

## Towards Compatible Business Guidelines (5-16-04-Draft Revision 1)

### The case for a Compatible Business Guidelines:

1. *GURA Board.* The GURA board does need compatible business guidelines to demonstrate to the community at large and the downtown merchants in particular that the current commissioners take seriously their support and encouragement of locally owned businesses or franchises. Further such a policy would demonstrate that the commissioners will take steps to work with property owners to encourage the locating of compatible businesses in the downtown.

2. *Compatible businesses.* The terms, “tenant mix,” “compatible businesses,” and “desirable businesses,” have been used to refer to downtown businesses that are mutually supporting. Compatible businesses strengthen each other in synergistic ways to include the sharing of customers; serving as mutual magnet stores for each others’ merchandise and services; and providing opportunities for cross-marketing and shared advertising. When this is done successfully, the local downtown business climate improves.

3. *Compatible retail.* Compatible retail does not necessary mean different categories of stores. A custom jewelry store is not the same as a commercial jewelry store although both are jewelry stores. An original art store specializing in cowboy western art is not the same as an original art store specializing in abstract watercolors by western artists. Compatible businesses are competitive in the sense they vie for residents, employees, and visitors’ interests and financial support in purchasing products and services, but do not intentionally aim to drive out businesses with which they are compatible and jointly contribute to the synergism of the downtown retail.

4. *Small Downtowns.* Small city downtowns are niche markets in the broad sweep of general retail. They maintain their vitality by providing diverse selections of unique, one-of-a-kind or hard-to-find goods and personalized services. They provide alternatives to the homogenized retail of shopping malls and strip centers hosting national chain stores and of large box stores. By their nature, most of the small downtown business have low customer counts, limited resources, slim profit margins, and are economically fragile. Any, even minimal, shift in customer counts and sales can mean the difference in staying in business or closing.

5. *Downtown Character.* The character of Golden’s downtown is the visual impact of what people see in the downtown. This includes the buildings, building architectures, facades, streetscape, decorations, level of cleanliness, cultural venues, signage, number of people, and not least of all the types of businesses represented. Compatible businesses strengthen the downtown character and the downtown economy. Incompatible businesses diminish the downtown character and negatively impact the economics of the downtown over time.

6. *Competition*. Competition is not an automatic good. There are many non-competitive varieties of stress on retail success including: monopolistic practices, regulations on commerce (tariffs, zoning laws, public franchises, protective industry legislation, planning ordinances, etc.), and illegal, unfair and predatory competitive practices.

**Comment:** Maybe "is" should be "is or has been". The larger question is: Is this parenthetical statement necessary?

In the name of "appropriate competition" would the current GURA board support via grants or Tax Increment Funding within the downtown district: "Cheap Original Art – no painting more than \$75"; "Discount Liquor Store –lowest prices in town"; "Discount Jeweler's –lowest prices in the Western Suburbs"; "Family Dollar Store –Everything in the store is One Dollar"; Rent-to-Own Furniture Store; a Second Hand Furniture Store; "Low Cost International Souvenirs and Watches"; a pawnshop or a cigarette shop? What criteria would the current board use to make such decisions if one or more of these retail stores were proposed as tenants by a building owner seeking GURA funds? What criteria would the board use to demonstrate a need for another similar business in the downtown such as a restaurant, coffee shop, or bar? Certainly such businesses have a legal right to locate in the downtown area and certainly any property owner could lease to such businesses, but it does not follow that GURA is legally required to participate in such endeavors.

**Comment:** Do we really want to get into this issue again? What we should be asking in the case of the significant business focus overlap is: Is there a demonstrable need for another similar business? In the restaurant, coffee shop, bar, etc. business sector, there is always apt to be numerous establishments.

**Comment:** I believe criteria will have to be clear, measurable, and followed, otherwise we might find ourselves having to participate.

7. *Revenues*. The revenues of an urban renewal authority are generated by existing by allocation of sales tax revenues associated with existing businesses in the authority's defined district for a limited period of time of 25 years for the purpose of contributing to the community's well-being. For Golden's downtown, revenue is generated primarily by relatively small and locally owned businesses. It makes no economic sense for the vitality of a small city downtown such as Golden's to use these revenues generated by existing businesses as direct or indirect subsidies for new businesses which either by their size, resources or product lines are brought in to drive out and/or greatly reduce the profitability of existing businesses. This is certainly does not represent the proper use of public funds or the basis for establishing fair competition.

8. *Commissioners Finances*. Over the years, very few of the current or past GURA commissioners have had their personal net worth tied up in owning and operating a downtown business. Very few commissioners have personal investments at risk in downtown businesses. For appointed residents serving on the GURA board who have no financial stake in the downtown business, there must be recognition of personal moral responsibility not to use public funds to knowingly cause economic harm to existing businesses. Public purpose does not mean undermining the profitability of one private ownership by transferring public funds to another private ownership. This was what the recent battle in the Colorado State legislature was about. The term, "public purpose" entails community good and the common good in the sense of strengthening downtown vitality and not weakening it.

9. *Ends and Means.* On what basis do the ends of supporting a building rehabilitation with GURA funds justify the undermining of existing businesses or the destruction of the character and image of the downtown? Is there any way to provide a balance to any unfairness created by GURA decisions that impact existing businesses? Competitive fairness, at a minimum, requires some off-setting benefits to existing businesses that have through their sales tax generated revenues and through the business owners' personal efforts and commitments provided the Golden's residents with a unique downtown. Such balancing of benefits has yet to be identified or discussed by any GURA board.

10. *Legally Acceptability.* Minutes from the GURA business meeting of March 13, 2002, states that city councilwoman Gwen Green, referring to statements made by City Attorney, Jim Windholz, indicated there are legal ways to limit the use of property. The discussion was in regards to Starbucks. Examples were given of limiting gas station or fast food use of space in a project. Through ordinances, cities have limited businesses based on square footage and linear distance from particular sites; types of businesses in an area number of establishments within an area etc. The implication of the discussion is that GURA can legally limit businesses in a project if there are defensible rules.

## **II. Proposed Compatible Business Guidelines**

The Golden Urban Renewal Authority (GURA) recognizes that compatible retail businesses enhance existing businesses and the economic, social and cultural vitality of the downtown. To this end, GURA shall support and encourage compatible and locally owned businesses and locally owned franchises to (re)locate within the downtown area.

In support of this commitment, the follow guidelines will be used in considering proposals before the board:

- (A) Compatibility with the existing downtown character and image.
- (B) Harmonious with the character of the downtown and encourages pedestrian traffic.
- (C) Whether the proposal gives priority to locally owned businesses, or locally owned franchises or businesses incorporated within the State of Colorado.
- (D) Whether the proposal will contribute to the diversity of retail products or services available in the downtown.
- (E) Whether the proposal would likely cause financial harm to one or more existing downtown retail businesses.
- (F) Whether the proposal is compatible with existing historical and cultural venues.

(G) Whether the proposal is compatible with existing residential housing in downtown to include issues of noise, odor, air, lightening, and signage.

(H) Whether the proposal furthers the architectural integrity of the downtown historic building styles and building sizes.

(I) The effect of the proposal upon future land uses or the development of the immediate downtown area.

(J) Whether the proposal supports the City of Golden’s Comprehensive Plan, dated August 6, 2003.

**III. Furthering Implementation of the Guidelines**

As part of the implementation of these guidelines, the Golden Urban Renewal Authority will provide interested parties an updated listing of desirable and compatible retail businesses and retail business categories as provided by merchants, community residents, and downtown workers.

In review of any proposals, the GURA Board will expect interested parties to demonstrate a reasonable measure of compliance in meeting these guidelines.