

RANDALL-ASPINWALL
840 West 6th Street / Loveland, Colorado 80537

5 January 2023

Mr. Robert Paulsen
Current Planning Manager
City of Loveland
410 East 5th Street
Loveland, Colorado 80537

Dear Mr. Paulsen,

As we begin a new year, we want to thank you for your time on the phone last month, hearing out our concerns about the City's 6th & Douglas rezone plan. Those thoughts covered wide ground, and so we appreciate your invitation to lay out our concerns fully, in writing. Aspects have morphed since we spoke, so we'll just begin with a question put to Planner Marika Kopp in a message Dec. 5, 2022, 1:04 pm, and take it from there. For reference, here's the email:

Good morning, Marika,

Hope you are feeling better. Under the weather is not the way anyone wants to spend Thanksgiving! So we hope it goes well for you the rest of this winter.

We were fortunate to have a house full of family at Thanksgiving, wolfing down a heritage turkey from Kansas. We'll rinse and repeat come Christmas and New Year's. Just such a wonderful time of year.

In the meantime, Bill and I are trying to understand one of the points you made to us in our phone conversation prior to the Oct. 26 neighborhood meeting about the 6th & Douglas rezone proposal. We're hoping you can provide some clarity.

In that convo, you mentioned a property owner on W 5th Street just behind the rezone-affected block who asked to be part of this higher density push, and you said that he was turned down specifically because the City is required to rezone complete blocks, not just curated portions of blocks. You explained to us that this was why the City approached our neighbors for buy-in, specifically, the Dunns on the corner of W 6th and California and the new folks in the neighborhood whose house on Douglas sits next to the church parking lot. Their homes were important linchpins in the assembled package.

Here's where we're confused: Both families rebuffed the overtures for buy-in, and explicitly oppose high-density rezoning, literally, on top of them. So this leaves us wondering: How can the

City keep moving forward since it does not have the solid blocks that you told us were required to succeed at this zoning change?

Whatever light you can shed on this, would be most welcome. And, of course, we also ask that this correspondence thread be attached to any submissions to any and all city agencies or deliberative bodies tasked with considering the City's proposed 6th & Douglas Rezone.

All the best,

Gail

The point made that rezoning full blocks and not just select parcels made sense to us, as spot-zoning is illegal. In this case, some property owners within the proposed rezone boundary had demanded out of the equation. This included a couple who have lived in their home for 40+ years, and another couple who just moved into their newly-renovated home to spend their retirement. Also out, the First Baptist Church, which had no interest. In any case, as a house of worship, it's neutral zoning-wise.

With legs kicked out from under the stool, it was confusing why a rezone was still being pursued, so I emailed the question. Ms. Kopp replied she would get back to me on Dec. 16th, however, her follow-up email simply advised that the City was still working on this, and please continue to send questions.

Meanwhile, an email from Planner Kerri Burchett to City Council on Tuesday 22 Nov 2022 10:30:40 caught our attention. Ms. Burchett advised Council that rezoning is quasi-judicial, and so she could not discuss specifics. But she provided a map that accurately reflected the stance of the First Baptist Church and single-family homes, with slashes through all. She told Council the remaining four properties on the map had signed a "rezoning petition", specifically:

"Hillcrest Senior Living, Courtyard Assisted Living, Townhomes on 6th Street, Vacant medical building owned by Barry Floyd."* [*in fact, a 1953 one-story 4-plex of apartments, not townhomes]

Ms. Burchett further explained to Council: "All property owners have signed the petition."

For perspective, Hillcrest was always the big fish. In the original rezone configuration, the retirement facility accounted for three of the 6.9 acres. On the reduced map of Nov. 22, Hillcrest's heft took on greater significance, its three acres dwarfing the other 1.89.

The fact that it showed up on the map at all was intriguing. Neighbors with parents and friends at the facility were hearing that Hillcrest had signed nothing, had not sought rezoning to high-density, a prospect apparently viewed as the opposite of optimal for their seniors gingerly navigating the neighborhood on foot, with walkers, and on scooters.

To gain some clarity, we turned to CORA for copies of the rezoning petitions. Documents received just before Christmas, each captioned “zoning petition”, revealed several important things:

- 1) Hillcrest Senior Living is, indeed, *not* onboard with this rezoning;
- 2) The City is, in fact, aware of this position; and
- 3) Since first unveiled for neighbors in late October, the rezone map of nearly seven acres had shriveled, according to the subdivision plats, to a spare 1.89 acres. The only properties left: the 4-plex, The Courtyard nursing home, and a 0.77th-acre former medical office left vacant by its owner for many years.

Hardly a sweeping mandate to inject high-density chaos into a quiet, historic neighborhood of more than 1,000 homes.

Ownership check of Secretary of State records and land deeds showed the four signed documents turned over by the City applied to only *three* properties, as the Courtyard had submitted two.

We asked for the missing Hillcrest petition and received this response: “I reached out to Ms. Burchett, and she informed me that ***the 4 rezoning petitions released to you are from the property owners that are continuing forward with the rezoning application. The rezoning boundaries will reflect inclusion of only those properties.*** [emphasis mine] Planning will be setting up an additional outreach meeting after the holidays to share updates on the project.”

Since the four petitions were for only three properties, and since – after two requests through CORA – the City did not hand over a zoning petition from Hillcrest, then a reasonable interpretation is Hillcrest is out. We emailed and phoned Ms. Burchett, just to doubly-confirm, but have not heard back, as of this writing.

Documents released by the City show property owner Barry Floyd was first with his zoning petition, that was notarized on 25 July 2022 by the City Planning Commission’s secretary.

On 26 Aug 2022, The Courtyard paperwork was notarized in Florida. Yinghua Wang, a realtor in Wesley Chapel, Florida, signed a zoning petition on behalf of himself, and a second one on behalf of Lior US LLC.

On 22 Sept 2022, Mr. Michael Vogel, signed a zoning petition for the 4-plex as “Mgr of Reinvent-1, LLC”, and had it notarized in Fort Collins.

Back on Oct. 26, when a standing-room-only crowd first learned the extent of the City’s plans, stunned neighbors stared up at a large projection of the rezone map. At nearly seven acres, the City’s carve-out for high-density resembled an island surrounded by a sea of their homes. Mountain Chickadees flying over those properties would have seen the accoutrement of tender living. Backyard vegetable gardens and patio grills and trampolines and minded lawns and swing sets and orderly compost and xeriscapes bedded down for winter and, very likely, someone late at blowing out the sprinkler lines before the first hard freeze.

The neighbors had questions for the planners. For starters, what development plans had prompted this sudden decision to rezone? They were told that the City had seen no plans, talked to no developers, had no idea what anyone would want to do on those acres — this was simply to clean up administratively, to align zoning and uses of property outliers, holdovers from earlier times, as required under the Unified Development Code.

The room wasn't buying it. They pressed. If no plans and no urgency, then why now? By this time, the room had figured out that the City's route to R3e was bypassing normal steps required of anyone else. Didn't have to know the City's *Rezoning Checklist* by heart to see that.

They asked, Why the haste? Why short cuts? Each question was met with the official posture. Just doing what the UDC tells us to do, no one's submitted plans. At one point, however, Ms. Burchett mentioned "five meetings" with someone before the City initiated the rezoning. Neighbors alerted. What were those meetings about? Who were they with? The planner declined the opportunity to answer.

Some present thought they knew. They put questions directly to the one in the room they suspected behind all this, the one who had once bragged to a neighbor jogging past about plans to build bigger than the zoning ever allowed. What had seemed at the time like an empty boast looked different in light of this news from the planners. The neighbor shrugged.

By night's end, the overwhelming consensus of the crowd was NO. The clear and unmistakable message to the planners: You're getting the cart before the horse. Come back when someone actually submits a plan.

The next day a retired oil executive in the neighborhood researched the claim about the UDC requirement and found that not only does the UDC *not* mandate such drastic action as upzoning to high-density, in [Sec. 18.11](#), it actually prescribes allowances for non-conforming outliers, holdovers from earlier times. It underscores at 18.11.102 B: "Nothing in this Chapter shall be interpreted to require a change in plans, construction, or designated use of any building in which a building permit was lawfully obtained from the City prior to the effective date of this UDC."

In the months that followed, opposition to the rezoning plan snowballed. NO REZONE signs popped up in yards. Hundreds signed NO REZONE petitions – the signature count now standing at 400, and growing. Word spread on social media. West historic downtown's plight found common ground, on many fronts. The right to control and steward one's own property. The responsibility to conserve that which, once broken, cannot be replaced. The grinding fear that any neighborhood, anywhere might be the next target of the R3e wrecking ball. And, they have every reason for concern. We were told Oct. 26th that this rezone was just the start of more to come around the city.

You can understand historic west downtown's concern. It doesn't take much imagination to recognize the possibilities, with precedent as recent as *The Collection at 6th Street*. In that case, a developer jacked up the former public library at West 6th and Cleveland from 2-stories to 4-stories, then filled it with luxury condos. Fine for Downtown. Downtown is zoned R3e.

Not fine for historic west downtown. Still, it would come as no surprise to learn that someone, somewhere is imagining a jackpot over here. *The Far Better Collection at West 6th Street*. And there's our fundamental quandary.

Historic west downtown is a jewel of a neighborhood, generous and welcoming, with residents from many walks of life, a fusion of ages, incomes, and livelihoods. Some are retired after a lifetime of vocation, and others are the backbone of our workforce. Historic west downtown's vintage layout invites engagement. Neighbors jog, walk their dogs, and cycle in the nature preserve. They call out to each other from porches, play horseshoes in the park, linger to talk Hollyhocks and weather and what can be done to prevent that weird slime on the Aspen leaves. In summer, yards pop with purple, yellow, lavender, and pink. And it's guaranteed that the tidy mounded rows of the garden on West 5th will put on a vegetable pageant like no other.

Historic west downtown is a place where neighbors help each other shovel sidewalks after snows, gather for potlucks and block parties, and welcome newcomers with fresh chicken eggs. Neighbors share tools, and extra backyard bounty of fruit and vegetables, and iris rhizomes thinned from explosions of colorful beds. They give away on Buy Nothing to anyone who needs it more. The closest thing to "commotion" on West 6th is kids jumping on a trampoline, or playing basketball in a driveway, or walking home after school lets out. The most common ambient sound on a summer day is songbirds in the enormous legacy trees.

This neighborhood's welcoming sense of place adds exponentially to the City of Loveland's brand and the wider spirit of hometown Colorado, a reality that city leaders have acknowledged in foundational planning goals and historic designations. They are not making neighborhoods like this anymore. And yet, here we are, fighting for our established-low-density-residential-R1e lives.

Historic west downtown is a model of livability due, in great measure, to safeguards implicit in R1e zoning and its pledge of restraint. For a neighborhood like ours, R1e is Kevlar. R3e is slow poison. High-density smack in the heart of historic west downtown will grease the skids for all the worst-case scenarios. This is why we firmly oppose any attempt to shove the high-density camel-nose into our tent.

There is no reason for it. Everyone who bought in historic west downtown knew it was R1e. Everyone can take advantage of bankable options that exist under current zoning.

We are also mindful of the horrific lessons learned from the Marshall Fire one year ago. An autopsy of that conflagration, conducted by the Colorado Division of Fire Prevention and Control, put local thought leaders, elected officials, and the whole firefighting community on notice that the state's shift to warmer weather patterns means this isn't our parents' fire danger anymore. Dozens of destructive blazes around the state like Waldo Canyon, Cameron Peak, and East Troublesome flashed major warning signs. Then Marshall shredded every last sense of security.

The fires tell us, the fire experts tell us. Going forward, responsible planning bears an obligation to factor in Colorado's new reality, from how we battle this new breed of fires to how we structure our communities to help prevent them in the first place.

Marshall Fire: Facilitated Learning

Analysis <https://storymaps.arcgis.com/stories/83af63bd549b4b8ea7d42661531de512>

A government's fundamental responsibility to its citizens is safety and protection. After Marshall, that mandate begs restraint from overbuilding and overcrowding. Especially, in close, high fuel-load areas like historic west downtown.

To be clear, we are not opposed to development. Nor does current zoning prevent it.

We are, however, opposed to an island of R3e chaos dropped into our historic, residential midst, with all the corrosive collateral splatter: overbuilding, overparking, building heights, blocked lines of sight, increased traffic, heightened noise, water challenges, stormwater drainage, fire hazard, light pollution, infrastructure overload, stressed old sewer lines, vehicles from R3e clogging R1e curbs, and all the other nuisances of living in a construction zone day after day – noise, litter, congestion, constant upheaval.

We are opposed to the City greenlighting any initiative so consequential without first doing the impact groundwork to learn what a yes vote might rain down on innocent citizens.

We are deeply concerned about a decision process that suggested it was a good idea to ram through upzoning where it doesn't belong, and to do it in a manner that bestows carte blanche freedom to developers to erect whatever they fancy, while denying more than 1,000 property owners any say, even those abutting the R3e. Essentially, stripping away all control over the quality of their lives and properties.

This rezoning proposal does not fit this historic neighborhood, does not reflect the public will, does not honor the precious spirit of community that makes historic west downtown a brilliantly livable example to other cities.

This upzone effort has come as a surprise to newcomers who invested in what the City zoning records vouched as laid-back, low-density R1e residential, since forever. When we made the offer on our house, we had no reason to believe anyone could just randomly hijack the fundamental order of the neighborhood. Had we known, the negotiation – had there still been one -- would have gone down quite differently.

If the City takes this proposal forward to Planning Commission and beyond, then we will be there every step of the way to make the case against, in even finer detail.

That being said, nobody wishes more than we for this abrupt rift to end amicably. After careers around the country and two continents, we were thrilled in 2021 to finally return to Colorado for good. Colorado is home -- for Bill's family, stretching back to the 1800s in Leadville and

Boulder. We chose our West 6th Street home for the precise qualities now imperiled by a possible incursion of high-density upzoning.

Fierce opposition is a pretty good pulse reading, yet the City pushes on, with an eye on the calendar for Planning Commission. There must be a puzzle piece we're missing here.

Two years ago today, 5 January 2021, the City successfully used some of our very same arguments to stop a developer's proposed upzoning at Split Rock, a handful of properties. The City planner called the idea "out of whack" with the neighborhood. In a nutshell, precisely the 6th & Douglas Rezone dilemma.

Today, 5 January 2023, City planners are fighting to do to us what they fought *not* to do at Split Rock. Why?

Our question of three weeks ago is, today, exponentially more direct. In light of the rezone map - - whittled and revealing -- please help us understand. How is this a defensible upzone undertaking, and not straight-up spot-zoning that benefits just one or possibly three property owners at the expense of more than 1,000 others?

This matter has intruded upon three holidays straight now, over more than two months. You can appreciate the stress this has caused families who, before Oct. 26th, were just going about their lives. So, we ask for a speedy answer to our questions, along with specific, concrete reasons for the City's continued pursuit of this upzoning. Absent that, we would appreciate a letter putting to rest the City's proposed 6th & Douglas rezone project.

We are very mindful that everyone there in City government has a full plate before them. We know public service can feel like drinking from a firehose sometimes, the challenges are so unremitting. So please know that we understand the enormity of the daily tasks at hand, and very much appreciate your time and consideration.

Warm regards for the new year,

Gail Randall & Bill Aspinwall

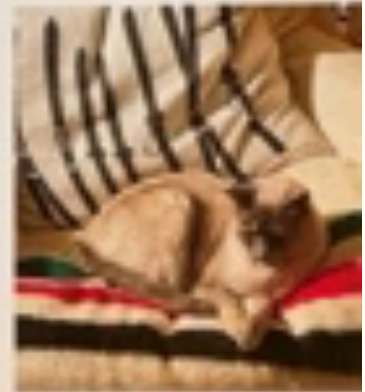
cc: The Honorable Jacki Marsh, Mayor of Loveland
The Honorable Andrea Samson
The Honorable Dana Foley
The Honorable Richard Ball
The Honorable John Fogle
The Honorable John Mallo
The Honorable Patrick McFall
The Honorable Steve Olsen
The Honorable Don Overcash

Stephen Adams, City Manager
Kerri Burchett, Principal Planner
Marika Kopp, Planner II

encl: holiday card



HAPPY
HOLIDAYS



with love,
gail, bill, lisa, tina & bertha



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