

MINUTES  
SPECIAL MEETING  
GRAND JUNCTION PLANNING COMMISSION

Tuesday -- June 2, 1959 -- 7:30 P. M.

CIVIC AUDITORIUM

A special meeting of the Grand Junction Planning Commission was held in the Civic Auditorium Tuesday evening, June 2, 1959, at 7:30 P.M., with the following members present: Chairman Glen Hopper, Mr. Alex Bauer, Mr. V. L. Colony, Mrs. F. A. Brumbaugh, Mr. Rudy Harras, Mr. Robert Van Deusen, Mr. Claud Smith, and Secretary R. E. Cheever. Members absent: Mrs. Cleo Diemer.

Regional Planning Director Gene Allen, Councilman Edward Strnad, City Attorney Gerald Ashby, City Engineer Carl Alstatt, Chief of Police Karl Johnson, Fire Chief Frank Kreps, Mr. Pat Gormley of the Chamber of Commerce, Attorney Thomas K. Younge, Attorney James K. Groves, and a group of interested citizens were present.

The meeting was called to order by Chairman Hopper who said this special meeting of the Grand Junction Planning Commission has been called for the purpose of discussing and taking action on the question of rezoning the Jaros tract, being Lot 16 in Grandview Subdivision, Mesa County, Colorado, bounded on the North by Orchard Avenue, on the West by North 12th Street, on the South by Mesa Avenue, and on the East by North 13th Street.

According to the rules and regulations of the Grand Junction Planning Commission, Section 7, Paragraph A, the Planning Commission turns all zoning requests over to the Zoning Committee. However, Mr. Hopper said, with the permission of this Commission this evening, I will waive that section and will convene this entire Commission as a zoning commission with the hope that we may hear this request this evening and act upon it. If the Commission feels that they are in possession of all of the necessary facts at the end of these discussions, I will ask that the vote be made on a written, secret ballot. With this information, we will now proceed.

Attorney Thomas K. Younge, attorney for the Overhill Corporation who had requested this rezoning, next spoke in behalf of the Corporation. Mr. Younge's statement follows, and before he began his remarks, he invited questions at any time.

Mr. Hopper asked if it would be of any assistance if he had a map, to which Mr. Younge replied "Yes, it might be of some assistance".

(Map of proposed shopping center presented; also zoning map)

Mr. Younge:

"PRESENTATION TO GRAND JUNCTION PLANNING COMMISSION AT SPECIAL MEETING HELD JUNE 2, 1959, 7:30 P.M., IN THE CITY COUNCIL CHAMBERS. A PETITION BY OVERHILL CORPORATION, ET AL FOR REZONING OF A PORTION OF LOT 16, GRANDVIEW SUBDIVISION FROM RESIDENCE "A" TO BUSINESS "A" CLASSIFICATION.

History of Application

The area involved in this application is all of Lot 16, Grandview Subdivision, except the North 274 feet of the West 150 feet thereof (which is presently zoned business "a") and except the South 100 feet of the West 130 feet (which is presently zoned residence "a"). The area lies between Mesa Avenue and Orchard Avenue and between North 12th Street on the West and North 13th Street on the East. The application is similar to one which was made to the Planning Commission on April 30, 1958. On a split vote by the Planning Commission it was then decided that it be recommended to the City Council that the petition for rezoning be denied. Thereafter on May 7, 1958 the Planning Commission submitted its report to the City Council, which decided that the matter should be advertised for hearing before the Council on June 4, 1958. Thereafter a hearing was held before the City Council on June 4, 1958 and a subsequent hearing was held before the Council on July 16, 1958. By split vote of the Council a motion to override the recommendation of the Planning Commission was lost, five councilmen voting for and two against.

At the time of the last action by the City Council, the City Council took cognizance that possibly a full presentation had not been made to the Planning Commission of all matters which were presented to the City Council and also noted the fact that a shopping center zoning ordinance was contemplated to be enacted in the future according to the plans then in progress with the Planning Commission. Comments by various councilmen indicated that the application should be resubmitted to the Planning Commission and that adequate time should be allowed for the Planning Commission to formulate and propose a shopping center zoning ordinance.

I am advised that the Grand Junction Planning Commission has at various times since July 16, 1958 considered various shopping center zoning ordinances, but to date has not settled upon any definite proposal. Therefore, this present petition for a change in zoning is for a change from residence "A" to business "A" classification because of the fact that no ordinance has been enacted for shopping center zoning under which this application may be made. It should be emphasized, however, that this application is made with the firm intention and desire to construct a shopping center upon the area in question and the applicants are fully willing that this petition be considered and limited in that respect. If the planning commission prefers to immediately enact a shopping center zoning ordinance proposal for submission to the City Council, the applicants would be willing to have the change in zoning be to that of a shopping center.

There have been filed with the City Manager and there are presently pending before the Planning Commission three documents, to-wit:

1. Application or petition for rezoning.
2. A plat of the area in question showing: strips along Orchard Avenue, North 12th Street and Mesa Avenue, which the property owners propose to dedicate for street purposes, an area on the East which the property owners propose to dedicate to the City of Grand Junction for park purposes, and a further area on the South and East which the property owners propose to limit as to use by restrictive covenant so that no buildings can be constructed thereon.

3. A petition by adjoining owners which is conditioned upon five restrictions, to-wit:
  - (1) The dedication of said additional street areas as previously mentioned on Mesa Avenue, Orchard Avenue and North 12th Street.
  - (2) The conveyance to the City of Grand Junction for park and street purposes of the area mentioned on the East.
  - (3) The erection of a cyclone type fence on the East.
  - (4) The execution of restrictive covenants for the use of the public that no building will be constructed on certain areas at the East and South ends of the property.
  - (5) That a restrictive covenant be executed to the use of the public that certain areas shall not be used for any purposes other than parking prior to January 1, 1979.

Reference is made to the three instruments for the particularity of the said proposed dedications, restrictions and covenants. It should be emphasized that the applicants have proposed said restrictions as an attempt to furnish what would otherwise be included within a good shopping center zoning ordinance."

At this point, the question was asked, "What is the footage on the East?" (the area the property owners propose to dedicate to the City of Grand Junction for park purposes).

The answer was that this had been discussed by the engineering staff of the City and the conclusion had been that this strip, which is 65.2' wide on the two ends and 37.2' in the center, should be approximately 18 ft. wider in order to meet the normal requirements for park purposes which would ordinarily be required in a project of this kind.

Mr. Younge said that as far as the applicants were concerned, they are willing to dedicate an additional area of approximately 18 ft. and still leave the same width of intervening area on which no buildings would be constructed. He said this plan is necessarily elastic because it is a proposal by the applicants to provide what would ordinarily be included in a shopping center ordinance.

Mr. Hopper: You are willing to dedicate your half of the street and in addition 5% of the area you propose for rezoning, for park area?

Mr. Younge: That is correct. 5% of the remaining area in addition to the street area.

Mr. Hopper: Who will put in your park?

Mr. Younge: The applicants will put in grass and shrubs.

Mr. Hopper: There is a restrictive covenant on the parking area until 1979?

Mr. Younger: That is correct.

Mr. Allen: Since this is under one ownership, is it possible that the owner would be able to put deed restrictions on it, and then later remove them?

Mr. Younger: I think not. However, restrictions were put upon the use of the parking area so it could not be used for other than parking until 1979; they also provide that no buildings will ever be constructed in those certain areas. These would be in the form of a restrictive covenant put on the property.

Mr. Ashby: Can the owners also remove these?

Mr. Younger: Not if put on for the use of the public.

Mr. Groves: That yellow strip on the East of the Jaros property is an alley way for trucks?

Mr. Younger: To a certain extent, yes. Could not have parking there. It is a service area and no buildings can be built there.

Mr. Groves: Anyone who puts restrictions on his property can remove them.

Mr. Younger then resumed his statement:

#### "Development of 12th Street and Change in Area

I hope that all of you are quite familiar with 12th street between Gunnison Avenue and Patterson Road, and equally familiar with Orchard Avenue between 11th and 13th Streets. If you know these streets, you know that the area on 12th Street between Gunnison and North Avenues is given over on the East to Lincoln Park and on the West almost entirely to business use. North of North Avenue the Junior College grounds extend on the West all the way to Elm Avenue. On the East the use is entirely for business for the first two blocks. Thereafter, the use is mixed between business and residential. North of Elm Avenue there are residential "A" and residential "B" districts until Mesa Avenue is reached. From Mesa Avenue to Orchard Avenue on the West the property is owned by Mesa College. Part of this Mesa College property is zoned as residential and part as business "AR". On the East side of the street between Mesa and Orchard, part of the property is classified as residential "A" and part as Business "A". I would particularly like you to note that all four corners of the intersection of 12th Street and Orchard Avenue are zoned for business use. North of Orchard Avenue on both sides of 12th Street there are various types of residential and business properties.

Both East and West of 12th Street on Orchard there are various churches, hospital clinics and other business establishments, as well as varying kinds of residential use.

Twelfth Street is just entering into an era during which it will be greatly widened and in which the traffic will become much heavier than it is now. I draw to your particular attention that 12th Street is being widened into a four lane street for a block on each side of North Avenue. I am informed that the City contemplates that 12th Street will be widened all the way from North Avenue to the Freeway within two years, and that at an early date widening will be continued from North Avenue North to the Airport Road. A traffic count was completed about a year ago by the Planning Commission which showed that in a 24 hour period (using round figures) 4,000 cars used 12th street immediately South of Orchard; 3,600 used 12th street immediately North of Orchard; 3,100 used Orchard Avenue immediately East of 12th Street, and 2,300 used Orchard Avenue immediately West of 12th Street. It may be that more recent traffic figures are available, but they probably have not changed in any material degree. The fact that this heavy traffic exists at or near this street intersection and the fact that property at all four corners of Orchard Avenue and 12th Street is now zoned for and used for business or public uses indicates that this area cannot be utilized in the future for other than business uses. I note that the Police Department and the City Council are contemplating the early installation of a traffic stop light at 12th Street and Orchard Avenue."

At this point, Mr. Gene Allen presented a land use map, showing the business district, and said that he would like to explain the uses of land from Gunnison to Orchard Avenue. He pointed out that 12th Street from North Avenue to Elm is partially residential, and then there is the Lincoln Park Hospital, Intermountain Bible College, Harper's Dairy, Mesa College, some one-family dwellings, and some vacant land; beyond Elm there are some multiple apartments. At 12th and North Avenue there is a small doctor's clinic and real estate office.

On the West, between North and Gunnison, the development is approximately 2/3 residential and 1/3 business, with Lincoln Park on the East.

Mr. Younge then resumed his statement:

About a year ago Police Chief Johnson stated in a letter of June 2, 1958 to City Manager Cheever, "Since 1956 . . . . 12th Street has been included in our planning as one of the primary North and South Streets . . . . Twelfth Street now carries and in all probability will continue to carry more traffic than is desirable for a residential type street. Origin and destination surveys have indicated that as much as 45% of the traffic coming to the downtown area comes from the northeast section of the city . . . . Recent traffic volume counts at several points along 12th street show that it carries almost double the amount of traffic that any east-west street crossing it carries except for North Avenue and the Freeway."

When the widening of 12th Street is completed that traffic burden will undoubtedly increase. Traffic along Orchard Avenue is increasing almost in the same degree.

There has been some speculation that the completion of a shopping center at this site would further increase the traffic on 12th Street and Orchard Avenue. The reverse is true. People who now have to go

to North Avenue or down town Grand Junction to shop would park on the ample parking facilities to do their shopping and then return home. Further quoting Chief Johnson's letter:

"While a newly developed area, such as a shopping center, might conceivably attract a heavier volume of traffic into the shopping area, it does not necessarily hold that it will create a heavier volume of traffic with attendant traffic problems in the surrounding residential area. This is especially true if adequate streets leading into the area are provided. Shopping centers are designed to serve a relatively small community area and most of the traffic into the center originates within a short radius of the center. This condition will also tend to relieve some of the traffic pressure in other areas that may be more congested."

I recognize that professional municipal planners in most instances frown upon what is called "strip zoning". I submit, however, that 12th Street between North Avenue and Patterson Road has lost and is continuing to lose its residential characteristics. It is not desirable for good residential developments, nor is the area on Orchard Avenue between 12th and 13th Streets. The area of 12th Street and Orchard Avenue is in fact a business district. Granting this petition for rezoning would make it possible to provide a planned, orderly shopping center which is badly needed by the surrounding area. This site is unequalled in the City of Grand Junction in that it is large enough to provide ample off-street parking with the shopping center buildings located at a sufficient distance from two arterial streets and yet taking traffic immediately off those two streets. It will serve a tremendous residential area which presently has to drive considerable distance for its shopping. It should be pointed out that this site is .9 of a mile from the 8th and North Avenue area and is even further from the contemplated Teller-Arms area.

Generally accepted authorities on civic planning state that local shopping centers are usually located at the intersection of major streets or transit lines serving a relative small neighborhood normally within the radius of one-half mile. We quote from the Local Planning Administration book on the section "Neighborhood Shopping Centers" which is owned and used by our City Manager, Mr. Cheever:

#### "SPACING AND LOCATION

Since the primary advantage of local shopping centers is their easy accessibility from the homes of the people they serve, those that specialize in convenience goods should be spaced from one-half mile to one mile apart, so that no person will have to travel more than one-half mile to a center. The size of any one of the centers will of course depend upon the number of people living within the area it serves.

#### GROUP ARRANGEMENTS

The opportunities of securing an attractive and inviting center through the harmonious architectural design of the entire group, the arrangement of buildings about suitably

landscaped open squares, and the provision of tree-lined sidewalks or ample width are, of course, much greater in a group development.

#### ZONING LOCAL BUSINESS DISTRICTS

Practically every city contains a number of small neighborhood shopping centers, located usually at the intersection of major streets or transit lines. They serve a relatively small neighborhood (normally within a radius of one-half mile) with foods, drugs, entertainment, and personal services . . . convenience goods and services."

#### SHOPPING CENTERS DO NOT HURT RESIDENTIAL DISTRICTS

A shopping center area has grown up in the immediate vicinity of Tope School and 7th Street. Just one block removed is one of the best residential areas of the City of Grand Junction and yet on 7th Street there are drug stores, a grocery store, a filling station and many medical units, as well as a school. The virtue of this particular proposal, which is considered by the Planning Commission tonight, is that the area is large enough so that buffer zones may be created between the buildings to be erected and adjacent residential properties, and also all parking may be taken off of the streets.

#### CONCLUSION

The right to the use and enjoyment of property for lawful purposes is the very essence of incentive to property owners. This right is a property right fully protected by the due process clauses of the Federal and State Constitutions. The personal rights are curbed to some extent by zoning ordinances so as to prevent one man from using his property as to prevent others from making a greater, fuller and free use of their properties. Zoning ordinances are upheld to the extent that the regulations contained therein are reasonable and provided further that the restriction in fact have a substantial relation to the public health, safety or general welfare. We submit that this change in zoning is necessary so as to permit the applicant to make the fullest and best use of its properties. Adherence to the present residence "A" zoning would be an unreasonable restriction upon the use of this land. On the other hand a change in zoning will not work an unreasonable burden upon the adjoining lands. As previously pointed out the change in use in the adjacent areas from residence use to business or public uses is already an accomplished fact."

Mr. Harras: (asking Mr. Younge) Whom do you represent?

Mr. Younge: The Overhill Corporation, who own the property.

Mr. Bauer: How large is the area?

Mr. Younge: 274 ft. North to South on 12th Street; 150 ft. East to West on Orchard Ave.

- Mr. Hopper: How much net land area is this shopping center going to occupy after the 5% and the street dedication are taken off?
- Mr. Younge: Roughly, an area 600 ft x 570 ft.
- Mr. Colony: How much in business shops? How much park?
- Mr. Younge: A year ago, the applicant had a number of firm commitments for their building; however, they have all run out. At the present time there are no firm commitments. Since the cost of the original commitments was about \$4,000.00 the applicant did not think it wise to obtain new ones until they knew that they could put the property to use. However, I have no doubt but what the same or equal commitments could be secured again.
- Mr. Colony: Is it a large enough area on which to build a shopping center?
- Mr. Younge: I think it is. It is one block in one direction and two blocks the other direction.
- Mr. Hopper: What is the area of the proposed building?
- Mr. Younge: 88,000 sq. ft.
- Mr. Hopper: How much parking space should there be for this size building?
- Mr. Younge: We have allowed 3 feet to every foot in the shopping center, itself, or a ratio of 3 to 1.
- Mr. Hopper: How does this compare with recommended zoning?
- Mr. Allen: Recommended ratio is 3 to 1.
- Mr. Hopper: You are requesting that this area be rezoned to Business "A"?
- Mr. Younge: I am, with the understanding that if the Planning Commission should deem it wise to adopt a shopping center ordinance, we would be willing to acquiesce and accept that instead of Business "A". There has been a certain amount of opposition because of the fact that if this is made into a Business "A" zone there will be no limit on what can be put in there. However, the applicant's firm intention and desire is to put it to use as a shopping center, and they are willing to do anything they can to insure its use for that purpose.
- Mr. Hopper: Would the applicant be willing to make a firm commitment, in case a shopping center would not come into existence, that the land use would revert back to Residential "A" use?
- Mr. Younge: Yes, within a reasonable period of time. Have no firm commitments now.



Mr. Hopper: What would be a reasonable time?

Mr. Younge: Cannot say for sure, but perhaps three years.

Mr. Groves: When did the Overhill Corporation acquire this property?

Mr. Younge: In 1958.

Mr. Groves: Were they aware of the fact that this property was zoned as Residence "A" when it was acquired?

Mr. Younge: Yes, you are correct.

The Chairman then called upon Attorney Groves who was representing a group of citizens who are opposed to this rezoning.

Mr. Groves:

This is the fifth time that these people living around this area have been on the defensive about this matter, and when you are in a defensive position you should know what everything is that is proposed. We do not know whether the Commission has obtained the opinion of its Director in this matter, or not, or whether it is going to; but I think it would be more proper, before we go into this, that we be advised as to what his position is.

The Chairman then called upon Planning Director Gene Allen.

Mr. Allen:

This particular rezoning matter is getting to be an annual affair.

Where zoning is involved, in most cases it is necessary to take sides in order to evaluate the particular questions that arise. The first year or two that this came before this Commission, we were a relatively new group and had not gathered much of the necessary information to evaluate a request of this nature. During these years the Planning Commission recommended against it, mainly because of spot zoning and because of the fact that no buffer strips were being provided, and because of the protests received from adjoining property owners.

The last year or two that this has come up, we have been in a little better position to provide some specific information relative to the merits and the drawbacks of this particular request.

This year some of the items that were mentioned in favor of this were: It is a fairly large tract of about 10 acres, over-all, coming out roughly to about 7 acres of usable land after streets are taken off and the dedication of this strip to public use. Another item - for the amount of store area they are providing, they also provide adequate off-street parking space.

However, there are also some "cons" in regard to this: In regard to the lay-out or the location of off-street shopping centers, the half mile between centers should be in highly populated areas. Based

on planning studies, practically all of the City of Grand Junction would have to be considered as low density population areas -- this area in particular, zoned for one-family dwellings and developed in this way. Other facilities should not be considered as potential market -- the two tracts owned by Mesa College (40 acres), a small business area on Orchard Avenue (8 or 9 acres), and the area where the hospital is.

(Population map presented)

Mr. Younge: Is it true that this proposed shopping area is .9 of a mile from the closest shopping center area?

Mr. Allen: No, it is 8.3 or 8.5 of a mile from the far end of a shopping area.

Mr. Younge: Is it true that a year ago you suggested as an alternative to this petition, a shopping center at 12th and Patterson, and is that a high density population area?

Mr. Allen: Not at the present time. It would be a project for the future use of that area when it is built up. The planning program would like to see it set aside and used for industrial use.

Mr. Hopper: When you speak of .8 of a mile, etc., is that the way the "crow flies" or around City blocks?

Mr. Allen: Around city blocks.

Mr. Allen continued:

Out of 31 businesses with .8 of a mile from 8th and North Avenue to 12th and Orchard, there are 25 out of the 31 which could be considered as local services normally found in shopping areas.

The intersection at 12th and North Avenue will be basically developed for business - the NE corner is presently zoned for business and the Commission this week received a request for one-half block on North Avenue between 11th and 12th to be rezoned as Business "A". These two or two and one-half acres can supplement the existing shopping already along North Avenue and already zoned for business use. Therefore, this proposed location is less than 1/2 mile from an established business use, even though it is not yet built up.

(Traffic map presented)

Regarding the traffic count at 12th and Orchard -- the total count for each four legs was given; that count should be divided in half. An average of about 5000 cars entered and left the intersection.

In 1958, at 12th and Orchard, 11-hour counts were taken from 7:00 A.M. to 6:00 P.M. These show on the East side of 12th - 2,075 cars; North side of Orchard on 12th - 2,691 cars -- or approximately a total of 5000 cars entering and leaving that intersection.

At 12th and North Avenue (less than 1/2 mile) during the same time: On 12th Street, 9,761 cars passed East and West on North Avenue, and approximately 4,300 on 12th Street -- or three times the traffic as went through 12th and Orchard.

No doubt 12th Street will be a major route and some additional land will have to be acquired from Elm or Orchard to the North in order to handle the growing traffic from residential areas and the increasing airport traffic.

Increasing traffic was a basis of justification for business zoning, and it is true increased traffic brings about a demand for business zoning; however, if we are to use traffic counts as a basis for business zoning or strip zoning, we will find 5th Street, 7th Street, 12th Street, Grand Avenue, Redlands, and many others would become strip businesses.

We hope to widen 12th Street to take care of traffic and also hope to move some traffic to 28 Road to help keep traffic count as low as possible. Orchard Avenue is already mostly residential and the right of way cannot be widened; therefore, any additional business would increase the traffic on Orchard Avenue and be detrimental to the street and to the people living there.

I would suggest, therefore, with the thought in mind that the Planning Commission should base their plans on long-range planning, traffic capacity of the streets established, use in the neighborhood, that there should be a shopping center at 28 Road and North Avenue, one at 1st Street and Patterson Road, and one at 12th Street and Patterson Road -- thereby working on basically one-mile radius between business areas, which would be considered entirely adequate to serve the needs of the community.

Mr. Merton Heller, who was in the audience, asked about the count at 12th and Orchard last week.

Mr. Allen replied that it was removed because of the fact that an entirely changed picture was taking place -- traffic was increasing on Orchard Avenue and decreasing on 12th Street, the reason being because of the construction work along North Avenue. More people were using Orchard rather than going through the construction area. They will put the counter back there in a few weeks, after the construction is completed.

Mr. Colony asked if it isn't more thickly populated at 12th and Orchard than at Teller Arms.

Mr. Allen replied that approximately one-third of the proposed area at Teller Arms will be shopping area, the rest will be residential development varying from one family dwellings to apartments. Eventually the area between North Avenue and Patterson Road will be developed for residential use; this is comparable in density in the immediate vicinity and will serve more people than 12th and Orchard.

Mr. Heller: Do you propose that the Jaros tract should be zoned as residence on 12th Street?

Mr. Hopper: Not in position to answer that.

Mr. Heller: People would not want to put homes there because of the traffic on 12th Street.

Mr. Allen: Area to south of proposed rezoning is developed with streets running East and West, intersecting 12th, and some houses north of Orchard front on 12th Street; however, if Hall Avenue were extended through from 13th to 12th it would be possible for all houses to front on side streets and side yards would be on 12th Street.

When asked how many of these proposed areas as shopping centers are within the City limits or adjacent to the City, Mr. Allen replied that one is in the process of coming into the City and the other two are approximately 1/2 mile or less from the City limits. The one at 12th and Patterson is even closer than that because the City limits have recently been moved up to Bookcliff Avenue.

Mr. Allen was asked if he felt that within a reasonable number of years those areas would be in a radius that they might serve and if population would be dense enough to serve them from four directions.

Mr. Allen replied, "Yes, within a period of years, I do not know how many".

Mr. Groves: This is the first hearing of this kind you have had? In times past, the statement has been made that the Council did not have some of the arguments that the Planning Commission has.

Mr. Hopper: The chairman and the entire Commission are trying to operate as a planning commission in the interest of good planning for the citizens of Grand Junction and surrounding area.

Mr. Groves said that he represented the property owners to the East and South of this proposed rezoning area, and that a lot of these people were here this evening. He said that Dr. and Mrs. Merrill are here, and no one has been acquainted with these problems longer than they have. He then asked if Dr. Merrill and Mrs. Merrill might say a few words.

Dr. Merrill:

As Mr. Groves has said, this has become a perennial thing in our area.

We feel that we bought our homes and have been living there for eight years, or so, and all of us bought in this area with the understanding that this would remain as a residence zoning.

We invested money in these properties; they are not fancy homes, but good homes, and we feel if the zoning in this area is changed it will be a detriment to the neighborhood.

This shopping center is not needed in this area and is not an instance of good city planning. If zoning is changed and shopping center is put in there, it is not making a good use of the area, and the whole area is going to suffer. It will further increase the traffic hazard to the children in the area.

We feel that if we had known this was going to be business, we would not have wanted to locate in this particular part of the City.

Mrs. Merrill then presented the following statements against this proposed rezoning:

"TOO NEAR AN ESTABLISHED BUSINESS DISTRICT

Planning Director Allen has shown that the area is too close to an established business district for proper city planning. We believe him to be a reputable planning consultant. We want to continue to be proud of Grand Junction and desire it to be property planned for future growth, as do you. We don't want to stop progress - we want planned progress.

PROPERTY OWNERS OPPOSING A CHANGE SHOULD BE CONSIDERED

This section was developed as a residential area. Families have spent a great deal on improvements, not to mention the initial cost of their land and homes. They bought in good faith, believing this to be a good place to have a home and raise a family. Real estate values would drop. If the businesses failed, it would be an even greater hardship on neighboring property owners, as well as to the City as a whole.

ONCE ZONED FOR BUSINESS, NO CONTROL OVER IT

As long as the owner complies with the general regulations for Business A, the nearby property owners have no control over the section. No guarantee that the proposed shopping center would be built. County approved a rezoning for a shopping center a few years ago, and a filling station was put in instead. Business A zones may include a greenhouse, ice station, restaurant, hotel, theatre, pool hall, dance hall, mortuary, laundry, filling station, public garage, package liquor store, etc. Practically everything except heavy industry.

IMPOSSIBLE TO CONTROL ALL TRASH

Even the "cleanest" businesses cannot avoid all trash and debris. With the strong winds here, trash blows all over. Landscaping is of little value in winter months.

TRAFFIC

A large number of children live in the area. A survey last year found there are more children within a half mile radius of Orchard Avenue School than any other school in Grand Junction. Any type of business would greatly increase traffic, particularly if a large grocery were included. Truck traffic is then greatly increased. Many stores are open at night - adding nighttime problems. A child was killed by a truck a block from here last year.

PROTECT COLLEGE PROPERTY

Residential areas, rather than commercial areas, should be adjacent to a college. There is a difference between a beautiful campus surrounded by a residential area and a so-called "down-town campus." We want to uphold Grand Junction's reputation of having an attractive college in our community.

A ruling last year in Denver opened package liquor sales in areas surrounding any school. State law provides merely that no liquor may be sold by the drink within 500 feet of a school or college. No limitation is placed on package liquor.

We are not thinking of this year, or next year, but of years to come.

Mr. Hopper: With the changes that the petitioners are proposing -- the buffer strip park and cyclone fence, would that make any difference?

Mrs. Merrill: Not a bit.

Mr. Hopper: If zoned for a shopping center, that would not be Business A.

Mrs. Merrill: Cannot do it now.

Mr. Groves: You can see that even if that strip is widened 18 feet, if you have a street and a park in that area, that very narrow park is an impossible situation; cannot have children playing, throwing balls, etc. in a narrow park right next to a street. It must be either all park or all street. How are the people going to have their garbage taken out?

Mr. Bauer: Is this a street or an alley?

Mr. Alstatt: One-half of the street has been dedicated. This proposal would convert this half street to an alley outlet over to Hall Avenue for service to the backs of those lots to the East of this tract.

Mr. Bauer: Then this will be used as an alley.

Mr. Alstatt: It can be used that way.

Mr. Groves: Is this a street or an alley? It is a street now, and that part is a dedicated street. What right do they have to make it a park?

Mr. Alstatt: Will have to go through the process of being vacated before than can be done.

Mr. Ashby: Could not be vacated because it does provide an access. Could not change it from a street to an alley.

Mr. Groves:

Must be accessible for people to get in there, because City trucks cannot go in an alley and back out. It is not a safe situation to have a narrow strip of park along an alley or a street. This so-called buffer zone is simply window dressing to dress up a shopping center to get permission.

In true shopping centers, you take a large area -- 40 or 50 acres -- and you take a vacant area where there are no homes. Shopping centers are put in the center, then it is zoned Residence A, B, C, and on down so you do not have the most exclusive residential zoning right next to a business area; then when a prospective owner builds his home he knows in advance what he is going to have next to him.

It is not right - this is spot zoning when you put a shopping center in the middle of an exclusive residential area. This is one of the reasons it was turned down before.

These people bought this property some eight years or so ago when all this was zoned Residence "A" -- at least that was what everyone said it was and everyone thought it was. These people came in, assured that it was Residence A and built their homes. They do not want a shopping center there -- it is not a question of what you think they should have, but what they want. A private right is involved here. They relied on its being Residence "A".

The Overhill Corporation came in June of '58, knowing that it was Residence "A" classification and had been turned down three or four years before this, and bought the property. Who gets hurt the most on this?

We will consent to this in the future.....we will consent to that in the future.....It is not a matter of a person's word, but people intend one thing one minute and then when the ordinance is enforced, it is different. Cannot Zone this subject to a condition. Only thing that can be done now is recommend that it be zoned as Business "A" -- and if adopted, it would be open to everything allowed in Business "A". Once a thing is zoned one way, cannot go to another. Would not have any jurisdiction, and should not be acting on a three-year business because no way to enforce it.

Why not press first for an adoption of a shopping center ordinance? Should get the proper ordinance adopted first. But these property owners are not in favor of a shopping center, even if there were a shopping center ordinance. How can you stop a drum and bugle corps from practicing in the evening? (on parking lots of super markets) This is just an example of what these people are thinking.

36% of area of City is already zoned for business and industrial uses; 15% of this City is zoned for business and only 1/3 is in use as such. Here is a spot business zone of 7 or 8 acres in the middle of a residential area. Let's use some of the business area already zoned as such.

The law is, if the Planning Commission fails to approve a change of zoning or if 20% of the property owners within 100 ft. object, it cannot be changed except by a 3/4 vote of the Council, or 6 votes of the Council. The vote was 5 to 2 on this matter last year.

As was the case a year ago, it is the same this year. The argument has been all too extensive, that there is too much money invested in this and too much power behind it to stop it and you might as well get on the winning side. People are not interested in this -- power or money is not going to influence planning or call the shots in this City.

Mr. Cheever: Last year, John Emerson who was on the Council suggested this buffer zone and felt he was doing what some of the people wanted done. Evidently, this type of plat that these people have proposed has run into some snags from the street angle and could not be approved.

If this is the case, why should we take any action on it? Refer it back to the sponsors to come up with a regular plat that we can make a decision on. To have a regular plat, we must have a street through, and our City Attorney has said this could not be vacated. Cannot act on this.

It is true Mr. Emerson made this suggestion last year, and Mr. Groves stated then that it would not be satisfactory.

Mr. Hopper: We have two petitions here -- one asking this to be rezoned from Residence "A" to Business "A". The petitioners have signed this and colored the percentage of the residents who are represented by this petition on the map. Total petition indicated in favor of this change is 46% - property not signed up, 54%. 26% of the area is occupied by business at the present time. This is figured on footage. Does this give the property owner much say so?

The petition does not include the College. The College ground would be about 25%, and the College will remain neutral .

Mr. Groves: Understand from Mr. Dugan that this matter came up at their meeting and their decision was that they would wait until they saw the action of this Board before they took action this year. Not necessarily so that they will remain neutral. When this comes before the Council then there is more justification for expression, but wanted to see what this Commission decided to do.

Mr. Hopper: Is the Commission ready to make a move?



Mr. Younge: Have suggested previous to tonight, and want to suggest again, that a shopping center ordinance is necessary before any proposal such as this can intelligently be made. Mr. Groves has pointed out some facts which are well taken. I think similar objections could be made about any other proposal such as this, when applying for business use zoning and do not intend to use it for that.

A year ago when this was before the Council, it was suggested at that time that a shopping center ordinance should be prepared. Have talked to Mr. Allen about it and always said one was on the planning board. This Commission has considered some ordinances, but to date none has been suggested to the City Council.

Whether or not this property can then be zoned for a shopping center is immaterial; you are considering shopping centers for the future, and before you have any you have to have an ordinance that fits the situation.

Mr. Harras: Can we vote on this present petition? Either approve or disapprove?

Mr. Cheever made the following motion: That the Chairman put this to the vote of the Commission by secret ballot -- whether or not we approve the petition asking for the rezoning of this area from Residence "A" to Business "A". Motion was seconded by Mr. Bauer, and carried.

(Affirmative vote "yes" -- petition granted)  
(Negative vote "no" -- petition denied )

Written ballots were cast, with the following result: "Yes" - 2  
"No" - 6

Upon motion, meeting was adjourned.

R. E. CHEEVER, SECRETARY.

PRESENTATION TO GRAND JUNCTION PLANNING COMMISSION AT SPECIAL MEETING HELD JUNE 2, 1959, 7:30 P.M., IN THE CITY COUNCIL CHAMBERS. A PETITION BY OVERHILL CORPORATION, ET AL FOR REZONING OF A PORTION OF LOT 16, GRANDVIEW SUBDIVISION FROM RESIDENCE "A" TO BUSINESS "A" CLASSIFICATION.

#### History of Application

The area involved in this application is all of Lot 16, Grandview Subdivision, except the North 274 feet of the West 150 feet thereof (which is presently zoned business"a") and except the South 100 feet of the West 130 feet (which is presently zoned residence "a"). The area lies between Mesa Avenue and Orchard Avenue and between North 12th Street on the West and North 13th Street on the East. The application is similar to one which was made to the Planning Commission on April 30, 1958. On a split vote by the Planning Commission it was then decided that it be recommended to the City Council that the petition for rezoning be denied. Thereafter on May 7, 1958 the Planning Commission submitted its report to the City Council, which decided that the matter should be advertised for hearing before the Council on June 4, 1958. Thereafter a ~~similar~~ hearing was held before the City Council on June 4, 1958 and a subsequent hearing was held before the Council on July 16, 1958. By split vote of the Council a motion to override the recommendation of the Planning Commission was lost, five councilmen voting for and two against.

At the time of the last action by the City Council, the City Council took cognizance that possibly a full presentation had not been made to the Planning Commission of all matters which were presented to the City Council and also noted the fact that a shopping center zoning ordinance was contemplated to be enacted in the future according to the plans then in progress with the Planning Commission. Comments by various councilmen indicated that the application should be resubmitted to the Planning Commission and that adequate time should be allowed for the Planning Commission to formulate and propose a shopping center zoning ordinance.

I am advised that the Grand Junction Planning Commission has at various times since July 16, 1958 considered various shopping center zoning ordinances, but to date has not settled upon any definite proposal. Therefore, this present petition for a change in zoning is for a change from residence "A" to business "A" classification because of the fact that no ordinance has been enacted for shopping center zoning under which this application may be made. It should be emphasized, however, that this application is made with the firm intention and desire to construct a shopping center upon the area in question and the applicants are fully willing that this petition be considered and limited in that respect. If the planning commission prefers to immediately enact a shopping center zoning ordinance proposal for submission to the

City Council, ~~by enactment by the City Council~~, the applicants would be willing to have the change in zoning be to that of a shopping center.

There have been filed with the City Manager and there are presently pending before the Planning Commission three documents, to-wit:

1. Application of petition for rezoning.
2. A plat of the area in question showing strips along Orchard Avenue, North 12th Street and Mesa Avenue, which the property owners propose to dedicate for street purposes, An area on the East which the property owners propose to dedicate to the City of Grand Junction for park purposes, and a further area on the South and East which the property owners propose to limit as to use by restrictive covenant so that no buildings can be constructed thereon.
3. A petition by adjoining owners which is conditioned upon five restrictions, to-wit:
  - (1) The dedication of said additional street areas as previously mentioned on Mesa Avenue, Orchard Avenue and North 12th Street.
  - (2) The conveyance to the City of Grand Junction for park and street purposes of the area mentioned on the East.

(3) The erection of a cyclone<sup>type</sup> fence on the East.

(4) The execution of restrictive covenants for the use of the public that no building will be constructed on certain areas at the East and South ends of the property.

(5) That a restrictive covenant be executed to the use of the public that certain areas shall not be used for any purposes other than parking prior to January 1, 1979.

Reference is made to the three instruments for the particularity of the said proposed dedications, restrictions and covenants. It should be emphasized that the applicants have proposed said restrictions as an attempt to furnish what would otherwise be included within a good shopping center zoning ordinance.

Development of 12th Street and Change in Area

I hope that all of you are quite familiar with 12th street between Gunnison Avenue and Patterson Road, and equally familiar with Orchard Avenue between 11th and 13th Streets. If you know these streets, you know that the area on 12th Street

between Gunnison and North Avenues is given over on the East to Lincoln Park and on the West almost entirely to business use. North of North Avenue the Junior College grounds extend on the West all the way to Elm Avenue. On the East the use is entirely for business for the first two blocks. Thereafter, the use is mixed between business and residential. North of Elm Avenue there are residential "A" and residential "B" districts until Mesa Avenue is reached. From Mesa Avenue to Orchard Avenue on the West the property is owned by Mesa College. Part of this Mesa College property is zoned as residential and part as business "AR". On the East side of the street between Mesa and Orchard, part of the property is classified as residential "A" and part as Business "A". I would particularly like you to note that all four corners of the intersection of 12th Street and Orchard Avenue are zoned for business use. North of Orchard Avenue on both sides of 12th Street there are various types of residential and business properties.

Both East and West of 12th Street on Orchard there are various churches, hospital clinics and other business establishments, as well as varying kinds of residential use.

Twelfth Street is just entering into an era during which it will be greatly widened and in which the traffic will become much heavier than it is now. I draw to your particular attention that 12th Street is being widened into a four lane street for a block on each side of North Avenue. I am informed that the City contemplates

that 12th Street will be widened all the way from North Avenue to the Freeway within two years, and that at an early date widening will be continued from North Avenue North to the Airport Road. A traffic count was completed about a year ago by the Planning Commission which showed that in a 24 hour period (using round figures) 4,000 cars used 12th street immediately South of Orchard; 3,600 used 12th street immediately North of Orchard; 3,100 used Orchard Avenue immediately East of 12th Street, and 2,300 used Orchard Avenue immediately West of 12th Street. It may be that more recent traffic figures are available, but they probably have not changed in any material degree. The fact that this heavy traffic exists at or near this street intersection and the fact that property at all four corners of Orchard Avenue and 12th Street is now zoned for and used for business or public uses indicates that this area cannot be utilized in the future for other than business uses. I note that the Police Department and the City Council are contemplating the early installation of a traffic stop light at 12th Street and Orchard Avenue.

About a year ago Police Chief Johnson stated in a letter of June 2, 1958 to City Manager Cheever, "Since 1956 - - - - - 12th Street has been included in our planning as one of the primary North and South Streets. - - - - - Twelfth Street now carries and in all probability will continue to carry more traffic than is

desirable for a residential type street. Origin and destination surveys have indicated that as much as 45% of the traffic coming to the downtown area comes from the northeast section of of the city. - - - -Recent traffic volume counts at several points along 12th street show that it carries almost double the amount of traffic that any east-west street crossing it carries except for North Avenue and the Freeway."

When the widening of 12th Street is completed that traffic burden will undoubtedly increase. Traffic along Orchard Avenue is increasing almost in the same degree.

There has been some speculation that the completion of a shopping center at this site would further increase the traffic on 12th Street and Orchard Avenue. The reverse is true. People who now have to go to North Avenue or down town GrandJunction to shop would park on the ample parking facilities to do their shopping and then return home. Further quoting Chief Johnsons' letter:

"While a newly developed area, such as a shopping center, might conceivably attract a heavier volume of traffic into the shopping area, it does not necessarily hold that it will create a heavier volume of traffic with attendant traffic problems in the surrounding residential area. This is especially true if adequate streets leading into the area are provided. Shopping centers are designed to serve a relatively small community area and most of the traffic into the center originates within a short radius



of the center. This condition will also tend to relieve some of the traffic pressure in other areas that may be more congested." I recognize that professional municipal planners in most instances frown upon what is called "strip zoning". I submit, however, that 12th Street between North Avenue and Patterson Road has lost and is continuing to lose its residential characteristics. It is not desirable for good residential developments, nor is the area on Orchard Avenue between 12th and 13th Streets. The area of 12th Street and Orchard Avenue is in fact a business district. Granting this petition for rezoning would make it possible to provide a planned, orderly shopping center which is badly needed by the surrounding area. This site is unequalled in the City of Grand Junction in that it is large enough to provide ample off-street parking with the shopping center buildings located at a sufficient distance from two arterial streets and yet taking traffic immediately off those two streets. It will serve a tremendous residential area which presently has to drive considerable distance for its shopping. It should be pointed out that this site is .9 of a mile from the 8th and North Avenue area and is even further from the contemplated Teller-Arms area.

Generally accepted authorities on civic planning state that local shopping centers are usually located at the intersection of major streets or transit lines serving a relative small neighborhood normally within the radius of one-half mile. We quote from

the Local Planning Administration book on the section "Neighborhood Shopping Centers" which is owned and used by our City Manager,

Mr. Cheever:

#### "SPACING AND LOCATION

Since the primary advantage of local shopping centers is their easy accessibility from the homes of the people they serve, those that specialize in convenience goods should be spaced from one-half mile to one mile apart, so that no person will have to travel more than one-half mile to a center. The size of any one of the centers will of course depend upon the number of people living within the area it serves.

#### GROUP ARRANGEMENTS

The opportunities of securing an attractive and inviting center through the harmonious architectural design of the entire group, the arrangement of buildings about suitably landscaped open squares, and the provision of tree-lined sidewalks or ample width are, of course, much greater in a group development.

#### ZONING LOCAL BUSINESS DISTRICTS

Practically every city contains a number of small neighborhood shopping centers, located usually at the intersection of major streets or transit lines. They serve a relatively small neighborhood (normally within a radius of one-half mile) with foods, drugs, entertainment, and personal services - - - convenience goods and services."

#### SHOPPING CENTERS DO NOT HURT RESIDENTIAL DISTRICTS

A shopping center area has grown up in the immediate vicinity of Tope School and 7th Street. Just one block removed is one of the best residential areas of the City of Grand Junction and yet on 7th Street there are drug stores, a grocery store, a

filling station and many medical units, as well as a school.

The virtue of this particular proposal, which is considered by the Planning Commission tonight, is that the area is large enough so that buffer zones may be created between the buildings to be erected and adjacent residential properties, and also all parking may be taken off of the streets.

#### CONCLUSION

The right to the use and enjoyment of property for lawful purposes is the very essence of incentive to property owners. This right is a property right fully protected by the due process clauses of the Federal and State Constitutions. The personal rights are curbed to some extent by zoning ordinances so as to prevent one man from using his property as to prevent others from making a greater, fuller and free use of their properties. Zoning ordinances are upheld to the extent that the regulations contained therein are reasonable and provided further that the restriction in fact have a substantial relation to the public health, safety or general welfare. We submit that this change in zoning is necessary so as to permit the applicant to make the fullest and best use of its properties. Adherence to the present residence "A" zoning would be an unreasonable restriction upon the use of this land. On the other hand a change in zoning will not work an unreasonable burden

upon the adjoining lands. As previously pointed out the change in use in the adjacent areas from residence use to business or public uses is already an accomplished fact.

### TOO NEAR AN ESTABLISHED BUSINESS DISTRICT

Planning Director Allen has shown that the area is too close to an established business district for proper city planning. We believe him to be a reputable planning consultant. We want to continue to be proud of Grand Junction and desire it to be properly planned for future growth, as do you. We don't want to stop progress - we want planned progress.

### PROPERTY OWNERS OPPOSING A CHANGE SHOULD BE CONSIDERED

This section was developed as a residential area. Families have spent a great deal on improvements, not to mention the initial cost of their land and homes. They bought in good faith, believing this to be a good place to have a home and raise a family. Real estate values would drop. If the businesses failed, it would be an even greater hardship on neighboring property owners, as well as to the city as a whole.

### ONCE ZONED FOR BUSINESS, NO CONTROL OVER IT

As long as the owner complies with the general regulations for Business A, the nearby property owners have no control over the section. No guarantee that the proposed shopping center would be built. County approved a rezoning for a shopping center a few years ago, and a filling station was put in instead. Business A zones may include a greenhouse, ice station, restaurant, hotel, theater, pool hall, dance hall, mortuary, laundry, filling station, public garage, package liquor store, etc. Practically everything except heavy industry.

### IMPOSSIBLE TO CONTROL ALL TRASH

Even the "cleanest" businesses cannot avoid all trash and debris. With the strong winds here, trash blows all over. Landscaping is of little value in winter months.

### TRAFFIC

A large number of children live in the area. A survey last year found there are more children within a half mile radius of Orchard Avenue School than any other school in Grand Junction. Any type of business would greatly increase traffic, particularly if a large grocery were included. Truck traffic is then greatly increased. Many stores are open at night - adding nighttime programs. A child was killed by a truck a block from here last year.

### PROTECT COLLEGE PROPERTY

Residential areas, rather than commercial areas, should be adjacent to a college. There is a difference between a beautiful campus surrounded by a residential area and a so-called "down-town" campus. We want to uphold Grand Junction's reputation of having an attractive college in our community.

A ruling last year in Denver opened package liquor sales in areas surrounding any school. State law provides merely that no liquor may be sold by the drink within 500 feet of a school or college. No limitation is placed on package liquor.