

City of Golden Memorandum



To: City Council
Thru: Michael C. Bestor, City Manager
From: Steve Glueck, Director of Planning and Development
Date: February 12, 2009
Re: Ordinance 1836, Re Chapter 18.40 of the Municipal Code

In Council's January 22, 2009 consideration of Ordinance 1836, staff brought up the idea of an independent outside review of the potential code change as a possible source of additional information. Following that meeting, staff talked with a few individuals and requested such a review by Tim Leonard and Ron Straka. Mr. Leonard worked with GURA on their financial review of the Gateway Station project and his associate Mr. Straka has substantial redevelopment and architectural experience. Information on their qualifications appears at the end of their attached report.

Staff gave no direction about the assignment other than the fact that City Council would welcome their opinions about the portions of Ordinance 1836 under debate. The two gentlemen reviewed all the recent correspondence from developer interests, met with Mark Heller for history and context of redevelopment activity, and toured the downtown extensively. The results of their analysis is attached.

Council will note that the analysis contains some interesting economic analysis, but also some recommendations to both loosen and tighten the provisions of the code. Staff is forwarding the analysis to Planning Commission as well, since Council will be meeting with the Commission on February 19th, but also to various individuals that have expressed interest in the topic recently.

Based upon Council's direction on February 19, 2009, staff will be ready to proceed in the direction chosen by Council at or after the February 26, 2009 meeting.

Attachment: Memo from Deepwater Point Company



DEEPWATER POINT COMPANY

12 February 2009

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RE: Analysis of Proposed Code Revisions
Section 18.40.600 – Downtown Standards and Guidelines

Dear Steve,

Thank you for the opportunity to have us review and render our thoughts and opinions on the currently proposed revisions to the Development Code Section 18.40.600 Downtown Standards and Guidelines.

We understand the City Council is in the middle of reviewing a draft code change and would appreciate some outside viewpoints from us as to the possible affects and effects the proposed amendment change may have on the development of downtown property. Below are our thoughts.

Furthermore, we were asked to concentrate our efforts into a short time frame so our opinions could focus more on looking at the bigger picture issues rather than their details. We apologize in advance for the possible loss of perspective, but we gain some license to opine on the lay of the land as we see it.

Context and Caveats

Since we have not been involved in previous discussions or planning efforts for downtown Golden, we are fortunate to clearly focus our thoughts on the possible future impacts of change, but we are also limited in our knowledge of the compromises in goals and objectives reached by the many parties and special interest groups involved.

The proposed amendment (draft dated 20 Nov 2008) would revise the existing code to include guidelines consistent with the Downtown Character Plan of 23 October 2008. Among other things, this would establish three

planning Zones within the downtown area to address specific issues and concerns within each character zone. (Please refer to the attached draft amendment for further details.)

In our review of the current situation, we could summarize the issues and concerns as follows:

- Density vs Golden Downtown Character
- Approval process and clarity of development objectives (time and money)
- Requirements, incentives, and tradeoffs

Golden is similar to many other communities in the region and across the country which are facing comparable issues:

- Downtown land is “overzoned” creating a false impression of higher value therefore preventing actual development, which is necessary to realize any increase in actual value. Ironically, it is the expectation of greater land values through higher densities that is inhibiting redevelopment which would further promote the unique character and walkable environment and directly increasing property values.
- Developers observe the risky nature of collaborative development process with a myriad of public and private stakeholders who will endless tinker with design details with no end in sight, causing the project an inconceivable amount of time and soft and hard costs.
- City planners and elected officials try to protect their community from the developers who have little sense of meeting subjective character goals because their “cookie cutter” approaches have only economic goals.
- Community requirements to introduce options and incentives to accomplish goals greater than just real estate development and profit.
- Overall lack of a community framework plan and definition of which community assets deserve protection and which key sites have significant impacts on the character which should be preserved.

Density and Urban Form

If all the buildings in the three downtown zones have a use-by-right of 50’ height (4 stories), then a decrease in that use-by-right to 2 stories could be deemed a decrease in the value of some properties, however, several counterbalances come into play to weigh against this decrease in development rights:

1. Physical limitations of the existing building(s). Being allowed greater height or density does not necessarily translate into developable value if the existing structure would need a great amount of structural work to preserve a historic façade to accommodate additional stories. Likewise, extra costs will also be necessary to realize the additional density, and these will include life and safety code renovations. Many times, the cost of constructing additional on existing structures is greater than the gain of the revenue from that increased square footage.

2. Decreases in density due to the introduction of setbacks on upper building floors are not a loss of valuable space in that outdoor space for patios is created which has a high value for residents and a low cost for developers.
3. This proposed decrease in density and massing within a downtown main street is due to the direct response of the citizens, planning staff, and elected officials' desire to preserve the character of the main street. Therefore, it can be reasonably concluded that preserving this character will yield a higher value for those existing and future buildings which are renovated/constructed in compliance with these guidelines. In other words, creating/preserving a "place" is of value to all the properties surrounding or a part of it since the community as a whole has expressed their values.
4. Physical reduction in the potential supply of developable space in the specific zone. According to the simple law of Supply and Demand, by limiting the supply of attractive buildings, owners can reap the economic benefits of this "monopoly" of attractive ambiance. The "place" creates the Demand and those with rights to the limited Supply have more latitude to determine favorable pricing.
5. The demographics of downtown Golden are not those of a high end district such as Denver's Lodo, North Cherry Creek, or Boulder. This means that the potential buyers of downtown residential and commercial users cannot pay high rents and prices. However, the costs of constructing complicated mixed-use projects, complete with parking solutions, are not that much different from city to city. This makes the economics of mixed-use development in Golden more challenging. Landowners and developers should look to the Demand created by an attractive downtown main street character as more valuable than the Supply of more square footage of buildable space on a property which cannot pencil out due to low pricing or rents.

Nevertheless, downtowns need vitality to keep them attractive and financially successful, so a substantial mix of residential, commercial, retail, civic, hospitality, etc. is needed. Therefore, community leaders need to keep a balance between character preservation and density -- too much of either will hold back the vibrancy needed.

Different downtowns have their uniqueness and assets which much be preserved and accentuated. Golden has its western history, natural setting, college, Coors brewery, historic architecture, etc. and these create its unique place.

Economics of Redevelopment

Most everyone is aware that parking is a major economic problem in the redevelopment or renovation of any property in a downtown. Residents, office workers, and shoppers want their cars parked close and free. Developers have to accommodate this need as best as possible and revenue is directly and proportionately reduced to the extent they do not. Municipalities can aid in one of the potential solutions by slightly lowering parking requirements for some uses in order for the developer to create other ways to solve the customers' needs without building "excess" parking just to accommodate the city.

Many projects also need an increase in density to use the profits on the additional space to subsidize the cost of renovating, retrofitting, or demolishing the original building. Increased density becomes more important the greater the spread between cost and revenue for the additional space. The math is not always easy: one more residential unit comes with 1 or 2 more parking spaces, more common space, and more challenges for providing natural light in interior spaces due to increased bulk. Will an increase in construction costs be properly offset with increased revenues? This is not always a given – each project has its “critical mass” or optimal profit mix. Too big or too small can create an unprofitable project.

One only needs to look at the development of downtown Golden for the past 150 years. Density is far from being maximized because the economics of redevelopment have been such that new projects are unprofitable. Large use-by-right densities and heights do not ensure redevelopment. Demand by the user is the key to raising prices to a level which allow the economics of redevelopment to occur.

Housing and Affordable Housing

As a general rule in vibrant walkable downtowns, housing of all types should be encouraged and allowed everywhere the market may determine best suits the inhabitants. Affordable housing may be a community goal, however within Zone B, the supply of developable units may be low enough as to increase the value of those available opportunities to push affordable housing into another more dense adjacent zones. This is not a negative result – just as lower income workers choose to walk further to their parking space for a lesser price, so lower income residents can still participate in a downtown experience without the need to live in the prime locations.

For this reason, the incentive of affordable housing may be better offered to a landowner to increase density in a zone other than Zone B.

Approval Process, Variances, and Design Review

Golden’s site plan approval process is pretty straight-forward, and every developer of downtown property knows there are a lot of stakeholders interested the design – urban/architectural – for each project. City Council’s elimination in October 2008 of a Special Use Permit for increasing a property’s density was a step in the right direction in reducing a landowner’s time and effort, i.e. risk and expensive, of achieving greater density.

However, all prudent landowners and planners know that each downtown property has variables differing from its neighbor and therefore special treatment should be given to it. But the Catch 22 is that “special treatment” has risk and expense attributable to it as much as additional benefit. We would recommend that the City give thought to a streamlined design review process by planning staff or outside design expertise to handle some of nuances of urban and architectural design which a landowner may offer in a variance request in order to avoid the risk of elected officials exercising authority over a detail of a process best placed with select others. Design review needs to be non-political, professional, and competent.

We see three areas in which properties within the main core of downtown (Zone B) should be given some special consideration on a case-by-case basis:

1. Existing buildings or sites of historical significance,
2. Transition areas between zones and adjacent neighborhoods, and
3. Key sites, corner properties, site variances, and sites with significant grade changes.

Recommendations

Finally, in order to remove some of the risk of redevelopment to the landowner, and give a comfort level to the City’s community who cared enough to consolidate their goals and objectives in the Downtown Character Plan, we would suggest some modifications to the proposed code amendment as outlined below.

Before summarizing them however, we would like to convey that our conclusions are striving for a mix and balance of all of the issues listed above. The overriding concern is to give the landowner the acknowledgement that private property rights come with the inherent right to develop one’s property without a crippling amount of government interference, and, one’s private property is surrounded by the private property of others. Therefore, government has an obligation to protect the rights/values of all interested parties because all properties are part of a larger community context. So use-by-right is as important to property owners as urban and architectural design control to public entities. Our recommendations seek to find this proper mix.

	Zone A	Zone B	Zone C
Current Zoning	50’ (4 stories) no setbacks no earned stories	50’ (4 stories) no setbacks no earned stories	50’ (4 stories) no setbacks no earned stories
Amend 20 Nov 08	2 stories 3 rd story – setback, Tier 2 4 th story – setback, Tier 2	2 stories 3 rd story – setback, Tier 1 4 th story – setback, Tier 2	2 stories 3 rd story – setback 4 th story – setback
Recommendation	2 stories 3 rd story – setback 4 th story – setback, Tier 1	2 stories 3 rd story renovation – setback 3 rd story new – no setback 4 th story – not allowed	3 stories 4 th story – setback, Tier 1

1. **Zone A:** we would suggest that newly constructed or renovated buildings have a use-by-right of 3 stories with the 3rd story setback, and a 4th story could be earned and setback according to Tier 1 requirements.
2. **Zone B:** we would suggest that newly constructed building within this zone have a use-by-right of 3 stories without the requirement to setback, however, no additional stories be allowed. Additions on existing buildings would have a use-by-right to build up to 3 stories so long as the 3rd story is setback and 100% compliance of the design guidelines and useable street level public use.
3. **Zone C:** we would suggest that newly constructed or renovated buildings have a use-by-right of 3 stories, and a 4th story could be earned and setback according to Tier 1 requirements. Furthermore, this increase in bulk and density could be useful to allow development of affordable housing in a more economic setting.

We also suggest a review of the setback distances on the upper floors. 6' may provide a minimum visual setback, but that distance is difficult to effectively use as patio space as well as structurally. 10' to 12' will be of more use and therefore value.

Building setbacks on the alley should also be given consideration since 50' heights down the length of an alley will create an intimidating experience. We suggest smaller setbacks of 6' to 8' for upper floors.

Conclusion

The City of Golden is prudent to use the current challenging economic environment to evaluate its community goals and vision and to solicit input, both within and outside the city, to reach a consensus on downtown development planning. Balancing quality development with economic realities, private property rights, and civic context will be to the advantage of all of Golden's current and future citizens as well as its visitors and investors.

We hope our reflective thoughts and comments assist you in continuing your efforts toward a more beautiful Golden.

Sincerely,
DEEPWATER POINT COMPANY



Timothy J. Leonard
President

RONALD A. STRAKA, FAIA
URBAN DESIGN CONSULTANT



Ronald A. Straka, FAIA
Principal

Appendix

Tim Leonard is the president of the Deepwater Point Company since 1985, specializing in the managing the development of commercial real estate projects, especially retail. He has worked with public sector clients on the structuring of public/private ventures. These include the City and County of Denver (Central Platte Valley, Golden Triangle, Stapleton, Lowry, and Coors Field), the City of Brighton (downtown redevelopment parcel), the City of Englewood (CityCenter TOD with Wal-Mart), and the City of Wheat Ridge (Cabela's). Private sector developments include retail centers, master planned transit oriented developments, and mixed use development with a Costco, Parker Adventist Hospital, Fairfield Apartments, medical office buildings, hotels, Life Time Fitness, and restaurants.

Tim has an MBA in Real Estate Finance and has received DRCOG's first place award for Local Government Innovations.

Ronald A. Straka, FAIA, is an urban designer in private practice in the Lower Downtown Historic District where he lives and works. His practice is focused on developing urban design strategies, concepts and framework plans for infill development and redevelopment opportunities, transit oriented developments, infrastructure improvements, master plans, and development proposals for various public and private sector clients, locally and nationally. At midpoint in his career he was appointed Denver's first Deputy Director of Urban Design for the City and County of Denver in the administration of Mayor Federico Pena, whose vision of "Imagine a Great City" was the impetus of the current renaissance. Nationally, he has been very active in the NAIA Urban Design and Planning Committee, the Regional/Urban Design Assistance Team program and its Communities By Design. He has received many design awards, honors, has taught and lectured at various universities and forums, and is a member of design review committees and juror on many national and international competitions.

Ron has been involved for years and in numerous capacities in the planning, design and implementation of the vision for:

- Lower Downtown Denver Neighborhood Plan and Design Guidelines,
- Central Platte Valley master planning,
- Denver Union Station Transit District Master Plan,
- Englewood Downtown Development Plan,
- Lakewood / Belmar Framework Plan and Design Review,
- Downtown Plan for Manhattan, Kansas
- Gateway District Master Plan for Salt Lake City, Utah