



## CITY OF GRAND JUNCTION, COLORADO

## MEMORANDUM

Reply Requested

Yes  No 

Date

1/20/86

To: (~~FROM~~) City Council From: (~~TO~~) Gerald J. Ashby  
City Attorney

Re: Ordinance Concerning Planning Commission

A proposed ordinance, a copy of which is attached to this memorandum as Exhibit A, was on your February 5th agenda. It was pulled because we were involving you in a controversy which was not of your making and we thought we ought to at least let you know why.

The present ordinance sections are shown as Exhibit B. It became necessary to make some changes as a result of the problem which they create under certain circumstances which first became apparent at the time of the Smith Foods rezoning.

Exhibit C shows the reading of similar sections in the zoning ordinance which was superseded by the present zoning ordinance.

The section which refers to the Planning Commission is designed to give greater control in the rezoning process to the Planning Commission and the planners by weakening the position of the City Council and thus the citizenry which it represents. Arguments can be made for this. The section which refers to the abutting owners of property is designed to give stronger control to the citizenry. Arguments may also be made for this.

The situation then is this. If the Council is required to cast a higher vote because of some action by the Planning Commission, the effect is to make the citizenry less powerful in the zoning process because the Council, its representative, is less powerful. If the Council is required to cast a higher vote because of some action taken by the citizenry, the effect is to give the citizens a greater voice in the process. It is also true that if you require a 20% protest to trigger an action, and you increase that percentage to 50%, you have lessened the impact on the process of the citizenry.

The minimum action which the Council must take would be to approve the amendment to section F in Exhibit A. If it is the desire of the Council to restore a little clout to the citizens, it may approve the suggested amendment to section H in Exhibit A, to move toward what was on the books prior to the adoption of the current zoning ordinance. The Council might also opt to restore the preeminency of the Council and repeal both sections F and H.

GJA:jc

c.c. Karl Metzner, Planning Director  
Mark K. Achen, City Manager

*Handwritten notes:*  
m  
11/15/86  
H

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CHANGING THE VOTE REQUIRED OF THE CITY COUNCIL TO OVERTURN A PLANNING COMMISSION DECISION OR A CHANGE OF ZONING OVER THE PROTEST OF ABUTTING OWNERS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. That Section 4-4-2F. of Chapter 32 of the Code of Ordinances of the City of Grand Junction be amended to read as follows:

"F. A favorable vote of five members of the entire membership of the Governing Body shall be required to overturn a recommendation of the Planning Commission THAT AN APPLICATION FOR REZONING BE DENIED."

2. That Section 4-4-2H. of said Code be amended to read as follows:

"H. In case of a protest against any proposed rezoning by owners of ~~fifty~~ TWENTY percent of the area included in the proposal or immediately adjacent (within one hundred feet of the area) a favorable vote of at least five members of the entire membership of the Governing Body shall be required to approve the proposal."

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 1986.

Attest:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk

EXHIBIT A

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CHANGING THE VOTE REQUIRED OF THE CITY COUNCIL TO OVERTURN A PLANNING COMMISSION DECISION OR A CHANGE OF ZONING OVER THE PROTEST OF ABUTTING OWNERS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. That Section 4-4-2F. of Chapter 32 of the Code of Ordinances of the City of Grand Junction be amended to read as follows:

"F. A favorable vote of five members of the entire membership of the Governing Body shall be required to overturn a recommendation of the Planning Commission THAT AN APPLICATION FOR REZONING BE DENIED."

2. That Section 4-4-2H. of said Code be amended to read as follows:

"H. In case of a protest against any proposed rezoning by owners of ~~fifty~~ TWENTY percent of the area included in the proposal or immediately adjacent (within one hundred feet of the area) a favorable vote of at least five members of the entire membership of the Governing Body shall be required to approve the proposal."

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

Attest:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk

#35 85

#35-85 Text Amendment to the Grand Junction Zoning & Development Code

Petitioner: City Attorney. A request for an amendment of provisions in Section 4-4-2F and 4-4-2H of the Grand Junction Zoning & Development Code requiring a heavier vote by City Council on rezoning issues, deleting the requirement for a 5-2 vote to overturn a Planning Commission recommendation for approval, and reducing the 5-2 vote requirement for property owner protests from 50% of the property owners to 20%. Copies available at the Grand Junction Planning Department, 559 White Ave., Room #60, 244-1648.

Consideration of Text Amendment.

#### 4-4 REZONE

##### 4-4-1 General

- A. A rezoning shall be an amendment to the official zoning map as established and maintained according to Section 4-12
- B. Whenever the public necessity, safety, or general welfare justifies such action, and after consideration and recommendation by the City Planning Commission, the Council may change zone district boundaries after public hearing for which public notice is given.
- C. A proposed change of zone district boundaries may be initiated by the Council, Planning Commission, or owners of a minimum of fifty percent of the property within the area to be requested to be changed.

##### 4-4-2 Filing and Processing

- A. An applicant shall schedule a conference with the appropriate Staff to informally discuss the proposal and to establish the specific number and type of submittal materials required. (See 4-4-3)
- B. Applications shall be reviewed by appropriate review agencies as stated in Chapter 2, Guide to the Use of the Code, and a hearing will be scheduled for the first available meeting of the Planning Commission. The hearing shall not be held more than sixty days from the date of application submittal unless the applicant agrees to an extension in writing.
- C. After required hearing, the Planning Commission shall recommend approval or disapproval of a petitioned zone change, either in whole or in part.
- D. Upon a recommendation for approval of a rezoning request, either in whole or in part, the Staff shall schedule the application for hearing before the Governing Body. The hearing shall be held not more than forty-five days following the Planning Commission recommendation. If the Planning Commission recommends denial the item shall not be scheduled unless within thirty days of action a written request is submitted to the Department of the applicant. In such cases the hearing must be held within forty-five days of the date the request is submitted.
- E. Following the required hearing the Governing Body shall approve or deny the rezoning in whole or in part within sixty days.
- F. A favorable vote of five members of the entire membership of the Governing Body shall be required to overturn a recommendation of the Planning Commission.
- G. In all rezoning actions by either the Planning Commission or the Governing Body, the reasons for the action shall be stated in the official minutes of that body.
- H. In case of a protest against any proposed rezoning by owners of fifty percent of the area included in the proposal or immediately adjacent (within one hundred feet to the area, a favorable vote of at least

f. Mandatory Review: During the first 30 days following the one year anniversary of the effective date of an ordinance changing the zoning map by rezoning a residential area to a business or commercial use, the Planning Commission shall review the proposed development of the subject area to determine whether such development is being undertaken according to the study as required by paragraph (e) above. If such development is not underway in keeping with said proposals, the Planning Commission shall initiate action to rezone the subject area back to such classification as it was prior to the change in zoning.

g. Hearing and Recommendation: The Planning Commission may recommend approval or disapproval of a requested change, either in whole or in part. Recommendations for changes shall be presented to the City Council and an ordinance embodying such changes in whole or in part may be adopted by the City Council after public hearing thereon. In the event of adoption by the City Council of such changes in part, if such partial adoption has not been recommended as such by the Planning Commission, a favorable vote of at least five members of the entire membership of the City Council shall be necessary.

h. Overriding Vote: In the event the City Planning Commission recommends against a change in the ordinance or map, either in whole or in part, a report thereof shall be made to the City Council. The applicant, if dissatisfied with the recommendation and report of the Commission, may appeal to the City Council, (if such appeal is filed within 90 days of the Planning Commission decision) and the City Council shall thereupon review the recommendation and report of the Commission, may appeal to the City Council, and the City Council Planning Commission. On such appeal the Council may, after public hearing for which public notice is given, make such change in the zoning ordinance or map but only by a favorable vote of at least five members of its entire membership.

i. Protest Against Change: In case of a protest against any changes in the ordinance or map signed by owners of 20% or more of the area included in such proposed change, or of those immediately adjacent to the front, side or rear thereof extending 100 feet therefrom or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of at least six of the members of the City Council.

\*Ordinance No. 1463, adopted 9/19/73.

EXHIBIT C