

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

**October 19, 2009**

The City Council of the City of Grand Junction convened into regular session on the 19<sup>th</sup> day of October 2009 at 7:05 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Bill Pitts, Linda Romer Todd, and Council President Bruce Hill. Councilmembers Tom Kenyon and Gregg Palmer were absent. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and Deputy City Clerk Juanita Peterson.

Council President Hill called the meeting to order. Councilmember Coons led in the Pledge of Allegiance followed by a moment of silence.

**Ratify Appointments**

Councilmember Beckstein moved to ratify the reappointment of Dave Detwiler and the appointment of Steve Peterson to the Building Code Board of Appeals with terms expiring July 1, 2012 and to eliminate the alternate position as the Bylaws do not require an alternate, just five members, as requested by the Mesa County Commissioners for the Building Code Board of Appeals. Motion seconded by Councilmember Coons. Motion carried.

**Recognitions**

**Recognition of Neighborhood Association—Housing Resources of Western Colorado properties**

Kristen Ashbeck, with the City Neighborhood Services Department, acknowledged that the Housing Resources of Western Colorado properties have registered three of their multi-housing units with the housing program, these include the Phoenix Apartments, the Linden Apartments and the Tiffany Apartments. The Housing Resources of Western Colorado have participated in the Grand Junction Police Department Crime-Free multi-housing program for a year and have met qualifications for certification. They have applied for a grant in the amount of \$2000 to help with cost of improvements for these multi-housing units. Dan Whalen, Coleen Simpson, and Rick Johnson were present to receive the recognition.

**Recognition of Neighborhood Association—The Villas at Country Club**

Ms. Ashbeck reported that the Villas at Country Club Home Owners Association has functioned as a close knit group for a number of years. Most are elderly and single and have supported one another. The neighbors have provided a safe and healthy

environment for this area. The grant they have received for \$2000 is to improve the underdeveloped right-of-way and matched the grant with their own HOA funds as well as 55 volunteer hours of work. Bill Greer, William Myers, Don Saunders, and Goldie Ward were present to receive the recognition.

### **Recognition of Neighborhood Association—Grand Manor**

Ms. Ashbeck advised Grand Manor is a multi-housing complex. They have also participated in the Crime-Free Multi Housing Program. They applied for \$5000 to help for the cost of additional lighting on the housing units. Staff members Maureen Weaver, Sheri Baughman, Christine Ordonez, and several residents were present to receive the recognition.

### **Council Comments**

There were none.

### **Citizen Comments**

There were none.

### **CONSENT CALENDAR**

Councilmember Pitts read the consent Calendar and then Councilmember Beckstein moved to approve items #1 through #3. Councilmember Coons seconded the motion. Motion carried by roll call vote.

#### **1. Minutes of Previous Meetings**

*Action: Approve the Minutes of the October 5, 2009, Regular Meeting*

#### **2. Setting a Hearing Authorizing the Issuance and Sale of the City of Grand Junction Joint Sewer System Revenue Bonds, Series 2009**

City Council and the Mesa County Commissioners have determined that in the best interests of the joint sewer system and its customers, to complete certain improvements to the Persigo sewer system. To finance the projects, the City Council has determined that it is necessary and advisable to issue its "City of Grand Junction, Colorado, Joint Sewer System Revenue Bonds, Series 2009 (Direct Pay Build America Bonds)" in the amount of \$3.2 million to help defray part of the costs of the Project.

Proposed Ordinance Authorizing the Issuance and Sale of the City of Grand

Junction, Colorado, Taxable Joint Sewer System Revenue Bonds (Direct Pay Building America Bonds), Series 2009, Payable Solely Out of the Net Revenues to be Derived from the Operation of the Joint Sewer System of the City and Mesa County, Colorado and Certain Other Revenues

*Action: Introduction of a Proposed Ordinance and Set a Hearing for November 2, 2009*

3. **Setting a Hearing Approving Loan from the Colorado Water Resources and Power Development Authority**

The City Council has determined that in the interests of the City and the public, certain improvements are required to the City's water system, including the replacement of certain existing cast iron and steel water distribution lines within the system. To finance the project, the City Council has determined that it is necessary and advisable to enter into a loan agreement with the Colorado Water Resources and Power Development Authority ("CWRPDA") for a loan amount of \$3,800,000.00.

Proposed Ordinance Approving a Loan from the Colorado Water Resources and Power Development Authority to Finance Improvements to the City's Water System; Authorizing the Form and Execution of the Loan Agreement and a Governmental Agency Bond to Evidence Such Loan; Authorizing the Execution and Delivery of Documents Related Thereto; and Prescribing Other Details in Connection Therewith

*Action: Introduction of a Proposed Ordinance and Set a Hearing for November 2, 2009*

### ITEMS NEEDING INDIVIDUAL CONSIDERATION

**Public Hearing – Moir Growth Plan Amendment, Located at 399 29 Road and 2895 Riverside Parkway** [File # GPA-2009-169]

This is a request to approve an amendment to the 2004 Pear Park Transportation and Access Management Plan (TAMP) to allow a right-in/right-out access onto the south side of Riverside Parkway approximately 300' west of 29 Road. An amendment to the Pear Park Neighborhood Plan is an amendment to the Grand Valley Circulation Plan and is considered an amendment to the Growth Plan.

The public hearing was opened at 7:21 p.m.

Tim Moore, Public Works and Planning Director, presented this item. He gave a little history and the reasoning behind the amendment. He stated this had been given Planning Commission approval.

There were no public comments.

The public hearing was closed at 7:32 p.m.

Resolution No. 81-09— A Resolution Amending the Growth Plan of the City of Grand Junction to Allow a Right-In/Right-Out Access onto the South Side of Riverside Parkway Approximately 300' West of 29 Road

Councilmember Beckstein moved to adopt Resolution No. 81-09. Councilmember Todd seconded the motion. Motion carried by roll call vote.

**Public Hearing – Correcting Legal Descriptions on Various Annexation and Zoning Ordinances and Resolutions**

A discrepancy in the legal description of Barker Annexation No. 2 recently became known when a development application was filed for the proposed Carson Subdivision, which occupies the same area. An improvement survey was completed and submitted as part of the subdivision application and discrepancies in the property description were discovered. This ordinance corrects the discrepancies found in the prior ordinances and resolutions.

The public hearing was opened at 7:34 p.m.

John Shaver, City Attorney, presented this item. City Attorney Shaver stated that this is corrective housekeeping in order to clear any discrepancies for future reliability.

There were no public comments.

The public hearing was closed at 7:36 p.m.

Resolution No. 82-09—A Resolution Amending Resolution No. 69-04 and Resolution No. 85-04 to Correct the Legal Description for Barker Annexation, Which Includes Barker Annexation No. 2

Ordinance No. 4387—An Ordinance Amending Ordinance No. 3666 and Ordinance No. 3667 Annexing Territory to the City of Grand Junction, Colorado, Barker Annexation No. 2, Located at 172 Lantzer Avenue, 2934 Highway 50, and 2937 Jon Hall Drive

Councilmember Todd moved to adopt Resolution No. 82-09 and Ordinance No. 4387 and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

**Continuation of Public Hearing on an Ordinance Adopting the 7<sup>th</sup> Street Historical District Overlay as Amended** [File #PLN-2009-179]

The 7<sup>th</sup> Street Historic District Design Standards and Guidelines are being proposed for the properties included in the designated National Register Historic District, which includes those properties adjacent to 7<sup>th</sup> Street between Hill and Grand Avenue, as well as the properties at the southeast and southwest corners of 7<sup>th</sup> Street and Grand Avenue.

The public hearing was opened at 7:50 p.m.

Tim Moore, Public Works and Planning Director, presented this item. Mr. Moore briefly stated the historical background of this item in terms of how and why it has been continued to this meeting. Two copies of this Ordinance have been included in this packet, one without changes, and the second shows all changes that have been made to date. Mr. Moore referred to section C in the Historical Overlay where the majority of changes have been made since the last Council workshop. Mr. Moore described the process and criteria that future changes would go through.

Councilmember Coons asked if there were to be any changes to the design standards in this district, would it need to go before Council? Mr. Moore answered that this is a possibility based on public interest and controversy level.

Council President Hill asked Mr. Moore for confirmation that all change of use applications would have to go before Council. Mr. Moore replied affirmatively.

Councilmember Beckstein asked in regards to allowed uses in residential neighborhoods, why would Council need to be involved in the decision making processes for the 7<sup>th</sup> Street Historical District when other City neighborhoods are being held to the same high standards and do not require Council's review. Mr. Moore said on-street parking is one reason, in addition to the fact that preservation of this District is a priority. Councilmember Beckstein stated that on-street parking would be a consideration in any other neighborhood as well. There are already guidelines in place to protect these neighborhoods. In reference to section D, there are already guidelines in place for other neighborhoods for change of use similar to what Staff is proposing for the Historic District. Mr. Moore replied that was correct.

Councilmember Todd asked about the five points in the document. In any other R-8 subdivision, would the decisions on changes be made by Staff? Mr. Moore said this is what is already in place in other City neighborhoods.

Council President Hill asked Council if there were any more questions.

There were no further questions from Council.

Council President Hill asked for public comment.

Marilyn Simons, 515 N. 7<sup>th</sup> Street, read an email she sent to Council last week dated October 14, 2009. She states that she has been a resident for the past five years and is opposed to the Seventh Street Overlay. She believes this document is vague and needs to be more specific in addressing specific issues. She believes this document could put the value of the Historic District in danger and asks that each change in use be put to Council for a public hearing.

Gordon Nicholson, 726 Ouray Avenue, speaking for Joe Hatfield read a letter on behalf of Mr. Hatfield who lives at 407 N. 7<sup>th</sup> Street. (See attached)

Council President Hill interjected by stating that he thought the two prior citizens who read their statements were speaking to changes that had already been made to suffice their concerns.

Sharon Snyder, 634 N. 7<sup>th</sup> Street, spoke to her concerns on the vagueness and the design standards referenced in the Overlay Plan. She read a letter written to Council. (See attached)

Council President Hill asked Ms. Snyder if she has submitted these changes to Staff in writing. She replied that she had not submitted the letter she read tonight. Council President Hill assured Ms. Snyder that the errors in the Overlay Plan will be corrected.

Gordon Nicholson returned to voice his opinion that the wording in the Overlay Plan should be clarified and corrected.

Councilmember Coons clarified for Mr. Nicholson that the Public Works and Planning Director would bring forward his decision/recommendation to Council in order for City Council to make a final decision. There may or may not be a public hearing based on public interest.

Pat Olsen, 445 N. 7<sup>th</sup> Street, said he believes that the only function of the Overlay is to allow for the current uses being proposed. In the 1984 matrix, Bed and Breakfasts (B&Bs) were not allowed. He pointed out that there have been previous inquiries

regarding B&Bs in this neighborhood that were not allowed. This Overlay/Rezone as presented now will initiate changes that the Historical District has pledged to protect.

Kathy Jordan, 440 N. 7<sup>th</sup> Street, had some clarifications to add in regards to information Sharon Snyder presented and stated she gave a corrected copy of changes to Mr. Moore on Friday. She stated they have repeatedly asked for these changes. Twenty-five years ago she asked for Council to approve the 1984 Plan for the Historical District. She asked that this current City Council continue the vision of what cannot be replaced.

Sandra Alexander, 838 White Ave, representing Ronald Kim Sutherland, read a letter to Council from Mr. Sutherland. (See attached)

Sherri DeRose, 604 N. 7<sup>th</sup> Street, said she does believe in preservation in the Historical District although there should be personal property rights of the owners in this District. She agrees with Sharon Snyder that there should be clarification and corrections made to the Overlay document just as Sharon Snyder has pointed out.

Jodie Behrmann, Attorney for the 7<sup>th</sup> Street District, passed out copies of her letter to the City Council, City Attorney John Shaver, City Manager Laurie Kadrich, and Public Works and Planning Director Tim Moore. She said this is not about property rights of the DeRoses; this is a rezoning issue. The 1984 Plan had a rezoning process in place for this District. If this Overlay is adopted, the 1984 criteria will never be addressed. Changes in land use for those that currently exist have public hearings in place so that questions can be answered. She is asking Council to respect what has been in place for twenty-five years. They (7<sup>th</sup> Street District owners) are seeking to maintain the rights the Historic District has come to rely on. (See attached)

Sandra Alexander, 838 White Avenue, said she and her husband declined purchasing property in the area because the real estate agent told them it would have to be restored and could not be renovated. There is a difference between restoration and renovation. She said restoration is what the Historic District is asking for.

There were no other public comments.

The public hearing was closed at 8:38 p.m.

Councilmember Beckstein asked City Attorney Shaver regarding the Overlay Plan in comparison to the 1984 agreement, were there standards for buildings and allowed uses and what needs to go before a public hearing. City Attorney Shaver stated that specifically with the Ordinance which provides Seventh Street District properties legal descriptions, the Ordinance has not changed anything. This is not a rezone, the 1984 agreement zoned this District PR-8. This Overlay is instead defining what the PR-8 is which is what planned zoning is. Staff does not see the adoption of this Ordinance as a

change of use. Staff's analysis is that the Bed and Breakfast change falls into the minor change use category in accordance with the 1984 agreement. City Staff is defining what is already set in the current Code. The public hearing would be for major changes. A minor change process has already been defined in the 1984 agreement which is what this issue falls under. Even if the 1984 Plan had been adopted, the process that has occurred would still have taken place. Councilmember Beckstein asked about non-legal plans that have been in place for twenty plus years would legally stand as a legal plan based on the number of years the plan has been in place. City Attorney Shaver said he has found no law to that effect. The 1984 plan was not adopted. This Overlay Plan is a great opportunity for there to be a legal plan in place and to serve as a benchmark for future changes. One consideration would be to revisit after a year to see if it is working effectively or if changes need to be made. This should be looked at as an opportunity. Councilmember Beckstein said in regards to the outside design structure, does the new Overlay Plan give better standards to the 7<sup>th</sup> Street Historical District. City Attorney Shaver replied that these are guidelines and a participatory process to determine what is necessary.

Councilmember Pitts asked City Attorney Shaver about the possibility of forming a Home Owners Association (HOA) versus this current process. City Attorney Shaver replied that to agree on covenants would be difficult. There would also have to be agreement with all the landowners.

Councilmember Beckstein asked if an HOA was in place and majority ruled, would the minority automatically have to be involved with the HOA. City Attorney Shaver responded that in theory, yes.

Council President Hill stated he is uncomfortable moving forward with the errors presented tonight. He felt that there are still some discrepancies and other interpretations that need to be clarified. Separating the zoning overlay versus personal rights usage is important. He proposes that this issue be moved back to a workshop and dealt with in two pieces, zoning use and historic preservation.

Councilmember Todd said she has some concerns, some of the wording and errors in the document as well. She agrees that this needs further discussion.

Councilmember Coons said this could be separated into two issues. The most critical issue to deal with was the significance in changes and how they get brought forward to City Council. This she is willing to go forward with. However, the changes in the design standards that need to be dealt with in a new draft, clearly there are errors. She believes Council should stick with a guideline as Attorney Shaver stated. The most important piece is how to deal with any change in use.



Councilmember Pitts said the main thing he heard was most residents of Seventh Street have not participated, and he feels that the document should return to a Council Workshop, with more residential involvement.

Councilmember Beckstein asked Staff to clarify who the Public Works and Planning Director is. She then asked Mr. Moore about incorporating another subcommittee who would then report to the Public Works and Planning Director. She asked for Mr. Moore's input on what would and would not work. Public Works and Planning Director Tim Moore said the Historic Preservation Board is already a key part of the decision making process. He thought that there were already adequate layers of review in process.

Council President Hill restated that the Historic Preservation Board is a review agency for the major issues regarding the Seventh Street Historical District. City Attorney Shaver and Mr. Moore confirmed this.

Councilmember Beckstein stated that if the Historic Preservation Board is already being used as a review agency for major issues, she is ready to move forward now.

Councilmember Todd restated her concerns of use by right issues having to come back to Council for one district but not another.

Councilmember Coons asked for advice from City Attorney Shaver on how to frame a motion to separate the amendments relative to Council's review of uses by the design standards overlay with respect to what is in front of Council tonight. Mr. Shaver said that it would be very difficult to separate the two since they are so closely intertwined. He suggested breaking them apart by residential and non-residential usage components.

City Manager Laurie Kadrach said she thought Councilmember Coons was saying that there needs to be an Administrative order in place and take this back to a Council Workshop to correct the errors.

Councilmember Todd said by separating the land use and having the zoning in place that is current, would it then not fall into the normal processes of the Code? City Attorney Shaver said this is correct, but there are still some issues regarding usage that need to be identified, defined and clarified.

Ordinance No. 4388—An Ordinance Amending Ordinance No. 2211 by Adoption of the 7<sup>th</sup> Street Residential Historic District Zoning Overlay Design Standards and Guidelines, Amending the Zoning and Development Code to Add Section 7.7

Councilmember Todd moved to continue this item to a Workshop, date uncertain. Councilmember Pitts seconded the motion. Motion carried by roll call vote.

**Non-Scheduled Citizens & Visitors**

There were none.

**Other Business**

There was none.

**Adjournment**

The meeting was adjourned at 9:23 p.m.

Juanita Peterson, CMC  
Deputy City Clerk

10.19.2009

Dear City Council members:

I am writing to ask you to Not approve the 7th Street Overlay as it is currently written. I do appreciate that this issue is being considered separately from other zoning issues, but in its current state, it is still unacceptable to meet the needs of the continued preservation of the 7th Street Historic Residential District. For one, there are still minor issues with the document. Despite informing Neighborhood Services on two separate occasions that they have incorrectly labeled my home as the "Herman Bull House" instead of the correct "Heman Bull House," it still remains as of the date of this writing.

More importantly, though, the Overlay still does not reflect the results of the Land Use survey, where the vast majority of residents opposed Use of Right status for the uses listed in section C. It has been said that the neighbors who oppose the Overlay is in the minority, as if we are just a few who happen to be the most vocal. Everyone in the neighborhood was given ample opportunity to have their opinion heard and it is not our fault they failed to speak up. The results of the survey and the input from public discussions on this issue are both clear. Don't penalize us by disregarding our input.

It has been suggested that we are looking for special treatment for our neighborhood. I guess you could say that is correct. However, I am not asking for special treatment for the homeowners, but rather for the homes and the history and character they contain. 25 years ago, the City felt that this area deserved special consideration and I think you have the responsibility to uphold that intent.

It has also been suggested that it makes no difference what the use is inside the home, as long as the outside of the home remains unchanged. Despite the best of intentions, use changes on the homes will eventually lead to changes on the exterior. One not need veer far from the District and drive down Grand Avenue to see the effect of these changes on signage, parking, and landscaping to name a few.

The hard work of 7th Street residents and city officials to preserve the District should not be just thrown out. Even if the 1984 Plan was not officially adopted, it has been used to decide use applications in the past.

It seems to me that once you use it, it becomes official. Previous city councils have operated as if it was enacted, which clearly was their intent. Replacing the 1984 Plan with this new Overlay does not take care of the issue.

This new overlay does not have the teeth to honor the intent of the original Plan. I am not saying that all changes should be banned, but that they should have a full public hearing. Administrative decisions only scratch the surface of the questions that need to be asked and seem to me to be mostly procedural.

When do the more important questions get debated and answered... Is it a viable use? Can the same services be found elsewhere in close proximity? Will it enhance or detract from the neighborhood? How will it affect property values? When do these questions get answered?

Joe Hatfield, 407 N 7th Street

TO: City Council of Grand Junction on 10/19/2009

After 7 months this is so frustrating to be talking about the same thing. Truthfully I cannot imagine that the DeRoses would live in the basement of their beautiful home with strangers staying upstairs. Nor can I imagine Ron or Sherri cleaning toilets and changing sheets since as a B&B owner you cannot hire employees. Even though they have admitted this is a poor business plan and probably not profitable they are proceeding with their venture. If however after 3 years on the market they happen to sell their house at the current inflated price because it has been rezoned for a B&B, I believe there will be other 7<sup>th</sup> street residents follow suit for the financial gain. Therefore if we end up with this overlay to the 1984 plan it will be important that the overlay be as accurate as possible.

There really has been no discussion about the design standards. Everyone has been focused on the land use section for obvious reasons. We spent 2 days reviewing and providing alternative ideas to the planning department so the standards would be more specific and stronger. We based all of our criteria on the survey results taken by the residents. We referenced other successful historical districts like Salt Lake City, Durango, Dayton Ohio. Dayton Ohio was the first city in the nation to use a preservation board as a decision making body for historical design decisions.

This information was repeatedly given to city staff. No data corrections were ever made nor did any of our suggestions materialize in a document or even a conversation. The city latched onto Colorado Springs as its only model and I have no idea why.

I have listed some examples of vagueness or errors in the overlay:

-In the Views and Landscaping section ----quote "the city overlay states that the **property owners and the city** will maintain the median and park strip – That is ridiculous. The city owns the property and has always maintained the landscaping through the park service. This could read that the residents will have some financial responsibility. The trees have always belonged to the city park service not the property owners. I hope this isn't a city cut back and they are really giving us the trees to maintain.

-In the parking section quote " **parking is not allowed on the side streets**"????????? There is public parking on all the side streets. Are we not allowed to use it?????

-Section on District Identification the city quotes another **partnership of responsibilities**. At this point I am not very interesting in getting into a partnership with a group that I have been fighting with for 7 months.

-Roofing section quote " Keeping rooftop features such as chimneys, materials and other fixtures is **encouraged** to reinforce the buildings historical style. --- Encouraged is rather vague and non specific. The example given by the city happens to be my roof. My roof is unusual because the composite used represents slate but cannot be replaced. What happens then??

-Quote: Unless a building was originally designed differently on a corner property, the primary building entrances shall face North 7<sup>th</sup> street. Why not say those properties are 604 N. 7<sup>th</sup> and 710 Ouray

-Doorways shall keep the buildings original construction and historical style but the cities example shows an alteration of the Moyer house front door entry from one main door to two for change from single family to the current subunits.

-Window frames should match as closely as possible- Again no direction is given. A major concern of the DeRoses was the use of vinyl replacement windows. This was never addressed.

- Avoid enclosing a porch whenever possible. If it must be done, design the enclosure so that the original lines of the porch roof, eaves are preserved. Why would you ever **have to** enclose a porch and who decides if it must be done??????

-Overlay states that the Exterior surfaces should be replaced with historically accurate materials. Vague no direction



-Hazardous materials that must be replaced **should be done in a manner that keeps a buildings historic style.** Vague no direction

-Modern materials may be used if they can be removed and they blend with the house ??????

-No new primarily non residential structures shall be built- what does **primarily non residential mean?** There is no definition section.

- The terms **primary structures, landmark structures, contributing structures** are used throughout the document and infer they mean the same thing but they do not mean the same thing. Again no definition section.

-In the Fences section there is no way to establish the front yard from side yard. The problem is the fencing codes are different depending on whether you are talking about a fence in the front yard or side yard.

-In the parking section it says "commercial parking and paved parking lots shall be screened from views from 7<sup>th</sup> street". Why is that confusing?? Planning just approved additional paved parking at 604 that can be seen from 7<sup>th</sup> street. If 604 screens the new parking doesn't that sound like it was written just for them since the survey identified that the view of parking from 7<sup>th</sup> street is a major concern for the residents but no one elses parking will be blocked from view. Why did the city add the reference to screening commercial parking? Are they planning on knew commercial parking?

There is no direction on when you need a permit so you must go to the underlying zone to figure that out. Very confusing for a non professional

#### Appendices

There is property that was completely left out of this section because it is new. It is still in the district and should be documented as a knew structure, noting the style and date

#3 Hermann Bull vs. Heman Bull

#4 Warren House city states has not changed---there have been many many changes from original design and is now a historical intrusion to the district

-#17 states it is residential with no additions- actually it is commercial with addition

-#23 Furbrosh House residential --- is a boarding house and Furbrosh is misspelled

-#25 Moyer House says residential duplex . Under the heading observations it says the interior alterations don't diminish the exterior character --- this was changed to a 4 unit rental with a the original front door removed. Front opening was replaced with separate entrances along with a permanent brick division leading to the porch level. .

- #26 Goodwin House- No notation was made that permanent modern era fixed brick planters were added to this turn of the century home in 2001 which dramatically alter the architectural character.

-#32 Allison House states date of construction is 1900 but makes no historical reference to the fact the original façade was basically deteriorated beyond repair. The recent new façade does not represent the original architecture and is considered an intrusion.

To document the historical fadades you really need to document the oldest possible photo and list it beside the current 2009 photo of the structure. Kathy Jordon has published many 7<sup>th</sup> street tour books showing that exact information. It is easily available.

If this is what you the 2009 council wants to leave as historical data for future generations to try to figure out I guess you would vote yes to adopt this overlay. In our opinion this would be a embarrassing mistake.

Sharon Snyder  
639 N. 7<sup>th</sup> Street

Ronald Kim Sutherland  
750 North Seventh St.  
Grand Junction, Colorado 81501  
October 19, 2009

Grand Junction City Council

Dear Council Members:

I am a resident of North Seventh Street, my home lies on the northern boundary of the Seventh Street Historic District, and is in fact listed as an intrusion on that district. I have lived in the neighborhood for the past 20 years, and major factors in my purchase of that home were the close proximity to downtown shopping, and other amenities. Other factors which led me to that area were well maintained homes, and friendly neighbors. I count it a privilege to have known a few of the original owners of some of the homes in my neighborhood.

During the past 20 years, I have taken pride in the upkeep of my home and yard, even to the extent of paying the city back roughly one-third of the cost of watering the parking between the sidewalks and street bordering my lot. I've thought it was important to maintain a well groomed area for the City's pride.


I thought it interesting to read the following in Saturday's Daily Sentinel:  
"...communities across the country are homogenizing, losing their identities and things that set them apart from one another through a blur of shopping malls and big boulevards. That's what makes Friday's unveiling of a statue honoring Lincoln Park Pool grantor William Moyer so important."

What would Mr. Moyer have to say about the rezoning of his neighborhood on North Seventh Street, or for that matter Mr. Harry Goodwin, who resided at 604 N 7<sup>th</sup>, and granted St. Mary's hospital a radiology department? Little wonder that he had the foresight to bequeath the Denver Art Museum his Asian art collection, because he felt it would be seen as little value to his home town.

When asked by many of my friends what would be wrong with a Bed and Breakfast or any other business in my neighborhood, my ready response has been, "I'm sure they would also be a welcomed addition to your neighborhood." It always commands a loud "NO!"

I am asking you to consider the preservation of a neighborhood, much the same as you see the need to preserve the neighborhoods near Lincoln Park, and other residential neighborhoods in our city. Many city's are now regretting the flee of residential areas in their downtown cores, I would hope that our current city fathers would have the same foresight that their predecessors have possessed.

Sincerely,

  
750 N. 7<sup>th</sup>

*Jodie L. Behrmann*

Attorney-at-Law

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October 19, 2009

VIA HAND DELIVERY

Grand Junction City Council  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Dear Council Members:

Late Friday afternoon, Planning's revision to the 7<sup>th</sup> Street Overlay was released, along with the agenda for tonight's City Council meeting. Once again, the residents of 7<sup>th</sup> Street had no meaningful opportunity to participate in the drafting of that revision and were left with only the weekend in which to review it.

As it turns out, there is not much to review. None of the corrections submitted by residents to the design guidelines or the property survey portions of the Overlay have been made. None of the suggestions made by the residents has even been considered, much less incorporated. Planning has not even bothered to correct the erroneous designation of the "Herman Bull House" rather than "Heman Bull House," an issue that was acknowledged many weeks ago, and which Planning expressly promised to correct. Along with all other input from the residents of the District regarding the problems with the Overlay, this too, was simply ignored.

Clearly, City Planning is not much concerned with historical accuracy or even the aesthetics of historic preservation. That's more than a little ironic given that Planning, and several members of Council, have repeatedly voiced the opinion that historic preservation is only about aesthetics, i.e., that preservation has nothing to do with land use and what happens behind the facade is irrelevant. The obvious conclusion is that the Overlay is 50+ pages of meaningless fluff designed to provide cover for the land use changes that are contained within Paragraph C - land use changes that Planning desires to make without the support of the affected property owners. That's all this about, and all it has ever been about.

1984 Plan vs. The Overlay

At the Workshop on October 5<sup>th</sup>, the majority of Council members voiced their opinion that the 1984 Plan had in fact been given effect by the City for the past 25 years. Should anyone



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still have doubts about that issue, I would refer you to my letter of June 3 in which I cited the specific instances in which the Plan was applied to development applications within the District. Neither we, nor City Planning staff, have been able to identify a single instance where the 1984 Plan was not applied to a development application within the District. Not one.

Despite this fact, Council's legislative committee refused to refer the 1984 Plan to Council for a vote on formal adoption, my clients were told it was because a better plan was needed. They were told that the City found the language of the Plan was confusing, that it did not include any requirements for setbacks or architectural standards, that the intent was unclear, and that they couldn't determine whether the proposed Bed and Breakfast at 604 N. 7<sup>th</sup> constituted a "major" or a "minor" change. While even a cursory reading of the 1984 Plan shows these concerns to be baseless, it is revealing that the Overlay fails to address any of these alleged concerns, and adopts much of the language from the 1984 Plan that staff found so "confusing."

The only substantive difference between the Overlay and the 1984 Plan is that the Overlay allows certain land uses as a matter of right, without any consideration of whether these land uses are appropriate or compatible. The proposed Overlay does not build and strengthen the 1984 Plan, it undercuts it. The 1984 Plan explicitly and repeatedly states that the intent of the Plan is to protect the single-family residential character of the District. The Overlay rezones the District from the planned zoning that has been in effect for the past 25 years by redefining that planned zoning to include land uses that were previously not allowed without following the rezoning procedures.

The Overlay would treat accessory units, residential subunits, and 1-3 room Bed and Breakfasts as uses that are allowed by right within the District. None of these uses is allowed under the 1984 Plan without City Council's decision, after public hearing, that the change in land use is appropriate under the rezoning criteria.

With respect to this attempt to amend the 1984 Plan, Section 2.12(F)(1)(a) of the City's Code states:

- a. No use may be established that is not permitted in the PD without amending the rezoning ordinance through the rezoning process.

Under the City's current Code, property may be rezoned only if the following criteria are met:



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## 2.6 CODE AMENDMENT AND REZONING

- A. **Approval Criteria.** In order to maintain internal consistency between this Code and the Zoning Maps, map amendments must only occur if:
1. The existing zoning was in error at the time of adoption; or
  2. There has been a change of character in the neighborhood due to installation of public facilities, other zone changes, new growth/growth trends, deterioration, redevelopment, *etc.*;
  3. The proposed rezone is compatible with the neighborhood, conforms to and furthers the goals and policies of the Growth Plan and other adopted plans and policies, the requirements of this Code, and other City regulations;
  4. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of development allowed by the proposed zoning;
  5. The supply of comparably zoned land in the surrounding area is inadequate to accommodate the community's needs; and
  6. The community will benefit from the proposed zone.

None of these criteria have been addressed by the Overlay. Further, the Overlay prevents the consideration of these criteria on a case-by-case basis because the Overlay deems the land uses to be allowed as a matter of right. The decision to rezone the District without application of the rezoning criteria at any stage of the process violates the City's Code and the rights of the affected property owners.

### Land Uses Allowed Under the Overlay are NOT Residential

At the Workshop it was apparent that some council members are laboring under the mistaken impression that the additional land uses allowed by the Overlay are "residential uses" that should be allowed in the District because they are allowed in all other residential zones. That is inaccurate.

When the District was rezoned to PR-8 in 1984, the City had separate categories for multi-family and single-family residential zones. That distinction has since been erased, but it

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was a critical distinction at the time for the downzoning of the District. The 1984 Planning Commission's first recommendation for rezoning the District was to zone it RSF-8, or residential single family. The intent from the beginning was to prevent anything other than single-family residential use within the District without a rezoning application. Planned zoning was substituted for RSF-8 in order to give greater protection for already existing uses that did not conform to single-family residential zoning.

Since 1984, the City has redefined single-family residential zoning in other areas to allow additional uses, including multi-family and limited commercial uses, but those changes have never been addressed, much less applied, in the context of the 7<sup>th</sup> Street Historic District. That the City has redefined what constitutes a "residential use" in other areas of the City does not mean that the City has passed on the question with respect to the District. Such uses are directly contrary to Council's stated intent in rezoning the District in 1984.

#### Public Hearing Process

Much has been made of the fact that the revised Overlay makes City Council has final review of all land use applications in the District. It is a step in the right direction, but it is an incomplete step.

With respect to the uses by right allowed by the Overlay, City Council's decision-making power is limited to a review of the Planning Director's decision and whether it meets the limited review criteria under the Zoning Code for approving a use by right. All that really means is that City Council is being substituted for the Planning Commission in the existing administrative review process. While there are a few additional grounds listed for denying an application, no application for a change of land use, whether it is under Paragraph C (uses by right) or under Paragraph D (other uses), is subject to the City's rezoning criteria. These fundamental compatibility and public benefit criteria are crucial, and they are simply being ignored.

If the rezoning criteria for allowing additional land uses are not addressed through the adoption of the Overlay, and are not addressed on a case-by-case basis through application of the Overlay, then they never get addressed, and the approval of any changes in land uses within the District are *per se* illegal zoning determinations.

What the Overlay does is destroy any pretense of maintaining the single-family residential character of the District. Allowing as a matter of right that every property in the District may be used as a B&B, or as an owner-occupied apartment complex, will, over time, pressure all property owners to compete for the higher market values that exist for income-generating properties. One by one, each property will be converted to an income-producing use and the single-family residence will be a thing of the past. The District is too small to sustain that level

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of commercial competition, and eventually they will all fail, leaving the Historic District as just another collection of rental properties with absentee owners.

To avoid that eventuality, the residents of the District ask that the rezoning criteria be applied as applications for changes in land uses within the District are made. They ask that land use changes be addressed on a case-by-case basis, and in the context of a public hearing in which City Council is not just a review body, but the actual decision-maker.

Sincerely,



Jodie L. Behrmann

cc: John Shaver, City Attorney  
Tim Moore, Director of Public Works and Planning