordinance include an amendment directing Staff to craft the second reading of the ordinance to conform to the discussion by Council.

Upon motion by Councilmember Theobold, seconded by Councilmember Terry and carried by roll call vote with Councilmembers **GRAHAM, TERRY** and **BAUGHMAN** voting **NO**, the proposed ordinance was passed for publication on first reading, as amended; amendment to reflect earlier discussions to include the north "pod" only, and to send follow-up letters as soon as possible to the Kingston and Tiffany neighborhoods explaining why they have been removed from the annexation over the sewer issue, and to the south area residents explaining their annexation will proceed at a later date.

PUBLIC HEARING - REZONE REQUEST FOR PROPERTY AT THE NORTHWEST CORNER OF 7TH STREET AND GRAND AVENUE FROM PR TO PB - APPEAL OF PLANNING COMMISSION DENIAL OF REQUEST [FILE #RZ-95-138]

An appeal of a Planning Commission denial of a request to rezone property at the northwest corner of 7th Street and Grand Avenue

from PR (Planned Residential) to PB (Planned Business).

A hearing was held after proper notice. This item was reviewed by Kathy Portner, Community Development Department. The proposal is to convert a portion of the large residence on the northwest corner of 7th Street and Grand Avenue to a professional office use for Dove Designs, an interior decorating business. Two corridor guidelines apply to this property. The Grand Avenue Corridor Guideline states "this corner might be appropriate for office conversions which are sensitive to the character of the Historic Corridor." However, the 7th Street Corridor Guidelines states "The existing uses in zoning along the 7th Street Historic District are appropriate and adequate." There is a conflict in the Corridor Guidelines. The 7th Street Guideline states "the single-family residential character should be retained to help preserve the historic character, architecture and scales of this section of 7th Street." The Downtown Neighborhood Guidelines also include this area. That guideline refers to the respective corridor guidelines. In 1984 the 7th Street Corridor from Grand Avenue to Hill Avenue, was rezoned from RMF-32 (Residential Multi Family - 32 units per acre) to PR-8 (Planned Residential - 8 units per acre). At that time the Corridor also received designation as a National Historic District. The PR zoning was assigned to protect the historic character of the corridor. It also established the allowed uses as those that existed at the time of the rezoning. At that time there were 22 single-family residences, 23 multi-family units, one day-care facility, 2 churches and one boarding/rooming house. The intent of the PR zone district is to preserve the 7th Street Corridor, preserve property values for the residents and property owners, and reduce impacts on existing uses which may be caused by the future conversions of single-family structures to other uses. This information comes out of the Community Development file on the rezoning that went through in 1984. The description of the zone states "The District is not intended to categorically prevent any future use changes, but to insure that if they occur, they are done properly." It also states "Changes of use that would be primarily business would not be allowed without a zone change to Planned Business. Approvals to change a use should be conditioned on maintaining the appearance and character of the structure, providing proper parking access and traffic circulation." This particular proposal to convert a portion of the house to a business use includes the business use occupying 655 square feet of the lower level of the house, and 591 square feet of the upper level for offices. The remainder of the house would remain a single-family residence for the use of the owner of the business. The applicant has agreed to limit the business use and entrance

to the rear of the building along the north/south alley just west of 7th Street. A 1' x 1 1/2' sign is proposed for the business. It would also be located toward the rear of the home near the alley off Grand Avenue. The applicant would maintain the single-family character along the 7th Street Corridor and proposes to remove the existing garage to the rear of the house, which the applicant states is not a historic structure. It was built in the 1960's. It would provide parking for the residence and business. Staff sees merit in retaining this property for strictly single-family use and allowing the conversion of a portion of the house for business/residence. Staff saw this as a bit of a dilemma. Perhaps with proper conditions, the proposal for a limited business residence would be appropriate and still maintain the integrity of the Historic District. The appearance and use of the structure along 7th Street would not change with the proposal. The business use would be restricted to the rear of the building along Grand Avenue Corridor which is transitioning to business uses. Similar business uses north of this property is definitely inappropriate. Retaining the historic district as strictly residential uses, and not allowing any encroachment of business uses would also make sense. Some of the fear is that even if this property was rezoned for a very limited use, it might open the door for the use of this property to be expanded, and for similar type uses to be approved all along the 7th Street Corridor. As a result, the residential neighborhood would be lost. Staff is recommending denial of the request to rezone to Planned Business for the business use. In looking at the rezoning criteria, Staff feels it does not meet the criteria for compatibility within the neighborhood, and that it may have negative impacts on the rest of the neighborhood. It is unclear whether it follows the guidelines that are set forth since there is a conflict in the guidelines. Some conditions were listed if Council chooses to approve the rezone:

1. The outside appearance of the house may not be substantially altered without review and approval by the Planning Commission;
2. The business use would be limited to the 655 square feet on the lower level and the 591 square feet on the upper level; the remainder of the house must be used as a single-family residence for the owner/operator or employee of the business;
3. The business use shall be limited to Dove Designs. Future changes to that use would require review and approval by the Planning Commission;

4. Six off-street parking spaces shall be provided to the rear of the building along the alley;
5. The design shall retain the mature spruce tree along Grand Avenue and shall retain as many of the other three mature trees as possible in the back yard, and shall include a landscaping strip behind the sidewalk along Grand Avenue and a strip along the alley; one entrance to the parking area shall be provided as far north along the alley as possible. The lot must be paved and striped; the final parking lot design would be reviewed and approved by the City Staff;
6. A maximum of one free-standing sign would be allowed and would be located to the rear of the building along Grand Avenue and shall not exceed 3 square feet in size and no more than 4 feet in height, and be non-illuminated;
7. The change in use of the building must meet all Building and Fire Code requirements;
8. The business entrance and activity shall be confined to the rear of the building accessing from the parking area.

The Planning Commission recommended denial, by a unanimous vote, of the rezone at the meeting on September 12, 1995. The denial has been appealed by the applicant.

Councilmember Graham asked if this property were unmarketable as a residential property, how much would that weigh in Staff's decision as to whether it is worthwhile to let the petitioner go ahead with a plan? Ms. Portner stated normally Staff does not review the economic viability of a project. There is no requirement in the Zoning and Development Code for marketing studies for a rezone.

Ms. Portner said Staff recommends this use be specific to Dove Design so future changes would have to come through a hearing process. No business other than an interior design business could be conducted at this location.

The 1984 rezoning ordinance simply rezoned the corridor to Planned Residential. The documentation in the file upon which Staff is relying for the intent of the zoned district is a document entitled "Criteria for the 7th Street Planned Residential Zone" which lists guidelines for the uses that were allowed at that time, and guidelines for how the City would handle future requests

for changes, not only in uses, but in how a property looks - an addition to the property, demolition of a structure on the property, fences, etc.

Concerning requirements of the National Historic District, Ms. Portner stated this change does not harm the National Historic designation for 7th Street. To remain designated as a National Historic District the appearance must be preserved and maintained.

Ms. Portner stated the criteria sheet that the Planning Department has been using in making decisions includes what would be acceptable. It discusses home occupations also. Under "Criteria and Processing" there are changes that are deemed as major and minor changes. Under the "minor changes" home occupations are listed that qualify under Section 5-1-9, Home Occupation Section of the Zoning and Development Code. This home occupation does not qualify because it has larger square footage, parking and traffic issues, outside employees, etc.

Those speaking in favor of the proposal were as follows:

1. Petitioner Judy Smith, 1060 Grand Avenue, owner of Dove Designs, gave some background on her move from the location on N. 6th Street to 1060 Grand Avenue, and then the intended purchase of the property on the corner of 7th and Grand. When she spoke to residents of 7th and Grand Avenue there seemed to be no problem. Her immediate neighbor to the north said there has not been a real family living in the house since 1945. They thought it was time to have someone live on the property and take care of it. Her business is taking care of properties. She does not intend to remodel the exterior in any way because she loves historic buildings, and it will be maintained as a historical building. She is required to have a parking lot because she does have clients come to the studio, numbering no more than six customers per week. There is less traffic generated than that size of a home would have if there was a family living there with someone occupying all the bedrooms. The neighbors were happy to have the garage removed and hedges planted on both sides of the parking area. She plans to install a fountain at the rear door with an 18" x 18" unlighted sign posted next to it. The sign would read "The Dove Design House." She feels she can maintain the home and keep it residential, with low traffic. Ms. Smith has been intimidated and threatened by those who are afraid of what is going to happen to the house. At the same time, Mrs. Cortese, the owner of the house, is unable to sell her home.

Ms. Smith answered several questions of the Council. Councilmember Afman asked Ms. Smith if she had talked to neighbors on both 7th Street and Grand Avenue. Ms. Smith said she contacted those she felt comfortable talking to on both streets. She feels the ability of the City Council to dictate the zoning of a piece of property forever is narrow minded, as things change. Councilmember Theobald felt Council's zoning is not intended to be onerous and to place the heavy hand of government on landowners, but to protect the community. Ms. Smith stated she was aware the house was in the historical district and did a lot of research into restrictions that would be placed on the home. She found she would be required to maintain the flowers on the outside and ensure the outside structure remained intact.

2. Mr. Jack Berry, 417 N. 7th Street, spoke in favor of the Historical District. He owns three properties in the district. He would rather have someone live next door to him than have a vacant house. He has been a realtor in the past and had this property up for sale for approximately two years, showing the house to only two prospective buyers during that time. They were not interested because of the traffic.
3. Ms. Vicki Badini, 3733 N. 15th Court, realtor with RE-MAX, stated she has been selling real estate in Grand Junction for eight years. She has had this property listed for the past 26 months. To date, she has had 37 showings and has been in attendance at each. The largest percentage has been for commercial use. Several law firms, CPA's and real estate appraisal services have considered the location, along with a bed and breakfast, individualized room rentals, health related services, and Milton Bradley toy manufacturing company. Only three written contracts were generated out of all the showings, all with a commercial interest. The residential showings have been negated by the intense traffic in the area, two drive-by shootings in April, 1995, and the elimination of two curb cuts. Due to these circumstances she feels the 100% residential use is no longer practical and that a combined use is not only more feasible, but more realistic for the overall enhancement and benefit of the area. The home was listed at \$350,000 and has been reduced to \$270,000. It contains 4667 square feet. Councilmember Theobald stated the County Assessor has the house valued at \$190,000, including the land.

4. Mr. Steve Below, 636 Grand Avenue, stated his wife, Adrienne Senatore, is a chiropractor and practices out of that address. It is also their residence. He feels the subject house is a "white elephant" for a large family. His fear is that the home will be sold to a developer who would turn it into a multi-residential building, which would be the only economical alternative. Such a building is located next to 636 Grand Avenue with a real problem with drug trafficking, loud noises, trash, etc. He feels Dove Designs will be a low impact operation, and the business would enhance the area. He feels economics must play a huge part in this rezone. If Mrs. Cortese is forced to sell at a rock bottom price, and someone turns the home into multi-family units, the property will resemble the three houses just north of Mr. Below's property. He has six parking spaces on the east/west alley to the rear of his property. The business handles approximately 20 patients on a very busy day. Dove Designs would have parking on the north/south alley.
5. Camelia Berry, 417 N. 7th Street, stated she and her husband own two lovely older homes on 7th Street immediately to the south of the subject property that are used for commercial business. She has no problem with using the home at 7th and Grand for a commercial business. Since it is impossible to use it as a single-family residence, she could not understand the hesitance to rezone.

Those speaking in opposition to the proposal:

1. Mr. Perry Patrick, 621 N. 7th Street, discussed the following reasons for rejecting the request for rezone:
 - a. The zoning change is contrary to the City of Grand Junction's 7th Street Corridor Guidelines. The Guidelines state "Existing residential housing in a residentially zoned area should be respected and protected. The single-family residential character should be retained to help preserve the historical character, architecture and scale of this section of 7th Street." The Guidelines also stated its goal is "to retain existing character and positive image." The rezone works against the guidelines by changing the character of the district by introducing a business into the very core of the Historic Residential District. Although there are a limited number of businesses in the District, all the businesses were existing at the time of the District's creation by the

U.S. Department of Interior in 1984.

- b. The zoning change is a danger to the Historic Residential District. A change from a residential to a business zone in the District is a serious threat to the integrity of the District because such a change has the potential of opening the door for other properties to be rezoned. Degradation of the Historic District's standards would lead to the termination of Grand Junction's only Historic Residential District. Historic Districts may be removed from the National Register if they cease to meet the criteria for which they are placed on the register. The criteria are: location, design, setting, material, workmanship, feeling and association. It is important that if the City and residents of Grand Junction wish to retain the Historic Residential District that the character of the District not be altered with intrusion of this business zoning.
- c. The zoning change will create additional traffic in the neighborhood. The rezone calls for the use of the alley for the business which is discouraged by the Guidelines which state, "Alleyway usage for access to private parking lots is generally discouraged. Access should be limited to those streets accessing 7th Street and not alleyway or streets parallel to 7th Street. Alleyways should not service private parking lots or provide access for non-residential development. Non-residential development should not adversely affect the existing adjacent neighborhoods with increased traffic." Customers to the business would use the alleyway as a convenient way to by-pass the congested 7th and Grand intersection.
- d. Destroying the garage without further investigation should not be allowed. During the September Planning Commission meeting it was stated the garage was built in 1963. According to Mesa County, building permits are not kept on record prior to 1976. Documents at the Mesa County Assessor's office give no indication the garage was built other than at the same time as the house in 1906. Some maps obtained from the Museum of Western Colorado indicate the garage existed as far back as 1907. A local architectural historian examined the garage and found the roof has exposed shaped rafter ends in the same motif as the main house. Building

practices in the early 1960's did not include rafter shaping which was practiced in the early 1900's. The garage also has milled cornice board which is the trim around the roof. These are also seen on the main house except where they've been replaced by metal flashing and covered by gutters. The condition of the roofing on the garage also causes question as to when it was erected. There are many signs that the garage is older than the applicant indicates. Mr. Patrick feels Council should insist on proper documentation and definitive proof of the building's exact age before any demolition is approved. The National Parks Service should be contacted to find out what the ramifications of destroying the garage would have on the remainder of the Historic District, not just on this piece of property.

- e. Residents of the N. 7th Street Historic Residential District do not want this intrusion. At the September, 1995, Planning Commission meeting, fifty residents of the North 7th Street Historic Residential District signed a petition opposing this request. Sixty signed a letter to the Daily Sentinel opposing this request. Mr. Patrick requested that those opposing this request please stand. There were 13 members of the audience that stood in opposition.

Mr. Patrick added that according to a letter from the U.S. Dept. of Interior, National Trust for Historic Preservation is a national private organization chartered by Congress to encourage public participation in the preservation of sites, buildings and objects significant in American history. Although National Trust is familiar with the preservation programs of the National Park Service, the Trust has no regulatory powers in association with the National Register Program. It is not up to the National Trust. The National Parks Service should be contacted for further clarification.

In response to questioning by Mayor Maupin, Mr. Patrick said the 7th Street Guidelines state the alleys should not be used to access private parking lots.

Councilmember Graham asked Mr. Patrick if the outside of the building gave any indication as to whether a family was living there, would his single-family residential character issue be

satisfied. Mr. Patrick stated he would still have a problem with the proposal even if the outward appearance of the building remained. There is more to historic districts than appearance.

Councilmember Graham stated that in terms of equal protection and due process under the Law, the City may purport, through its laws and the Zoning and Development Code, to affect given uses for a property but not necessarily the users. Councilmember Graham admitted he does not share the concern as much as Mr. Patrick. He would feel more comfortable making a decision once a compromise is reached which will preserve the objective criteria. He pointed out the petition process is always available for anyone seeking to rezone their property. There will be other rezone petitions in the future and Council will be faced with exercising its discretion. He felt Council's decision to deny the request on its own merit is one thing, but to deny it because Council is afraid of setting a dangerous precedent that might influence its discretion later on, is feeble. Mr. Patrick stated the argument about what may happen as far as multi-use apartment dwellings going in that location is also feeble.

Councilmember Theobald asked Mr. Patrick to describe the condition of the garage. Mr. Patrick stated it has new siding, the roof needs to be replaced, and it is structurally sound.

Mr. Patrick felt the overall benefit to the majority should be weighed. In this case, he believes it is the Historic District.

2. Dr. H. R. Bull, 2119 N. 7th Street, read into the record a letter (attached) regarding the creation of the Historical District. He stated his grandfather's study was located in the subject house and his medical office was in the National Bank building. His business office was not located at 407 N. 7th Street. He feels the house may be over priced and will sell when the price matches the market.
3. Ms. Kathy Jordan, 440 N. 7th Street, explained how the area was placed on the National Register. The residents along 7th Street felt they needed protection from the intrusion of businesses into their residential area. Areas of Grand Avenue and Main Street have some beautiful houses, and are now infiltrated with businesses. This historic designation was initiated by the residents of the historic area on 7th Street. Ms. Jordan, Rob Jenkins, Skip Grkovic who was the DDA Director at the time, prepared the form that was submitted for the designation. The City was not involved in getting it placed on the National Register of Historic

Places. When the area was rezoned from RMF-32 to PR-8, the Planning Commission and City Council were involved. The historical designation was received on January 9, 1984. Ms. Jordan has lived at 440 N. 7th Street since 1964. Her parents lived there before. Councilmember Afman noted an article that included a quote by Gloria Mills, Coordinator of the Colorado Historical Register, saying one of the reasons the North 7th Street Corridor was selected was because it represented the "oldest, intact residential neighborhood in Grand Junction." Ms. Jordan quoted Item 8 from the nomination form that was submitted in 1983: "The North 7th Street Residential District is a distinctive neighborhood within Grand Junction because it represents the most intact historical residential area in the community, as well as the most significant in terms of architecture and quality of design." She reiterated that the reason they are on the National Register is because they are residential.

Ms. Jordan circulated the petition within the entire area. The First Baptist Church did not sign the petition. Amos Raso and the Pantuso's, owners of the house in question, also signed the petition. All the uses that are in existence now were in existence at the time they were placed on the National Register. There were no restrictions or conditions that the property owners agreed to when the district was formed. When grant monies are applied for to improve the homes, there are some restrictions on building materials, etc. The Department of Interior states that if the area fails to meet the criteria for which they were selected, the designation can be withdrawn. The largest part of that criteria is their residential status. When a change is made from Residential to Business, the door is opened for other businesses which can jeopardize the criteria for residential designation.

Dr. Bull stated that Ms. Jordan has pointed out that there is federal grant monies available to help maintain the homes in the area. If Council approves the rezone, which would be a reason for losing the designation, the availability of federal money to help maintain this district could be lost.

Ms. Jordan responded to a question of Councilmember Afman that the spirit of the neighborhood was to preserve the area as a residential area.

4. Mr. Peter Robinson, 726 Ouray Avenue, stated he is a licensed Colorado real estate broker, a graduate of the Realtor's

Institute, and a Certified Residential Specialist. He made a choice to live in the downtown neighborhood because of the attraction of the Historic District. His area of expertise is downtown residential listings and sales, and there have been no residential sales over \$150,000 south of North Avenue in the last five years. He discussed the vision and leadership of former civic leaders. He feels 7th Street is a point of interest Grand Junction can be very proud of. He thanked the Council for their service to the community.

Petitioner Judy Smith clarified the only way into the property is through the alley, which would generate less traffic because her customers would be smaller in number than the size of a family. She stated there are 1800 square feet downstairs, 1500 square feet upstairs, and a complete finished loft and basement. Federal money can be obtained from the National Historic Society for this property as an "edge" property. These "edge" properties fall into decay because they are half commercial and half residential. They recommend this type use, a low impact business, one that will take care of it. There are many properties in Denver that are falling into decay because the residential area will not allow them to have partial commercial. Colfax Avenue is a good example. Ms. Smith stated she sold a house at the corner of 11th Street and Grand Avenue on June 1, 1995. It has less square footage, it is in much worse shape than the house at 407 N. 7th Street, and it sold for \$180,000.

Councilmember Afman asked Ms. Portner to again list the established uses allowed under the current PR-8 zone. Ms. Portner stated each property in the district was allowed as it existed at the time the PR zoning was assigned in 1984.

There were no other public comments. The hearing was closed.

Councilmember Graham thanked all who attended the meeting and offered testimony. He stated Council is not to vote as to what they feel is right personally, but to apply the existing law of the Zoning and Development Code to this particular situation and come up with a resolution consistent with the Code. He cited the following Section 4-4-4 of the Zoning and Development Code which is the criteria the City Council and the Planning Commission need to apply whenever there is a request for a rezone:

- a. Was the existing zone in error at the time of adoption? He did not feel testimony has been given to that fact.

- b. Has there been a change of character in the area due to installation of public facilities other than zone changes, new growth trends, deterioration, development transition, etc? He thinks the answer is yes if the increased traffic flows in the area is included.
- c. Is there an area of community need for the proposed rezone? He answered no. He noted there has been a lot of argument to the contrary that there is a community need to retain the zone as it currently exists.
- d. Is the proposed rezone compatible with the surrounding area? Will there be adverse impacts? Councilmember Graham would say yes, although compatible means different things to different people. Compatible, contrasted with identical, may be where a difference exists between a residential use and a residential character.
- e. Will there be benefits derived by the community or area by granting the proposed rezone? Councilmember Graham did not think so. The opposite could be argued.
- f. Is the proposal in conformance with the policies, intents or requirements of this Code, with the City Master Plan, Comprehensive Plan and any other adopted plans and policies? The answer is no if the conflict in the corridor guidelines is accepted.
- g. Are adequate facilities available to serve development for the type and scope suggested by the proposed zone? If utilities are not available, could they be reasonably extended? The answer is no.

After weighing the above criteria, Councilmember Graham concurred with Staff that there is no overwhelming need for the rezone.

Councilmember Mantlo agreed with Councilmember Graham.

Mayor Maupin stated during his entire lifetime he has never seen anyone come or go out of the house at 407 N. 7th Street, or any indication that it was inhabited. He is fearful the house will suffer from neglect. It is a crucial property in the Historic District. He felt the petitioner's use and restrictions of it, and the guidelines that could be adopted for its preservation, would guarantee it would stay residential in use. It would be zoned a Planned Business. Any time that changed, it would have to

come back through Planning Commission and City Council. He does not know who else is going to be able to use the house.

Councilmember Terry felt Council's responsibility goes beyond looking at the property by itself because it is part of a very important historic district in Grand Junction. She is certain one zone change will lead to another. She is not willing to do a rezone to affect this neighborhood.

Councilmember Theobold felt the petitioner made an excellent proposal for the use of the house. The use will be unobtrusive and as compatible as can be. Yet he agrees with other members of Council. His concern is not so much changing the zone on one house, but where it is located. He is also concerned with deterioration or a problem residence. He felt the house was priced to be sold as commercial and not residential. He does not feel it is realistic to think a residence in that neighborhood can be sold for \$350,000. He thinks the historic features of the house are more important than what is inside the house. He believes that given a residential appraisal and price, it can be a residential home.

Councilmember Afman stated the deterioration consideration is a real dilemma. She feels the sincerity and dedication of this neighborhood is the spirit of the entire proposal, and the purpose of the Historic Preservation District was to preserve this as a residential area. She did not feel the two houses south of Grand Avenue are to be considered in this case. She supports the neighborhood in their desire to keep this property zoned residential.

Upon motion by Councilmember Mantlo, seconded by Councilmember Terry and carried by roll call vote with Mayor **MAUPIN** voting **NO**, the appeal was denied.

PUBLIC HEARING - ZONING REQUEST FOR LOT 1, PATTERSON PARKWEST SUBDIVISION, TO ALLOW DRIVE-THROUGH RESTAURANTS - APPEAL OF PLANNING COMMISSION DENIAL OF REQUEST [FILE #MS-95-101]

An appeal of a Planning Commission denial of a request to subdivide a 2.99 acre parcel of land into 5 lots in a PC zone, located at the northwest corner of F Road and 24 Road, and a request to amend the PC zoning ordinance to add drive-through restaurants as an allowed use.

A hearing was opened, being properly noticed. A request was received from the petitioner to continue the hearing. There were

no comments. Upon motion by Councilmember Theobald, seconded by Councilmember Mantlo and carried, the appeal of the Planning Commission denial of a request to zone Lot 1 in Patterson Parkwest Subdivision to allow drive-through restaurants was continued to November 15, 1995.

OTHER BUSINESS - Crystal Brook Housing Project

Mayor Maupin announced that on October 17, 1995, the City received \$531,000 from the State Housing Division for the Crystal Brook Housing Project.

ADJOURNMENT

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried, the meeting was adjourned at 10:25 p.m.

Stephanie Nye, CMC/AAE
City Clerk

ATTACHMENT

October 16, 1995

Grand Junction City Council
250 N. 5th Street
Grand Junction, CO 81501

RE: Proposed Change of Use For Property At 407 N. 7th St.

A historical district has been created to preserve specific area buildings and a neighborhood community. There was a purpose in creating such a district as an official designation in addition to the standard residential zoning regulations. Granting an exception to both the residential zoning and the historical district preservation goals would require twice the compelling reason for granting the exception.

There is no compelling reason for granting the exception. In the neighborhood there is great opposition to violating the official requirements of this neighborhood residential zoning. In the city at large there is opposition to violating the goals of an official historical district.

An anticipated argument would be that some exceptions to the principle already exist from the time before adoption of zoning

regulations. This only illustrates the need for the regulations and the need to comply with them.

Personal exceptions which are directly counter to the intent of zoning and directly counter to the intent of creating a historical district are not in the interest of the neighborhood and are not in the interest of our city.

Cordially,

H. R. Bull, M.D.