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**R-0:
RACE, SEXUALITY AND SINGLE-FAMILY ZONING
IN DENVER'S PARK HILL AND CAPITOL HILL
NEIGHBORHOODS, 1956-1989**

by

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B.A., History, Mesa State College, 2004
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DISSERTATION

Submitted in Partial Fulfillment of the
Requirements for the Degree of

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**R-0:
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ABSTRACT

Between 1956 and 1989, people unrelated by blood, marriage or adoption were prohibited from living together in some Denver neighborhoods. The City and County of Denver, like other cities, narrowly defined what a “family” was in its zoning code.

This dissertation uses R-0 zoning – the city’s most restrictive form of residential zoning – to look at the families, race and sexuality in two Denver neighborhoods -- Capitol Hill and Park Hill. R-0 zoning was created by the city in the mid-1950s to keep rooming houses and basement apartments out of neighborhoods dominated by single-family homes. But residents of neighborhoods zoned R-0 used the zoning code for their own needs – it gave them a legal mechanism to keep “unwanted” people out of their neighborhoods.

In Park Hill, R-0 zoning was used to keep neighborhood property values high and its residential character intact at a time when the once all-white area was becoming

racially integrated. Even though the neighborhood was, in many ways, racially tolerant, zoning enforcement targeted African-American and Hispanic residents of Park Hill. R-0 was also used to keep “non-traditional” families out of Park Hill – most notably an all-white commune who unsuccessfully sued the city on Fourteenth Amendment grounds after it was forced out of its house.

Capitol Hill was (and is) a dense neighborhood of apartment buildings and renters close to downtown. People in surrounding neighborhoods used R-0 zoning first to keep multi-family housing contained to Capitol Hill, and then to keep same-sex households from relocating of their own neighborhoods. After World War II, Capitol Hill became the center of Denver’s gay and lesbian community, as its mixed-use built environment proved amenable to non-traditional households and families. But as same-gender households tried to move to surrounding neighborhoods, they found that neighbors were more than willing to use zoning laws against them. Fighting R-0 zoning became a priority for the city’s queer community in the late 1970s and early 1980s, but reforms did not happen until R-0 zoning became seen as an issue affecting unmarried heterosexual couples.

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Chapter 1: Introduction

Imagine this: you have just moved into a new home. It's new to you, but the house is old and located in a well-established neighborhood in east-central Denver. You like this house because the neighborhood seems quiet, stable, and well-kept, and it seems to have a character lacking in newer developments in the city or its rapidly growing suburbs. *This, you think, is the place where we can really settle down.* But one day, the doorbell rings. Outside is an inspector from the city's Zoning Administration, who tells you he is here to investigate complaints that you are violating the city's zoning code.

Zoning code? Why would you be violating that? Your house is the same size as others in the neighborhood. It is sited, as far as you know, the required 14 feet from the sidewalk. Your fence seems to be the same height and materials as every other fence on your block. Why would someone sell a house that was violating the zoning code? Why would the city allow such a house to be built? You can't quite figure it out.

No, the zoning administrator argues. The problem isn't your house. The problem is the people living in it. It's your household – the people who live in your family, on your private property – that is violating a law that you've never even heard of. Maybe you are renting out a room to a tenant. Maybe you and your partner have chosen to live together without being married, or the nature of your relationship means legal marriage is impossible for you. Maybe you just want to live with some friends as part of a social experiment, or, more simply, to share expenses at a time when money is tight. Or maybe you live in the house with only your spouse and children, but the fact that you have dark skin in a white neighborhood makes you suspicious. The reason doesn't really matter. To

your neighbors and the city, what matters is that the people living in your household are, or seem to be, unrelated to one another by blood, marriage, or adoption. You can live in this house by yourself, but everyone else living with you has to be legally related to you in some way.

No one told you about any sort of zoning laws when you moved in, nor were your neighbors eager to warn you might be violating neighborhood zoning. Someone complained anonymously – you never found out who they were – and here you are, answering questions about some of the most intimate matters of your life to a city official. Even if you do live in a household where everyone is related, these questions seem intrusive. Answering them makes you uncomfortable.

Several weeks later, you receive a cease-and-desist order from the City and County of Denver. You have to change your household in order to stay in your house. Stop renting to a tenant, maybe. Get married to your partner. It could be time for someone else to move out.

You appeal the order, to the zoning board. How could Denver do this to you? How can the city tell you who can live in your house? What can happen on your private property? After all, you're a good neighbor. You mow your lawn regularly. You're friendly to the other people on your block. You don't make a lot of noise. Other people in your neighborhood seem to be bigger nuisances, yet you don't see them at the many zoning-board hearings you seem to be attending.

But, as you find out, the city can tell you what to do. Thanks to decades of court decisions, Denver's power to create and enforce zoning laws overrule your right to use

your property in the way you desire, your right to create the family you want. To the city and your neighbors, your household threatens the neighborhood. You lower property values and threaten “neighborhood character” – problems that Denver can use its zoning law to address. In front of the zoning board, your neighbors show up en masse to explain the problem. One of them wants to live in a neighborhood of “traditional families,” and you're not that. Another might tell you that they don't mind you as a neighbor, but if you and your household are allowed to live nearby, what's to stop some profit-hungry property owner from turning other houses on the block into rooming houses? Someone you've never met tells the zoning board that unrelated people living together bring more unwanted noise, traffic, and density to the neighborhood than a family would, although, as far as you know, you've never caused these problems. These are the people you hoped to live next to for a long time. You were hoping you might become friends, but look how they actually think about you.

The zoning board gives you six months to figure out what to do, since you keep losing your appeals. In the end, you sell your house, and move to another neighborhood – perhaps even another part of the Denver metropolitan area – where the zoning isn't so strict and people seem less concerned about protecting their neighborhoods. You can't help but be bitter about the experience, especially when you read in the paper about how concerned city officials are about Denver's declining population. *Well, no wonder, you think. Look what you did to me and my family.*

Between 1956 and 1989, many Denverites – the exact number is unknown – found themselves in a situation similar to this fictionalized one. They were harassed by neighbors, investigated by the city and, ultimately excluded from particular parts of

Denver because their households did not fit into the family ideal legally enshrined in Denver's zoning code.¹ Government elites and homeowners believed that “untraditional” families and households threatened the moral, social, and economic stability of older neighborhoods in east-central Denver. These “untraditional” families were diverse. They were roomers living with their landlords. Urban communes trying to redefine the nature of both community and family. Some were unmarried heterosexuals “living in sin,” and others were same-sex couples trying to establish a life together. Some were “traditional” families – those consisting of a wife, husband and their children – who were a different race than their neighbors.

This dissertation asks two questions. First, why did Denver use its zoning code to regulate families from the mid-1950s through the late 1980s? Second, how does the story of R-0 zoning help us understand race, sexuality, neighborhoods and families during these decades? R-0 zoning (also known as “single-family zoning” in this dissertation) was the most restrictive form of residential zoning in Denver after 1956.² People living in

¹ The way that Denver's zoning code defined “family” was not static – it changed over time in reaction to perceived threats to the city's neighborhoods, housing stock and, often, its bedrooms. Under the city's original zoning code, created in 1925, all dwellings, be they standalone houses or individual apartments, were limited to one “household,” which was defined as any number of individuals, depending on the type of unit, sharing one kitchen. The dwelling itself – through the presence of a kitchen – determined the “family” involved, rather than the relationships of the people living within it. In 1956, this changed to “any number of persons immediately related by blood, marriage or adoption, or (2) five or fewer persons not necessarily related by blood, marriage or adoption, plus domestic servants.” Six years later, this definition was revised: unrelated people were removed altogether from this legal definition of “family.” Only those related by “blood, marriage or adoption,” plus any hired servants, were allowed to reside in the city's single-family neighborhoods. Still, this refining of the term “family” for single-family areas of Denver was not stringent or specific enough, for in 1968, the zoning code was amended to specifically name the family relationships allowed in single-family neighborhoods: husbands, wives, mothers, fathers, etc.. This definition would remain in the zoning code until 1989, when Denver's City Council removed these family restrictions, allowing unrelated people to legally live together anywhere in the city.

² Besides the R-0, the basic residential zoning classifications in Denver included: R-1 (single-family residences, with roomers and home businesses allowed), R-2 (single-family homes and duplexes); R-3 (duplexes, triplexes, and apartment buildings), and R-4 (apartment buildings interspersed with commercial developments). Areas in Denver zoned R-0 between 1956 and 1989 include all or

areas of the city zoned R-0 had to comply with strict limits on the size of their homes and lots. They could not run home businesses out of their homes. And, most importantly, everyone living in a house in an R-0-zoned area had to be related by blood, marriage, or adoption. But restrictive zoning, especially rigorously enforced restrictive zoning, also kept property values high and often ensured a degree of social and class homogeneity. For many homeowners living in older neighborhoods in east-central Denver, the benefits of R-0 zoning strongly outweighed its drawbacks.

These benefits are important to understanding how single-family zoning spread in Denver, and what city residents used it for. Planners placed the “blood, marriage, or adoption” standard Denver's the zoning code to solve a particular problem: too many people in 1950s Denver were renting out parts of their homes to tenants. But residents of older, whiter, and often wealthier neighborhoods east of downtown liked R-0 zoning for their own reasons. It gave them a legal mechanism to keep “unwanted” people out of their neighborhoods in order to preserve area “character” and keep property values stable. R-1, a slightly less restrictive zoning classification, was the city's default zoning in areas of the city dominated by detached single-family houses. Denver's city government did not rezone areas R-0 unless a majority of the homeowners in that area asked it to do so. R-0 zoning spread across east-central Denver because city residents used it as a defense mechanism to protect their homes, families, and neighborhoods during decades of intense racial, social, and cultural change.

significant sections of the following neighborhoods: Crestmoor Park, Belcaro, Denver Country Club, Park Hill, Congress Park, Capitol Hill, Speer, Cherry Creek, Hale, and Cory-Merrill. By the late 1980s, R-0 zoned areas represented 10 percent of the residentially zoned land in the City and County of Denver.

Zoning is boring. Even urban historians are not particularly excited about it. As a shaper of the built environment and urban social relations, zoning is usually overshadowed by urban renewal, discrimination in housing and mortgage lending, and other issues in the literature on post-World War II American cities.³ But, as Richard White pointed out in his study of another dull topic – the Bonneville Power Administration – “in a modern state much real power is suffused with boredom.”⁴ Zoning is important because zoning is about power, embedded in complicated language, only spoken fluently by professional urban planners, regulating lot sizes, building heights, and, in many cities, families.

The power to zone is one of the most important tools a city has to protect its present and shape its future. Urban planners use zoning to direct future growth; regulate pollution, noise and traffic; and keep “incompatible” land uses (preventing a preschool from being built next to a slaughterhouse, for example) from one another. Zoning is inherently about inclusion and exclusion – defining the land uses (and often the people) that do and do not belong in a particular area is one source of its power. Planners writing Denver's zoning laws determined what land uses were appropriate in certain areas in the city; city agencies charged with enforcing the law applied these standards for inclusion

³ The historical literature on zoning laws is not large, considering how important zoning is to modern American cities. General studies focusing specifically on zoning include Charles M. Haar and Jerold S. Kayden, eds., *Zoning and the American Dream: Promises Still to Keep* (Chicago: Planners Press, 1989) and Michael Alan Wolf, *The Zoning of America: Euclid v. Ambler* (Lawrence: University of Kansas Press, 2008). The topic is also covered in some histories of American urban planning and property law. See Mel Scott, *American City Planning Since 1890* (Berkeley: University of California Press, 1971), ch. 4; and Stuart Banner, *American Property: A History of How, Why, and What We Own* (Cambridge, MA: Harvard University Press, 2011), ch. 9. For studies of individual cities, see Todd W. Bressi, ed., *Planning and Zoning New York City: Yesterday, Today, and Tomorrow* (New York: Center for Urban Policy Research, 1993); Joseph Schweiterman and Dana Caspall, *The Politics of Place: A History of Zoning in Chicago* (Chicago: Lake Claremont Press, 2006).

⁴ Richard White, *The Organic Machine: The Remaking of the Columbia River* (New York: Macmillan, 1996), 64.

and exclusion to the actual built and human environment of the city.⁵ Residents helped maintain these standards, eagerly monitoring their blocks and neighborhoods for zoning violations, reporting offenders to the city agencies that could enforce them. Zoning's power also comes from the courts. In 1926, the U.S. Supreme Court ruled in *Euclid v. Ambler* that zoning was constitutional, a decision that has been upheld in hundreds of state and federal court decisions since. Cities' right to use zoning codes to “protect the public interest,” the court ruled, trumped individual property rights.⁶

Zoning codes create an invisible legal landscape, coterminous with the world of streets, buildings and open space of modern cities. This legal landscape sets limits on the built landscape and its residents, and can be used to enforce a particular vision of the future. The legal landscape created by R-0 zoning and other aspects of Denver's 1956 comprehensive zoning code was decidedly suburban in nature. Urban planners, government employees working for the various agencies involved with zoning, residents of some neighborhoods and others tried to use zoning to create an ideal I call the “single-family city.”

The single-family city was dominated by residential neighborhoods full of detached homes. The people living in these homes were traditional families, usually with a breadwinner husband and a homemaker wife. They owned their home, rather than renting. Residents of single-family neighborhoods were safe from the encroachment of businesses, industry, and, especially, apartment buildings, rooming houses, and other

⁵ These agencies are the Denver Planning Office, which researched and wrote Denver's zoning code; the Denver City Council, which wrote the DPO's suggestions into law; the Zoning Administration, which disseminated information about and investigated violations of the zoning code; the Board of Adjustment-Zoning, which enforced legal sanctions against violators; and the Office of the City Attorney, which fought challenges to the legality and constitutionality of the city's zoning codes.

⁶ *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).

forms of multi-family housing. The single-family city ideal protected families through protecting their neighborhoods and homes, but it also tried to protect Denver itself. For business and government elites, promoting this single-family ideal would hopefully guide Denver through the problems it faced after World War II: suburban growth, the decentralization of dispersal of people, jobs and tax revenue; increasing racial and cultural diversity; and a decaying center-city built environment. City planners created and promoted the single-family city ideal, but ordinary Denverites bought into it, as well. As previously mentioned, city residents in older neighborhoods played a crucial role in supporting, spreading, and enforcing single-family zoning in Denver.

The ideals combined in the idea of the single-family city are familiar threads in the history of racial relations, urban-suburban relations, and homeownership in twentieth-century urban America. Historians have shown how the ideals of R-0 zoning also informed federal housing policy, mortgage-lending guidelines, practices of the real-estate industry, and other activities that used housing discrimination to protect the stability and property values of white residential areas, particularly in suburban areas. What does the story of single-family zoning in Denver tell us about post-war urban America that we did not already know?

First, it widens our understanding of housing discrimination. Zoning has received less attention from scholars than other techniques of housing discrimination, such as redlining or restrictive covenants. Zoning is inherently exclusionary – it was created in the Progressive era by urban planners and the real-estate industry to protect property values by keeping residential, business and industrial areas separate. But zoning also protects property values by excluding “incompatible” groups of people, particularly racial

and ethnic minorities and the poor, reflecting zoning's origins in turn-of-the-century racial sciences.⁷ White Denverites in older, upper-class neighborhoods liked R-0 zoning because they interpreted it as racial zoning by proxy. It could be used to keep Hispanic and African-American Denverites out of their neighborhoods, using family status as a stand-in for race.⁸ But single-family zoning in Denver was not just about race. The city's zoning code narrowly defined a family, but ideas about gender, sexuality, and families were changing rapidly.⁹ Gender and sexuality reshaped urban space and neighborhood identity in Denver in the 1960s through the 1980s, and some city residents used R-0

⁷ Scholars have paid less attention to zoning than to other means of racial exclusion. See Yale Rabin, "Expulsive Zoning: The Inequitable Legacy of Zoning," in *Zoning and the American Dream: Promises Still to Keep*, ed. Charles Haar et al. (Chicago: Planners Press, 1989), 101-121; David M.P. Freund, *Colored Property: State Policy and White Racial Politics in Suburban America* (Chicago: University of Chicago Press, 2007), ch. 2; and Michael Alan Wolf, *The Zoning of America: Euclid v. Ambler* (Lawrence: University of Kansas Press, 2008), 138-143. Racial exclusion is key to the "urban crisis" literature this dissertation is built upon. See Arnold Hirsh's *Building the Second Ghetto: Race and Housing in Chicago, 1940-1960* (New York: Cambridge University Press, 1983; 2nd ed., Chicago: University of Chicago Press, 1988) and Thomas J. Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton, NJ: Princeton University Press, 1996, 2005). Much of the work on postwar urban America, particularly that which deals with changing racial dynamics, housing, urban politics and the spread of suburbanization, follows in the wake of these books. Other examples include Kevin Kruse's *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton, NJ: Princeton University Press, 2005); Matthew Lassiter's *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2007); Robert Self, *American Babylon: Race and the Struggle for Postwar Oakland* (Princeton, NJ: Princeton University Press, 2003); and the aforementioned work by Freund. Becky Nicolaides' *My Blue Heaven: Life and Politics in the Working-Class Suburbs of Los Angeles, 1920-1965* (Chicago: University of Chicago Press, 2002) is more focused on an individual neighborhood and community than the previous works, and is useful for thinking about neighborhood identity.

⁸ The former assumption was somewhat based in reality – African-American homeowners across the United States were more likely to try and make their properties economically productive by taking in roomers or running home-based businesses. However, this was largely due to the need to cover the higher costs of homeownership for African-Americans that was a product of discriminatory lending, higher insurance costs, and other economic inequities. See Andrew Wiese, *Places of Their Own: African-American Suburbanization in the United States* (Chicago: University of Chicago Press, 2005).

⁹ This dissertation also draws on the small body of work about families, gender, and sexuality in municipal zoning codes. For many years, the only scholar working on gender, families and zoning was planner Marsha Ritzdorf. See "Not in My Neighborhood: Alternative Lifestyles and Municipal Family Definitions," *Journal of Family and Economic Issues*, 9, no. 3 (Fall 1988): 264-76; "A Feminist Analysis of Gender and Residential Zoning in the United States," *Human Behavior and the Environment* 13 (1994): 255-279; and "The Impact of Family Definitions in American Municipal Zoning Ordinances," Ph.D. diss., University of Washington, 1983. The topic has started to receive more attention in the last few years. See Adam Lublow, "...Not Related by Blood, Marriage or Adoption: A History of the Definition of 'Family' in Zoning Law," *Journal of Affordable Housing and Community Development Law* 16, no. 2 (Winter 2007):144-221; and Elizabeth H. Pleck, *Not Just Roommates: Cohabitation after the Sexual Revolution* (Chicago: University of Chicago Press, 2012).

zoning to defend their neighborhoods from “non-traditional” families, households, and lifestyles. Discrimination based on based on family relationships has not received as much attention as other forms of residential exclusion, the story of single-family zoning in Denver shows that it is an inherent part of the legal landscape of exclusion underlying American cities, particularly as enforced at the municipal level.

This dissertation looks at how Denver elites and city residents tried – and ultimately failed – to maintain the single-family ideal in a city that was growing more racially and culturally diverse. The following chapters analyze R-0 zoning through the stories of two different Denver neighborhoods, their residents, and the changing demographics of race and sexuality in each. The parallel histories of Capitol Hill and Park Hill make them a good choice for a comparative study of the larger changes affecting Denver and American cities as a whole throughout the 20th century. Park Hill and Capitol Hill are two of the oldest and most heavily populated residential neighborhoods in the east side of Denver.¹⁰ (See Figure 1.) They share similar nineteenth-century origins – each began as the vision of a single developer, and was marketed as the ideal home for Denver’s elite. But from the 1920s onward, the two neighborhoods began to develop in very different ways. After World War II, Capitol Hill and Park Hill seemed to have little in common.

¹⁰ There were many attempts during the time period covered by this dissertation to define the boundaries of both of these neighborhoods, by residents, real-estate interests, and various city agencies. “Capitol Hill,” as used in this dissertation, refers to the area bounded by Broadway on the west, East 20th Avenue on the north, York Street on the east, and East 6th Avenue on the south, an area that includes the statistical neighborhoods of Capitol Hill, Cheesman Park, and North Capitol Hill, and part of the statistical neighborhood of City Park West. “Park Hill” is defined as the area bounded by Colorado Boulevard on the west, East 38th Avenue on the north, Quebec Street on the west, and East Colfax Avenue on the south, an area that comprises the statistical neighborhoods of South Park Hill, North Park Hill, and the residential sections of Northeast Park Hill. Exceptions to these definitions will be noted in the text. Statistical neighborhoods are the spatial units that Denver’s planning office divided the city into in the early 1970s for use in planning, data acquisition and data analysis.

Capitol Hill, the older of the two neighborhoods, was settled in the late 19th century by Denverites who became wealthy due to Colorado's gold and silver mining economies.¹¹ The large stone and brick mansions these new mining millionaires built made Capitol Hill one of the most fashionable and exclusive neighborhoods in the city. But the collapse of the state's mining economy in the 1880s and again in the 1890s decimated the fortunes of Capitol Hill's founders; the remaining residents tended to migrate toward newly fashionable neighborhoods such as the Denver Country Club, immediately to the south. In the twentieth century, Capitol Hill became a neighborhood of apartments and renters – mansions and other single-family homes were turned into rooming houses, and apartment buildings were built in the remaining lots in the neighborhood, making it the densest part of Denver (a distinction it still holds today). Capitol Hill, by the late 1920s, had become the destination of choice for newcomers to Denver, particularly white single men and women who wanted to be near their jobs downtown and wanted easy access to the commercial strips along East Colfax Avenue and Broadway, and were, at that point, unwilling or unable to purchase a home in another part of Denver.

¹¹ There is little literature on most Denver neighborhoods, but Capitol Hill has attracted the attention of more authors than most other neighborhoods. The most extensive studies of the neighborhood are Phil Goodstein's *Denver's Capitol Hill: One Hundred Years of Life in a Vibrant Urban Neighborhood* (Denver: Life Publications, 1988); and *Ghosts of Denver: Capitol Hill* (Denver: New Social Publications, 1996). Other histories include Charlotte A. Barbour, "Vanished Neighborhood on Capitol Hill, Denver," *The Colorado Magazine* 37, no. 4 (Winter 1960): 254-64," Michael Shay, "Denver's Capitol Hill: Reflections of a Neighborhood," *Colorado Heritage* 4 (1983): 25-35, Amy Zimmer, *Denver's Capitol Hill Neighborhood* (Charleston, SC: Arcadia Publications, 2009). Books that focus on the architectural history of the neighborhood include James Bretz, *Mansions of Denver: The Vintage Years, 1870-1938* (Boulder, CO: Pruett Publications, 2004); Leigh A. Grinstead, *Molly Brown's Capitol Hill Neighborhood* (Denver: Historic Denver, Inc, 1997), Jack Murphy, *Geology Tour of Denver's Capitol Hill Stone Buildings* (Denver: Historic Denver, Inc., 1997), and R. Laurie Simmons and Thomas Simmons, *Capitol Hill Neighborhood: Denver Neighborhood History Project* (Denver: Front Range Research Associates, 1995).

Park Hill was one of the first suburban developments in Denver, intended by its founders to be a green, lush respite from the pressures of central Denver and the cramped quarters of Capitol Hill.¹² Residents of Park Hill were devoted to their property, their families, and white supremacy. During the 1920s, Park Hill was home to many members of the Klan at the height of its power in city politics, and the neighborhood improvement association called for Jim-Crow-style segregation laws to keep African-Americans out of area schools and housing. Capitol Hill, too, was largely segregated – its changing economic and social demographics and the conversion of its mansions to apartments did not mean that blacks or Hispanics were welcome. The Capitol Hill Improvement Association often joined with its counterpart, the Park Hill Improvement Association, to oppose equal housing and other opportunities for Denver's minority groups.

The distinctions between Park Hill and Capitol Hill began to widen during the Great Depression and World War II. An influx of new residents to Denver caused a housing shortage in the 1940s. Construction of new apartment buildings and the conversion of existing houses to multi-family housing in Capitol Hill intensified, despite the efforts of the Denver Planning Commission to stop such activities, due to the fear that this would attract “unwanted elements” to Denver and create the sorts of slum conditions that, in the eyes of Denver elites, were identified with New York, St. Louis and Chicago, all places they did not want Denver to become. But in Park Hill, these same elites

¹² The historiography of Park Hill, one of Denver's largest and most historically significant residential areas, is surprisingly sparse. The most useful neighborhood history is Phil Goodstein, *Park Hill Promise: The Quest for an Idyllic Denver Neighborhood* (Denver: New Social Publications, 2012). Goodstein also discusses racial relations in Park Hill in the twentieth century in *DIA and Other Scams: A People's History of the Modern Mile High City, Vol. 2* (Denver: New Social Publications, 2000) and *In the Shadow of the Klan: Denver from the Bottom Up, Vol. 3* (Denver: New Social Publications, 2006). Thomas J. Noel and William J. Hansen, *The Park Hill Neighborhood* (Denver: Historic Denver, Inc., 2002) is also useful.

welcomed the start of a housing boom on the neighborhood's northern fringes, as small, relatively inexpensive houses were built north of East 32nd Avenue, despite the fact that these single-family houses were vastly different from the housing stock of the rest of Park Hill both in architectural style, quality of construction, and the class (and later, racial) makeup of the people who lived there.

These differences were exacerbated with the creation of the 1956 zoning code, and the expansion of single-family zoning. Park Hill residents eagerly embraced first R-1, and then R-0 zoning to protect potential threats to their property values and families, as well as allow for a limited form of racial integration. Between 1963 and 1965, Park Hill residents petitioned the city to create the largest R-0-zoned tract in the city, and actively monitored their neighborhood for potential infractions to city zoning rules. Capitol Hill, in comparison, was zoned R-3 and R-4, due to the apartments and other multi-family dwellings in the neighborhood, as well as its proximity to commercial areas. However, the areas surrounding Capitol Hill to the south and the east (namely, the neighborhoods of Congress Park and the Denver Country Club) rezoned themselves R-0 in order to contain the spread of apartment buildings, commercial districts and any other perceived threats to family stability that Denverites associated with the population and built environment of Capitol Hill. Throughout much of the postwar era, Capitol Hill was associated in the minds of mainstream Denverites with loosening moral standards, prevalent non-traditional households, a heavy concentration of single or divorced people of both sexes and the emergence of an organized gay and lesbian community as early as 1960.

The first chapter of this dissertation focuses on Denver as a whole. It explains why city planners created R-0 zoning in 1956, and how it was enforced against homeowners renting out parts of their home in the late 1950s. Denver city leaders first adopted comprehensive land-use zoning in the 1920s, but Denver was a very different place in 1956 than it was three decades before. World War II brought an influx of new residents, jobs, and investment capital to the city. These new residents created a serious housing crisis in Denver. During the war and shortly after, the city encouraged homeowners to take in boarders, loosened permitting and zoning standards to allow the construction of basement apartments and accessory units in single-family neighborhoods, and looked the other way as property owners turned large houses in central Denver into rooming houses, single-room occupancy hotels, or apartment buildings. The war also loosened Denver's existing racial, social, and cultural orders. There were more minorities, single adults, non-traditional households and, presumably, gay men and lesbians in Denver.

The administration of Mayor James Quigg Newton, who was elected in 1947 on a platform of government reform and modernization, tried to bring order to what many saw as chaos. While Newton was genuinely progressive on racial issues, the agencies in his administration were unsympathetic to other social and cultural changes wrought by the war years. City leaders feared that the city, now competing with its growing suburbs for residents, jobs and tax revenue, was becoming unwelcoming to families because of the prevalence of apartment buildings, unmarried people, and other issues. One of the highest priorities of the Newton administration became preserving single-family neighborhoods through the creation of a new zoning code and through the systemic removal of boarders,

basement apartments, and other forms of multi-family housing in areas of Denver zoned R-0 and R-1. The new zoning code built on existing prejudice among city planners against apartments, rooming houses, and the people living in them.

The battle over racial integration in Park Hill is covered in chapter two. The growth of Denver's African-American population during and after World War II meant black families began renting or buying homes in east-central Denver outside of Five Points, the historic center of the city's African-American community. In the mid-1950s, black families began moving east of Colorado Boulevard, long considered the city's most tenacious racial boundary, into northern Park Hill. Some residents began selling their houses in panic, but neighborhood activists in the PHAC began advocating for racial tolerance in Park Hill. The PHAC monitored the city's real-estate industry, persuaded white and black neighborhood residents to work together, and advocated for real change in state and local anti-discrimination and fair-housing laws. At the same time, it sought to keep Park Hill stable at a time of change. The PHAC persuaded the city to rezone Park Hill south of East 32nd Avenue R-0, which, it argued, would keep property values high. (See Figure 2.) As a consequence, neighborhood identity in Park Hill began to center around the institutions of the family and the home, rather than on whiteness. Middle-class home owning families of any race were welcome there, in the PHAC's rhetoric, whereas non-traditional families, regardless of race or economic status, were not. Throughout the 1960s, the PHAC used their R-0 zoning to monitor and take action against “suspicious” families in Park Hill – who were often black or Hispanic.

Urban communes are the topic of chapter four. Colorado was an important center for the counterculture in the 1960s and 1970s, and many intentional communities, or

communes, sprung up around the state during this time. Most communes were built in rural or mountain areas, but by the early 1970s, those interested in communal living were beginning to move into cities. There were numerous communes in Denver, founded by young people interested in exploring alternative forms of family and community. While most of these communes were located in Capitol Hill or other parts of Denver where multi-family housing was allowed, this chapter focuses on the residents of one commune who chose to live in Park Hill. Ordered out of their home by the city, the residents of this commune took their case all the way to the Colorado Supreme Court, which ruled in 1973 that R-0 zoning did not violate the Fourteenth Amendment, as the commune had argued. The case pitted the commune against Park Hill neighborhood activists. Leaders of the GPHC (founded when the PHAC and another Park Hill neighborhood organization merged) argued that the commune threatened Park Hill's fragile stability. Increasing crime, school desegregation and other changes seemed to be unraveling whatever progress the neighborhood had made since the early 1960s. Park Hill residents believed R-0 zoning needed to be strictly enforced in order to keep their neighborhood appealing. “Untraditional” families were a luxury the neighborhood could not afford in the early 1970s.

Chapter four focuses on the links between zoning, multi-family housing, and the creation of queer community in Capitol Hill. In the early twentieth century, Capitol Hill became a neighborhood of apartments, rooming houses and other forms of multi-family housing. The 1956 zoning code reinforced the neighborhood's built environment. The R-3 and R-4 zoning planners imposed on the neighborhood made it impossible for Capitol Hill to become anything but a dense, multi-family neighborhood full of renters – an

anomaly in the single-family city. But what city leaders and residents of surrounding neighborhoods saw as a problem, others saw as an opportunity. After World War II, Capitol Hill became the center of Denver's gay and lesbian population, a distinction that the neighborhood holds today. The openness and flexibility of Capitol Hill's social climate and built environment, something city leaders and residents of surrounding neighborhoods considered a detriment, created the ideal environment for a politically and socially organized queer community that tried, sometimes successfully, to end discrimination, police brutality, and homophobia in Denver. Gay organizations, almost all of them located in Capitol Hill, also began to take on R-0 zoning, seeing it as a form of housing discrimination affecting same-sex couples trying to move into other neighborhoods in east-central Denver.

City Council finally voted to reform R-0 zoning in the late 1980s, allowing two unmarried people, and their children, to live together in any city neighborhood. People living in single-family neighborhoods had long opposed these reforms. But in 1983, Federico Peña was elected Denver's first Hispanic mayor. During his campaign, Peña called for an end to single-family zoning, in an attempt to woo gay and lesbian voters. But zoning reform had to wait until the end of the Peña administration, as explained in the final chapter and conclusion of this dissertation.

During the 1980s, more unmarried heterosexual couples began appearing in front of the zoning board, and R-0 zoning became known in the media as the “living in sin” law. These households often fit the single-family norm except for the presence of a marriage license. The city's enforcement of zoning laws against straight couples alarmed some who, up to this point, had been in favor of keeping single-family zoning intact.

While people living in more traditional neighborhoods still believed R-0 zoning was the key to protecting both family values and property values, more people came to see single-family zoning as embarrassing, antiquated, and discriminatory. In the end, work by queer and neighborhood activists from Capitol Hill – including the members of Capitol Hill United Neighborhoods, the main neighborhood organization representing the area – demonstrated the true effects of R-0 zoning on the city and its residents. Without their work, it is unlikely R-0 zoning would have been reformed in the late 1980s.

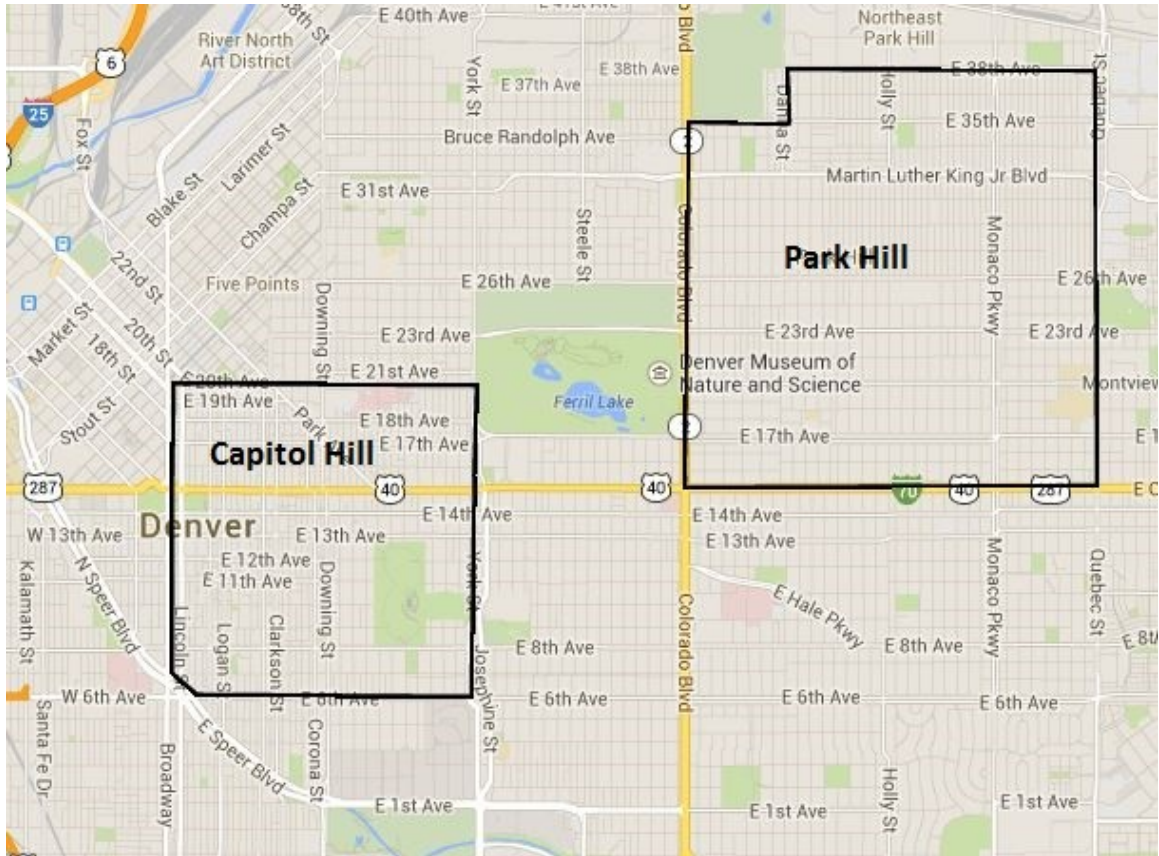


Figure 1. Map of east-central Denver indicating the neighborhood boundaries of Capitol Hill and Park Hill.

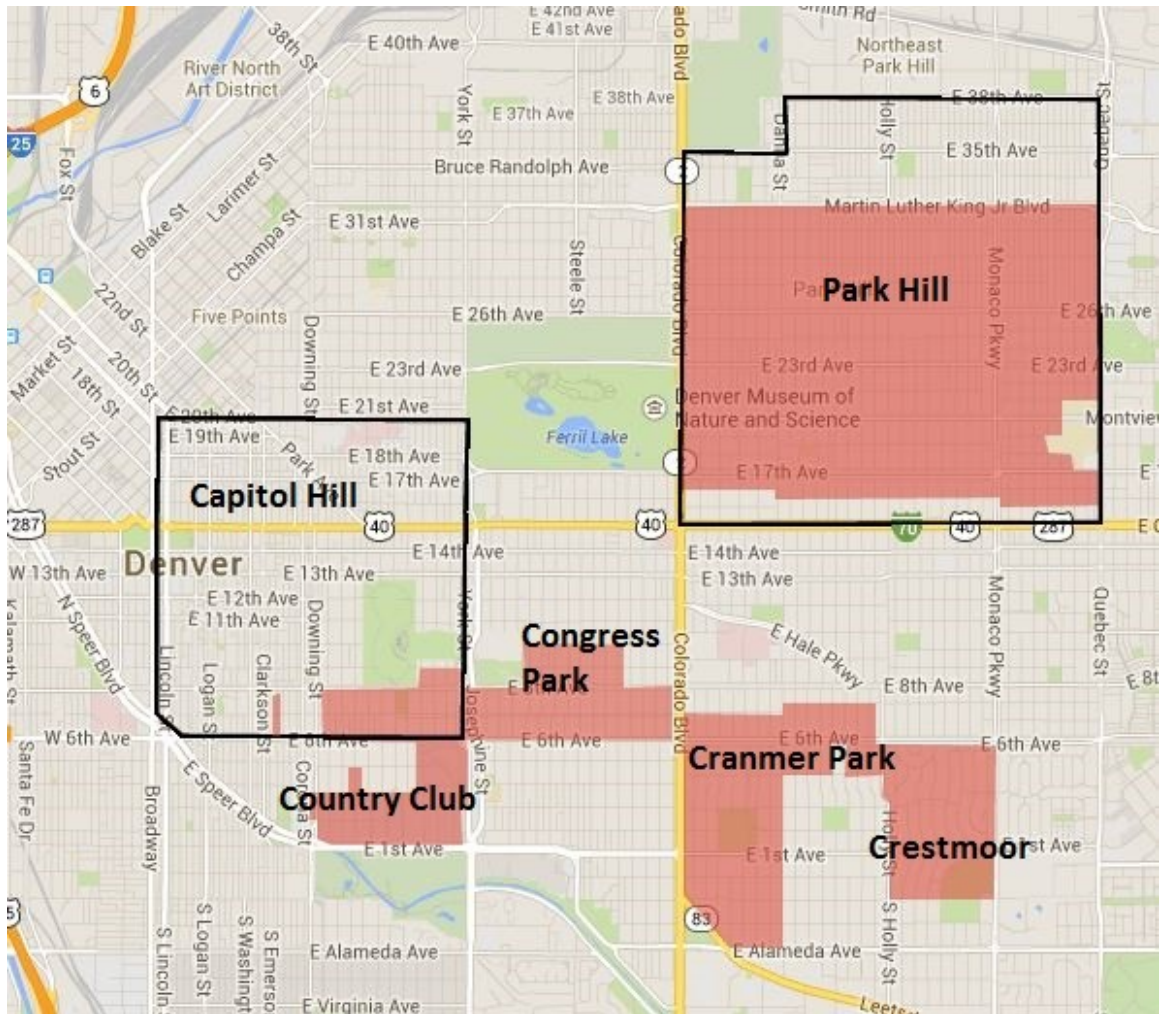


Figure 2. Map of R-0-zoned areas of east-central Denver. R-0 zoning is indicated in red. Data source is City and County of Denver, Planning Office, *1989 Zoning Map* (Denver: City and County of Denver, 1989).

Chapter 2: The Origins of Single-Family Zoning in Twentieth-Century Denver

In 1955, city officials sitting on the Denver Board of Adjustment-Zoning [DBAZ] had their hands full. Denver had just revised its comprehensive zoning code, and board meetings were now filled with homeowners appealing official orders to stop renting out parts of their homes to people not related to them, which violated their neighborhood's zoning. DBAZ was responsible for enforcing the new code, and its members now had to tell these homeowners that this activity that was tolerated, if not entirely legal, a decade before, was now *really* illegal.

Basement apartments were okay during World War II, when Denver faced a housing crisis. Thousands of people were moving to Denver, seeking jobs at the Remington Arms Factory, or stationed at local military bases.¹³ These newcomers needed a place to live. In 1942, representatives of the federal government, the American Legion, the Veterans of Foreign Wars, and other organizations asked the city for help, since building materials were scarce during wartime. Mayor Benjamin Stapleton responded by encouraging city residents to take in tenants or build basement apartments in their homes to rent to wartime arrivals.¹⁴ As an incentive, DBAZ suspended enforcement of zoning laws prohibiting these activities, “clos[ing] its eyes” to the illegal property uses the city now promoted.¹⁵ Many Denverites – the exact number is unknown, but estimates ranged

¹³ Stephen J. Leonard and Thomas J. Noel, *Denver: Mining Camp to Metropolis* (Niwot: University Press of Colorado, 1989), 223.

¹⁴ Maxine Kurtz, *Invisible Cage: A Memoir* (Novato, CA: Chandler and Sharp, 2006), 129.

¹⁵ Jack Dwyer, “Analysis of Council Bill No. 28 Relating to Five or Fewer Persons in a Single Unit Dwelling,” February 6, 1964, 1, box 18, folder 6, Thomas G. Currihan Papers [hereafter Currihan Papers], WH929, Western History Collection, Denver Public Library [hereafter Denver Public Library].

from 2,000 to 3,000 – answered Stapleton's plea, converting their single-family homes into housing for more than one family. But what was a patriotic duty in wartime was a problem in peace. The city failed to specify what would happen to these apartments after the war. Would homeowners be able to keep renting them out? Would they then be considered legal uses of residential property? Without a clear answer, many homeowners kept being landlords, even a decade after the war ended.¹⁶

This ambiguity irritated planners in the newly formed Denver Planning Office [DPO], who spent much of the 1950s trying to reorganize the city after two decades of depression and war. They believed basement apartments damaged neighborhood integrity and lowered property values. Urban planners had long avoided mixing apartments and single-family houses. So the DPO had decades of anti-apartment and anti-renter animus to draw on when it wrote the city's new comprehensive zoning code, approved in 1955. The code tightened the city's official definition of “family” and forbade homeowners from renting out parts of their property (with a few exceptions) in its best residential neighborhoods – those zoned R-1 or R-0.¹⁷ Renting out part of your home to tenants was already illegal under the previous zoning code, created in 1926. But the profusion of illegal and semi-legal basement apartments in the city in 1955 prompted planners to create even stronger laws against using property in this way.

This was why Sam Kraft and his wife appeared before DBAZ in September 1955. They lived at 1393 Cherry Street in the Montclair neighborhood. Their house contained two dwelling units in a neighborhood zoned R-1. The Krafts lived on the main floor, and

¹⁶ Dwyer, “Analysis of Council Bill,” 1, Currigan Papers, Denver Public Library.

¹⁷ Denver City Ordinance 132, Series of 1956. Due to some technical complications with the decision, the new zoning code was not published as an official city notice until 1956. Homeowners renting out basement apartments in parts of the city zoned R-2, R-3, or R-4 were lucky: the zoning code allowed them to do so.

an unnamed tenant lived in a separate basement apartment. The Krafts had only been in their house for a year and a half when the city ordered them to stop renting out their basement in September 1955. Their house, a thirty-year-old bungalow, was originally constructed as a single-family residence, but a previous owner installed an apartment sometime during the war. The apartment had been occupied by a renter ever since, even though the house itself had three different owners. Unfortunately for the Krafts, the apartment's installer failed to get a building permit – if they had one, there was little the city could do. So, even though their property had been used as a multi-family residence for nearly a decade, DBAZ ordered them to evict their tenant, denying repeated appeals from the Krafts.¹⁸

Grace Berhydt also had to get rid of her tenant, an unidentified man who she employed as the caretaker of her property. The Krafts lived in an older neighborhood in Denver, but Berhydt lived in a recently-developed semi-suburban area in southeast Denver, near the city's border with Englewood. Her house was built in 1952 as a single-family dwelling in a working-class neighborhood. Berhydt installed an apartment in her basement sometime between then and November 1955, when the Zoning Administration issued a cease-and-desist order ordering her to stop renting out her basement. Like the Krafts, Berhydt appealed her case, but lost.¹⁹

Who told the city about the Krafts and Berhydt is unknown. But Moe Vidars appeared before the board after thirteen of his neighbors sent letters to the city protesting his illegal use of his property. Vidars' house, located at 919 Harrison Street in the

¹⁸ Meeting minutes, City and County of Denver, Board of Adjustment-Zoning, October 18, 1955, 1-2, box 1, folder 11, Will F. Nicholson Papers [hereafter Nicholson Papers], WH1797, Denver Public Library.

¹⁹ Meeting minutes, City and County of Denver, Board of Adjustment-Zoning, March 13, 1956, 1-2, box 1, folder 11, Nicholson Papers, Denver Public Library.

Congress Park neighborhood, also housed multiple households in a dwelling intended for only one. Vidars had been violating Congress Park's zoning for quite some time, hence his neighbors' opprobrium. No wartime opportunist, he had been renting out part of his house to tenants ever since it was built in the mid-1920s. His first tenants were relatives, then unrelated people. No matter who lived in Vidars' basement, he consistently failed to get city approval for his basement apartment – which was also too small to be legally habitable under the city's building code. Vidars appealed the Zoning Administration's order to stop renting out his basement, but, like Berhydt and the Krafts, nothing came of his appeal.²⁰

DBAZ considered all three examples clear-cut cases of illegal property use, although the homeowners did not agree. The Krafts, at least, were using a basement apartment constructed when such things were tolerated. But Vidars and Berhydt built theirs before or after the wartime window for creating multi-unit housing in one's home. But all three shared one thing in common: if someone had bothered to get the correct building permits, there would be nothing the city could do about their property. Properly permitted, the city would consider these three apartments “non-conforming uses” – deviations from the zoning code that were nonetheless permitted. Even Vidars' long-flagrant violation of Congress Park's zoning would be acceptable if he had acquired official permission to create an apartment in his home. But why didn't these homeowners have building permits? DBAZ records provide no answers. The city could have given the previous owner of the Kraft home a building permit that it had no records for, since the

²⁰ Meeting minutes, City and County of Denver, Board of Adjustment-Zoning, December 27, 1955, 1, box 1, folder 11, Nicholson Papers, Denver Public Library.

Stapleton administration was notorious for shoddy record keeping.²¹ But Vidars and Berhydt probably did not get a permit since they knew they were unlikely to get one. They lived in a city whose zoning laws were explicitly designed to separate single-family and multi-family housing. In peacetime, both before and after World War II, Denverites who wanted to earn extra income by taking in roomers, building apartments in their houses, or turning their large homes into rooming houses had to hope that neighbors didn't mind or the city didn't notice.

Why was the City and County of Denver so concerned that some homeowners might have tenants living in their basements? Why did the city's zoning laws prohibit the construction of basement apartments, or allowing people unrelated to the homeowner from living in the same household? The DBAZ was never really able to rid Denver of basement apartments, but the fact that they were considered illegal shows how planners thought about families, homes and neighborhoods in the early and mid-twentieth centuries. Zoning was a tool planners used to enforce decades of disdain for apartments, renters, and landlords, ideas tinged with racial, ethnic and class discrimination. This chapter explains why these zoning laws existed. Later chapters analyze how ordinary Denverites tried to use these laws to protect their homes, neighborhoods, and families from racial, sexual, and familial “outsiders.”

Single-family zoning laws were created to protect families from “non-families.” In Denver's 1955 zoning code, “family” was a household where everyone was related by blood, marriage, or adoption. A “non-family” was any other type of household – roommates, unmarried couples, friends living together, a roomer renting a room or

²¹ Kurtz, *Invisible Cage*, 129; Mark Foster, *Citizen Quigg: A Mayor's Life of Civic Service* (Golden, CO.: Fulcrum Publishing, 2006), 109.

apartment in a family home. City planners, real-estate professionals, urban reformers, and others worried long before the 1950s about how families were affected by the close proximity of non-families. But how could city governments regulate this? Zoning was the answer, even though it technically controlled land uses, rather than people. It could be used to keep families and non-families separate by separating apartment buildings, rooming houses, duplexes and triplexes, and any house where roomers lived with a family from single-family homes. Denver's zoning laws restricted existing multi-unit housing and discouraged the construction of more. Few such limitations were placed on detached single-family homes. Single-family zoning – specifically, the restrictive R-0 and slightly less restrictive R-1 residential zoning classifications in Denver 1955 zoning code – is a case of state regulation of the family existing in an unexpected place.

R-0 zoning was a response to a rapidly changing Denver, a product of planner's deep concerns about Denver's role in its metropolitan area, state, region, and country. Planners tried to create policies that would attract the right people, businesses, and money to the area. What problems drove people – particularly white families with school-aged children – away from the city and into the suburbs? Yet, R-0 zoning's roots go back to the early twentieth century, when urban planners created zoning to control chaotic cities. To understand why the DPO was so worried about basement apartments and hidden roomers, we need to understand why zoning exists in the first place, as well as how discriminating against apartments, tenants and “non-families” became legally acceptable.

Zoning and the Progressive Era

Zoning imposes a legal landscape based on discrimination onto the urban built environment. Zoning codes are hierarchical – they indicate which types of land, buildings – and the people who use them – are considered more valuable than others. They segregate land uses from one another, following the dictates of both “nature” and “the market.” This form of land law originated in the Progressive era, when white, educated reformers sought “scientific” solutions to urban problems, problems that were often defined according to the race, ethnicity, and class of the people involved. Many early zoning laws were based on race. Several United States Supreme Court rulings made these laws unenforceable, so planners began writing zoning laws that protected property values and families, which was more acceptable to the Court.

Stapleton signed Denver's first zoning code into law in February 1925.²² It, like its near-twins adopted by other American cities in the mid-1920s, separated Denver into industrial, commercial, and residential zones, and restricted the activities and buildings allowed in each area. Planners and business leaders hoped it would stabilize the city's real-estate market by restricting what people could do with their land, strengthen the city's ability to promote the “health, safety, morals, or the general welfare” of its residents, and protect residential neighborhoods from being harmed by “incompatible uses.”²³

Zoning was an early twentieth-century innovation, even though laws limiting land uses were not new. Local governments had passed laws restricting certain types of

²² Denver City Ordinance 14: Series of 1925. Benjamin Stapleton was mayor for a long time, serving from 1923 to 1931, and again from 1935 to 1947.

²³ Denver City Ordinance 14: Series of 1925.

buildings and land use in the United States since the earliest days of European settlement. Colonial governments often placed restrictions on how far out houses could be built from towns, to stop population dispersion. Early American cities, such as Boston, required all buildings to be built using similar materials; others placed limits on building heights or the size of buildings. These were piecemeal regulations, aimed at increasing safety or aesthetic conformity. It wasn't until the rapid social, economic, and environmental changes in American cities in the late nineteenth century that planners began to envision more comprehensive forms of urban land law.²⁴

Denver and other American cities grew rapidly in the late 19th century. Industrialization increased, and once-rural factories began relocating to cities. Immigration also increased, and many of these newcomers settled in cities. Rural Americans also began migrating to urban areas, seeking opportunity or excitement. Cities became more socially and economically complex and spatially spread out. New land uses – such as large department stores, theaters, and amusement parks – changed patterns of pedestrian traffic and land values. Population density increased as land values rose, making property ownership difficult except for those who could afford to live in the suburban developments springing up on the edges of some cities, spurred by the development of streetcar systems by private interests, or build single-family detached homes closer in. A landscape of rooming and boarding houses, residential hotels, tenement houses and other forms of multifamily housing for rent developed to house those who could not afford or did not want to purchase homes. In Denver, these multifamily areas were centered in the city's business district and in residential neighborhoods

²⁴ Banner, *American Property*, 183-4.

just to the east, particularly Capitol Hill. To city officials, business leaders, and others concerned with the future of American cities and the people that lived in them, these changes were exciting, but unsettling.²⁵

Progressive-era reformers sought to solve the problems caused by rapid urban growth. America urban planning is essentially a Progressive project, driven by the expectations and assumptions of educated whites in managerial positions within city government and civic-improvement organizations.²⁶ Growing populations, particularly poor, immigrant populations, inspired some urban reformers to advocate for better education, housing, and job opportunities. Other reformers took on the power of private monopolies, advocating for public ownership of power, water, and transportation utilities. Some sought to improve cities through civic beautification – advocates for the “City Beautiful” movement of the late nineteenth and early twentieth centuries, of which Denver was an important part, wanted good roads and pleasant parks, as well as reform-minded city governments that would make these projects a priority.²⁷

Zoning was another reformer's tool; a European import, developed at a time when American reformers readily looked across the Atlantic for new ideas.²⁸ Frankfurt, Germany, was the first city in the world to adopt comprehensive zoning, in order to

²⁵ M. Christine Boyer, *Dreaming the Rational City: The Myth of American City Planning* (Cambridge, MA: MIT Press, 1983), 33-36; Daniel T. Rogers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge, MA: Harvard University Press, 1998), 112-18; Robert Wiebe, *The Search for Order, 1877-1920* (New York: Hill and Wang, 1967), 170; Susan Marie Wirka, “The City Social Movement: Progressive Women Reformers and Early Social Planning,” in *Planning the Twentieth-Century American City*, eds. Mary Corbin Sies and Christopher Silver (Baltimore: The Johns Hopkins University Press, 1996), 55-75.

²⁶ Scott, *American City Planning*, 1-5; Jon Peterson, *The Birth of City Planning in the United States, 1840-1917* (Baltimore: The Johns Hopkins University Press, 2003), 123-38.

²⁷ William Wilson, *The City Beautiful Movement* (Baltimore: The Johns Hopkins University Press, 1989), 1-5; Thomas J. Noel and Barbara Norgren, *Denver: The City Beautiful and its Architects, 1893-1941* (Denver: Historic Denver, 1987), 5-7.

²⁸ Rodgers, *Atlantic Crossings*, 128-30.

control future development at a time of high urban migration; Berlin followed with its own zoning plan a year later.²⁹ New York's 1916 zoning code – the first comprehensive zoning code written in the United States – was directly modeled on these two. Edward Bassett and Frank Backus Williams, two nationally known planning experts, extensively studied German models; Bassett later remarked that he was “blown off his feet” by demonstrations of the country's urban-planning prowess.³⁰ Saco Rienk DeBoer, a Dutch immigrant who co-authored Denver's 1925 zoning code (and consulted on its 1955 replacement) received his professional training in southern Germany, and then immigrated to the southwestern United States in 1908 to recuperate from tuberculosis. Throughout his career in Denver, DeBoer continued to cultivate networks of European colleagues, and frequently traveled to the continent to observe advances in urban planning there.³¹

Denver adopted its first zoning code at a time of rapid change in the urban-planning profession. The aesthetics of the “City Beautiful” were giving way to the scientific management of the “City Functional.” City planning was becoming more professionalized, and ideas about how urban areas should be properly managed and developed were becoming more standardized. A new class of urban planners, trained according to an increasingly uniform curriculum, and belonging to national associations such as the American Civic Association (founded in 1904) and the American City Planning Institute (later the American Institute of Planners, founded in 1917), began to develop a new rationale and role for their profession in modern urban life. These new

²⁹ Rodgers, *Atlantic Crossings* 177; Frank Backus Williams, *The Law of City Planning and Zoning*, (New York: The Macmillan Company, 1922), 216.

³⁰ Quoted in Rodgers, *Atlantic Crossings*, 185.

³¹ S. R. DeBoer, “Plans, Parks and People,” *The Green Thumb* 29, no. 5 (December 1972): 145-6.

planners conceived of their discipline as a social science, where cities could best be managed according to laws and principles devised through experimentation, data collection, and rational analysis.³²

The complexity of American urban areas was increasing, they argued, as the United States became, according to the 1920 census, officially an urban nation. Most Progressive-era reformers and their plans acknowledged this complexity, and responded to it, but critics argued they offered mainly smaller-scale solutions to specific urban problems, such as overcrowding, lack of green spaces or labor problems. Cities were complex systems, best managed through scientific techniques aimed at improving the metropolis as a whole, rather than improving individual areas or trying to improve life for certain populations. Comprehensive single-use land zoning was the ultimate expression of this drive towards scientific management of American cities. Zoning divides cities into discrete units, sorted by their proper or actual use. Each unit, whether an industrial area, business district, or neighborhood full of homes, helped create a healthy urban area. Each could only prosper, though, if kept separate from the others – in a scientific city, commercial, industrial, and residential areas had to be managed differently in order to thrive.

“Scientific” urban planners began to borrow ideas and language from other social sciences and the ecological sciences to envision their ideal city. Economic ideas let planners think they were doing the bidding of “the market” – apartments needed to be kept separate from houses, business areas separate from residential areas in order to keep property values high. According to real-estate economists, mixing land uses

³² Scott, *American City Planning*, 117-24.

automatically lessened property values in the area. Planners also couched zoning in the language of nature. Urban thinkers began to borrow language and imagery from the ecological sciences in order to justify separating different uses of land and different uses of people – single-use land zoning brought a balance to the urban ecosystem similar to the way nature wisely managed natural systems. Together, these arguments in tandem convinced many that separating apartments and single-family homes, and residential, industrial, and business districts, was innate in the logic of both the market and nature, something past human control.³³

“Incompatible Uses” Means “Incompatible People”? The Racial Origins of Discriminatory Zoning

Portraying zoning laws an expression of non-human forces made it easier to write discriminatory language into urban zoning codes. Who says African-American lower property values when they live near whites? The market, of course. Why should renters and homeowners live in areas zoned separately? Because it was only natural that they should live apart. Zoning has been called “racism with a progressive, technocratic veneer.”³⁴ It imposes a simple hierarchy of land uses onto complex urban environments, based on the perceived economic and social worth of both people and the places they live and work. Residential areas were more important than industrial areas in most zoning codes, and some residential areas were more important than others, based on the race, ethnicity, and class of their residents.

³³ Jennifer S. Light, *The Nature of Cities: Ecological Visions and the American Urban Professions, 1920-1960* (Baltimore: The Johns Hopkins University Press, 2009), 129.

³⁴ Frank Popper, *The Politics of Land-Use Reform* (Madison: University of Wisconsin Press, 1981), 55.

Early zoning laws were often based on race. City leaders created laws in the late 19th and early 20th centuries restricting the ability of certain groups of people – African-Americans, Chinese immigrants, and others – to live and work where they pleased. Single-family zoning laws – even though they seemed to be race-neutral on their face – evolved out of zoning laws based on race. This is because legal challenges to race-based zoning laws made planners rethink the way they advocated for zoning. Before 1926, the United States Supreme Court consistently ruled that zoning laws violated the Fourteenth Amendment, because the examples that made their way before the court sliced up urban areas according to race. Single-family zoning – restricting people from living in certain parts of American cities based on their familial relationships – emerged in part because it allowed planners to keep outsiders out of places that they didn't belong in a way that pleased the Court. But it shows that the concept of “incompatible” land uses is deeply rooted in the idea of “incompatible” people.

In 1880, San Francisco passed an ordinance intended to stop the spread of its growing Chinese population by banning the operation of laundries in wooden buildings within city limits without permission – a limitation needed, the city argued, due to issues of public safety. This restriction affected about 95 percent of the city's laundries, the vast majority of them operated by Chinese immigrants. Chinese laundrymen repeatedly had their permit applications denied, while almost all non-Chinese applicants were allowed to stay in business.³⁵ What makes this a zoning law is the attempt to legislate particular

³⁵ Charles McClain, *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth-Century America* (Berkeley: University of California Press, 1994), 115-6; Christopher Silver, “The Racial Origins of Zoning in American Cities,” in *Urban Planning and the African American Community: In the Shadows*, eds. June Manning Thomas and Marcia Ritzdorf (Thousand Oaks, CA: Sage Publications, 1997), 23-42; *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

activities by specifying the spatial limits in which an activity can take place on private property, as well as the building type permitted.³⁶

However, like many early zoning laws, the city's efforts did not pass Constitutional muster. In its 1886 decision *Yick Wo v. Hopkins*, the Court ruled that laws like San Francisco's that were enforced against only one race were unconstitutional, despite how race-neutral they seemed on the surface. Other cities tried other sorts of zoning restrictions in the name of social and racial control, a trend that the Supreme Court continued to reject, even though leading city planners embraced zoning as a tool of social engineering. Robert Ely, who helped develop New York's 1916 zoning code, argued that immigrants were “beaten men from beaten races, representing the worst failures in the struggle for existence.” Their business and homes needed to be separated from those of non-immigrants.³⁷ But, as Michael Allan Wolf argues, “the link between police power regulation of the use of private property and ethnic discrimination was fixed in the memory of the High Court” before the late 1920s.³⁸

In the 1917 case *Buchanan v. Warley*, the zoning law before the court was much more explicit in its intent. Louisville, Kentucky, passed an ordinance prohibiting the sale of residential property in white areas to African Americans (whites, in turn, were also forbidden to purchase property in black areas), in order to “prevent conflict and ill-feeling between the white and colored races...and promote the peace and preserve the general welfare,” a law supported by the city's real-estate interests, as well as by white property

³⁶ Wolf, *Zoning of America*, 138-9.

³⁷ Quoted in Freund, *Colored Property*, 58.

³⁸ Wolf, *Zoning of America*, 139.

owners in residential neighborhoods.³⁹ The Court ruled that such zoning restrictions were an illegitimate use of municipal power, and violated the Fourteenth Amendment through interfering with the property rights of racial minorities.⁴⁰ Given the increasing propensity of cities to use zoning against racial and ethnic minorities, it is unsurprising that many racial minorities began to be wary of zoning codes and ordinances. After a proposal to create a comprehensive zoning code in Savannah, Georgia, the local black newspaper remarked, “we are not sure just what it means, though we have a strong idea it is striking at segregation of the races.”⁴¹ African-Americans in Denver were equally as concerned that zoning might be used against them, even though Colorado's Reconstruction-era constitution banned racial discrimination in the state.⁴²

The court's rulings paved the way for zoning restrictions based on family makeup, a person's status as a renter living in multifamily housing – restrictions far more likely to pass Constitutional muster than those targeting race or ethnic identity. Toning down the racial and ethnic roots of zoning made it seem more “respectable,” getting regulation-shy and reputation-wary businesses, real-estate professionals and homeowners more enthusiastic about the practice. Yet, as this dissertation will show, racial and other forms of discrimination were never far from the surface in the way single-family zoning was used in Denver. Under the cover of protecting “families,” a person’s ability to purchase a home and move out of an apartment or rooming house, one's ability to move into a

³⁹ Quoted in Stephen Grant Meyer, *As Long as They Don't Live Next Door: Segregation and Racial Conflict in American Neighborhoods* (Lanham, MD.: Rowan and Littlefield, 2000), 24; Roger Rice, “Residential Segregation by Law,” *Journal of Southern History* 34, no. 2 (May 1968):197.

⁴⁰ *Buchanan v. Warley*, 245 U.S. 60 (1917).

⁴¹ “Does It Mean Segregation?” *Savannah Tribune*, August 10, 1922.

⁴² “NAACP to Investigate New Zoning Law,” *Colorado Statesman*, November 29, 1924.

single-family neighborhood, one's ability to get married at all, could all be limited by race, sexuality, class, and other characteristics. "Family" is never a neutral category.

Racial discrimination in urban housing markets was rife. In Denver, African-Americans and Hispanics faced serious discrimination in housing markets and residential neighborhoods. The Ku Klux Klan had a pervasive influence over city politics and business during the first half of the decade, and some of the government and business elites advocating for zoning had Klan ties. Restrictions on apartments in the 1925 zoning code were, among other things, an attempt to restrict the spatial mobility of black Denverites and other minorities, even though there were no explicit references to race made in the code's language.⁴³

Even though black Denverites had a higher rate of homeownership than their counterparts in other cities, African-Americans (and, possibly, other minorities, such as Hispanics) rented at higher rates than whites, presumably due to housing, job, and mortgage-lending discrimination, as well as the housing stock available to them. Rental properties available in central Denver neighborhoods, where the city's minority population was clustered, were largely apartment buildings and rooming houses, rather than detached houses. As with its 1955 successor, the multi-family and single-family areas allowed in the 1926 zoning code both reflected and exacerbated Denver's existing racial divisions. White areas, with the exception of Capitol Hill, were largely zoned for single-family housing, while areas containing high numbers of racial and ethnic

⁴³ James H. Davis, "Colorado Under the Klan," *Colorado Magazine* 42, no. 2 (Spring 1965): 93-108; Robert Goldstein, *Hooded Empire: The Ku Klux Klan in Colorado* (Champaign-Urbana: University of Illinois Press, 1981), 12-20; Goodstein, *In the Shadow of the Klan*, 32, 60-61; Holly Wasinger, "From Five Points to Struggle Hill: The Race Line and Segregation in Denver," *Colorado Heritage*, Autumn 2005, 28-39.

minorities were more likely to be zoned for multifamily housing or even commercial or industrial uses.⁴⁴

The Supreme Court continued to limit the ability of cities to zone well into the 1920s, but arguments that made zoning a matter of preserving property values, rather than limiting rights, began to soften the Court's rulings on zoning.⁴⁵ The court began to allow cities to zone against “nuisance” activities – noise, pollution, and tall buildings – to protect both property values and public health. In 1926, the Court heard a case about the comprehensive zoning code of Euclid, Ohio, a suburb of Cleveland that was trying to keep the larger city's industrial areas from encroaching on their town. Euclid's zoning code banned stockyards, oil refineries, chemical manufacturing, and other industrial uses.⁴⁶ Landowners in Euclid, including the Ambler Realty Company, who hoped to develop their property for industrial use, sued the city, arguing that these zoning restrictions lessened the value of their land and constituted an unconstitutional “taking” of private property.⁴⁷ Lower courts sided with the Ambler Realty Company, but the Supreme Court ruled in favor of the town 6-3, arguing that curbing industrial development through zoning was an allowable use of the town's police power.⁴⁸ Comprehensive zoning codes were now considered constitutional.

⁴⁴ Denver City Ordinance 14: Series of 1925.

⁴⁵ Freund, *Colored Property*, 68-9. Rulings here include *Welch v. Swasey*, 214 U.S. 191 (1909) and *Hadacheck v. Sebastian*, 239 U.S. 394 (1915).

⁴⁶ Wolf, *Zoning of America*, 37.

⁴⁷ *Ibid.*, 48.

⁴⁸ *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926). Single-use land zoning that segregates uses is often referred to in the United States as “Euclidean zoning.”

Creating “Cities of Homes”: Separating Apartments and Single-Family Homes

Euclid, Ohio's zoning code protected town residents from encroaching environmental hazards caused by industrial land use. But in the *Euclid* decision, the Court worried less about problems caused by smoky smelters or polluting industrial plants than the threat apartment buildings posed to single-family neighborhoods. This issue did not appear from out of nowhere. Euclid's zoning code also banned apartment buildings and other forms of multi-unit housing. Amicus briefs filed in the case by the National Council on City Planning and other organizations warned argued that if the Court ruled against zoning laws, not only would industrial uses be able to invade unwilling towns, but multifamily housing would also invade single-family neighborhoods.⁴⁹ Planner Alfred Bettman, author of one of these briefs, argued that “very often the apartment building is a mere parasite” on residential neighborhoods, “constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district.”⁵⁰ The warning was clear: restrict the power of a city to zone, and the character of America's family neighborhoods would deteriorate. Writing for the majority, Justice George Sutherland argued that “the crux of the more recent zoning legislation” was the separation of multifamily and single-family housing, something the Court had not considered before.⁵¹ Protecting residential districts from apartment buildings now had the approval of the nation's highest court.

We might understand why a homeowner might not want to live next to a stockyard or explosive-manufacturing plant, but what problems, exactly, did apartment

⁴⁹ Wolf, *Zoning of America*, 86, 109-10.

⁵⁰ Quoted in *Ibid.*, 110.

⁵¹ *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926).

buildings pose? The answer is complex. Part of the problem with multifamily housing in residential areas had to do with taxation and costs of providing public services.⁵² Those who lived in such housing considered them home, but financially, these buildings were considered by Denver and other cities to be commercial real estate, rather than residential. As with commercial and industrial land uses, they were valued higher for taxation purposes than single-unit dwellings, and a land developer could often turn a higher profit by building an apartment building on a particular piece of land than a detached house. Homeowners in residential neighborhoods often worried that zoning boards, city planners, and other city officials would give preferential treatment to developers building apartments in order to increase tax revenue. But from the perspective of city government, apartment buildings were a financial liability. They cost more in terms of providing city services, and, since they were thought to be a higher risk for fires and other safety issues than detached houses, required more stringent (and expensive) building codes and regulations. They were also responsible for growth on the fringes, some charged, as the building of apartment buildings and other forms of multifamily housing in existing neighborhoods caused residents to flee to the outskirts of cities, which meant city governments had to spend more money to build roads and provide services to these urban fringes. One Denver report estimated that apartments in residential neighborhoods cost cities across the United States approximately \$500 million per year,

⁵² Kenneth Baar, "The National Movement to Halt the Spread of Multifamily Housing," *Journal of the American Planning Association* 39 (Winter 1992):39-48; Denver Civic and Commercial Association, Subcommittee on Zoning, "Report of the Subcommittee on Zoning to the Denver Municipal Planning Commission," in Denver Civic and Commercial Association, *Meeting Minutes of the Members' Council, Special Meetings and Bureaus and Committees, 1922, 273*, box 10, folder 4, Denver Metro Chamber of Commerce Records [hereafter Chamber of Commerce Records], WH1216, Denver Public Library.

largely from the “abandonment of high class residential property.”⁵³ Denver could ill afford these sorts of costs, therefore, zoning was needed to “put the right occupation in the right place and keep it there.”⁵⁴ Apartment buildings also blocked light and air from surrounding buildings, and, particularly irritating for Denverites, threatened to block residents' views of the mountains, even though the city had very few tall buildings in 1925.

But those concerned about the spread of apartment buildings in Denver and other cities across the nation were arguably more motivated by social, cultural and moral concerns caused by urbanization, particularly regarding the stability of the family and household. Apartments and rooming houses, detractors argued, attracted transient residents, people thought to be uncommitted to protecting the family character and identity of residential neighborhoods.⁵⁵ Apartment buildings and other forms of multifamily housing also provided an amount of anonymity for their residents that many thought encouraged immoral behavior. Apartment residents lived in a world detached from the watchful eye of the family, community, or the church. They could live alone or share their apartments with same- or opposite-sex roommates, with only the landlord – a figure depicted by opponents of apartment construction as someone more interested in

⁵³ Denver Civic and Commercial Association, Subcommittee on Zoning, “Report of the Subcommittee on Zoning,” 273.

⁵⁴ *Ibid.*, 275.

⁵⁵ For the history of moral concerns over renters and multi-family housing, see Barr, “National Movement,” as well as: Elizabeth Blackmar, *Manhattan for Rent: 1785-1850* (Ithaca, NY: Cornell University Press, 1989), Ronald Tobey, Charles Wetherell and Jay Bingham, “Moving Out and Settling In: Residential Mobility, Home Owning, and the Public Enframing of Citizenship, 1921-1950,” *American Historical Review* 95, no. 5 (December 1990), 1395-422; Paul Groth, *Living Downtown: Living Downtown: The History of Residential Hotels in the United States* (Berkeley: University of California Press, 1994); Margaret Garb, *City of American Dreams: A History of Home Ownership and Housing Reform in Chicago, 1871-1919* (Chicago: University of Chicago Press, 2005); and Andrew K. Sandoval-Strausz, *Hotel: An American History* (New Haven: Yale University Press, 2007).

profits than policing morals or protecting neighborhood integrity – standing as a gatekeeper.

Roomers and people living in apartment units constructed in detached houses presented a different kind of moral threat.⁵⁶ While roomers lived among families, urban reformers argued that their presence damaged the cohesion of their host families and stunted the moral growth of children. How could children be socialized into proper gender roles and learn acceptable standards of sexual morality when their homes contained “strangers in the basement,” people living and interacting with families whose only ties to these families was paying rent? Proper family formation required living in a single-family detached home, preferably one owned by the family residing within – in a landscape of apartments and other forms of multifamily housing, the American family would fail to thrive in increasingly urban environments.⁵⁷

The *Euclid* decision legitimized restrictions on multifamily housing, by making the protection of the single-family home a priority. Before, limiting such buildings had to be justified by citing health and safety concerns. Prior to the adoption of single-use land zoning, many cities used their building codes to restrict the construction of multifamily housing.⁵⁸ Denver, for example, tried to use its 1920 building code to restrict not only the types of materials used in creating Denver's homes, offices and other edifices, but also the density of people and the spread of multifamily housing in the residential districts east of downtown, including large sections of both Capitol Hill and Park Hill. Duplexes could be built, but apartment buildings larger than four units or rooming houses with more than

⁵⁶ Garb, *City of American Dreams*, ch. 3.

⁵⁷ Richard Ronald, *The Ideology of Homeownership: Homeowner Societies and the Role of Housing* (London: Palgrave Macmillan, 2008), 77.

⁵⁸ Baar, “National Movement,” 42.

twenty rooms could not without the written assent of property owners on all sides of any proposed structure.⁵⁹ These restrictions were only for new buildings, though, and did little to address the uses of property after construction. Some Denver real-estate and business leaders argued something stronger – such as comprehensive single-use land zoning – was needed to keep the residential neighborhoods of east Denver stable.⁶⁰

The arguments over families, apartments, and the built environment can be most clearly seen in the writings of two men crucial to the crafting of Denver's 1925 zoning code: Robert Whitten and Saco DeBoer. Whitten, a nationally known expert on zoning, was hired by the city as a consultant on the zoning code.⁶¹ DeBoer, the city's official landscape architect, wrote the code. Both men strongly argued for the containment of multifamily housing, particularly in the form of large apartment buildings and rooming or boarding houses, in order to protect neighborhoods and residents of single-family homes from the ill effects caused by a variety of dwellings and dwellers.

Whitten was one of the most influential American thinkers about zoning in the 1920s. He was the secretary to the committee that created New York's 1916 zoning plan, and used this experience to forge a career as a consultant to many cities considering comprehensive-zoning plans of their own. Whitten consulted on plans in Dallas,

⁵⁹ Denver Civic and Commercial Association, Subcommittee on Zoning, "Summary of the Building Ordinances and Restrictions on Property Uses," in Denver Civic and Commercial Association, *Meeting Minutes of the Members' Council, Special Meetings and Bureaus and Committees, 1922*, 280, box 10, folder 4, Chamber of Commerce Records, Denver Public Library. This restricted area was bounded by "Grant and Cherry C[ree]k. to 12th Ave. to Lafayette to 18th Ave. to Franklin to 32nd Ave., to Syracuse, to Bayaud, to Colo. Blvd., to 5th Ave., to alley Race and High, to 1st Ave, to Cherry C[ree]k. to point beginning."

⁶⁰ Denver Civic and Commercial Association, Subcommittee on Zoning, "Report of the Subcommittee on Zoning to the Denver Municipal Planning Commission," in Denver Civic and Commercial Association, *Meeting Minutes of the Members' Council, Special Meetings and Bureaus and Committees, 1922*, 273-278, box 10, folder 4, Chamber of Commerce Records, Denver Public Library.

⁶¹ Fred W. Ameter, "Zoning Provides for Denver's Growth," *Rocky Mountain News*, January 4, 1925.

Cleveland, Atlanta, and Indianapolis in the early 1920s.⁶² Whitten's writings on zoning indicate that he saw apartments, rooming houses and other forms of multifamily housing as one of the direst threats to American cities. "One of the biggest problems of zoning is to preserve our American cities as cities of homes," he argued in a 1920 article in *The American City*. "This cannot be done unless some limits are placed on the spread of the apartment house."⁶³ Whitten saw apartment building construction as a dark force, ready to swallow up residential neighborhoods, unless cities used their police power to contain them to certain districts. Why were apartments so dangerous? The construction of one "is almost certain to mean a radical change in the residential population, a decline in the value of the single-family houses, and a gradual replacement of such houses by apartment houses." Apartments "cu[t] of light and air...air circulation and sunlight which is essential to health and comfort." Everyone was threatened by apartments, but the biggest victims were children. Children living in apartment buildings were more susceptible to disease and "confusion and untidiness." If children were harmed, so was society as a whole: "The vitality, efficiency, and morale of the race cannot be long maintained if the major of the people of our cities must grow up under such conditions of overcrowding."⁶⁴ By "race," of course, Whitten meant white Americans. He also consulted on zoning codes in Southern cities like Atlanta that, even after the 1917 *Buchanan* ruling, still included racial restrictions.⁶⁵

Whitten tended to discuss apartments in apocalyptic terms, arguing that congestion was a ticking time bomb threatening to tear apart society. Saco DeBoer had

⁶² "Robert Whitten," *Housing Betterment: A Journal of Housing Advance*, January 1922, 403.

⁶³ Robert Whitten, "The Zoning of Apartment and Tenement Houses," *The American City*, August 1920, 140.

⁶⁴ *Ibid.*, 140-1.

⁶⁵ Silver, "Racial Origins of Zoning," 34.

similar views on the drawbacks of apartment life, but he based much of his opposition to multifamily housing on Denver's identity as a Western city, and the benefits that Denver's environment had for children and families. Many of his writings on zoning and planning contrast Western cities, with their “very open and wide-spread residential zones” and “high percentage of light and air for buildings” with the dark, crowded congestion of Eastern cities.⁶⁶ In the introduction to the 1929 *Denver Plan*, the comprehensive city plan that was created after the 1925 zoning of Denver, he argued:

Someone has said that the cities of the east are ant hills where the teeming population piles up on itself, while the cities of the west follow the same plan as the prairie dog towns of the plains, scattering widely over the open spaces. The simile is apt. Let us continue our present policy and build a city of spacious beauty and high utility, avoiding forever the evils of tremendous congestion and vile overcrowding, which make impossible any decent or orderly living.⁶⁷

Being in the West, DeBoer argued, meant that Denver's residents were closer to their “country-bred” roots than their counterparts in the East or in European cities, and therefore, they were less willing to live with the lack of green space, light, air, and privacy innate in apartment life. Perhaps, in two to three generations, Westerners would be willing to accept apartment life, but DeBoer thought it more likely that “increased transportation facilities may cause the country-bred citizen to live still farther from the

⁶⁶ S. R. DeBoer, “The Western City,” 155, box 11, folder 1, S.R. DeBoer Papers [hereafter DeBoer Papers], WH1082, Denver Public Library.

⁶⁷ City and County of Denver, Denver Planning Commission, *The Denver Plan, Vol. 1* (Denver: The City and County of Denver, 1929), 9-10.

city in which he is employed.”⁶⁸ Denverites would be more willing to move out to the suburbs than accept life in apartment buildings.

Like Whitten, DeBoer was concerned about the impact of apartment life on children, but he couched his opposition less in terms of moral degeneration than in the munificence of nature:

[At] every turn of the road a bit of the country freedom has been lost and, in place of that, dusty streets have been given them for playgrounds. Something of the love of the nature and beauty has been lost in the change, and nothing makes life more worth living than these attributes.⁶⁹

Apartments could not provide the light, air, access to gardens, and other forms of green space that DeBoer thought were necessary for Denver's children, or for anyone else. They were built for adults, without thought about the light, space, and social needs of children, and it was unlikely that profit-seeking apartment owners would retrofit their buildings to fit the needs of young Denverites. “It is no greater step from our democracy to Bolshevism than it is for the average apartment owner to consider children as tenants....but darn it! Civilization can hardly keep on being such, if there are no children growing up,” DeBoer argued.⁷⁰

DeBoer's assumptions about the impact of apartments on children had a far-reaching impact, both in Denver and elsewhere in the metropolitan area, for decades to come. Many of Denver's suburbs hired him to write their zoning codes in the 1930s and 1940s, as rapid growth in these areas made zoning more desirable. His ideas about the

⁶⁸ DeBoer, “The Western City,” 156.

⁶⁹ Ibid., 159.

⁷⁰ Ibid., 159.

necessity to provide green spaces and protect single family homes influenced all of these codes. In the 1953 code he authored for Aurora, he wrote that protecting single-family houses was the highest use of a zoning code, for it “is important to protect this area against encroachment by stores, two family houses and other uses which do not belong.”⁷¹ Similar language can be found in zoning plans DeBoer wrote for Castle Rock, Cherry Hills Village, and other towns. DeBoer played an important role not only in containing apartments in Denver, but in enabling suburban governments to keep multifamily housing out of their towns.

Whitten and DeBoer had a lot to say about apartments, but the zoning code they created did not restrict the construction of new multi-family housing as much as their arguments might suggest. Even the most restrictive form of residential zoning in the new code still allowed duplexes (but not rooming houses or large apartment buildings) to be built next to single-family homes. The code was largely descriptive, rather than proscriptive – it described the state of Denver’s residential neighborhoods as they were, rather than shaping them into what planners thought they should be. It contained no real enforcement mechanisms to stop buildings that didn’t conform to the zoning code from being built. Nevertheless, city elites hoped the 1925 code would cause more single-family homes to be built in Denver.⁷²

Fike and Fike v. Jabelonsky

The 1925 code was written during a time when Denver's economy was strong. More middle- and working-class residents of the city – both white and black – were able

⁷¹ S.R. DeBoer and Company, *City of Aurora Proposed Zoning Ordinance, August 1953*, iii-iv, box 1, folder 61, DeBoer Papers, Denver Public Library.

⁷² “Property Owners Co-Operate With Zoning Ordinance,” *Denver Municipal Facts*, May-July 1926, 10.

to afford homes. Restrictions on all forms of multi-family housing made economic sense when times were good, but things were about to change. The Great Depression and World War II changed Denver neighborhoods dramatically. Economic turmoil and social dislocation of the depression and the war increased people's needs for inexpensive, flexible housing. Stapleton's decision to suspend enforcement of zoning laws as a wartime measure legitimated activities that had been going on for some time. People who needed extra income during the Depression often turned to their houses as a source. Taking in roomers and renting out parts of your home were a way to bring in money when times were tight, and provided inexpensive housing for people who might not be able to afford living anywhere else, or could not find another option. During the 1930s and 1940s, housing construction was at a standstill in Denver – in the 1930s, few could afford to build new housing, and during the war, building materials were not available for civilian use. Existing housing wasn't in great shape either, as building owners often delayed maintenance until times were better. A survey conducted in 1942 by government workers showed that nearly a quarter of Denver's available housing units were substandard – often lacking hot water, sometimes even floors. Even if someone could find affordable housing, it might not be habitable.⁷³

Denver's housing stock was diverse before the 1930s and 1940s, a good mix of single-family homes, apartments, duplexes and triplexes, and other forms of housing. It became even more diverse during the depression and the war as people converted their homes into multi-family use. Even though Denver's zoning code forbade these activities, the city rarely enforced any sanctions against homeowners, because it barely had an

⁷³ City and County of Denver, Housing Authority, *Housing in Denver: A Report on the Real Property and Low Income Housing Survey Conducted as a Project of the Works Project Administration* (Denver: The City and County of Denver, 1941), 34.

organized planning or zoning office. Stapleton rejected the few ideas for urban improvement created by his Planning Commission.⁷⁴ City improvements were instead in the hands of George Cranmer, head of the Parks and Recreation Department. Cranmer kept most of his ideas in his head, and rarely followed existing city plans, going instead “from one thing to another.”⁷⁵ The Building Department investigated zoning complaints.⁷⁶ The biggest problem, though, was that the Board of Adjustment-Zoning that seemed willing to grant zoning variances – orders that let property owners use their property in ways forbidden by the zoning code – to anyone who asked for one, as long as the neighbors didn't seem to mind.⁷⁷ The agency did not keep records, either. The board's secretary, Fred Ameter, rarely wrote any of DBAZ's decisions down. Fortunately, as Maxine Kurtz, the lead author of the 1955 code, later wrote, “Fred remembers most of them.”⁷⁸

The lack of records created a legal crisis for the city, which resulted in the Denver Planning Office scrapping the 1925 code and starting over after World War II. In 1948, Judge William Black of the Denver District Court ordered the city to issue a building permit to the Fikes, a family living at 750 Pearl in the Capitol Hill neighborhood. The family converted their large single-family home into a rooming house. With 18 rooms and four bathrooms, it was a sizeable structure, typical of many of the houses in the neighborhood. At some point, the Fikes sought a permit to run a rooming house out of their home, and the city denied it, citing the neighborhood's zoning as cause.⁷⁹

⁷⁴ Leonard and Noel, *Mining Camp to Metropolis*, 247.

⁷⁵ Leonard and Noel, *Mining Camp to Metropolis*, 247; Kurtz, *Invisible Cage*, 42.

⁷⁶ Walter Saunders, “Denverites Learning About Zoning Laws,” *Rocky Mountain News*, April 8, 1956.

⁷⁷ Kurtz, *Invisible Cage*, 141.

⁷⁸ *Ibid.*, 129.

⁷⁹ *Fike and Fike v. Jabelonsky*, Denver District Court A-58020 (1949); Kurtz, “Zoning 1923-1955, Third Draft, 4/18/99,” nd, np, box 4, Maxine Kurtz Papers [hereafter Kurtz Papers], WH191, Denver Public

That part of Capitol Hill was zoned “Residence A,” the highest residential zoning available under the 1925 code. Residence A zoning allowed for some small-scale multi-family housing, but rooming houses were illegal. But the area's zoning did not match what was already going on in Capitol Hill. The Fike home was surrounded by other rooming houses and apartment buildings: the family sought to do what other property owners had already done, permit or not.⁸⁰

Capitol Hill was already full of multi-family housing, regardless of what the Fikes did. The neighborhood – founded in the 1880s as an exclusive enclave for Denver's mining millionaires – was the city's densest residential neighborhood. Many of its large stone mansions, including the Fike property, had been turned into rooming houses; apartment buildings and other forms of multi-family housing filled in the spaces between mansions.⁸¹ The Fikes lived on a block zoned Residence A specifically to prevent multi-family housing from spreading further south. As the Fike case showed, it wasn't working. In his ruling in favor of the Fikes, Black argued that a rooming house was more appropriate for the neighborhood than a single-family house: “there is no longer any market for large dwellings such as the petitioner’s and others of like kind in the neighborhood, as single family dwellings...construction of single family dwellings is no longer carried on in the neighborhood.”The *Fike* decision meant Denver could no longer ban multi-family housing in Capitol Hill. If the city wanted to actually be able to enforce its laws, it needed to actually enforce them.

Library.

⁸⁰ Kurtz, “Zoning 1923-1955,” np.

⁸¹ *Fike and Fike v. Jabelonsky*. Denver District Court A-58020 (1949).

Quigg Newton and the Modernization of Denver

This decision came at a crucial time in Denver's growth as a city. In 1947, Denverites elected a new mayor. James “Quigg” Newton, Jr., a Yale-educated lawyer, beat Stapleton, who was running for his sixth term. Newton became interested in running for mayor when *Denver Post* publisher Palmer Hoyt and other private-sector leaders dissatisfied with the 77-year-old Stapleton talked him into it. Newton ran as a modernizer, someone ready to lead sluggish Denver into a bright postwar world. After 21 difficult years with Stapleton at the helm, Denverites eagerly chose the energetic, forward-thinking Newton.⁸² Newton took over the mayoralty at a time when the city was growing rapidly. Between 1940 and 1950, 167,000 new residents flooded into the Denver metropolitan area, and by the 1960, 317,000 other newcomers joined them.⁸³ Stapleton had welcomed new arrivals during the war, but after the war, he wanted them to leave. In 1946, he told a reporter about his solution to problems arising from postwar growth: “If those people would just go back where they came from, we wouldn't have any problems here.”⁸⁴

But people were not going back where they came from (and many of them chose not to vote for Stapleton). Nearly 4 million servicemen and women passed through Denver during the World War II, and thousands decided to stay or return after the war ended, attracted by plentiful jobs, mountain scenery, and the area's pleasant climate.⁸⁵ Newton's staff, especially employees of the newly created Denver Planning Office

⁸² George F. Kelly, *The Old Gray Mayors of Denver* (Boulder, CO: Pruett Publishing, 1974), 23; Foster, *Citizen Quigg*, 97, 105-6.

⁸³ Leonard and Noel, *Mining Camp to Metropolis*, 481.

⁸⁴ Kelly, *Old Gray Mayors*, 1.

⁸⁵ Leonard and Noel, *Mining Camp to Metropolis*, 223.

(DPO), needed to figure out quickly how to successfully steer the city through a time of rapid growth. They also needed to cope with another problem: thousands of people were moving to the metropolitan area, but many decided to not live in Denver. The city, like others around the country, was losing ground to its suburbs. Denver's population grew in the 1940s and 1950s, but the city's growth rate was slow compared to surrounding areas. Jefferson County, to the west, grew from 30,725 residents in 1940 to 127,520 by 1960 (its population would double again before 1970). Adams and Arapahoe Counties chalked up similar gains, tripling or quadrupling their populations in just two decades.⁸⁶ For a city that considered itself the financial and cultural capitol of the entire intermountain West, losing people, jobs, and tax revenue to upstart suburbs was a major blow. Denver's postwar planning and zoning was all shaped by increased suburbanization. Many of the reforms built into Denver's 1955 zoning code were intended to make Denver more attractive to people who might otherwise move to the suburbs. The zoning code tried to “suburbanize” older parts of the city.

When Newton took office, Stapleton's staff resigned en masse (with a few exceptions). The new mayor's staff found that few records were left in the City and County Building to guide them; Stapleton hired people like Cranmer and Ameter who kept track of much of the city's business in their heads. What few personnel records there were indicated which employees “voted the right way,” rather than their background or what they actually did for the city. This was both a problem and an opportunity for Newton and his staff – they had little of the past to guide them, but in a rapidly changing city, the past might not be as relevant as it once was.⁸⁷

⁸⁶ Ibid., 481.

⁸⁷ Van Johnson, “Maxine Kurtz: Knocking Down Bars of the Invisible Cage,” in *Outstanding Women in*

Newton hired idealistic neophytes to help him transform the city. He hired 26-year-old Maxine Kurtz to be his acting planning director soon after his election. Kurtz helped transform the city's planning office from a backwater to a dynamo. She not only wrote Denver's 1955 zoning code, she also directed the research and data analysis that, to the DPO, justified a complete rewrite of the previous zoning code. Kurtz was not a native Denverite. She grew up in Minneapolis, the daughter of a former settlement-house worker. After graduating from the University of Minnesota in 1942, she moved west to study government management at the University of Denver, one of only two women in the program. DU's program was one of the few places prospective planners could study their future profession in the late 1940s. When Kurtz was hired, she was one of the only female urban planners working in a major planning department in the United States.⁸⁸

As a newcomer, Kurtz had no loyalty to the past, no nostalgia for the sleepy Denver of the mid-twentieth century that seemed more like a small-town than the nation's 22nd largest city. Kurtz and other Newton-administration officials knew that the old city ran on social ties and backroom deals. The Denver they wanted to create would be based on hard work, good data, and bright ideas. And the more data Newton's staff collected, the more they realized that the city was in trouble. A housing survey completed by the Department of Health and Hospitals showed that little progress had been made in improving the city's housing since the WPA survey in 1942: "When hundreds of Denver people are forced to live in houses on the verge of collapse, to use outdoor toilets, many of which have not worked properly for years, to use dangerous heaters because adequate heating facilities are lacking, or to share one outside cold water tap with neighbors, every

Public Administration: Leaders, Mentors and Pioneers, eds. Claire L. Felbinger and Wendy Haynes (Armonk, N.Y.: M.E. Sharpe, 2004), 157.

⁸⁸ Kurtz, *Invisible Cage*, 38.

person in Denver suffers.” Twenty percent of the city's housing was barely habitable.⁸⁹ Other surveys showed that the city had poor fire protection, aging public facilities, and numerous other problems. Kurtz's staff also found that no one in the City and County Building knew exactly what land the city owned or where the current city boundaries actually were.⁹⁰

DPO staff had many ideas for improving Denver. At the top of their list was modernizing the city's zoning plan. Rather than rewriting the 1925 plan, Kurtz and her staff decided to start over, writing a brand-new system of land-use regulation. It would be based on good research and good economic analysis and planning. To write the code, the DPO needed answers to a lot of questions, such as how was land actually used in the city? The existing zoning map offered little guidance. Denver had changed a lot since 1925, and the many zoning variances given in the previous three decades meant that no one was keeping track of actual land uses. DPO staff had to use aerial photographs, rather than existing city maps, to answer the question. Another important question: what kind of land uses did Denver need? Property owners, rather than the city, seemed to direct land use during the Stapleton administration. When they asked for zoning variances, they tended to get them, even though the city might not need more apartment buildings, stores, or other structures. Kurtz and other planners hoped to project what land uses the city lacked, and decide where these uses should go.

The 1955 zoning code, thus, was based on a technocratic ideal – a data-driven analysis of what the ideal postwar Denver should look like. Kurtz and her staff started with an economic survey, gathering on the city's employers. What were their needs? How

⁸⁹ City and County of Denver, Department of Health and Hospitals, *Housing Survey*, box 4, Kurtz Papers, Denver Public Library.

⁹⁰ Kurtz, *Invisible Cage*, 38.

did they plan to expand in the coming years?⁹¹ From the survey, the DPO concluded that the Denver metropolitan area was developing a “high-technology economic base,” which attracted “young families who want to live in single-unit dwellings....rather than in apartments.”⁹² The residential parts of the city's new zoning code reflected the perceived desires of this new, ideal Denverite.

Defining Families and Neighborhoods in the “New Denver”

But how could Denver attract new families to its old neighborhoods (and keep existing residents from leaving the city) when these neighborhoods were “tainted” with basement apartments? The first step to making city neighborhoods appealing was redefining who could live in them. The second was to restrict the activities and buildings deemed acceptable in each residential area in Denver. This would give the city the legal ability to keep single-family neighborhoods full of families, and limit apartments and other multi-family housing to certain parts of the city. The 1955 code was much stricter than its predecessor in spelling out legal relationships and land uses, but ridding Denver of illegal basement apartments was much harder than planners intended.

In 1955, “family” was redefined to be “any number of persons immediately related by blood, marriage or adoption, or...five or fewer persons not necessarily related by blood, marriage or adoption, plus domestic servants.”⁹³ Planners introduced the “blood, marriage or adoption” standard in Denver's zoning for the first time, and limited

⁹¹ Maxine Kurtz, “Denver Economic Survey,” *Journal of the American Institute of Planners* 19, no. 2 (1953): 62.

⁹² Kurtz, *Invisible Cage*, 136.

⁹³ Denver City Ordinance 392, Series of 1956.

by number the unrelated people who could live together. Yet, the 1955 definition of “family” still allowed unrelated people to live together – sort of. The clause allowing a certain number of unrelated people to be considered a family would be removed in 1962, because of continuing problems with basement apartments in single-family neighborhoods.

This definition was tighter than in the 1926 code, where a family was still arbitrarily defined as “any number of individuals living together in a single housekeeping unit, and doing their cooking on the premises.”⁹⁴ Kitchens made a group of individuals a family, regardless of their legal relationships. In an apartment building, duplex or house, each unit would contain its own stove. In a hotel, dormitory, or boarding and rooming house, cooking facilities would either be communal, or located in the building's restaurant or dining room. This was not a definition unique to Denver. Other zoning codes adopted by Colorado cities at the same time contain similar definitions of “family,” and this definition was standard in discussions of residential housing in urban planning journals during the 1910s and 1920s.⁹⁵

The 1955 code also divided Denver's residential neighborhoods into five categories, ranging from R-0 (the most restrictive) to R-4 (the least). The DPO planning staff carefully described each, specifying what types of homes, other buildings and forms of economic activity were allowed there. R-0 was the most restrictive. Someone living in an R-0 zoned area was not allowed to rent out parts of their property to anyone, nor could anyone not related to the homeowners by blood, marriage or adoption live in an R-0-zoned home. Even though the definition of “family” in the zoning code allowed for

⁹⁴ Denver City Ordinance 14, Series of 1925.

⁹⁵ Herbert S. Swan, “Does your City Keep Its Gas Range in the Parlor and its Piano in the Kitchen?” *The American City* 22, no. 4 (April 1920): 343.

households that included unrelated people, DPO considered any relationship where unrelated people lived together to be an economic one. Someone had to be the landlord, and someone else was the tenant, regardless of the actual ties of friendship or romance that caused two people to live together. R-0 zoning classification was intended to create family neighborhoods, where children and their parents would thrive. The description of R-0-zoned areas in the 1955 code was oddly idyllic for a legal document:

This district is composed of certain quiet, low-density residential areas of the city plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of most families and to prohibit all activities of a commercial nature. To these ends, development is limited to a relatively low concentration and permitted uses are limited basically to single unit dwellings providing homes for the residents plus certain additional uses, such as schools, parks, churches, and certain public facilities, which serve the residents of the district. No home occupations (including room renting) are permitted.⁹⁶

There was something unusual, though, about R-0 zoning – the same thing that makes it interesting. The default zoning for residential neighborhoods in Denver in 1955 was R-1, unless DPO, DBAZ, or the City Council decided an area needed less-restrictive zoning. R-0 zoning contained so many restrictions on how people could use their land that homeowners (or land developers, in the case of new construction) had to request R-0 zoning from the city. It was hard enough for Denverites to adapt to the new, stricter zoning code – imposing R-0 from the top down would just cause more problems.

Nevertheless, many Denverites were eager to use R-0 zoning to keep their homes and neighborhoods stable in a changing Denver. Residents of older, wealthier parts of

⁹⁶ Denver City Ordinance 392, Series of 1956.

east-central Denver neighborhoods requested R-0 zoning as soon as it was available: Crestmoor Park in November 1955, the Country Club neighborhood in May 1958 and 1959, and Belcaro Park in October 1960.⁹⁷ These neighborhoods were among the whitest in the city, with long traditions of discrimination. Residents of these areas kept African-Americans, Jews, and other minorities out in brutally creative ways, such as enforcing racial and religious covenants even though U.S. Supreme Court declared such covenants legally unenforceable in 1948, or requiring all buyers to gain the approval of neighborhood homeowners' associations before a house could be sold.⁹⁸ In the late 1950s, the relationship between R-0 zoning and race was still unclear, but residents of these neighborhoods weren't leaving anything to chance. Any tool that they could use to keep their neighborhoods exclusive was a good one. These neighborhoods show how, for much of the postwar era, Denverites in R-0 zoned neighborhoods used the zoning code to fulfill their own agendas in ways the city never intended. That story is the subject of the following chapters.

R-1 was a less restrictive form of R-0. Residents were allowed to have a tenant and run businesses out of their homes, if permits were issued and certain conditions met. For example, property owners in R-1 districts could only construct a second kitchen in

⁹⁷ Crestmoor Park rezoning: City and County of Denver, Office of the City Attorney, "City Attorney Matters for Mayor-Council Meeting, October 4, 1955," 1, box 2, folder 19, Nicholson Papers, Denver Public Library. Denver Country Club rezonings: City and County of Denver, Office of the City Attorney, "City Attorney's Tentative Agenda for Mayor-Council Meeting, Tuesday April 15, 1958," 1, box 2, folder 23, Nicholson Papers, Denver Public Library; and meeting minutes, City and County of Denver, Planning Board, May 27, 1959, 1, box 6, Denver Community Planning and Development Department Records [hereafter Planning Office Records], WH1744, Denver Public Library; "Country Club Area Wins Strict Zoning," *Rocky Mountain News*, May 13, 1958, 12. Belcaro rezoning: memorandum, J.D. Arehart to Richard Batterton, 1, October 1960, box 3, folder 16, Nicholson Papers, Denver Public Library.

⁹⁸ Michael Freed, "ADL Expose Seeks to End Crestmoor and Belcaro Exclusion," *Intermountain Jewish News*, May 20, 1955; *Shelley v. Kraemer*, 334 U.S. 1 (1948); Anti-Defamation League of the Rocky Mountains, "Survey Data on The Extent to Which the Right to Purchase Homes is Denied on Religious Grounds in Denver and Areas Contiguous Thereto," 1955, 11-13, box 4, Denver Commission on Community Relations Records, WH903, Denver Public Library.

their homes if they were intended for family use. Tenants had to use the same cooking facilities as the rest of the family. R-1 was the most common residential zoning in Denver, and caused the most problems

R-2 districts were a mix of single-family housing and some small-scale multi-family housing, such as duplexes. Basement apartments were allowed, if property owners obtained permits and followed the building code. R-3 zoning was for apartments, rooming houses, hotels, and other large-scale forms of multi-family housing. R-4 was the same, but allowed for commercial uses: office buildings, stores, and other businesses.⁹⁹

The 1955 zoning code created a hard and fast legal line between single-family and multi-family neighborhoods in Denver. Although single-family homes existed in areas zoned R-3 or R-4, the city would no longer allow new ones to be built there. Likewise, existing multi-family buildings in R-0 and R-1 districts were okay, but their owners were not allowed to expand or remodel these buildings. If a fire destroyed an apartment building or a duplex in an R-0 district, the city would not issue a permit to rebuild, unless the property owner put a single-family home in its place.

The Continuing Saga of the Basement Apartment

In 1962, the word “family” in Denver's zoning code was revised. It now meant only a household where everyone was related by blood, marriage or adoption.”¹⁰⁰ The City Council tightened the definition because of the city's continuing problems with basement apartments in R-1 neighborhoods. Even seven years after the adoption of the

⁹⁹ City and County of Denver, Department of Zoning Administration, *Progressive Zoning in a Growing Denver: A Handbook of Zoning Regulations* (Denver: City and County of Denver, 1958), 8.

¹⁰⁰ Denver City Ordinance 327, Series of 1962.

1955 zoning code, Denverites with illegal basement apartments were still renting them to tenants. People who appeared before DBAZ, especially older homeowners, argued that they needed the income tenants generated. If they were forced to stop renting out their basements, they could not afford to live or properly maintain their homes. Some were newer homeowners, who told the city that their real-estate agents had assured them they would be able to make money off their basements, despite their neighborhood's zoning. Although the city tried to help these homeowners, nothing really seemed to work.

The flood of homeowners appearing before DBAZ beginning in 1955 – the Krafts, Berhydt, Vidars, and hundreds of others -- indicated to city officials that there might be more basement apartments out there than they thought. City Council reacted by only allowing homeowners to have a second kitchen in their homes if it was used by people legally related to them, and no profits were being made off of the kitchen.¹⁰¹ But this didn't solve the problem – people were still renting out parts of their homes to other people. In 1958, the city decided to grant five-year extensions to homeowners who proved that their apartments served an economic need.¹⁰² These extensions ended if someone sold their property – the new owners would not be able to become landlords in their own home. More than 200 homeowners received exemptions.¹⁰³ But even these extensions took a lot of work. Homeowners with such apartments were not required to report them to the city. The Zoning Administration had to rely on reports from neighbors or field observations, and DBAZ had to serve them with a cease-and-desist order before

¹⁰¹ "Excess Units in R-1 Districts," 1963[?] 1, box 18, folder 2, Currigan Papers, Denver Public Library.

¹⁰² Denver City Ordinance 183, Series of 1958.

¹⁰³ Memorandum, Jack Dwyer to Thomas Currigan, "Three Alternatives With Reference to Ordinance 183, Series of 1958," September 6, 1963, 2, box 18, folder 1, Currigan Papers, Denver Public Library.

the extension would be granted.¹⁰⁴

In 1962, these five-year extensions began expiring. There was no clause in the legislation that created these extensions that allowed DBAZ to grant homeowners further extensions, and there were still an estimated 200 to 500 residences in R-1-zoned neighborhoods that contained basement apartments.¹⁰⁵ The Zoning Administration came up with a solution that, although it became law, really pleased no one. Homeowners with basement apartments would be given two-year extensions to keep their tenants, which they would then have to renew each year after that. This only applied to homeowners over the age of 60 and their spouses: anyone younger would not be eligible for an extension. These people had to have both lived in their homes and acted as landlords continuously since 1950.¹⁰⁶ It provided a little bit of breathing room to homeowners and their tenants in a zoning code that sought to regulate relationships the way it regulated building heights. These changes, though, only affected people living in R-1 districts. As Zoning Administration officials pointed out, they did not “affect the sanctity of the R-0 Zone District.”¹⁰⁷

Denver never really solved the basement-apartment problem. Homeowner/landlords kept getting extensions, and, judging by available archive records, people gradually lost interest in reporting their neighbors’ apartments to the city. But Denverites were still eager to use the 1955 zoning code to solve another problem: keeping outsiders out of their neighborhoods. This chapter focused on how and why

¹⁰⁴ Memorandum, Dwyer to Currigan, 2.

¹⁰⁵ Ibid., 5.

¹⁰⁶ City and County of Denver, Department of Zoning Administration, “Application for Proposed Language Amendment to Zoning Ordinance,” October 29, 1963, np, box 18, folder 1, Currigan Papers, Denver Public Library.

¹⁰⁷ Memorandum, Dwyer to Currigan, 3.

Denver city officials created a zoning code that defined what a family was, and how they tried to use it to separate single-family and multi-family housing. Drawing on decades of disdain for apartments, renters, and landlords – ideas tinged with racial, ethnic, and class discrimination -- the agencies that wrote and enforced this zoning code tried – often unsuccessfully – to shape the social and built geography of Denver’s residential neighborhoods. The next few chapters focus on the people living in these neighborhoods, and how they used R-0 zoning to try and protect their homes and families from “outsiders.”

Chapter 3: “The Conscience of the City”: The Park Hill Action Committee, Racial Integration and Zoning Laws

On August 21, 1965, James B. O'Connell, an inspector for the Department of Zoning Administration, investigated a complaint at 2600 Fairfax Street in Park Hill, a neighborhood in northeast Denver.¹⁰⁸ Roberta DeLuxe lived in the small 1920s brick house with several of her children. DeLuxe was a white mother of six, whose family included an adopted black child. She left her native Kansas for Denver in the late 1940s, first living in an “above-average white community,” where her children attended nearly all-white schools.¹⁰⁹ Sensitive to racial issues, she supplemented their lessons with readings on African history, hoping that they would “grow up free from the influence of the 'white devil,’” as she wrote in *Negro Digest* the following year.¹¹⁰ When neighbors began harassing her mixed-race family, she moved to Park Hill.

DeLuxe's section of Park Hill was, in the mid-1960s, turning from a majority-white to a majority-black area. Only two percent of this area was black in 1960; six years later, 60.2 percent of its residents were African-American.¹¹¹ In the late 1950s, black families began moving across Colorado Boulevard, one of the city's most tenacious racial boundaries, into northernmost Park Hill. Other whites fled, but DeLuxe saw racial transition as an opportunity, rather than a threat. She became the only white member of a local theater group. Her white children attended schools where they were among the

¹⁰⁸ Letter, Anthony H. Jansen to George Kelly, November 5, 1965, 1, box 18, folder 1, Currigan Papers, Denver Public Library.

¹⁰⁹ “About A Contributor,” *Negro Digest*, September 1966, 89.

¹¹⁰ Roberta J. DeLuxe, “Cheers for the Admitted Racist,” *Negro Digest*, September 1966, 24.

¹¹¹ George E. Bardwell, *Park Hill Areas of Denver, 1950-1966: An Updating of the 1960 Census, A Study of Population Movement and Property Value* (Denver: City and County of Denver, 1966), 9. The study divided Park Hill into several “geographic analysis areas.” DeLuxe lived in Area 6, bounded by East 26th Avenue on the south, East 32nd Avenue on the north, Dahlia Street on the west, and Holly Street on the east.

minority, learning about “sit ins, bus rides, and the like” in class – subject matter that white-majority schools in Denver steered clear of.¹¹² She also became involved in local civil-rights groups. In the late summer of 1965, DeLuxe's home doubled as the headquarters for Denver's chapter of the Congress on Racial Equality (CORE), which frequently held meetings there.

DeLuxe lived in a part of Park Hill zoned R-0. From 1961 to 1963, 480 blocks of Park Hill, including the 2600 block of Fairfax Street, were rezoned by neighborhood activists from R-1 to R-0.¹¹³ DeLuxe's family conformed easily to R-0 standards, and she was technically allowed to hold gatherings in her home, as long as she was not running a business. Nevertheless, neighbors complained about DeLuxe's activities, prompting O'Connell's investigation.

The following day, DeLuxe and two unidentified men visited the Zoning Administration office. Anthony Jansen, Denver's head zoning official, described the three as “belligerent,” as they accused the city of harassing them.¹¹⁴ While Jansen agreed that “infrequent and unorganized meetings of friends was [sic] a permitted use as common and customary in one's home,” he argued CORE meetings were inappropriate for a residential neighborhood. The meetings also hampered the Zoning Administration’s ability to determine what kind of household DeLuxe had – was it just DeLuxe and her children living in the house, or did other people also live there? R-0 zoning was intended to preserve Park Hill's social stability and property values at a time of racial change. CORE, despite its organizational goals, threatened this. In a letter to George Kelly,

¹¹² “About a Contributor,” 89; DeLuxe, “Admitted Racist,” 22.

¹¹³ Denver City Council Ordinance 327, Series of 1962.

¹¹⁴ Letter, Jansen to Kelly, 1-2.

Mayor Thomas Currigan's chief of staff, Jansen lamented, "It is unfortunate, that an organization such as this that is supposed to be fighting for the upgrading of living conditions for the negroes, are at the same time threatening a downgrading of this neighborhood by the improper use of the property."¹¹⁵

Park Hill continually irritated Jansen and his staff. They spent a lot of time in the neighborhood, since a suspiciously high number of the zoning complaints they investigated in the mid-1960s involved places or people in Park Hill.¹¹⁶ Anonymous complainers reported many of them – neighbors hoping to keep tab on other neighbors without having to confront them directly. But many were the work of the Park Hill Action Committee, the neighborhood organization responsible for rezoning Park Hill from R-1 to R-0.¹¹⁷

The person who reported DeLuxe to the Zoning Administration was probably concerned with noise, congestion, or other problems caused by holding CORE meetings in a residential neighborhood. But this complaint also has to be understood in the context of racial transition in Park Hill in the early 1960s, as Jansen's lament suggests. White residents of Park Hill rezoned their neighborhood R-0 as a defense mechanism at a time of racial change. Deeply concerned that their neighborhood would turn into a "slum" as Park Hill's black population increased, members of the PHAC used to zoning to legally assert middle-class norms of homeownership and property maintenance in their neighborhood. R-0 zoning would work in the background to stabilize neighborhood

¹¹⁵ Ibid., 1.

¹¹⁶ During 1966, nearly 90 percent of the complaints the department investigated originated in Park Hill. Letter, Thomas Currigan to Arthur Branscombe, March 16, 1966, 1-2, box 18, folder 10, Currigan Papers, Denver Public Library.

¹¹⁷ It is unclear who submitted the complaint against DeLuxe and CORE. Beverly Keniston, "New Park Hill Zoning Ends 2 1/2-Year Effort," *Denver Post*, September 23, 1964.

character and property values while the organization worked to welcome (or, more honestly, tolerate) middle-class black families to Park Hill, persuaded existing white residents to stay, and attracted new white homeowners to the neighborhood.

Denver was a city in social and racial flux after World War II. An influx of newcomers disrupted its sleepy stasis, attracted by wartime industries, government and other white-collar jobs, and the clean air, sunshine, and scenery that Denver boosters promised.¹¹⁸ Blacks and Hispanics made up only a small percentage of this new rush to the Rockies, but attempts by minority families to find housing outside of the ghetto or barrio publicly revealed the tenacity of Denver's existing racial order. In 1960, white and black Denverites alike, along with government and business leaders, civil-rights leaders, and others invested a lot of meaning in Park Hill. If the neighborhood could be integrated peacefully, Park Hill meant that Denver was not destined to become like Detroit, Chicago, or other older cities in the United States, where whites were leaving for the suburbs as the African-American population increased. While city leaders realized by 1960 that they could do little to keep white Denverites from moving to the suburbs, they hoped to avoid problems they saw in other cities: racial violence, the rapid physical decline of older neighborhoods, devaluation of center-city real estate, among other things. Park Hill was the symbol of Denver's uncertain future.

In the historiography of post-World War II urban "white flight," the neighborhood is often conceptualized as the spatial expression of white supremacy, a geographically bounded, racially homogeneous area that residents seek to defend from "others" by any means.¹¹⁹ African-Americans, seeking better housing conditions and opportunities than

¹¹⁸ Leonard and Noel, *Mining Camp to Metropolis*, 235-54.

¹¹⁹ See Hirsch, *Making the Second Ghetto*; Sugrue, *The Origins of the Urban Crisis*; Kruse, *White Flight*;

those found in segregated neighborhoods, begin to buy or rent houses in white neighborhoods, aided by real-estate agents seeking to profit off of panic selling or “block busting.” Whites, particularly white homeowners, respond with violence towards their black neighbors, by refusing to sell or rent homes to blacks, and finally, by leaving. More blacks move in, and what was once a white area becomes a black area – a phenomenon known as “racial transition.”

But Park Hill occupies a strange place in the history of postwar white flight. Park Hill did not become the integrated neighborhood people hoped, but neither did whites leave en masse.¹²⁰ Some Park Hill residents clearly sold their houses in a fit of racial panic and left, but during the 1960s, whites continued to move to the neighborhood. While relations between black and white residents of the neighborhood were often cool, outright violence toward new black residents in Park Hill was nonexistent. The “other” that neighborhood activists sought to keep out was based explicitly on middle-class norms of homeownership, rather than race. Park Hill was different from other R-0-zoned neighborhoods. People living in Country Club, Crestmoor Park, and other neighborhoods wanted zoning to help keep their neighborhoods white. Park Hill residents worked to improve racial relations – using R-0 from other neighborhoods where the residents requested R-0 zoning in the late 1950s and early 1960s. Country Club, Crestmoor Park,

Self, *American Babylon*; and Colin Gordon, *Mapping Decline: St. Louis and the Fate of the American City* (Philadelphia: University of Pennsylvania Press, 2009). Few have studied the “urban crisis” in Denver – brief discussions can be found in Leonard and Noel, *Mining Camp to Metropolis*, 235-254; Goodstein's *DIA and Other Scams*; and Richard Gould, *The Life and Times of Richard Castro: Bridging a Cultural Divide* (Denver: Colorado Historical Society, 2007).

¹²⁰ Hirsch's *Making the Second Ghetto* discusses community integration projects in Chicago's Hyde Park neighborhood, but overall, the phenomena of white neighborhood organizations promoting integration, however tentatively, has not received much attention from historians of the post-World War II urban United States. A recent exception is Rachael Woldoff's *White Flight/Black Flight: The Dynamics of Racial Change in an American Neighborhood* (Ithaca, NY: Cornell University Press, 2011). Sugrue briefly discusses neighborhoods like Park Hill as part of a “countercultural” movement of whites back to the city in *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North* (New York: Random House, 2008), 421-2.

and other upper-class white neighborhoods used zoning to keep their neighborhoods white. Park Hill residents used zoning to bring a measure of stability at a time of racial transition that they

This chapter analyzes the activities of the PHAC from its founding in 1960 to its transformation ten years later into the Greater Park Hill Community, Incorporated (GPHC), to determine, what can the experiences of white Park Hill residents, as symbolized by the PHAC, tell us about urban neighborhoods in the age of white flight? On the surface, the PHAC seemed to be fighting the racial good fight in the 1960s: its members fought to curb unethical or illegal real-estate practices that kept African-Americans out of Park Hill. PHAC volunteers worked to welcome black families into the neighborhood, persuaded white homeowners to stay in or move to Park Hill, and monitored racial discrimination in Denver. One of its members played a crucial role in creating stronger fair-housing laws in Colorado. Many observers, including many of the PHAC's own members, believed that the organization's mere existence – the fact that white residents were taking what they saw as a principled stand to promote racial tolerance in their neighborhood – meant that the neighborhood, and the city it represented, were different. Park Hill would not become a slum, and Denver would not become Detroit.

However, the PHAC simultaneously attempted to keep Park Hill a majority-white neighborhood. African-Americans were welcome, as long as there were not too many of them. Preserving a white majority, its members argued, was necessary to protect Park Hill's homes, families, property values, and sense of social stability and cohesion. If these were maintained, then racial tolerance could flourish. The PHAC wanted black families

to live in Park Hill, but its leadership saw them as a problem to be managed, rather than valued, full-fledged members of the community.

Gaps existed between the PHAC's rhetoric and its actions. The organization actively promoted its neighborhood as the ideal place for white families. It used the same fair-housing laws that its members helped create to persuade African-Americans to buy houses elsewhere in Denver or its suburbs. And, in keeping with longstanding neighborhood tradition, the PHAC used zoning to keep Park Hill an area of detached homes occupied by nuclear families. Its members monitored their blocks for violations of the R-0 zoning restrictions, which was the organization's most powerful tool to maintain middle-class homeowner norms in its neighborhood. Yet, homeownership was innately racialized. Decades of institutionalized racism in the mortgage and property markets left African-Americans, even the middle-class blacks of Park Hill, less likely to own homes than whites. Zoning laws thus had racial connotations the PHAC deliberately ignored. Suspicious people and activities -- renters, roommates, extended families and others, many of whom were black -- were reported to the Zoning Administration, often under shaky pretenses, and violators faced losing their homes. These activities made black Park Hill residents, as well as whites like DeLuxe, suspicious of the PHAC, no matter how welcoming its rhetoric of racial inclusion might sound.

Were these activities contradictory? No one in the PHAC thought so. The limited integration it sought, the organization's members believed, was morally right, but potentially costly. The organization's goals were vulnerable to forces the organization could not control: unscrupulous real-estate agents "downgrading" Park Hill property values; panicked whites selling their homes for far below market value; financially

strapped homeowners taking in renters to make extra money, and too many African-American families choosing to make Park Hill their home. Persuasion and zealous enforcement of zoning laws were the best tools the PHAC had to get the Park Hill that it wanted, and only the latter option had the force of law behind it.

By 1970, northern Park Hill was almost entirely black, while southern Park Hill -- the oldest, wealthiest part of the neighborhood -- remained almost exclusively white. The integrated part of the neighborhood was a small area in between the two. Still, the PHAC believed that it succeeded. It protected its neighborhood, through persuasion and direct action. Its members wholeheartedly believed in its version of racial integration, and saw themselves as “the conscience of the city,” the Denverites responsible for smoothing the city's path through the racial tensions of the 1960s.¹²¹ For decades to come, Park Hill residents mythologized their neighborhood's role in improving Denver's racial relations, and resisted any change to the R-0 zoning they believed key to defending Park Hill's neighborhood identity. From 1960 onward, the Park Hill Action Committee and its successor, the Greater Park Hill Community, Inc., were the most vigorous champions of Denver's single-family zoning restrictions.

Panic Selling, Fair Housing and the Park Hill Action Committee

In December 1961, H.E. Shockley, a homeowner at 3085 Glencoe Street in northern Park Hill, put up a sign in his yard that read:

Beware of Unscrupulous Realtors!!!

¹²¹ Charles Cortese, *The Park Hill Experience* (Denver: State of Colorado, 1974), iii.

Don't Make Another Ghetto of Park Hill
Buy Homes in All Areas and Keep Prices Stable¹²²

Three weeks earlier, Shockley's wife received a phone call from a real-estate agent, telling her that a black family planned to move into her block next week. The agent, who refused to give his name, told her that “the house next to yours will be listed tomorrow with a Negro real estate firm...Wouldn't you like to list your house with us – sell out quick, before word gets around and you have to take too great a loss?” Shockley, an African-American woman, knew this was false – her family was one of several black households on the 3000 block of Glencoe. After talking to the caller further, she realized he was also black, trying, in her words, to “exploit[t] our own people to make some easy money.”¹²³

The Shockleys moved to Park Hill in 1959, after looking at 12 houses in other parts of town. Their home, built in 1948, was a small brick ranch house on a spacious corner lot. Living there meant they could easily send their children to the nearby Catholic school, rather than public schools. The Shockleys faced “no discrimination in being shown and offered houses” in northern Park Hill. Phone calls began to flood into the house after H.E. put up the sign. Some black callers criticized the sign, “accusing the Shockleys of selling out their race, accusing them of being tools of the Action Committee, of trying to keep negroes out of Park Hill,” while other African-Americans supported the family's decision. Responses from whites, Mrs. Shockley reported, were uniformly positive.¹²⁴

¹²² “Why The Shockleys Put Up Their Sign,” *Park Hill Reporter*, December 6, 1961, 2.

¹²³ *Ibid.*, 2.

¹²⁴ *Ibid.*

Like the rest of Denver, Park Hill was transformed by World War II. From its southern boundary at East Colfax Avenue to the northern edge of its residential development at East 38th Avenue, Park Hill is essentially three neighborhoods in one. Someone traveling north on one of the neighborhood's major north-south streets, such as Monaco Boulevard, would pass through three architecturally distinct areas, representing different eras in Park Hill's development. The southernmost, and oldest, part of Park Hill is a landscape of Victorian-style homes, large brick mansions, and broad, tree-lined parkways. Beginning in the 1890s, its developers intended it to be a suburban retreat for people of means weary of the congestion of central Denver. North of East 20th Avenue or so, Park Hill becomes a neighborhood of smaller bungalows, built from the 1910s through the 1930s. Improved roads and streetcar lines made travel between the neighborhood and downtown easier, which attracted Denverites looking for homes that combined the comforts of the suburbs with the convenience of the city. During the Great Depression and World War II, few houses were built in Park Hill, or anywhere in Denver. But after the war, Park Hill began to boom again, when thousands of small, inexpensive ranch houses were built north of East 29th Avenue.¹²⁵

Thousands of small, one-story ranch style houses were built in northernmost Park Hill in the late 1940s and early 1950s. Constructed quickly of brick and cinderblock, these houses were sturdy and functional, but lacked the grace and architectural detail of the Victorian or 1920s homes in southern parts of Park Hill. Immature landscaping and a lack of sidewalks made northern Park Hill feel “sterile.”¹²⁶ Despite the visual

¹²⁵ Noel and Hansen, *Park Hill Neighborhood*, 1-8.

¹²⁶ Goodstein, *DIA and Other Scams*, 60.

incongruities between old and new Park Hill, white families desperate for inexpensive housing bought them in droves.

Still, white northern Park Hill homeowners were often temporary residents. Houses built there were clearly starter homes, too small (most were under 1,000 square feet) to house growing families. A bigger problem lay just to the east. Denver Municipal Airport opened there in 1929, an area once on the far fringes of Denver. Postwar economic growth not only brought development right to the edge of the airport, it also increased traffic in and out of Stapleton Airfield, as the airport was renamed in 1944.¹²⁷ Stapleton's location made living in northern Park Hill a noisy affair – the houses north of 26th Avenue lay directly in the flight path of planes approaching the airport's main east-west runway.¹²⁸ Many whites bought houses in north Park Hill because they had few other choices in the housing market of the late 1940s, but badly needed space and quiet, and then, in the late 1950s, an influx of African-Americans, made them prone to leave.

Hundreds of black families like the Shockleys moved into northern Park Hill in the late 1950s and 1960s. African-Americans, who comprised only 3.2 percent of the population north of East 26th Avenue in 1960, were 63.2 percent of the population by 1966.¹²⁹ As detailed in the previous chapter, black Denverites began moving eastward out of the heavily black neighborhoods of Five Points, Curtis Park, and Whittier in the 1950s.¹³⁰ Previously nearly all-white neighborhoods between Whittier and Park Hill –

¹²⁷ Noel and Hansen, *Park Hill Neighborhood*, 20; Goodstein, *DIA and Other Scams*, 61.

¹²⁸ Besides racial integration, one of the major causes the PHAC (and its successor, the GHPC) advocated for was the relocation of Denver's airport, after their attempts to limit jet noise and commercial development near the airport along Quebec Street failed.

¹²⁹ Bardwell, *Park Hill Areas of Denver*, 11.

¹³⁰ Charles Freeman Longino, Jr., "The Park Hill Action Committee: A Study in the Legitimation Process of Community Involvement" (master's thesis, University of Colorado, 1962), 27-28; Goodstein, *DIA*

namely Cole, Clayton Park and Skyland – became nearly all-black in under a decade. African-Americans moved into these neighborhoods seeking better housing and living conditions; white real-estate interests capitalized on their desires to engineer the highly profitable racial transition of this area. Real-estate agents encouraged whites to sell their homes for low prices as black families moved in, using the specter of spiraling property values as an incentive. Sometimes, agents would sell or rent houses to African-Americans in order to get whites to leave in panic. This was extraordinarily profitable: agents made commissions off the sale and resale of formerly white-owned houses, which were then offered for sale or rent to African-Americans at inflated costs.¹³¹ In addition, real-estate interests, particularly the Denver Board of Realtors, colluded to keep African-Americans from buying homes elsewhere in the city, to keep whites from buying houses in Cole, Clayton Park, and Skyland. Investigations by Denver Commission on Community Relations, the city's nascent civil-rights office, revealed consistent patterns of real-estate agents refusing to show blacks houses “outside the prescribed Negro area.” The transition of the neighborhoods around City Park from white to black in the 1950s was not accidental – it was by design.¹³²

These practices – panic selling, blockbusting, racial steering, and resegregation – were the mechanisms of urban “white flight” in the post-World War II era. What happened in Cole, Clayton Park and Skyland happened with depressing regularity in cities across the United States. As the experience of the Shockleys shows, the pattern

and Other Scams, 20-23.

¹³¹ On the profitability of racial transition, see Beryl Satter, *Family Properties: Race, Real Estate, and the Exploitation of Black Urban America* (New York: Metropolitan Books, 2009). On the changing racial dynamics of the Whittier and City Park neighborhoods, see Shawn Snow, *Denver's City Park and Whittier Neighborhoods* (Charleston, SC: Arcadia Publications, 2009), 8.

¹³² Meeting minutes, Housing Council, Denver Coordinating Council, May 5, 1958, 1, box 2, folder 2, Denver Commission on Community Relations Records, Denver Public Library.

seemed to be repeating itself again in northern Park Hill. White residents, motivated by inadequate housing, jet noise, or fears of having black neighbors, were leaving, and African-Americans were replacing them. Neighborhood residents concerned about the stability of Park Hill worried that they were falling victim to the same forces transforming the neighborhoods to the west.

Signs were everywhere. Black newcomers to the neighborhood reported that they experienced less discrimination from real-estate agents than expected when looking at or purchasing area homes. While this could be attributed to the fair-housing law Governor Stephen McNichols signed into law in 1959, or efforts by Commission on Community Relations to monitor real-estate discrimination in city, the suspicious ease with which African-Americans moved into Park Hill raised suspicions that the neighborhood was marked to become Denver's next "ghetto."¹³³ Whites had different experiences. Some who expressed interest in moving to northern Park Hill found that real-estate agents refused to show them houses in the neighborhood. When future PHAC chairman Art Branscome tried to buy a house in Park Hill in 1959, he and his wife, Bea "had trouble getting a loan for this place. The first two or three mortgage brokers we approached said, 'No way. If you were black, we'd give you a loan, but we're not giving loans to whites in that neighborhood anymore.' Finally, we got a loan from a banker who lived in Park Hill."¹³⁴

Other white residents trying to sell their houses – whether from racial panic or other reasons – were told that their property values had plummeted due to northern Park Hill's changing demographics. Robert Thomas, a pastor who tried to sell his

¹³³ Longino, "Park Hill Action Committee," 27.

¹³⁴ Cooper Thompson, "Art Branscombe," in *White Men Challenging Racism: 35 Personal Stories*, eds. Cooper Thompson, Emmett Schaefer, and Harry Brod (Durham, NC: Duke University Press, 2009), 38.

neighborhood house in 1957 after he was transferred to a California church, was unable to find a buyer quickly because his house was appraised for a third less than he originally paid for it. Thomas felt that “such depreciation in five years is to be explained only as the mortgage company's reaction to the fact that the house is next to a Negro home. The real estate people have brought only Negroes to see the property.”¹³⁵

The PHAC was white Park Hill's solution to the problems of panic selling, white flight, and resegregation. Most of its members were white professionals; the energy, drive, organizational ethos, and ambition of the PHAC reflected the class status and education of its members. Promotional material intended to lure white homeowners back to Park Hill lauded the number of engineers, college professors, lawyers, teachers, ministers, and “top executives” that chose to make the neighborhood their home, despite the number of African-Americans moving into the area.¹³⁶ PHAC members included prominent bankers, the curator of the Denver Museum of Natural History, the manager of the Denver Water Board, and Park Hill's representative on city council, Kenneth MacIntosh -- all of them male.¹³⁷ Women played crucial roles in the organization as block workers, public speakers, and organizers, but the public face of the PHAC in the 1960s was invariably male, middle to upper class, and (with the occasional exception) white.

Neighborhood churches helped create the PHAC and, throughout the 1960s, provided much of its financial support. Members of the Montview Boulevard Presbyterian Church, one of the oldest and largest churches in Park Hill, identified a need

¹³⁵ Meeting minutes, Housing Council, Denver Coordination Council, July 24, 1957, 4, box 2, folder 2, Denver Commission on Community Relations Records, Denver Public Library.

¹³⁶ Park Hill Action Committee, *An Established Community with a Proud Future: Park Hill* (Denver: Park Hill Action Committee, 1965?), 5.

¹³⁷ Longino, “Park Hill Action Committee,” 48.

for an organization like the PHAC in 1958, at their church's annual retreat.¹³⁸ Over the next year, church members interviewed “professional people” to determine potential solutions to Park Hill's problems. They met with the Denver Urban League, the Denver Planning Office, the Department of Zoning Administration, and other city agencies and community organizations.¹³⁹ They also engaged their neighbors in numerous conversations about their fears and hopes for the fate of Park Hill.¹⁴⁰ After these interviews, Montview Presbyterian asked ten Park Hill residents “who had shown special interest” in neighborhood improvement to meet in May 1960 and form an organization. Word got out around the neighborhood about this meeting, and many people “crashed” the event: real-estate agents, a dean from nearby Colorado Women's College, and representatives of seven other neighborhood churches.¹⁴¹ Ed Lupberger, a Montview Presbyterian member who would become the first chairman of the PHAC, presented the research his church had gathered in the previous four months.¹⁴²

After this and several other meetings, members of the PHAC drafted its founding statement, a blueprint for fulfilling the organization's goals of simultaneously welcoming African-American homeowners into the area while keeping existing white residents from leaving and attracting new white Denverites to the neighborhood:

¹³⁸ Noel and Hansen, *Park Hill Neighborhood*, 106-8. Nine churches provided early financial support of the PHAC, all located in Park Hill: City Park Baptist, Blessed Sacrament, Montview Boulevard Presbyterian, Park Hill Christian Church, St. Thomas Episcopal Church, Park Hill Congregational Church, Park Hill Methodist Church, Messiah Lutheran, and Cure D'Ars Catholic Church. Each church contributed money to the group, and church members were automatically members of the PHAC. The organization charged higher membership fees for people who did not attend one of the sponsoring churches. Many Jews lived in Park Hill and were involved with the PHAC, but there were no synagogues in the neighborhood to provide financial support for the organization.

¹³⁹ Longino, “Park Hill Action Committee,” 31.

¹⁴⁰ Park Hill Action Committee, “First Statement of Objectives,” August 8, 1960, 1.

¹⁴¹ Longino, “Park Hill Action Committee,” 31-2.

¹⁴² Action Committee Marks First Anniversary: It's Been Quite a Year in Park Hill,” *Park Hill Reporter* 1, no. 4 (May 1961), n.p.; Longino, “Park Hill Action Committee,” 31.

The basic program of the [PHAC] is one of civic action and education for all the residents of Park Hill. We will seek to maintain Park Hill as a desirable and stable community predominantly composed of single family residents, without discrimination as to race, creed, or color...We will encourage white families both to avoid panic selling, if members of a racial minority group move into their neighborhood, and to welcome them as neighbors, as they would any other family. It is not the purpose of our organization to keep Negroes or other minority families out of Park Hill; nor are we promoting their movement into the area. We are merely seeking to apply the laws of God and man to the human relations problems that exist in this community. We will actively support laws and practices intended to make any housing in the city and state available for purchase by any buyer who is able to pay for and maintain his property. We will welcome any such buyer into the Park Hill community.¹⁴³

During the 1960s, the PHAC vigilantly monitored its neighborhood for panic selling, lobbied Denver real-estate interests to end racial discrimination in local property markets, and actively organized to pass tougher fair-housing laws at the state level. It secured major victories in these areas, but there were limits to its racial tolerance. As the above statement suggests, the PHAC was wary of doing anything that might tip the demographic balance in its neighborhood away from a white majority. Once Denver, in the eyes of the PHAC, became an “open” city, the organization openly called for blacks to live elsewhere in the metropolitan area. Now that African-Americans could, technically, live anywhere, they had no reason to live in Park Hill.

No one in the PHAC had heard of the Shockleys before H.E. put up his sign, which, considering the attention the organization paid to white newcomers in its neighborhood, is a surprising lapse. However, Lupberger openly supported the family's actions, defending them against charges that they were acting on behalf of his organization. “No one in the Action Committee even knew them before...However, we of the PHAC definitely approve of what they did...Anyone who wants to see a fine, more

¹⁴³ Cited in Longino, “Park Hill Action Committee,” 83.

stable Park Hill is indebted to the Shockleys.”¹⁴⁴ Using the couple as an example, he laid out guidelines for what other PHAC members should do in a similar situation:

Let the man or woman who is calling you...talk long enough to find out what his angle is and what he wants. Get his name and the real estate firm he represents. Write down, while your memory's fresh, exactly what he said, and why his pitch was offensive to you, or harmful to your neighborhood. Then, if you don't want to make trouble for yourself...call us... We will.¹⁴⁵

The PHAC did “make trouble” for the Denver real-estate industry, as well as for other institutions it held responsible for panic selling and white flight in its neighborhood. Loose lips across the city – telling potential homebuyers that Park Hill was destined to become a slum, that the neighborhood would be “all black in ten years,” that it was no place for white families – were undermining Park Hill's stability. The PHAC felt that it needed to fight back. It lobbied the Denver Board of Realtors, asking it to keep its members from “us[ing] the 'Don't buy in Park Hill' line” when showing homes to white customers.¹⁴⁶ It also targeted the Denver Chamber of Commerce. The Chamber not only had close ties to the city's real-estate industry, but it also had the ear of hundreds of other industries in the city. Rumors suggested that the Chamber was advising its members to tell their employees not to move to Park Hill because of its racial situation. In a letter to Chamber president Cal Snyder, PHAC chairman Lupberger asked, “we request that your

¹⁴⁴ “PHAC Comments: How to Stop Panic-Pushers,” *Park Hill ActionNews* 2, no. 1 (December-January 1961): 1.

¹⁴⁵ Ibid.

¹⁴⁶ Letter, Ed Lupberger to Henry Kilpatrick, September 26, 1960[?], 2, box 1, folder 1, Park Hill Action Committee (Interdenominational) and Greater Park Hill Community, Inc., Records [hereafter PHAC-GPHC Records], M056, Special Collections, Penrose Library, University of Denver.

ask your offices, or fellow Chamber members to stop maligning one of the most beautiful and enduring residential areas in Denver.”¹⁴⁷

The heads of both the Chamber and the Denver Board of Realtors denied the PHAC's charges. Individual real-estate agents and others denigrated and undermined Park Hill on their own, out of malice or misinformation. Snyder expressed admiration for what the PHAC was doing, but claimed that “no member of this staff has ever made such a statement as is attributed to the Chamber by your letter.”¹⁴⁸ The Chamber's reaction to the PHAC's request demonstrates how weak the organization was against those it blamed for Park Hill's problems. No matter how many meetings the PHAC had, or how committed its members were, Park Hill's fate was in the hands of the market, as defined and controlled by the real-estate industry at the local and national levels.

Theories of real-estate economics devised in the 1910s and 1920s held that the presence of minorities in a residential area “naturally” lowered property values.¹⁴⁹ This idea became reality, bit by bit, through the following decades. Many banks refused to give mortgages to African-Americans, Hispanics, and other minorities, or to lend to whites in areas deemed “in racial transition.” These existing practices were codified by the federal government beginning in the 1930s. As the state became more involved in the mortgage industry and in promoting homeownership, it adapted existing real-estate

¹⁴⁷ Letter, Ed Lupberger to Cal Snyder, September 26, 1960, box 2, folder 1, PHAC-GPHC Records, University of Denver.

¹⁴⁸ Letter, Cal Snyder to Ed Lupberger, October 5, 1960, 1, box 1, folder 3, PHAC-GPHC Records, University of Denver.

¹⁴⁹ See Jeffery M. Hornstein, *A Nation of Realtors: A Cultural History of the Twentieth-Century American Middle Class* (Durham, NC: Duke University Press, 2005), ch. 5; Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States* (New York: Oxford University Press, 1985), ch. 11; David McAllister, “Realtors and Racism in Working-Class Philadelphia, 1945-1970,” in *African American Urban History Since World War II*, eds. Kenneth L. Kusmer and Joe W. Trotter (Chicago: University of Chicago Press, 2009), 123-41.

industry practices as its own. Assessors, lenders and real-estate agents then enforced these norms at the local level – valuing property, giving loans and determining who did and did not get to see a particular house for sale by a set of racial prejudices expressed in the language of economics and the market.¹⁵⁰ Anyone willing to exploit the situation could profit greatly, as PHAC members well knew: they saw what happened in Cole, Clayton Park and Skyland, and what was beginning to happen in northern Park Hill. Lobbying Denver's business and real-estate community could only go so far – the organization needed to devise other strategies if it was to succeed. Its members tried blacklisting real-estate agents known to cause problems in the neighborhood, persuading whites seeking to leave Park Hill to stay, and the organization even tried to organize a year-long moratorium on the sale of houses in its neighborhood to stop the problem.¹⁵¹ All were ineffectual – persuasion and neighborliness could only do so much.

Stronger legislation might help. The PHAC's most lasting contribution to racial relations in Denver was the role one of its members played in securing stronger fair-housing laws in Colorado. The state's existing law, passed in 1959, banned racial discrimination in public housing and in some forms of private housing. Colorado was the first state to extend anti-discrimination laws to apartments, new housing construction, and existing vacant houses, but owner-occupied houses were not covered under the 1959 laws.¹⁵² A person who put his or her house on the market could legally refuse to sell it to

¹⁵⁰ David M.P. Freund, “State Intervention and the Politics of Prosperity in Metropolitan America,” in *The New Suburban History*, eds. Kevin Kruse and Thomas J. Sugrue (Chicago: University of Chicago Press, 2006), 11-32.

¹⁵¹ Lupberger to Kilpatrick, 2; PHAC, “This House is not for Sale,” 1964[?], 1, box 2, folder 5 PHAC-GPHC Records, University of Denver.

¹⁵² Morton Gitelman, “Fair Housing in Colorado,” *Denver Law Center Journal* 42 (1965): 14-15. Connecticut was the first state to pass a fair-housing law, but its version only applied to public housing. Stronger laws were available at the municipal level: New York City and Pittsburgh had laws that banned discrimination in private housing by 1959.

a particular buyer. In the early 1960s, civil-rights organizations in the state fought to close this loophole. Colorado chapters of the NAACP, CORE, and other organizations held protests, lobbied politicians, and held sit-ins in Governor John Love's office in order to get the legislature to address the problem. In response, Love appointed a special committee to study weaknesses in the 1959 law. The committee's recommendations addressed the problem, as the Colorado Association of Real Estate Boards ardently reported: individual sellers or landlords could no longer discriminate on the basis of race, real-estate agents would face some sanctions for violating the law, and the state's Anti-Discrimination Commission would have expanded powers to investigate housing discrimination. Penalties for violating the law, however, would be mild.

Freshman House member Gerald Kopel submitted a stronger fair-housing act to the legislature in 1964. Kopel, an attorney, was a Park Hill resident. He and his wife Dolores, also an attorney, moved to the neighborhood in 1960, and soon became active in the PHAC. Kopel's specialty was zoning, and in 1962 and 1963, he led PHAC's efforts to rezone Park Hill R-0.¹⁵³ Kopel's bill sought to apply fair-housing laws to all private sellers or people advertising their homes, or rooms in their homes, for rent.¹⁵⁴ Civil-rights groups and the state Anti-Discrimination Commission favored the Kopel bill over that proposed by the Love Committee.¹⁵⁵ A compromise bill, brokered by State Senator George Brown – an African-American who had investigated racial discrimination in Denver in his previous career as a reporter for the *Denver Post* – passed the state

¹⁵³ “Zoning Committee Starts New R-0,” and “R-0 Finalized,” *Park Hill ActionNews*, April 1963, 4.

¹⁵⁴ “Early Legislative Battle Shaping Up Over Demands for Severe Amendments to Minority Housing Law,” *Colorado Realtor* 9, no. 12 (December 1964): 3; “Governor's Committee Recommends Some Changes to Minority Housing Law,” *The Denver Realtor* 26, no. 30 (November 1964): 1, both box 1, folder 12, Gerald Kopel Papers, WH1097, Denver Public Library.

¹⁵⁵ Gitelman, “Fair Housing in Colorado,” 24-5.

legislature handily. Racial discrimination in selling or renting all private commercial and residential property was now illegal in Colorado, with one exception: people renting out rooms in single-family houses.¹⁵⁶

James Reynolds, the African-American head of the state Anti-Discrimination Commission, lauded the bill: “This law...is a great thing for me. It says, in effect, that the people of Colorado are telling me that I am part of the community. It says that I am somebody in the social system in which I live.”¹⁵⁷ The law improved the lives of blacks across Colorado, but its impact on African-Americans in Park Hill was more ambiguous. Opponents of the Kopel bill, particularly those working in the real-estate industry, frequently used Park Hill as evidence that existing housing laws were adequate. At times, these opponents called the PHAC's bluff, arguing that the group was trying to use the law one of its members promoted in the name of racial progress and harmony, to actually keep blacks out of Park Hill. James Miller, a real-estate agent from Aurora, argued that present laws allowed African-Americans to live anywhere in the metropolitan area they liked, yet “the Negro stays in the upper Park Hill area. How Art Branscombe can blame this on Colorado Real Estate men is beyond me...should people like Branscombe, Kopel, Reynolds, and others keep pushing and pushing to try and convince the Negro to move?”¹⁵⁸

Miller's argument predicted what the PHAC actually did after passage of the 1964 law. Now that African-Americans could live where they like, black families had no reason to move to Park Hill, the organization argued. If they did, any resulting problems

¹⁵⁶ “Love Signs Stronger Housing Law Measure,” *Rocky Mountain News*, April 9, 1965.

¹⁵⁷ Gitelman, 31.

¹⁵⁸ James O. Miller, letter to the editor, *Denver Post*, nd, box 1, folder 19, Kopel Papers, Denver Public Library.

– segregated schools, lowered property values, would be their fault. In 1965, the PHAC published “Facts on Housing for Negroes,” a flyer instructing blacks seeking homes in Park Hill to look elsewhere, to prevent the segregation of neighborhood schools.

Published in conjunction with the Northeast Park Hill Civic Association (NEPHCA), the neighborhood organization representing Park Hill north of East 32nd Avenue, the flyer detailed the provisions of the new fair-housing act, and called on African-Americans to be ambassadors of racial goodwill by moving to any part of Denver or its suburbs that was *not* Park Hill:

NEGROES, for the first time, will be responsible -- not whites. Negroes cannot blame whites for new ghettos, now that a strong Fair Housing Act has made NEGROES FREE TO LIVE WHERE THEY LIKE...Do Negroes want to undercut their hard-won Fair Housing Act? Do they want to give ammunition to bigots who say “Negroes REALLY prefer segregation?”¹⁵⁹

Attracting White Homeowners to Park Hill

The PHAC tolerated black families in Park Hill, as long as there not too many of them. As long as whites remained the majority in the neighborhood, PHAC members felt they had the upper hand against outside forces trying to damage Park Hill. Ideally, the black population of Park Hill would be no higher than the black population of Denver as a whole – around seven to eight percent in the mid-1960s. The flip side of persuading blacks to move elsewhere was actively working to attract white residents. Through

¹⁵⁹ PHAC and NEPHCA, “Facts on Housing for Negroes,” July-August 1965, 1-2, box 1, folder 7, PHAC-GPHC Records, University of Denver.

advertising, PR, and other means, the PHAC actively portrayed its neighborhood as an ideal place for whites to live.

PHAC members genuinely believed the solution to their neighborhood's problems was attracting new white residents, particularly families with children to the neighborhood. Yet, the PHAC frequently conflated race with class – many of the behaviors they wanted to promote were characteristic of being middle-class homeowners rather than being white. The organization's persistence in seeing its neighborhood in racial, rather than class terms, meant that it failed to see that the vast majority of black residents of Park Hill were also middle class. Studies of African-Americans living in Park Hill in the 1960s showed that the vast majority of them were well-educated professionals, with incomes more in line with white Denverites than blacks living elsewhere in the city. Most were newcomers to Denver from cities in the West and Northeast, attracted by federal jobs or other white-collar work, rather than natives escaping the “ghettos” of Five Points and Whittier, or poor Southern blacks fleeing the Jim Crow South.¹⁶⁰ This point was lost on many Denverites, who tended to see black residents as a homogeneous group, defined only by their race. Members of the PHAC knew that African-Americans living in their neighborhood were more affluent than blacks in other Denver neighborhoods. The organization's publications occasionally referred to the middle-class nature of Park Hill's black population, but race, rather than their class, was what really mattered.

The PHAC believed new white residents would help keep property values high, by showing that Park Hill was a desirable destination for young homebuyers. An influx of white children would preemptively stabilize the racial balance in Park Hill schools. White

¹⁶⁰ Cortese, *Park Hill Experience*, 6.

families buying houses in Park Hill in the 1960s could also be educated to avoid behavior the PHAC disapproved of. They would be less likely, it was hoped, to sell their property in a panic if a black family moved next door. If a white homeowner purchased an older home in the neighborhood, they would turn it into a beloved family home, rather than converting it into a boarding house or renting a room to a tenant. White newcomers would keep their houses painted, their cars parked in the garage or driveway, and work at an office elsewhere in Denver. They could also be relied on to contact the PHAC, PHIA, or the city if one of their neighbors, regardless of race, behaved in ways that seemed to threaten neighborhood stability.

White families needed to be persuaded to move to Park Hill, particularly when other desirable neighborhoods in Denver and the suburbs were not dealing with the issue of racial integration. Black families had much more limited options. In order to get the former, Park Hill had to be sold as the ideal place for middle-class white professionals to raise families and find like-minded friends, in an older, established neighborhood devoid of the sterility of the suburbs. From 1960 onward, its members actively argued that white families would flock to Park Hill once they realized how unappealing suburban life could be. “More and more suburban dwellers,” one member wrote in the organization's newsletter, “disenchanted with long treks to and from work, cramped houses and monotony of housing and neighbors, are starting to look for top-flight residences in town.”¹⁶¹

White residents who selected homes in Park Hill over the suburbs were prominently featured in PHAC literature, such as Lyman and Audrey Blackwell, “disaffected suburbanites” who threw themselves into PHAC-organized community work

¹⁶¹ “The Park Hill Balance Sheet,” *Park Hill ActionNews* 1, no. 2 (December 1960), 3.

after moving to the neighborhood.¹⁶² Eunice Laurien's return to Park Hill after an eight-month absence was the front-page news in the *Park Hill Reporter*, a newspaper edited by PHAC member Bea Branscombe. Laurien moved to the Holly Hills subdivision in southeast Denver in 1960, seeking space for Torchy, Chips and Benjy, her three cocker spaniels. Yet, Holly Hills was inconvenient, and taxes there high. When her former Park Hill home at 3004 Forest went on the market, Laurien purchased it, even though she paid “a great deal more” for the house than she had sold it for eight months earlier – solid proof to PHAC members that home values were rising, despite any nay saying.¹⁶³

Many Park Hill testimonials addressed the needs of women, who might find suburban life particularly frustrating. Liz Schoberlein, whose family moved to Park Hill in 1959, wrote about her experiences living in Arvada, far from the city center: “Probably the biggest problem was that of transportation. Since we were a one-car family, we had to choose between my husband taking the car downtown to work and I remaining without it, or he taking the bus and I being free to shop, run errands, take the children to the doctor, etc. The first alternative was not feasible...It amounted to a state of virtual isolation.”¹⁶⁴ Black homeowners who moved into Park Hill, though, were not given the same attention – throughout the 1960s, PHAC literature tended to refer to black newcomers in the aggregate, rather than individuals. African-Americans, even the middle-class ones, were seen mainly as anonymous examples of uncontrollable change, rather than as individuals with stories worth telling on their own.

¹⁶² “Block Workers of the Month,” *Park Hill ActionNews* 1, no. 2 (December 1960), 4.

¹⁶³ “‘Park Hill Property Values Up,’ Returned Ex-Suburbanite Testifies,” *Park Hill Reporter* 1, no. 3 (April 1961), 3.

¹⁶⁴ Liz Schoberlein, “True Confessions of a Reformed Suburbanite,” *Park Hill Reporter* 1, no. 3 (April 1961), 4.

The PHAC also used advertising and PR to catch the attention of white homebuyers. It ran advertisements in the Sunday *Denver Post* for six months in 1961, touting the benefits of life in their neighborhood and listing available homes for sale.¹⁶⁵ Afterwards, members involved in the real-estate industry reported that the ads “resulted in the greatest demand for Park Hill homes that cooperating Realtors have seen here in years.”¹⁶⁶ Five years later, responding to reports that more blacks were moving into Park Hill than whites, the PHAC redoubled its efforts to attract white homebuyers. In a promotional brochure it sent to local media and real-estate agents, it touted local amenities, the sterling qualities of neighborhood residents and promoted the psychological benefits of living in the area: “In Park Hill, you can be pardoned for feeling quietly pleased about yourself...just a bit smug.”¹⁶⁷

Creating and Enforcing R-0 Zoning in Park Hill

In the eyes of the PHAC's leadership, Park Hill in 1960 was turning from pleasant, quiet residential neighborhood into an “appalling” mess of “too many subrosa multi-family dwellings in a legally single-family-residence zone,” and “fraternity houses, apartments, and all sorts of businesses being operated out of homes.”¹⁶⁸ Culprits were everywhere: zoning officers uninterested in investigating complaints, city officials too willing to give variances to zoning violators, property owners seeking to make a quick buck by renting out rooms or turning large older homes into apartment buildings, real-

¹⁶⁵ Longino, “Park Hill Action Committee,” 48.

¹⁶⁶ “It's Been Quite a Year in Park Hill,” 3.

¹⁶⁷ PHAC, *An Established Community With a Proud Future: Park Hill* (Denver: Park Hill Action Committee, 1966), 2.

¹⁶⁸ “The Park Hill Balance Sheet,” 2; “Park Hill Zoning Violations 'Appalling,’” *Park Hill ActionNews* 1, no. 2 (December 1960), 1.

estate agents persuading people to buy Park Hill houses for income property, and homeowners placing their own interests above those of the neighborhood as a whole.

Whatever the causes or effects, they added up to potential danger. As Norman Kasich, the first chairman of the PHAC's zoning committee, explained:

Professional people in city planning [and] urban renewal have warned Action Committee officials that a breakdown or downgrading of zoning causes an area to deteriorate [sic] more swiftly than any other factor. This fact has been proven in other residential areas right here in Denver. Therefore, one of PHAC's top priority responsibilities in maintaining a fine residential community is maintenance of our...zoning and policing of violations.¹⁶⁹

Attracting middle-class whites to Park Hill required more than flattery and persuasion. Homebuyers wanted reassurance that their investment would be worthwhile, that Park Hill would not turn into a slum as its racial demographics changed. Fair-housing laws and advertising could only go so far; something stronger was needed to shepherd Park Hill during the fraught years of the 1960s. Zoning was the backbone of all of the PHAC's activities. Tolerating black families, persuading white families to stay in or move to Park Hill, working to make Denver an “open” city – all of these needed the stability stronger, vigorously enforced zoning provided in order to succeed. Rezoning would show the real-estate industry and potential residents that the PHAC was serious: Park Hill would not be undermined. It would signal to homeowners, both black and white, that the organization only welcomed those willing to maintain their property and keep the neighborhood's high community standards. But zoning also had a problematic

¹⁶⁹ “Park Hill Zoning Violations 'Appalling,’” 1.

history: its created ties between Park Hill in the 1960s and its troubled racial past, a legacy that helps explain the PHAC's often-confusing behavior towards Park Hill blacks.

Park Hill residents had long cultivated an air of social, economic, and particularly racial, exclusion in their neighborhood. Blacks had always lived in Park Hill, albeit in small numbers, but racially restrictive covenants and attempts by Park Hill residents to make racial segregation legal in Denver marked the area as “whites only,” both in image and practice.¹⁷⁰ Park Hill residents were also quite enthusiastic about zoning, particularly when it could be used to keep unwanted land uses and the people associated with them out of their neighborhood. The Park Hill Improvement Association drove many of the attempts to keep Park Hill exclusive by keeping it white.

Founded in 1911, the PHIA was the dominant voice for Park Hill's interests until the PHAC was formed in 1960, and remained somewhat active in community politics until at least the late 1980s.¹⁷¹ PHIA members believed that Park Hill should remain a residential neighborhood full of detached homes. When the City and County of Denver adopted comprehensive land-use zoning in the early 1920s, the PHIA and other neighborhood organizations supported it, believing zoning would protect residential areas from the encroachment of industrial zones and business districts.¹⁷² While residential zoning limited what individual homeowners could do with their property, it promised in

¹⁷⁰ Noel and Hansen, *Park Hill Neighborhood*, 15-16.

¹⁷¹ Linda Cayton, “Public Testimony Forces Change in R-0 Language,” *Greater Park Hill News*, February 16- March 15, 1989, 1.

¹⁷² Robert Steele, Charles Kibler, and J.T. Elliott, “Important to Every Property Owner on Park Hill,” *The Guidon* 7, no. 10 (October 1911), 215; Noel and Hansen, *Park Hill Neighborhood*, 62; “Why We Have 3 Civic Groups,” 2; “Zone Plan Assailed at Council Meeting,” *Rocky Mountain News*, January 6, 1925. However, the PHIA and other neighborhood organizations criticized the city for failing to get enough input from neighborhood interests in constructing its zoning code.

return to keep neighborhood property values high, and local land uses relatively stable, something the PHIA considered key to Park Hill's community cohesiveness and identity.

Zoning could also bolster the PHIA's attempts to keep “outsiders” out of its neighborhood. The line between “unwanted land use” and “unwanted people” in American zoning law and practice was always thin, but often glaringly absent in Park Hill. Protests against commercial developments and apartment buildings were rooted in social control. Businesses, even useful ones like grocers or drug stores, could bring transient visitors into the neighborhood, who might loiter, litter, or clog up the streets with their automobiles. Apartments attracted transient residents – people who, although they might consider Park Hill their home, did not have the financial or social investment in neighborhood stability that a homeowner presumably would. In 1926, Park Hill was zoned “Residence A,” a classification that prohibited both commercial development and the construction of multifamily housing in the area.

Yet, zoning could not technically help the PHIA keep Park Hill white. It was illegal in Colorado to create zoning restrictions based on race.¹⁷³ The best the PHIA could hope for was racial zoning by proxy – finding something to stand in for race in neighborhood zoning issues. Although the organization's opposition to commercial development and apartment buildings was never explicitly about race, the organization's enthusiastic lobbying for racial segregation in schools and neighborhoods made it clear that the “outsider” the PHIA sought to keep out was an African-American one. In 1920, the PHIA along with the Denver Public Schools Parent-Teacher Association openly

¹⁷³ “Denver Branch N.A.A.C.P. Opens 1923 Membership Drive with Large Meeting,” *The Colorado Statesman*, April 14, 1923.

advocated for the formal segregation of the Denver schools.¹⁷⁴ Three years later, after ten black students at East High School protested social segregation by attending a whites-only graduation dance, members of the PHIA advocated for an amendment to the state constitution that would repeal existing civil-rights protections in Colorado.¹⁷⁵ It banded together with other Denver neighborhood organizations to amend the Colorado constitution to permit residential segregation, a move similar to a 1916 attempt by the city's real-estate industry to amend the Denver city charter to allow residential segregation.¹⁷⁶ All of these efforts failed, although Park Hill remained largely white until the late 1950s. Blacks lived in small numbers in the neighborhood, mostly as domestic workers living in the homes of their white employers.¹⁷⁷ Yet, this was enough to make Park Hill residents continually wary of a black “invasion.”¹⁷⁸

Were Park Hill residents using R-0 zoning as a proxy for race in the 1960s, in concordance with neighborhood tradition? When PHAC members complained to the city about a suspicious family living next door, or a neighbor's home business or suspected illegal basement apartments, what, precisely, were they complaining about? Were complaints grounded in objectionable activities, or were they about objectionable people? The PHAC interpreted its vision of Park Hill homeownership as racially neutral, available to anyone willing to maintain their property to community standards, but the norms inscribed in single-family zoning were essentially white, middle-class ones.

Park Hill, in the PHAC imagination, was a neighborhood full of detached single-family homes, occupied by the nuclear families that owned them. A handful of stores,

¹⁷⁴ Goldberg, *Hooded Empire*, 25-26.

¹⁷⁵ Noel and Hansen, *Park Hill Neighborhood*, 16.

¹⁷⁶ Goldberg, *Hooded Empire*, 26; Goodstein, *In the Shadow of the Klan*, 61.

¹⁷⁷ Noel and Hansen, *Park Hill Neighborhood*, 20.

¹⁷⁸ Warren Davis, “Residents of Park Hill Warning: Great Danger Ahead,” (np, 1932?), 1.

churches, schools and other buildings were interwoven among the homes of Park Hill residents, but any land uses other than these were evidence to PHAC members that their neighborhood was deteriorating, becoming just several steps away from being a slum. Some of the PHAC's objections to multi-family housing, home businesses, and roomers living in single-family homes and other variants from the single-family norm were based in middle-class standards of respectability, but the organization was also reacting to actual problems.

During the late 1950s and early 1960s, land uses in northern Park Hill seemed to be in as much flux as its racial demographics. The real-estate industry and speculators hoping to profit off of the neighborhood's racial transition were responsible. Real-estate agents told potential home buyers that they could profit off of their investment by converting single-family homes into boarding houses; others sent literature to existing property owners "inviting Park Hill residents to take in lodgers."¹⁷⁹ Encouraging the spread of multifamily or rental housing was as much a part of "downgrading" a stable white residential neighborhood as panic selling and blockbusting; like the latter phenomena, it was highly profitable. Converting a house into apartments, or renting out a room in a single-family home, meant that the owner collected rents in addition to any potential rise in property values. However, in a real-estate market where property values were dependent on the racial, social, and economic stability of a neighborhood, the introduction of multifamily or rental housing into a residential neighborhood threatened to lower the values of surrounding homes. The PHAC monitored their neighborhood for

¹⁷⁹ Lupberger to Kilpatrick, 2; meeting minutes, PHAC, April 27, 1964, box 2, folder 5, PHAC-GPHC Records, University of Denver.

renters, roomers and tenants because they were the symptoms of the economic undermining of their neighborhood.

The PHAC's campaign to keep these uses, the people associated with them, out of their neighborhood rarely touched on race. However, homeownership and norms of proper property use were innately racialized in 1960s America.¹⁸⁰ Unequal access to mortgage loans and credit made homeownership much more expensive for African-Americans than whites. Black families often had to make their property economically productive in order to afford adequate housing: taking in tenants, sharing their houses with friends or extended family members to lessen expenses, running small businesses out of their homes. But PHAC members interpreted these arrangements as an assault on Park Hill's reputation by the real-estate industry, rather than an effect of the systemic economic discrimination African-Americans in Denver faced, particularly in mortgage lending.¹⁸¹

When the PHAC was founded in 1960, Park Hill was zoned R-1. Many of the problems the organization's members interpreted as dangers to the neighborhood were either nonexistent or technically legal. Apartment buildings existed in Park Hill in small numbers, along commercial corridors such as East Colfax Avenue or Colorado Boulevard, or clustered around small-scale neighborhood business districts such as the one at East 23rd Avenue and Dexter Street. While neighbors could complain about any noise and congestion caused by occupants of these buildings, their presence in Park Hill was legal. Apartment buildings were either located in the few parts of Park Hill zoned for

¹⁸⁰ Wiese, *Places of their Own*, ch. 3.

¹⁸¹ Lupberger to Kilpatrick, 1.

multifamily residences or were “nonconforming uses” grandfathered in single-family zoning districts. The best the PHAC could do was prevent the construction of more apartment buildings. “Fraternity houses,” most likely, did not exist in Park Hill. The only nearby college was Colorado Women's College, built in 1909 on X acres at the intersection of Montview Boulevard and Quebec Street – a residential college that admitted only women.

The subjects of other PHAC complaints – roomers, tenants, and home businesses – were also technically legal. The R-1 zoning classification was more lenient than the R-0 – it allowed people living in single-family houses to rent out rooms to unrelated people, as long as they limited the number of tenants to two, and did not construct a separate kitchen or apartment in their house for the tenants to use.¹⁸² In addition, the person renting rooms had to gain approval (in the form of a certificate of tenancy) from the Zoning Administration. People were also allowed to run small-scale home businesses out of Park Hill's single-family homes, as long as they did not have employees, did not run the business out of their garage, or use more than twenty percent of the floor space in their home for their business.¹⁸³

The problem, as far as PHAC members were concerned, was that it was difficult to tell a legal roomer or home business from an illegal one. How was a neighbor to know whether or not the person living with the family next door lived in their own room or in a makeshift apartment in the basement? Was a woman sewing dresses in her living room just a talented hobbyist or a seamstress for hire? Were people visiting a home friends,

¹⁸² City and County of Denver, *Progressive Zoning*, 8.

¹⁸³ *Ibid.*, 15.

relatives, or clients? R-1 zoning blurred the boundaries between single-family and multi-family housing, residential and commercial zones, and personal and business relationships too much for an organization whose members were obsessed with preserving the stability of their homes, families and neighborhood.

Existing problems with regulating illegal tenants and businesses compounded the PHAC's concerns. As discussed in the previous chapter, the City and County of Denver suspended all zoning enforcement during World War II and the years immediately following the war to alleviate the city's housing shortage. The city encouraged homeowners to build apartments in their homes to house war workers or returning veterans and their families. Thousands of apartments were constructed in single-family neighborhoods in Denver – some with the proper permits, many others without -- and many homeowners came to depend on the income generated by their tenants. Mayor Quigg Newton and his administration wanted to end this practice, and tried to use the comprehensive rezoning of Denver in 1956 to restore the single-family order in many of the city's residential neighborhoods. New, stronger prohibitions resulted: unrelated people were forbidden from living in single-family homes in R-0 districts, and landlords in R-1 districts were required to be licensed before renting out rooms.

Creating a rule was one thing, enforcing it another. Throughout the late 1950s, the Zoning Administration and the Board of Adjustment-Zoning had their hands full, investigating complaints about illegal tenants living in otherwise unremarkable single-family homes. Hundreds of homeowners appeared in front of the zoning board, which ruled on the fate of their tenants and rental income. The board frequently gave property owners zoning variances, which allowed tenants to stay for a specified amount of time,

usually three to five years. Property owners demonstrating financial need were the most likely to get a zoning variance.¹⁸⁴ While the zoning board's decisions in variance cases pleased both landlords and tenants, they made neighbors – the source of most zoning complaints about illegal basement apartments – unhappy. They also demonstrated to neighborhood organizations like the PHAC that the city was less willing than it claimed to enforce its own zoning laws. If the PHAC was going to use zoning to stabilize Park Hill, it would have to do most of the work itself, rather than rely on the city.

PHAC members first discussed the difficulties of rezoning their neighborhood R-0 in July 1960.¹⁸⁵ It would be time-consuming – only areas larger than 8 acres could be rezoned by the city at any given time, and petitioners had to get the approval of more than half of the property owners in the area to file for a zoning change. Filing petitions with the city was expensive, and representatives of the PHAC would have to attend numerous city council meetings to ensure that their wishes became law.¹⁸⁶ The PHAC succeeded in obtaining R-0 zoning between 1961 and 1963 for Park Hill south of East 32nd Avenue due to the work and dedication of its members.¹⁸⁷ PHAC block workers went door to door to collect signatures from property owners. Members donated money to cover required filing fees. Retired or unemployed members of the organization volunteered to go to council meetings or put together zoning petitions; lawyers sympathetic to the PHAC's goals reviewed paperwork before it went to the city.¹⁸⁸ Persuasion drove much

¹⁸⁴ See meeting minutes of the Denver Board of Adjustment-Zoning, box 1, folders 11-12, Nicholson Papers, Denver Public Library.

¹⁸⁵ Meeting minutes, PHAC, July 12, 1960, box 2, folder 1, PHAC-GPHC Records, University of Denver.

¹⁸⁶ Meeting minutes, PHAC, May 4, 1961, box 2, folder 2, PHAC-GPHC Records, University of Denver.

¹⁸⁷ The rezoning of Park Hill was done piecemeal, starting at the southwestern corner of the neighborhood and then progressing north.

¹⁸⁸ Meeting minutes, PHAC, December 1, 1960, November 26, 1962, and February 25, 1963, box 2, folders 1-3, PHAC-GPHC Records, University of Denver; “Just What Does the Action Committee Do?”

of this enthusiasm. PHAC leaders rarely failed to remind members of what could happen if they failed to protect their neighborhood: “an illegal apartment or an extra family in a one-family house is as dangerous as any bomb.”¹⁸⁹

Zoning created an odd alliance between the PHAC and its predecessor, the PHIA. The older organization's long promotion of strict zoning in Park Hill gave it expertise that the PHAC needed to successfully rezone their neighborhood R-0. While the PHAC initiated the rezoning process, it is obvious that the PHIA played an important, but hard to define, role in making Park Hill an R-0 neighborhood.¹⁹⁰ While the two organizations disagreed on many issues, particularly the value of fair-housing laws and tolerating the presence of black families in Park Hill, keeping their neighborhood a single-family neighborhood was something they could agree on.

The same enthusiasm and organizational structure propelling the rezoning of Park Hill also helped PHAC members monitor their neighborhood for zoning violations. Each block of the neighborhood was assigned several block workers, almost all of them women, whose duties involved serving “coffee [to] their neighbors, talking over block problems, making newcomers welcome, discussing the program of the Action Committee, and what block residents can suggest for it.”¹⁹¹ PHAC block workers gained a familiarity with their immediate surroundings that made them sensitive to any behavior or people out of the norm. Some “count[ed] families” as part of their official duties.¹⁹²

Park Hill ActionNews 1, no. 10 (September-October 1961): 1; “Zoning Committee Starts New R-0” and “R-0 Finalized,” *Park Hill ActionNews*, 3, no. 4 (April 1963), 1.

¹⁸⁹ “Just What Does the Action Committee Do?” 1.

¹⁹⁰ Bea Branscombe, “How to Stop Zoning Violations,” *Park Hill Reporter*, August 23, 1961, 4; “Improvement Assn. Aims Explained,” *Park Hill Reporter*, April 1961, 3.

¹⁹¹ “Blockworkers Listed for 2 PHAC Units,” *Park Hill Reporter*, August 23, 1961, 5.

¹⁹² “Blockworkers of the Month,” 4.

Others just carefully watched, noting “equipment...carried to and from the house to trucks parked in front of the house” at 2865 Holly (a possible sign of an illegal home business), or “a red car with Massachusetts license plates...there for about a year” (denoting a potential illegal tenant) at 1617 Niagara Street, or that “four telephones have been installed” at 1965 Holly Street (probable evidence of roomers or tenants).¹⁹³

These details laid the ground for the formal complaints the PHAC filed with the city. If the residents of the property in question were found to be violation of the R-0 zoning classification (which was rare), they would be ordered to either cease the behavior in question or vacate the property, even if they owned the house they were living in.¹⁹⁴ Many of those reported claimed to be unaware of the restrictions placed on their homes by the R-0 zoning, and many did not know who had turned them in to the city. In one instance, three men threatened with eviction by the Zoning Administration asked PHAC to intercede on their behalf, unaware that the organization had initiated the complaint against them.¹⁹⁵ At one point in 1966, PHAC zoning complaints made up almost 90 percent of the reports made to the Zoning Administration. However, only two of these complaints were found to be valid. Zoning Administrator Jansen characterized much of PHAC's complaints as “petty feuds.”¹⁹⁶

¹⁹³ Letter, Robert Hickman to Currigan, September 16, 1965; letter, Hickman to Currigan, September 27, 1965, 1, box 18, folder 8; letter, Hickman to Currigan, October 26, 1965, 1, box 18, folder 10, all Currigan Papers, Denver Public Library.

¹⁹⁴ This correspondence is found in box 18, folders 8, 10 and 11 in Currigan Papers, Denver Public Library.

¹⁹⁵ Meeting minutes, PHAC Board of Directors, February 1, 1967, 1, box 2, folder 8, PHAC-GPHC Records, University of Denver.

¹⁹⁶ Letter, Currigan to Branscome, March 16, 1966, 1, and letter, Jansen to Kelly, January 28, 1966, 1, both box 18, folder 10, Currigan Papers, Denver Public Library.

Many of the people targeted in PHAC zoning complaints were black or Hispanic, a product of the racialized expectations of R-0 norms.¹⁹⁷ One case involved Pablo Cornejo, his wife and their eight children. In February 1966, PHAC filed complaints against the family, claiming that two couples and six children lived in their house at 2025 Oneida Street. Zoning inspectors visited the house twice, to be told both times that three of the children were those of Mr. and Mrs. Cornejo, while five of them, who had the surname Lucero, were the product of the wife's previous marriage. This mix of surnames was the trigger for the PHAC complaint, despite the fact that everyone in the home was legally related. PHAC continued to press the case, arguing that such a large family did not belong in their neighborhood.¹⁹⁸ Another Park Hill resident, writing to the mayor after a PHAC-instigated zoning inspection, argued, "I am a Negro, native Denverite, and a taxpayer. And do not feel that my rights should be abrogated in favor of the PHAC, just because they are superior in numbers and in numbers only."¹⁹⁹

Jansen knew that his inspectors visited minority residents in Park Hill more than white ones, and considered the PHAC's repeated complaints about particular houses harassment. A sharp critic of the PHAC, he was impatient with the organization's use of his department to monitor its neighborhood. In reply, the organization tried, and failed, to lobby the Denver City Council to remove him from office.²⁰⁰ Mayor Currigan, generally a supporter of the PHAC, rebuked chairman Art Branscombe for harassing neighborhood

¹⁹⁷ Letter, Branscombe to Currigan, March 10, 1966, 1, box 18, folder 10, Currigan Papers, Denver Public Library.

¹⁹⁸ Letter, Jansen to Robert Hickman, February 28, 1966, 1, and letter, Hickman to Jansen, March 6, 1966, 1, both box 18, folder 10, Currigan Papers, Denver Public Library.

¹⁹⁹ Letter, John H. Gaskin to Currigan, March 2, 1966, 1, box 18, folder 10, Currigan Papers, Denver Public Library.

²⁰⁰ Letter, Branscombe to Currigan, March 10, 1966, 1, box 18, folder 10, Currigan Papers, Denver Public Library.

residents and abusing the resources of the Zoning Administration. In reply, Branscome delivered the organization's only statement linking zoning enforcement with the racial dynamics of their neighborhood: “[W]e get the impression that at times [Jansen] is wary of pressing some of these cases because they involved Negroes or Spanish-surnamed people. That is not a factor with us; it should not be with him...our Negro members are as insistent as any whites that we keep up community standards, including zoning.”²⁰¹

Park Hill: An Integrated Neighborhood?

By 1970, Park Hill was more than 50 percent African-American. Black residents of the neighborhood, particularly those living north of East 32nd Avenue, out of the section of the neighborhood zoned R-0, were often suspicious of the organization's actions. Given the PHAC's activities in the 1960s – asking black homebuyers to purchase homes elsewhere in Denver, zealous zoning enforcement, and promoting white homeownership in the neighborhood – it is hard to see how African-American residents would feel otherwise. Leaders of the organization realized this, however tentatively. In 1967, the organization officially decided to stop discouraging blacks from moving into Park Hill: “While our intentions were in the best interests of all concerned, it has made enemies where we should have made friends. It has not worked and consensus was that it's time to de-emphasize the 'numbers' game to try for a better neighborhood.”²⁰²

²⁰¹ Branscombe to Currihan, 1-2.

²⁰² Meeting minutes, PHAC, August 7, 1967, 1, box 2, folder 8, PHAC-GPHC Records, University of Denver.

The racially progressive PHAC damaged Park Hill racial relations, but many its actions over the 1960s meant that predictions made by outsiders about the fate of Park Hill did not come true. Park Hill did not become a slum, its property values did not fall, and, while the total percentage of its white population declined, the neighborhood was still attractive to middle-class white residents. But no neighborhood in the 1970s was as racially divided as Park Hill. Southern Park Hill remained nearly all-white; the northern section was all-black. The “integrated” part of the neighborhood was a small area between the two.

A multi-racial neighborhood needed a multi-racial neighborhood organization. The PHAC ceased to exist in 1969, about the same year that Park Hill’s black population reached 53 percent. In an agreement that took four years to broker, it merged with the now black-led NEPHCA to create the Greater Park Hill Community, Inc [GPHC]. The GPHC continued to monitor Park Hill for infractions of the R-0 zoning, but the GPHC faced far more serious problems in the early 1970s than whatever real or theoretical threats renters or home businesses posed to Park Hill: school desegregation, crime, and other issues. Nevertheless, its members became deeply involved in the strongest legal challenge to Denver's R-0 zoning to date.



Figure 3. A single-family home on the 1500 block of Kearney Street in southernmost Park Hill. (Photo by author)



Figure 4. Streetscape of single-family homes built in the 1920s and 1930s, located on the 2000 block of Kearney Street in Park Hill. These houses are located five blocks north of the house in Figure 3. (Photo by author)



Figure 5. Streetscape of single-family homes built in the 1930s and 1940s on the 2500 block of Kearney Street in northern Park Hill. These houses are located five blocks north of the houses in Figure 4. (Photo by author)



Figure 6. Streetscape of post-World War II single-family homes on the 3500 block of Glencoe Street in northeastern Park Hill. These houses are located ten blocks north of the houses in Figure 5. (Photo by author)

Chapter 4: “A Family in the Truest Sense of the Term”: Communes, Race and the Fourteenth Amendment in 1970s Park Hill

The seven white occupants of 4131 East 26th Avenue, a large Victorian-era house in the northern part of Park Hill, called themselves a family. Their family consisted of two married couples and three single adults – Myles and Joy Rademan, Julian and Monica Beaver, Richard Rogow, Pamela Mann, and Norah Schwartz. The seven loved each other. They shared chores, shared food, and shared important life experiences. As Mann, at 19 the youngest member of the family, argued, “We love each other just as strongly as members of a traditional family, but in a different way.” The oldest member of the family, 28-year-old Julian Beaver, said “A family implies commitment to one another. We've got that. We're a family in the truest sense of the term.”²⁰³

Unfortunately for the family, no one else – including neighbors, Park Hill's neighborhood organization, the City and County of Denver, and the Colorado Supreme Court – agreed with them. Love didn't make a family in Park Hill: zoning laws did. The neighborhood's R-0 zoning prohibited unrelated people from living together in the same house. Either the Rademans or the Beavers could live together in the house, or one of the unmarried residents– Rogow, Mann, or Schwartz -- could live there alone in their 2,200-square-foot, detached single-family home.²⁰⁴ The city's zoning administration ordered them to leave their home in the summer of 1972. The seven appealed, but Denver's Board of Zoning Administration rejected their appeal.

²⁰³ Jack R. Olsen, “Family' Fights Zoning Barrier,” *Denver Post*, December 27, 1972.

²⁰⁴ Property details from City and County of Denver, “Denver Property Assessment and Taxation System Report for 4131 E. 26th Avenue,” <<http://www.denvergov.org/Property/realproperty/chainoftitle/160567272>> (accessed September 17, 2013)

By 1972, this story sounded familiar. Many Denverites over the previous decade and a half were forced out of their homes because their households violated city zoning laws. But this family fought back. Myles Rademan, a lawyer and an urban planner working for the City and County of Denver, filed a lawsuit against the city, arguing that R-0 zoning was unconstitutional. The city's zoning laws violated the equal-protection clause of the Fourteenth Amendment, he argued, by giving families certain rights denied to non-families, namely the right to live anywhere in the city they wanted. He also argued that the city, by legally defining what a “family” was, violated the privacy of its residents by keeping them from living with anyone they chose.²⁰⁵ The Denver District Court disagreed with these arguments, and upheld the zoning board's decision. Rademan and his lawyer, Robert Booms, appealed the case to the Colorado Supreme Court, which, in September 1974, ruled that Denver's single-family zoning laws did not violate the Fourteenth Amendment.

People disputing R-0 zoning in the 1950s and 1960s didn't question Denver's right to define a “family.” Homeowners renting out basement apartments to tenants or people living together as roommates used economic arguments to defend their living arrangements. Sharing a house with friends was cheaper than living alone, and having a tenant made it easier to pay the mortgage. This was beginning to change. Many Americans spent the 1960s questioning and challenging racism, corporate power, militarism, and other structures and beliefs underlying postwar society. One of these structures was the nuclear family. Many believed such families – households consisting

²⁰⁵ Olsen, “‘Family’ Fights Zoning Barrier.”

of married heterosexual parents and their children, where the husband worked and the wife frequently did not – helped stabilize society at a time of rapid change.

But others began to offer pointed critiques and create alternatives to the nuclear-family norm. Second-wave feminists argued the family was a patriarchal institution, which suppressed women's talents and interests to benefit men. Young people, looking at the often-unsatisfying marriages of their parents, sought to create relationships for themselves that they believed would be more emotionally and physically satisfying, without the need for legal marriage. Overall, critiques of the family centered on its staid, oppressive nature – you couldn't be a creative, liberated, fulfilled person if you limited yourself to the confines of the nuclear family.²⁰⁶ Rademan's argument that he, his wife, and his friends had a constitutional right to define their own family is a product of these cultural debates.

Not everyone living in what Denver defined as a non-family household in the early 1970s was doing so intentionally, or even willingly, of course. But during the first few years of the decade, communal families – groups of young people consciously choosing to live together as a form of cultural protest and creativity – began popping up in older neighborhoods in east-central Denver like Capitol Hill and Whittier. These neighborhoods were full of large, older houses that could be bought or rented relatively cheaply – architectural blank slates perfect for rethinking community and family. Although the neighbors of these communes could, and often did, complain to the city

²⁰⁶ The literature on postwar American families is large, but there are fewer works detailing the shift in how Americans thought about families in the 1960s and 1970s. See Natasha Zaretsky, *No Direction Home: The American Family and the Fear of National Decline, 1968-1980* (Chapel Hill: University of North Carolina Press, 2007), and Robert O. Self, *All in the Family: The Realignment of American Democracy Since the 1960s* (New York: Macmillian, 2012).

about the suspicious “families” living down the street, these parts of Denver were zoned R-2, R-3, or R-4 – all zoning classifications allowing unrelated people to live together. The city could not do anything about these households based on the zoning code.

But the Rademan household moved to Park Hill, a neighborhood well-known for its single-family zoning laws. In the 1960s, the neighborhood promoted itself as an integrated utopia – a place where black and white homeowners worked together to improve racial relations in their homes, schools, and city as a whole. By 1972, that dream was still alive, but problems larger than any one neighborhood organization could solve loomed over Park Hill. Why the seven moved to Park Hill is unclear. Perhaps they believed a racially tolerant neighborhood would also welcome a non-traditional family. But they moved there at a time when Park Hill residents feared fracture and craved stability.

Increasing violence and crime in the neighborhood, especially along and north of East 32nd Avenue, worried existing residents and drove potential new residents away from the area. An even larger threat was the court-ordered desegregation of the Denver Public Schools, a problem that began when the city school board began deliberately segregating white and black students in Park Hill's schools. White parents who bought houses in the neighborhood thinking their children would attend a particular school now had no such guarantee, and the ruling began to drive white families away not only from Park Hill, but from Denver altogether. On top of that, Park Hill residents in the early 1970s began to deal with the reality that their neighborhood had never become as integrated as they had hoped. The Greater Park Hill Community, Inc. [GPHC] – Park Hill's main neighborhood organization, created in 1969 when two other organizations

merged – tried to shepherd Park Hill through these problems, but also kept an eye on other issues that might further destabilize their community.

Although the *Rademan* case was argued on the defendant's side by Denver City Attorney Robert Kelly, the GPHC was surprisingly active in the legal proceedings. It petitioned to intervene in the case on behalf of the City and County of Denver because GPHC leaders – both white and black --felt they had more at stake in the case's outcome than the city itself. To win, the GPHC requested financial help and other support from other neighborhood organizations – necessary because its membership and finances were stretched thin by Park Hill's other problems. Why did the GPHC take this on when it had plenty of other things to worry about? Its members believed they had no other choice.

Fred Thomas, a GPHC member, called the *Rademan* lawsuit “the most sophisticated assault on the institutions that have made Park Hill the desirable place it is.”²⁰⁷ R-0 zoning helped keep property values high, promoted homeownership, and meant that real-estate speculators could not come in and turn Park Hill south of East 32nd Avenue into a sea of apartments and rooming houses. GPHC members saw this happen in other neighborhoods in east-central Denver, and now it was beginning to happen in the northernmost parts of their own neighborhood, those that residents hadn't been able to rezone R-0 in the 1960s. GPHC members believed their zoning was what kept Park Hill stable. If it was successfully challenged in court, GPHC members were sure Park Hill was doomed to decline.

²⁰⁷ Greater Park Hill Community, Inc. [hereafter GPHC], *Newsletter*, 9, no. 3 (March 1973), 1-2.

Freedom and fear intertwined in the *Rademan* case. Both sides imagined a future where people were free to live wherever they wanted, and choose whatever family they wanted for their own. But at this time and in this place, each side saw the other's vision of family, community, and neighborhood as incompatible with theirs. Rademan and his family wanted an integrated neighborhood, one where there were as many types of families as there were racial or ethnic groups. They were willing to go to court to defend this ideal. But the GPHC and its members feared the freedom this family demanded would curtail theirs. The organization held on fast to the nuclear-family homeowner norm embedded in its zoning because everything else in their neighborhood – schools, families, homes, and the idea of Park Hill itself – seemed in flux.

Rezoning the West Side

The roots of the communal family that moved into 4131 East 26th Avenue in May 1972 lay not in Park Hill, nor even in Capitol Hill, where dozens of similar households lived, but in Denver's West Side. Of the three men and four women living together in the house, we know the most about the two married men – Myles Rademan and Julian Beaver – due to their work with community organizations in West Side neighborhoods. Both men were urban planners, working to change the zoning in minority neighborhoods west of Broadway. Rademan and Beaver were employed by Denver's Community Renewal Program [CRP], part of the city's larger Model Cities program. Both earned master's degrees in planning from East Coast schools – Beaver from Cornell, Rademan from New York University – and then came west. Rademan, a native of Philadelphia,

came to Colorado intending to work for Colorado Rural Legal Services, an organization offering legal aid to low-income residents of rural parts of Colorado. But he ended up in Denver instead, applying his planning and legal skills on projects intended to improve housing, education, job opportunities and public health in low-income urban neighborhoods.²⁰⁸ He was assigned to work with community organizations and residents on the city's largely Hispanic West Side. Beaver was assigned to the same project.²⁰⁹

Rademan and Beaver worked on a plan to improve the zoning of 26 residential blocks located south of Denver's central business district that lay between Broadway and the South Platte River. When the Denver Planning Office created the city's new comprehensive zoning code in 1955, it made significant parts of the West Side R-3 and R-4 – high-density residential zoning, meant to encourage the construction of apartments and other multi-unit housing.²¹⁰ High-density multi-unit zoning was one thing in a place like Capitol Hill, where apartment buildings were already the dominant form of housing, and consumer demand for these apartments was high. This zoning meant something else on the West Side, where modest single-family homes nestled next to small duplexes or triplexes. Despite the area's receptive zoning, no developers seemed interested in building apartment buildings there. Residents wanted R-2 zoning – low-density residential zoning – instead.

²⁰⁸ On Denver's Model Cities program, see Kurtz, *Invisible Cage*, ch. 8; and Bret A. Weber, "Denver's Model Cities Program," (Ph.D dissertation, University of Utah, 2007).

²⁰⁹ Julian Beaver, "The Behavioral Consequences of Population Density," (master's thesis, Cornell University, 1968); Kurt Repanshek, "Prophet of Boom," *Snow Country*, September 1996, 56; Michel Beaudry, "Myles Rademan: Telling It Like It Is," *Pique*, May 30, 2008, <<http://www.piquenewsmagazine.com/whistler/alta-states/Content?oid=2161118&storyPage=3>> (accessed October 15, 2013); William R. Travis, *New Geographies of the American West: Land Use and the Changing Patterns of Place* (Washington, DC: Island Press, 2007), 134.

²¹⁰ City and County of Denver, Department of Zoning Administration, *Zone Map, City and County of Denver, July 1, 1955* (Denver: City and County of Denver, 1955); City and County of Denver, Denver Planning Office, *Denver 1985: A Comprehensive Plan for Community Excellence* (Denver: City and County of Denver, 1967).

High-density residential zoning made things difficult for the actual residents of La Alma/Lincoln Park and Baker – the two neighborhoods that made up the West Side. R-3 and R-4 zoning benefited developers, not homeowners or tenants. Property owners in these neighborhoods found banks were reluctant to lend in the area, making it difficult to get a loan to improve their property. Why? One factor was the age of homes in these neighborhoods – obtaining a mortgage or home-improvement loan for a house more than 40 years old, whether on the West Side or in Park Hill, was nearly impossible in the early 1970s.²¹¹ Another was the area's racial demographics. These neighborhoods had once been heavily Anglo, but after World War II, more Hispanic families began moving in.²¹² Racial transitions of any kind made banks nervous, and less likely to invest in areas with high minority populations. The neighborhood was also home to a high number of renters. People owning property on the West Side actually lived elsewhere, and often seemed uninterested in improving their property to begin with, even before problems with lenders came into the picture.²¹³ High-density zoning just added to these problems. It destabilized already volatile neighborhood property values and valued banks and property developers over actual residents.²¹⁴

Residents of the West Side knew these conditions could prove fatal to a neighborhood. They only had to look at Auraria, the neighborhood just to the north, to find evidence.²¹⁵ Auraria was Denver's oldest residential neighborhood, founded in 1858.

²¹¹ Bruce Wilkinson, "S&Ls Accused of Shirking Old-Home Responsibility," *Denver Post*, January 3, 1973;

²¹² Richard Gould, *Bridging a Cultural Divide*, 2-3; George Rivera, Jr., Aileen F. Lucero, and Richard Castro, "Internal Colonialism in Colorado: the Westside Coalition and Barrio Control," in *La Gente: Hispano History and Life in Colorado*, ed. Vincent C. de Baca (Denver: Colorado Historical Society, 1998), 207.

²¹³ Gould, *Bridging a Cultural Divide*, 41.

²¹⁴ Rivera, Lucero, and Castro, "Internal Colonialism in Colorado," 213.

²¹⁵ Magdalena Gallegos, *Auraria Remembered* (Denver: Community College of Denver, 1991).

Like La Alma/Lincoln Park and Baker, it was a heavily Hispanic neighborhood. In the 1920s, Mexican and New Mexican families began replacing the Central and Eastern European immigrants that settled in there in the late 19th century.²¹⁶ Auraria was a mixed neighborhood, where residential blocks mingled with businesses, churches, and industrial sites. While this mix created a lively neighborhood, Auraria's ethnic makeup, combined with its blend of commercial, industrial, and residential uses made it anathema to Denver's urban planners. In 1955, the city zoned all of Auraria – even its residential sections – for industrial use. If banks were unwilling to lend money to homeowners in areas zoned high-density residential, they were even less likely to do so in an industrial area.

The same tangle of punitive zoning, absentee landowners, property neglect, and a minority population resented or neglected by Denver's civic elite that harmed the West Side in the early 1970s was harsher still in the Auraria of the early 1960s. But, on top of that, the homes and businesses of the low-lying Auraria neighborhood were heavily damaged in the 1965 flood of the South Platte River. To the city, this was an opportunity to finally do something about Auraria. The Denver Planning Office and the Denver Urban Renewal Authority proposed turning the entire neighborhood into a college campus to house three of Denver's higher-education institutions.²¹⁷ Over the objections of residents, business owners, religious groups, and others, the Auraria Urban Renewal Project broke ground in 1973.²¹⁸ Official demolition of the houses in Auraria began in March 1973.²¹⁹

²¹⁶ Sarah Deutsch, *No Separate Refuge: Culture, Class, and Gender on an Anglo-Hispanic Frontier in the American Southwest, 1880-1940* (New York: Oxford University Press, 1987), 153.

²¹⁷ The Auraria Higher Education Campus was built for the University of Colorado at Denver, Metropolitan State College of Denver (now Metropolitan State University of Denver) and Denver Community College (now the Community College of Denver).

²¹⁸ Donna McEncroe, *Denver Renewed: A History of the Denver Urban Renewal Authority* (Denver: The

Members of the Westside Coalition – the main neighborhood organization representing the neighborhoods of the West Side -- were responding to Auraria, but they were not alone. Neighborhood organizations across Denver, including the GPHC realized how little power neighborhoods actually had in city politics. Both the organizations Rademan and Beaver worked with and fought against became more defensive and confrontational in the early 1970s, thanks to Auraria.

Residents of the West Side – including many displaced Aurarians who now lived in the La Alma/Lincoln Park and Baker neighborhoods -- hoped R-2 zoning would help them. It would preserve the “unique single-family low-density environment” for the area's more than 15,000 residents, Rademan argued.²²⁰ R-2 allowed small-scale multi-unit dwellings to be built in the area, like those duplexes and triplexes that already existed in the area, but it prohibited large apartment buildings. Given the scale of the problems the West Side faced in the early 1970s, rezoning seems like a small approach to a larger problem. But the communities of the west side were following in a well-worn path of Better Neighborhoods Through More Restrictive Zoning. The Westside Coalition was hoping to do in the early 1970s what the Park Hill Action Committee had done in its neighborhood in the early 1960s – use zoning to stabilize a neighborhood undergoing rapid change. The Coalition even asked the GPHC for advice on how to create stronger zoning.²²¹ Rademan himself hoped that the West Side rezoning would inspire other neighborhoods to take action. “If this rezoning proposal goes through, there will be a

Denver Foundation and Alex B. Holland Memorial Fund, 1992), 491.

²¹⁹ Marjorie Barrett, “Official Demolition Starts in Auraria,” *Rocky Mountain News*, March 10, 1973.

²²⁰ Myles Rademan, *Community Renewal Program: Materials Relating to Westside Rezoning Proposal* (Denver: City and County of Denver, 1972), 4.

²²¹ Meeting minutes, GPHC Board of Governors, October 7, 1971, 1-2, box 5, folder “GPHC 1971,” Arthur and Bea Branscombe Papers [hereafter Branscombe Papers], WH2249, Denver Public Library.

dangerous precedent set,” he told a reporter. “Other people in other neighborhoods might get it into their heads that they can have some say in the way their neighborhoods are built up and destroyed. Why, if we don't watch out, this could lead to a dictatorship of the people instead of the money interests.”²²² But the rezoning plan failed. In the spring of 1972, Denver City Council rejected the West Side’s proposal. Opposition from local banks, real-estate interests and some property owners in the area convinced Council members to vote 10-2 against rezoning the West Side.²²³

Creating a Family at 4131 East 26th Avenue

While Denver’s City Council was debating the pros and cons of changing the West Side’s zoning, Rademan and Beaver, their wives, and their friends were shopping for houses. The two men probably met while working on the project in 1970. It seems they forged a fast friendship, for the two men and their wives Joy and Monica moved to 607 S. Fairfax Street in Glendale – a tiny, mile-square enclave of Arapahoe County surrounded on all sides by Denver.²²⁴ Glendale was attracting young people in the early 1970s due to its high number of rental units and loose liquor and nightclub laws.²²⁵ The Rademans and Beavers moved into a house with at least three other people -- Rogow, Schwartz and Mann lived there, as well. When they were ordered to vacate their home to make way for an impending apartment development, the seven sought out a new home

²²² Erik R. Moore, “Denver's West Side: Home Is What They Make of It,” *Straight Creek Journal*, February 10, 1972.

²²³ Gould, *Bridging a Cultural Divide*, 41.

²²⁴ Cecil Jones, “Judge Upholds R-0 Provision; Appeal Vowed,” *Rocky Mountain News*, [December 1972], box 35, folder 92, Kopel Papers, Denver Public Library; Julian Beaver, letter to the editor, *Rocky Mountain News*, February 14, 1972.

²²⁵ Leonard and Noel, *Mining Camp to Metropolis*, 288.

together, pledging to “shar[e] rent and responsibilities, friendships and moral support for one another.”²²⁶

The Rademans and Beavers bought the house at 4131 E. 26th Avenue for \$30,000, and the family moved into the house in May 1972.²²⁷ A month later, they received a letter from the Zoning Administration, telling them someone had reported their household to the city while they were moving in.²²⁸ Several weeks after, a zoning inspector visited the house, and confirmed neighbors' complaints. City zoning administrator Anthony Jansen ordered the family out of the house, giving them 30 days to comply.²²⁹ The family appealed, but the zoning board denied their appeal.

What was unusual about the Rademan-Beaver-Schwartz-Mann-Rogow household was not the type of family that the seven was trying to create. It was that the seven were trying to create a communal family in Park Hill. Communes were associated with the counterculture, and Denver’s counterculture clustered in Capitol Hill or other neighborhoods on the west side of Colorado Boulevard, where housing was cheap and the zoning was friendly.²³⁰ Most Colorado communes were rural, located in the mountains or in southern Colorado – communes were, at base, an antiurban form of cultural protest.²³¹ The Establishment was in the cities – out in the country was where you could really be free. Colorado had been an important center of the communal-living movement since the early 1960s. The state had been an important center of the communal-living movement since the early 1960s. Drop City, an art colony established outside the

²²⁶ Jones, “Judge Upholds R-0 Provision.”

²²⁷ “Decision Dooms Denver Commune,” *Straight Creek Journal*, April 23-30, 1974.

²²⁸ “Group Zoned Out of Home,” *Straight Creek Journal*, December 3, 1972.

²²⁹ *Rademan v. City and County of Denver*, 186 Colo. 250; 526 P.2d 1325 (1974).

²³⁰ Goodstein, *Denver’s Capitol Hill*, 131.

²³¹ Steven Conn, “Back to the Garden: Communes, the Environment, and Antiurban Pastoralism at the End of the Sixties,” *Journal of Urban History* 36, no. 6 (November 2010): 831-48.

southern Colorado town of Trinidad by artists Clark Richert and JoAnn and Eugene Bernofsky in 1964, is often considered the first rural commune of the 1960s.²³² Others followed in their path, such as Libre located in the Huerfano Valley, and the Farm, in the mountains outside of Boulder.²³³

Urban communes began forming in east-central Denver in the early 1970s. Some collectives were designed to foster community improvement. The New Denver commune was a cluster of households located in the City Park South neighborhood just northeast of Capitol Hill. It formed in 1974 to turn their area from “an unhealthy neighborhood into a healthy one.”²³⁴ This “unhealthy” neighborhood was declining in population, and had many more renters than homeowners. New Denver communards proposed to improve it through founding community gardens and food co-ops, lobbying the city for better street lights and other infrastructure, and persuading other residents to keep their porch lights on at night.²³⁵ Other communes were forged around shared spiritual interests. Followers of the guru Maharaj Ji founded communes across Capitol Hill under the name the Divine Light Mission. Small residential groups, where members learned to live and meditate together, were the basis of Divine Light religious practice.²³⁶ People living near these communes, even in tolerant Capitol Hill, were not generally excited about their new

²³² Mark Matthews, *Droppers: America's First Hippie Commune* (Norman: University of Oklahoma Press, 2010), 56; Erin Elder, “How to Build a Commune: Drop City's Influence on the Southwestern Commune Movement,” in *West of Center: Art and the Counterculture Movement in America, 1965-1977*, eds. Elissa Auther and Adam Lerner (Minneapolis: University of Minnesota Press, 2011), 3.

²³³ Roberta Price, *Huerfano: A Memoir of Life in the Counterculture* (Amherst: University of Massachusetts Press, 2006), 5; Timothy Miller, *The 60s Communes: Hippies and Beyond* (Syracuse, NY: Syracuse University Press, 1999), 217; Richard Fairfield, *The Modern Utopian: Alternative Communities of the '60s and '70s* (Port Townsend, WA: Process Media, 2010), 115-19.

²³⁴ Gary Schneider, “City Park: Will it Be an Intentional Community?” *Fourth Estate*, July 24, 1974, 7, box 2, folder 10, Capitol Hill United Neighborhoods Records [hereafter CHUN Records], WH1016, Denver Public Library.

²³⁵ Schneider, “City Park,” 7; “DFU Starts Intentional Community Program,” *Straight Creek Journal*, April 16-23, 1974.

²³⁶ “DLM Premie Houses Throughout Capitol Hill,” *Life on Capitol Hill*, July 5, 1975; Goodstein, *Denver's Capitol Hill*, 133.

neighbors. New Denver faced opposition from elderly residents of their “unhealthy” neighborhood, who feared the group was leading a “hippie invasion” of City Park South.²³⁷

Park Hill was hardly fertile ground for a commune. John McGann, a neighborhood resident, told a *Denver Post* reporter in late 1971 that “it is no secret” neighborhood organizations wanted to “keep ‘hippies’ out of Park Hill.”²³⁸ Why did Rademan, Beaver, and their wives and friends move there, then? They never state the answer in available sources. Their relocation from Glendale to Park Hill seems based on a combination of inexpensive real estate, the beauty and size of their twelve-room house, and an appreciation for the work Park Hill residents were doing to improve their neighborhood. Whatever the reason, it is clear the residents knew about their house’s R-0 zoning. Rademan and Beaver were planners, involved in a zoning case, and Park Hill was notorious among the city’s planning and zoning offices for being vigilant about its zoning. During the court case that would eventually go in Park Hill’s favor, members of the communal household argued that even though they knew about the zoning, “they had been told the ordinance wasn’t enforced.”²³⁹ Race could have been a factor, as well. The seven were white, well-educated young people. They owned their property, rather than renting it. R-0 zoning enforcement in Park Hill was not colorblind – in the 1960s, black and Hispanic residents of the neighborhood were the subject of zoning complaints much more than white residents.²⁴⁰ Rademan and his friends might have believed that no one would file a complaint against them. But no matter the reason, the seven seem to have

²³⁷ Schneider, “City Park,” 7.

²³⁸ Ken Pearce, “Park Hill ‘Idea’ Still Imperiled,” *Denver Post*, December 7, 1971.

²³⁹ Jones, “Judge Upholds R-0 Provision.”

²⁴⁰ Letter, Art Branscome to Thomas Currigan, March 10, 1966, 1, box 18, folder 10, Currigan Papers, Denver Public Library.

misjudged how Park Hill residents – a neighborhood battling forces of change in the early 1970s – would react to both the commune and to the lawsuit Myles Rademan filed against the city in December 1972.

A Wary Self-Reliance: Park Hill in the Early 1970s

Park Hill was a different place in 1970 than it was in 1960. The optimism pervading Park Hill in the 1960s was giving way to a weary pragmatism – a sense that residents would have to solve their own problems with little assistance from others. The court-ordered desegregation of the Denver Public Schools worried both black and white parents living in the neighborhood. Poverty was increasing in the northernmost part of the neighborhood. Both residents and outsiders were questioning the success of Park Hill's experiment in racial integration and debating what the neighborhood's future held. But, as in the 1960s, Park Hill's neighborhood organization was at the center of efforts to control the area's future.

Park Hill's transition from a neighborhood that was 98 percent white in 1960 to one that was 51 percent African American in 1970 was relatively smooth, thanks to the work of two of Park Hill's community organizations: the Park Hill Action Committee and the Northeastern Park Hill Civic Association. These organizations represented different parts of the neighborhood. PHAC members lived in the southern and central part of the neighborhood – that from East Colfax Avenue on the south to East 32nd Avenue in the north. The NEPHCA represented Park Hill from East 38th Avenue in the north to East 32nd Avenue in the south. There was no geographical overlap between the two, even

though PHAC and NEPHCA often worked together on neighborhood-improvement projects.²⁴¹ These geographical divisions were also racial divisions. Despite its claims to be a racially integrated neighborhood, white residents and black residents largely lived in different parts of the neighborhood. White residents clustered in Park Hill south of East 26th Avenue, and African-Americans largely lived in the north, above East 32nd Avenue. In the middle lay a small band of blocks where white and black families lived together.

In October 1969, PHAC and NEPHCA merged.²⁴² The new organization's name, the Greater Park Hill Community, reflected its goals. GPHC leaders wanted to represent all of Park Hill – blacks and whites, homeowners and renters, any neighborhood residents regardless of income. Emphasizing community and promoting unity was how GPHC intended to steer Park Hill through the 1970s. As Williar Dunn, a former NEPHCA member appointed the first African-American female chair of GPHC in 1973, told reporters, “it's one big Park Hill...what happens in one part affects the other.”²⁴³ But unity required overcoming some deep divisions.

Both PHAC and NEPHCA both promoted racial tolerance, advocated for stronger fair-housing laws in Denver and Colorado, and lobbied the city to improve Park Hill's streets, parks, schools, and recreational facilities in the 1960s. Sometimes, the two organizations worked together on these projects. But PHAC got much more credit and attention from city leaders, Denver media than NEPHCA. To outsiders, PHAC seemed to

²⁴¹ The two organizations claimed the same eastern and western boundaries – Quebec Street on the east and Colorado Boulevard on the west.

²⁴² PHAC-NEPHCA, “Report of the Chairman,” 1, box 35, folder 16, Kopel Papers, Denver Public Library; meeting minutes, Board of Directors, Park Hill Action Committee, January 6, 1969, 2, box 2, folder 10, PHAC-GPHC Records, University of Denver. GPHC was first named PHAC-NEPHCA – an unwieldy combination of acronyms.

²⁴³ Doyal D. O'Dell, *Park Hill: An Integrated Community?* (Denver: Denver Urban Observatory, 1973), 1; Stan Swanson and John Manos, “The Drum's Weekly Black Board of Prominent Persons,” *The Denver Drum*, May 31, 1973.

be doing something fresh and new. White homeowners were fighting to both stay in the city and improve Denver's racial relations.

NEPHCA, in comparison, seemed like a staid, traditional homeowners' association, devoted solely to protecting the interests of local property owners. The race of its members was what distinguished it from other, similar organizations representing other Denver homeowners. It was founded as such an organization in 1955, by white residents moving into the recently built homes of northeastern Park Hill. But, in the late 1960s, it changed focus. Warren Alexander became president of NEPHCA at the same time that he was assistant director of the state's Civil Rights Commission. Under his leadership, NEPHCA became a “people-oriented” organization.²⁴⁴ When Alexander and his family moved to 3540 Ivanhoe in the early 1960s, they were one of only four black families on their block. In 1967, the ratio was reversed – only three white families remained in the same area. Under Alexander's leadership, NEPHCA began monitoring police hostility towards young black neighborhood residents and working with parents to reverse the increasing racial segregation in Smith Elementary School and other area schools.²⁴⁵ NEPHCA members intervened when tensions between black teens hanging out at a northeastern shopping center and area police nearly broke into violence and its members suggested transporting students to and from other parts of the city make their schools more integrated several years before the Denver School Board took up the issue in 1968.²⁴⁶

²⁴⁴ Marty Tharp, “Civic Association Becomes Human Relations Unit,” *Denver Post*, April 5, 1967; Pat Agnew, “Park Hill Cooperation Enters 2nd Decade,” *Denver Post*, October 7, 1971.

²⁴⁵ Tharp, “Civic Association Becomes Human Relations Unit.”

²⁴⁶ Agnew, “Park Hill Cooperation Enters 2nd Decade.”

What NEPHCA could not do, though, is get northeastern Park Hill zoned R-0, although it tried. The built environment of the neighborhood north of East 32nd Avenue was incompatible with such restrictive zoning. Real-estate developers building the neighborhood in the late 1940s and early 1950s included almost as many small duplexes and triplexes in northeastern Park Hill as single-family homes. The housing options in the area were similar to those available in the West Side, only newer. As such, northeastern Park Hill was zoned R-2, not R-0.

NEPHCA members initiated the merger between their organization and the PHAC. William Roberts, one of the last presidents of NEPHCA and later Park Hill's representative on City Council, brokered the agreement between the two organizations which took nearly four years of discussion and negotiations between white and black neighborhood activists.²⁴⁷ The merger was not always smooth. PHAC members tended to believe that their organization had done Park Hill's heavy lifting in the 1960s, despite NEPHCA's accomplishments. At a 1971 symposium on the past, present, and future of Park Hill, former PHAC chair Art Branscombe told his audience, "GPHC had two predecessors. Fair to say, PHAC was the unique one, the creative one whose magic ingredient and form is perpetuated in the present organization."²⁴⁸ But, in the end, the GPHC was a hybrid organization that combined the strengths of both PHAC and NEPHCA. Its commitment to social service in its neighborhood, and its connections to Denver's black political elite were a legacy of NEPHCA. PHAC contributed its tightly-knit network of block workers, who kept tabs on the minutest changes affecting Park Hill,

²⁴⁷ Goodstein, *DIA and Other Scams*, 65; Joey Bunch, "Former City Councilman Bill Roberts Dies of Cancer," *Denver Post*, December 11, 2005.

²⁴⁸ Draft of speech, Art Branscombe, nd [1971?], np, box 5, folder "GPHC 1971," Branscombe Papers, Denver Public Library.

and its prowess at attracting both press attention and the ear of the city's white political leaders.

Park Hill's problems would take all the tools the GPHC could wield. The largely middle-class members of GPHC worried their neighborhood was becoming more economically diverse. Poverty was on the rise, particularly in northeastern Park Hill. More residents of that part of the neighborhood were receiving welfare benefits and other financial assistance from the city, the state of Colorado, and the federal government. The city was also creating more public housing in the northeastern third of the neighborhood. Public housing across the city was becoming decentralized. Instead of constructing large public-housing projects, the Denver Housing Authority bought up inexpensive houses and apartment buildings, renting them at low cost to people who needed them. The DHA began buying property in northeastern Park Hill in 1965. Community members worried that the agency was "funneling" poor Denverites into the area, creating an underclass of renters in a neighborhood that prided itself on homeownership.²⁴⁹

The changing economic demographics of northeastern Park Hill, along with its nearly all-black population, made outsiders question just how integrated Park Hill actually was. Was it one big neighborhood? Two different neighborhoods? Or three? This was a problem neighborhood residents helped create, of course, by having different neighborhood organizations for different parts of Park Hill. But in the early 1970s, just as GPHC members were trying to create a greater sense of neighborhood unity, the Denver Planning Office divided the neighborhood into three administrative units. Neighborhood

²⁴⁹ Goodstein, *Park Hill Promise*, 472; draft of letter, PHAC, January 2, 1969, 1, box 5, folder "RE/Housing GPHC 1969," Branscombe Papers, Denver Public Library.

planners believed in democratic planning, but DPO did not divide up the city according to existing neighborhood identities. Rather, planners divided the city up based on several different factors: the location of United States Census tracts, the placement of major streets, and the economic, racial, cultural, and architectural characteristics of different parts of the city.

In the early 1970s, the DPO began to do more neighborhood planning, customizing its. Its planners began to see Denver as an assemblage of different neighborhoods, each with its own needs, problems, and concerns, rather than one unified whole. The DPO was not alone – planning offices in cities across the United States were paying more attention to neighborhoods than they had before. The neighborhood-planning movement within the urban-planning profession was a reaction against urban renewal and other destructive, top-down methods of “improving” cities in the 1950s and 1960s.²⁵⁰ Neighborhood-centric planners wanted to make the planning process more democratic. They believed in actually asking local residents what they wanted their homes and neighborhoods to look like, and using the tools of their profession to make these desires reality.

In order to start listening to neighborhoods, the DPO did something it had never done before: break Denver up into neighborhoods. In 1971, it divided the city into more than 70 “statistical neighborhoods” – units that the new neighborhood planners the city was hiring would administer.²⁵¹ Park Hill was divided into three parts, whose boundaries

²⁵⁰ Mel Scott, *American City Planning*, 525; Christopher Silver, “Neighborhood Planning in Historical Perspective,” *Journal of the American Planning Association* 51, no. 2 (1985): 161-74.

²⁵¹ See City and County of Denver, Denver Planning Office, Neighborhood Planning Section, *Neighborhood Planning Manual* (Denver: The City and County of Denver, 1975); City and County of Denver, Denver Planning Office, *Neighborhood Planning Program* (Denver: The City and County of

corresponded to those of the neighborhood's federal Census tracts. These Census boundaries also, inadvertently or not, followed Park Hill's racial boundaries. Residents of the neighborhood saw it as a one large experiment in racial integration, but, to the city, it was now three separate units: the white neighborhood of South Park Hill, the black neighborhood of Northeast Park Hill, and the somewhat integrated neighborhood of North Park Hill.²⁵² These boundaries had power. Unlike residents, the city could actually enforce the boundaries separating the three Park Hills. Someone living north of East 32nd Avenue, the street dividing North and Northeast Park Hill, could not attend neighborhood-planning meetings for the “neighborhood” just to the south, nor could they get copies of any preliminary plans for the area before they were released to the public as a whole. The three new Park Hills were not alone in this regard – other residents in other older neighborhoods in east-central Denver found themselves in a similar situation.²⁵³

But neighborhood planning was nothing, in comparison to the issue of neighborhood schools. Black children and white children in Park Hill did not attend the same schools, even though they might live on the same blocks. Young African-American students attended schools like Barrett Elementary, at East 29th Avenue and Jackson, while their white counterparts often attended Park Hill Elementary. If “black” or “white” schools in the neighborhood became overcrowded, DPS reacted by adding temporary classrooms or transporting students to schools in other neighborhoods, rather than letting

Denver, 1970).

²⁵² South Park Hill's southern boundary was East Colfax Avenue; its northern boundary was East 23rd Avenue. North Park Hill began at East 23rd Avenue on the south, and ended at East 32nd Avenue on the north. Northeast Park Hill's southern boundary was East 32nd Avenue, and its northern boundary was East 52nd Avenue. All three shared the same eastern and western boundaries – Quebec Street and Colorado Boulevard, respectively.

²⁵³ Letter, Mary Snyder and Irene Meschia to William McNichols, September 18, 1975, 1, box 1, folder 2, CHUN Records, Denver Public Library.

black and white students attend school together.²⁵⁴ Parents of both races found this enormously frustrating. But to African-American parents, deliberate school segregation meant their children were being denied an equal education – the quality of instruction at Barrett was not as high as it was at Park Hill Elementary.

In 1968, the Denver School Board proposed a plan to desegregate city schools for the first time. The plan was written by sociologist Rachel Noel, a Park Hill parent and the board's first black member.²⁵⁵ The modest plan called mainly for voluntary busing, and many black students from Park Hill began attending schools outside the neighborhood. But the following year, anti-busing candidates won a majority of seats on the school board, later rescinding the 1968 Noel plan. In response, seven parents, including insurance salesman Wilfred Keyes of 2651 Ivanhoe Street, sued the Denver Public Schools, arguing that their children's Constitutional rights were being violated.²⁵⁶ After several victories in federal court, and a gradual expansion of Denver's school-busing program, the case finally reached the U.S. Supreme Court.

In June 1973, a month before Rademan's lawsuit reached a courtroom, the Supreme Court ordered the complete desegregation of the Denver public schools. Its decision in *Keyes v. School District No. 1* meant Denver became the first city in the West – indeed, the first American city not in the South – to have its entire school system desegregated by court order.²⁵⁷ The *Keyes* decision was a landmark ruling, one in a long

²⁵⁴ Leonard and Noel, *Mining Camp to Metropolis*, 366-377.

²⁵⁵ City and County of Denver, Denver School Board, *Resolution No. 1490*, box 1, folder 6, Rachel Noel Papers, ARL11, Blair-Caldwell African-American Research Library, Denver Public Library.

²⁵⁶ Goodstein, *Park Hill Promise*, 428.

²⁵⁷ *Keyes v. School District No. 1, Denver, Colorado*, 413 U.S. 189; Sugrue, *Sweet Land of Liberty*, 480-81; David J. Armour, *Forced Justice: School Desegregation and the Law* (New York: Oxford University Press, 1995), 36-37.

string of court decisions dealing with racial justice in the public schools in the years following 1954's *Brown v. Board of Education* decision. In *Keyes*, the Court ruled that any action by a school district, intentional or not, that resulted in racially segregated schools violated the Fourteenth Amendment. In this case, segregation was clearly intentional – the school board deliberately kept Park Hill's schools segregated, confining black children to overcrowded, predominantly minority schools.²⁵⁸ Even though the board argued that its policies only applied to a geographically bounded part of DPS, the Court ruled that the board's gerrymandering of school-attendance boundaries in Park Hill rendered the entire system segregated.²⁵⁹

GPHC members responded to these problems constructively and creatively, although there was a limit to how much one neighborhood organization could do. The organization worked with Park Hill's welfare recipients to ensure that they were getting the benefits they were entitled to, and allowed its office to become a distribution center for food stamps and other benefits. The GPHC leadership forged a close relationship with James Cantor, the DPO neighborhood planner assigned to the three Park Hill neighborhood units. But reacting to these problems took a toll on the organization. Its limited budget came entirely from membership fees and contributions from neighborhood churches. The GPHC did not, at least in the early 1970s, solicit outside donations or ask for grant money from the city – its goal was to be self-sufficient, even if it meant overworking its small staff.²⁶⁰

²⁵⁸ League of Women Voters, Denver Chapter, *Composite View of Denver's School Desegregation* (Denver: League of Women Voters, 1974), 1-2.

²⁵⁹ *Keyes v. School District No. 1, Denver, Colorado*, 413 U.S. 189.

²⁶⁰ Letter, Art Branscombe to GPHC Board of Governors, nd [1974?], 1, box 5, folder "GPHC-1974," Branscombe Papers, Denver Public Library.

R-0 Zoning in a Difficult Time

Myles Rademan filed suit against the city at a time when Park Hill residents seemed dispirited. In his suit, he charged the City and County of Denver with violating the constitutional rights of his communal family.²⁶¹ By enforcing Park Hill's R-0 zoning, the city violated his family's right of free association by not allowing the seven to live together. The Zoning Administration's investigation of the case, which involved asking who in the house was related to whom, also violated their right to privacy. In addition, R-0 zoning also gave people living in households where everyone was related by blood, marriage or adoption rights that people who did not lacked. By enforcing its single-family zoning laws – indeed, by creating such zoning laws to begin with – Denver violated the First, Fourth, Fifth, Ninth, and, especially, the Fourteenth Amendments to the Constitution, Rademan argued.²⁶² Rademan was an attorney, but the lawyer representing the family in the case was Robert Booms, who worked with the Colorado chapter of the American Civil Liberties Union.

Denver chose to defend the case, as it had defended itself in hundreds of previous zoning cases. Rademan's suit, if successful, would lessen Denver's ability to create or modify its zoning laws – one of the most powerful tools it, or any other city, had to shape the future of its economy, built environment, and population. Decades of court decisions

²⁶¹ Many of the legal documents in *Rademan v. City and County of Denver* are unavailable, including the original filing, and transcripts of the arguments in both the Denver District Court and the Colorado Supreme Court. The Denver District Court did not record its decisions, and its archives do not have any documents for cases older than 1976.

²⁶² *Rademan v. City and County of Denver*, 186 Colorado. 250, 526 P 2d. 1325 (1974); letter, Henderson to GPHC, nd, 1-2, box 35, folder 20, Kopel Papers, Denver Public Library.

protected Denver's zoning powers – the 1949 *Fike* decision discussed in Chapter 1 was a notable exception. Understanding why the city attorney's office worked on the case is not difficult – but why did the GPHC, at a time when its financial and organizational resources were stretched thin, also get heavily involved in the case?

PHAC members zealously monitored their neighborhood for zoning infractions in the 1960s. But the GPHC was not certain it would follow suit. R-0 zoning drew uncomfortable lines between white and black Park Hill, and between former members of PHAC and NEPHCA. Just a year before the Rademans, Beavers, Rogow, Mann and Schwartz moved into Park Hill, GPHC leaders debated whether the organization should continue to monitor its neighborhood for R-0 zoning infractions at all.²⁶³ After all, didn't its members have enough to do? But the organization decided to press on, reformulating its rationale for defending R-0 zoning.

Restrictive zoning protected the interests of African-American homeowners more than it did homeowners, since black families had more at stake, the GPHC argued. They were more vulnerable to the increasing poverty, lower property values, and high numbers of renters that were changing Park Hill north of East 32nd Avenue. While zoning enforcement couldn't help the residents of northeastern Park Hill, it could help keep these problems from spreading south to the still heavily black blocks just to the south.²⁶⁴ “Family-oriented zoning” represented something special and powerful to Park Hill's African-American population, the GPHC implied. Denver had a long history of racial discrimination in housing – the city's relatively small African-American population was

²⁶³ Meeting minutes, GPHC board of governors, May 6, 1971, 2, box 5, folder “GPHC 1971,” Branscombe Papers, Denver Public Library.

²⁶⁴ GPHC, *1972 Annual Report: A Year of Pilot Projects and New Directions in Park Hill*, 17, box 5, folder “GPHC 1972,” Branscombe Papers, Denver Public Library.

limited to Five Points and a few other neighborhoods north and east of downtown until the 1960s.²⁶⁵ For many black families, moving into Park Hill represented freedom and success. Living in one of the oldest and most important residential neighborhoods in Denver – even if they largely lived in the newest and least prestigious part of that neighborhood – was a personal marker of success, as well as a sign that the war on racism and segregation in Denver and America was being won.

The nuclear-family norm embedded into R-0 zoning was also symbolic. Other neighborhoods with high African-American or Hispanic populations – Five Points, Whittier, and the communities on the West Side – were undermined by their high-density residential zoning, which benefitted absentee owners and property developers rather than residents. The black residents of the R-0-zoned parts of Park Hill had something almost no other minority residents of Denver had – a powerful tool to protect their hard-won property values. Some of the white residents who had helped rezone Park Hill R-0 in the early 1960s got involved in the Rademan case, particularly Robert Hickman and Gerald Kopel, both former chairs of the PHAC zoning committee. But it was the black leadership of the GPHC – chairs Williar Dunn and Louis Henderson, and others – that really drove the organization’s involvement in the case.

On December 7, 1972, Rademan, Beaver, Mann and Rogow met with the GPHC Board of Governors. During the meeting, which extended long beyond the usual GPHC meeting time, the residents of 4131 East 26th Avenue told the board not only why they should be able to stay in their homes, but also argued that the definition of “family” in Denver’s zoning code should be changed to allow communal households to live

²⁶⁵ See chapter 2.

anywhere in the city they wanted.²⁶⁶ During the meeting, the commune members expressed appreciation for what the organization had accomplished in Park Hill. “We came here to figure out if there's a way to protect what we all want to protect and still allow for differing life styles,” Rademan told the board. “We appreciate Park Hill and what you've done here...This is an integrated community, but to us, integration means more than just blacks and whites.”²⁶⁷ Rademan believed that it was the people of Park Hill, not their zoning, which made their neighborhood stable – ironic, considering his work to stabilize West Side neighborhoods through more restrictive zoning.²⁶⁸ But, after a lengthy discussion, the board voted not only to support the zoning board’s decision to remove the family, but also to support the city in defending itself from Rademan’s lawsuit.²⁶⁹

GPHC members did not criticize the commune’s way of life, nor did the organization oppose their presence based on morals. Instead, they worried about the effect the family, and their lawsuit, might have on the neighborhood’s wobbly stability. African-American member Gordon Bourne told a reporter for the *Denver Post*, “We don't oppose their lifestyle. We have no compunctions against the people. Ordinarily we would gravitate to protect them. They are very beautiful, very aggressive, and very fine young people.”²⁷⁰ Dunn, in a column she wrote for the GPHC newsletter, argued, “The issue is now whether the new residents are nice people, or whether they will be good neighbors, but rather that their violation of R-0 zoning weakens our chances of winning our fight

²⁶⁶ Meeting minutes, GPHC Board of Governors, December 7, 1971, np, box 2, folder 2, PHAC-GPHC Records, University of Denver.

²⁶⁷ Aston, “Park Hill Backs Ouster Order.”

²⁶⁸ Olsen, “Family' Fights Zoning Barrier.”

²⁶⁹ Meeting minutes, GPHC Board of Governors, December 7, 1971, np, box 2, folder 2, PHAC-GPHC Records, University of Denver.

²⁷⁰ John Aston, “Park Hill Backs Ouster Order;” Goodstein, *Park Hill Promise*, 523.

against racism.”²⁷¹ During the meeting between the family and the GPHC, former chair Jules Mondschein told Rademan, Beaver, Rogow and Mann that they were “nice” people – he just worried that the people who followed them wouldn’t be so nice.²⁷²

If Rademan, Beaver, their wives, and the three other residents of the house were allowed to stay in Park Hill, then neighborhood property values might start to decline and real-estate speculation might increase. The seven saw their house as a home, while GPHC viewed the house the seven lived in as a rooming house, rather than a home housing a family.²⁷³ Rooming houses were a sign of neighborhood decline and racial segregation to this group of Park Hill residents. Once this rooming house took root, members feared, other forms of multi-unit housing were sure to follow, since real-estate “vultures” looking to cash in would start buying up houses, turning them into apartments, and renting them to “transient” populations – lower-income Denverites who could not afford a house.²⁷⁴ Property values would decline, hurting the people who stayed behind. White homeowners might leave, making the neighborhood – and its schools – even more segregated than they already were. Soon, in the words of former zoning chair Kopel, “the stability we have worked hard to develop would be lost.” Kopel predicted that if the eight win the right to remain in Park Hill, the community would become more like Capitol Hill, “a hodgepodge of rooming houses catering to comparatively short-term interests.”²⁷⁵

GPHC members knew they needed to be involved in the Rademan case in order to protect their neighborhood. But what was the most effective way to do this? The GPHC

²⁷¹ “Neighborhood Zoning Concern,” GPHC *Newsletter* 7, no. 12 (December 1972), 1.

²⁷² Aston, “Park Hill Backs Ouster Order.”

²⁷³ Olsen, “‘Family’ Fights Zoning Barrier.”

²⁷⁴ Aston, “Park Hill Backs Ouster Order.”

²⁷⁵ Olsen, “‘Family’ Fights Zoning Barrier.”

originally intended to limit its involvement to filing an amicus curiae brief defending R-0 zoning with the Denver District Court. But after discussing the case with the Denver City Attorney's office, GPHC leaders decided that the organization needed to become an intervenor in the case. Denver's legal division was as worried as the GPHC about what might happen if Rademan won. City Attorney Max Zall told the more affected organizations or individuals involved might help the city create a stronger case.²⁷⁶

The GPHC used the Rademan case to build closer ties with other neighborhood organizations. Park Hill contained the largest block of R-0 zoning in Denver, but other neighborhoods in east-central Denver had their share, as well. Louis Henderson, the executive director of the GPHC, called on the neighborhood organizations representing these parts of the city to help with the case. In a letter sent to these organizations, he argued “in our opinion, this is a most important case that will affect each and every neighborhood. If residential zoning is not sustained by the courts, we can forget about residential neighborhoods as we know them.”²⁷⁷ Henderson asked other organizations to help out with the GPHC's legal expenses, or to become intervenors on the case themselves, or, as a last resort, file their own amicus curiae briefs defending R-0 zoning. In at least one case, the GPHC offered to assist other neighborhoods in their zoning disputes if those neighborhoods would support Park Hill's main zoning dispute.²⁷⁸

The GPHC got some allies, but they were strange bedfellows. It turns out that neighborhoods and organizations that were largely against integration were also interested in protecting Denver's most restrictive form of residential zoning. The

²⁷⁶ Letter, Louis Henderson, nd, 1, box 35, folder 20, Kopel Papers, Denver Public Library.

²⁷⁷ Ibid, 1.

²⁷⁸ Meeting minutes, GPHC Board of Governors, March 1, 1973, 1, box 5, folder "GPHC 1973," Branscombe Papers, Denver Public Library.

Cranmer Park-Hilltop Civic Association petitioned to intervene in the case. Cranmer Park-Hilltop was a small R-0 zoned area south of Park Hill.²⁷⁹ In the late 1940s and early 1950s, studies of racial and religious discrimination in Denver identified it, and surrounding blocks, as one of the parts of Denver most hostile to potential African-American and Jewish homebuyers.²⁸⁰ The other intervenor was the Park Hill Improvement Association, the oldest neighborhood group in Park Hill. As detailed in the last chapter, the PHIA began the drive to rezone Park Hill R-0 in the early 1960s. The group represented southern Park Hill, the oldest – and whitest – part of the neighborhood. Founded in 1911, the PHIA had a long history of animosity toward their neighborhood's African-American residents. It advocated segregated schools and once called for an amendment to the Colorado state constitution allowing for discrimination based on race.²⁸¹ R-0 zoning forged an uneasy partnership between the PHAC and the PHIA in the 1960s; now, the GPHC and the PHIA were on an even unlikelier team to defend R-0 zoning. Some groups helped, but did not actually become intervenors. The Harvey Park Neighborhood Association, representing a heavily white, anti-busing part of southwest Denver, also helped the GPHC, although whether this help was in the form of donations or donated time is unknown. The GPHC also got assistance from another organization that “wishes to be anonymous.”²⁸² The team of neighborhoods helping Denver defend R-0 zoning was motley mix, indeed.

²⁷⁹ The area of east Denver this group represented was bounded by Colorado Boulevard on the west, Dahlia Street on the east, East Seventh Avenue on the north, and Alameda Avenue on the south.

²⁸⁰ Anti-Defamation League of the Rocky Mountains, “Survey Data on The Extent to Which the Right to Purchase Homes is Denied on Religious Grounds in Denver and Areas Contiguous Thereto,” 1955, 11-13, box 4, Denver Commission on Community Relations Records, Denver Public Library.

²⁸¹ Robert Goldberg, *Hooded Empire*, 25-6; Noel and Hansen, *Park Hill Neighborhood*, 16.

²⁸² GPHC, *1972 Annual Report*, 16.

Families, Zoning and the Fourteenth Amendment

Rademan and his family got their day in court in August 1973. But, by the time the suit was heard in Denver District Court, the family had drifted apart. Norah Schwartz never joined the lawsuit to begin with, so only six of the seven original family members were named in the case. Julian and Monica Beaver were off traveling or living in Chile. Myles and Joy Rademan now lived in the mountain town of Crested Butte. Only one unidentified member of the original household – either Rogow or Mann – was still in the house during court proceedings.²⁸³ Julian Beaver told reporters that the family was hoping to find some people who “meet the legal definition” of family to rent the house.²⁸⁴

Transcripts of court testimony are unavailable, but the arguments in the case against R-0 zoning focused on the “irrationality” of R-0 zoning and the city's uneven enforcement of its own laws. Assistant City Attorney Robert Kelly argued the city's case, assisted by Richard Holme, who the GPHC hired to argue their side of the case. Their arguments focused on Denver's right to zone, and how Park Hill had used R-0 zoning to peacefully integrate its neighborhood. Robert Booms, Rademan's attorney, argued protecting some families at the expense of others was constitutionally suspect. He also presented evidence that the city enforced R-0 zoning erratically. One witness in the case was Zoning Administrator Anthony Jansen, who was never a strong advocate for enforcing single-family zoning to begin with. He believed that R-0 zoning was unconstitutional, and sympathized with people who wanted to change the laws that his job required him to enforce, at least most of the time.²⁸⁵ He testified that his

²⁸³ Jones, “Judge Upholds R-0 Provision.”

²⁸⁴ “Decision Dooms Denver Commune,” *Straight Creek Journal*, April 23-30, 1974.

²⁸⁵ Chris Whitbeck, “Denver Roommates Say They'll Switch, Not Fight,” *Denver Post*, November 7, 1976;

“humanitarian instincts” often led him to refuse to investigate zoning complaints against elderly women sharing a house or “a child in the process of being adopted by a family.”²⁸⁶ Despite Jansen's testimony, Judge Merle Knous ruled in favor of the city, ruling that Denver's limitations on unrelated people living together in R-0-zoned neighborhoods did not violate Rademan's civil rights. There were no constitutional issues at play in the case. Booms and Rademan, disagreeing, announced their plans to appeal the ruling to the Colorado Supreme Court.

The state's highest court agreed to hear the appeal. If it had heard the case in early 1974, justices would have had a confusing patchwork of cases as legal precedent. The status of non-traditional families under the Fourteenth Amendment was a heated one in the early 1970s. Rademan's lawsuit was not unique, nor was the Colorado Supreme Court the first state supreme court to hear such a case. In 1961, four men living together in a house were the first to challenge the constitutionality of single-family zoning. They won, but only because the Illinois Supreme Court ruled that the state legislature had never given cities the right to define what a family was in the first place.²⁸⁷ This was not the case in Colorado. Other state courts ruled in favor of property owners challenging single-family zoning, but none addressed the constitutionality of such laws until 1970, when the New Jersey Supreme Court ruled that a law trying to keep young adults from renting beach houses together violated the Fourteenth Amendment. Zoning laws defining “families” were not an appropriate tool to limit noise, parties, and drunkenness in beach

K.M. Dykes, “Mayor Visits Capitol Hill, Was Questioned, Released Unharmred,” *Life on Capitol Hill*, October 1977, 1.

²⁸⁶ Aston, “Park Hill Backs Ouster Order.”

²⁸⁷ *City of Des Plaines v Trotter*, 216 N.E.2d 116 (111. 1966); Adam Lubow, “...Not Related by Blood, Marriage or Adoption!: A History of the Definition of 'Family' in Zoning Law,” *Journal of Affordable Housing and Community Development Law* 16, no.2 (Winter 2007): 152.

towns in summer – the stated goal of the laws in question.²⁸⁸

But, in April 1974, several months before Rademan's appeal reached the Colorado Supreme Court, the United States Supreme Court handed down a ruling that “doomed” his case.²⁸⁹ Justice William Douglas, writing for the majority in *Village of Belle Terre v. Boraas*, argued that zoning laws limiting the number unrelated people could live together was constitutional.²⁹⁰ Belle Terre, the small Long Island town whose zoning laws were in question, was trying to limit the number of “urban” problems – traffic, noise and pollution in its town. Cities could legally use zoning laws to “lay out zones where family values...and the blessings of quiet seclusion and clean air make the area a sanctuary for people.”²⁹¹

Justice Thurgood Marshall disagreed. In his dissent, he argued Belle Terre's ordinance violated the Fourteenth Amendment, by “regulat[ing] the way people choose to associate with each other within the privacy of their own homes.” The town, located close to the State University of New York at Stony Brook, used zoning to limit the number of students living in their town. If the town was serious about avoiding the problems it associated with a higher population density, it would limit how many related people could live together, as well – a law that limited how many adults could live in a dwelling of a particular size, for example. Marshall concluded, “[b]y limiting unrelated households to two persons while placing no limitations on households of related individuals, the village

²⁸⁸ Lubow, “Not Related by Blood,” 154; *Kirsch Holding Co. v Borough of Manasquan*, 111 N.J. Super. 359 (1970).

²⁸⁹ “Decision Dooms Denver Commune.”

²⁹⁰ *Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974).

²⁹¹ *Ibid.*

[of Belle Terre] has embarked...in a constitutionally faulty vessel.”²⁹²

In September 1974, the Colorado Supreme Court ruled in Denver's favor, using *Belle Terre* as precedent. Justice William Erickson's majority opinion echoed Douglas', arguing the city had the right to use its zoning laws to protect “family values” in certain parts of the city.²⁹³ Denver's laws did not “arbitrarily” distinguish between families and non-families, because there was no established Constitutional right for unmarried people to live together. This ruling gave R-0 zoning legal heft it previously lacked: after *Rademan*, there were no serious legal challenges to single-family zoning in Denver for nearly 15 years. Unrelated people living together in neighborhoods with such restrictive zoning continued to be forced to vacate their homes until 1989, when the Denver City Council removed family restrictions from its zoning code.

In the *Rademan* ruling, incompatible forms of thinking about families, neighborhoods and justice conflicted. Joy and Myles Rademan, Monica and Julian Beaver, Pamela Mann, Norah Schwartz, and Richard Rogow were right: restricting the rights of unrelated people to live together and define for themselves who their families were was wrong, even if the Colorado Supreme Court ruled it was unconstitutional. The way Americans traditionally defined families was becoming more inclusive, adapting to new ideas about gender and sexuality. The law, both at the state and federal levels, lagged behind. But the seven made a peculiar choice. There were numerous neighborhoods zoned R-0 in the early 1970s that had plenty of large houses capable of accommodating a family of seven – Congress Park, Belcaro, Country Club, Crestmoor Park, Cranmer Park,

²⁹² Ibid.

²⁹³ *Rademan v. City and County of Denver*.

and others. But they not only moved to Park Hill, they did so at an exceptionally vulnerable time in that neighborhood's history. R-0 zoning was discriminatory, but it was the legal foundation holding Park Hill together at a time when poverty, school desegregation, and other problems undermined the neighborhood's stability. It is easy to be cynical about Park Hill's experiment in integration, and the devotion of the GPHC and its members to single-family zoning. But they were doing what no other neighborhood in Denver was even trying to integrate in the late 1960s and early 1970s. The GPHC and its neighborhood stood alone in the city in its efforts to bring white and black Denver together, even if it was using an ethically dubious tool. The GPHC was right to defend its neighborhood, even as Rademan and his household were right to challenge R-0 zoning. Unfortunately, these two rights were legally incompatible.

The GPHC won, but its victory doomed households across the city for the next decade and a half. Now that R-0 zoning passed constitutional muster, the city could enforce it more readily. But, in the mid-1970s and beyond, people violating R-0 zoning were not in Park Hill. Congress Park, Country Club and other neighborhoods west of Colorado Boulevard increasingly became battle grounds over what made a family. The issue was not communal families, but, rather unmarried heterosexuals and same-sex couples living in single-family neighborhoods. That story will be told in the rest of this dissertation.

Chapter 5: Creating a Home in the Heart of the City: Queer Community and Neighborhood Identity in Postwar Capitol Hill

On September 27, 1977, two hundred and fifty people crowded into the meeting hall at St. John's Cathedral, located in the Capitol Hill neighborhood in east-central Denver. Flyers hanging around the neighborhood – on light posts, bulletin boards, and in store windows – had publicized this evening for weeks. “CITY HALL COMES TO CAPITOL HILL,” they announced, in neat, all-capital letters.²⁹⁴ At the head of the drab, low-ceilinged room sat Denver Mayor William McNichols, surrounded by a handful of his most important city officials.

McNichols and his men were not on friendly ground. Neighborhood activists had long accused the McNichols administration, then in its ninth year, of ignoring Capitol Hill's interests. The most vocal of these critics were members of Capitol Hill United Neighborhoods (CHUN), the largest neighborhood organization representing the area. CHUN leaders arranged this meeting to give neighborhood residents the opportunity to question McNichols, Police Chief Art Dill, Zoning Administrator Anthony Jansen and others about the neighborhood's most persistent problems: Why was the city so set on putting more one-way streets in Capitol Hill? As school busing drove more white families out of Denver, what would happen to the few remaining schools in the area? And, shouldn't Capitol Hill residents get more control over what the city or private interests built in the neighborhood?²⁹⁵ But other issues arose, namely two: the

²⁹⁴ Capitol Hill United Neighborhoods, flyer, n.d. [September 1977?], 1, box 14, folder 15, William H. McNichols Papers [hereafter McNichols Papers], WH1015, Denver Public Library.

²⁹⁵ Dykes, “Mayor Visits Capitol Hill.”

discriminatory effects of R-0 zoning laws, and the city's treatment of its gay and lesbian population.²⁹⁶

R-0 zoning was an unlikely topic for a forum discussing Capitol Hill's problems, because the neighborhood had almost none. Capitol Hill was largely zoned R-3 and R-4 – high-density residential zoning – reflecting the housing actually available there. Between 99 and 76 percent of the housing units in the neighborhood in 1970 were in multi-unit buildings: apartments, duplexes and triplexes, condominiums, or large old houses converted to multiple dwelling units. But several people attending the CHUN mayor's forum were concerned about R-0 zoning anyway. One man asked Jansen, “How do you justify the prohibiting of single persons living as a couple within R-0 zone districts...in that it discriminates against a group of persons based on their lifestyle?” Another person asked, “In view of the influx of single persons into the Metro Denver area, what changes would you favor in current zoning restrictions, specifically R-0 zone[d] districts, to accommodate single persons living as a couple, whether of the opposite sex or the same sex, in purchasing homes...in Denver, in comparison to the suburbs?”²⁹⁷ Jansen told questioners that he “strongly advocated that couples might be able to live together, regardless of the zone,” but reminded the audience that R-0 zoning was rare in their neighborhood.²⁹⁸

Capitol Hill might not have much R-0 zoning, but Country Club and Congress Park, the neighborhoods to its south and east, did.²⁹⁹ People living in those

²⁹⁶ The questions asked at this meeting can be found on handwritten index cards in box 10, folder 18, CHUN Records, Denver Public Library.

²⁹⁷ Ibid.

²⁹⁸ Dykes, “Mayor Visits Capitol Hill,” 8.

²⁹⁹ The statistical neighborhood of Country Club is bounded by East Eighth Avenue to the north, Downing

neighborhoods, especially Congress Park, were willing to use it to keep unwanted neighbors out. They associated Capitol Hill's unconventional housing with unconventional lifestyles they wanted to keep out of their neighborhoods. Sixty-five to 80 percent of Capitol Hill's households were made up of people living alone or unrelated people living together as friends, roommates, or romantic partners – the highest concentration of “non-traditional” households in Denver. Seventy percent of neighborhood residents were unmarried – an anomaly in a city where nearly the same percentage of total city residents in 1970 were married.³⁰⁰ Capitol Hill's discrepancies from the norm worried residents of adjacent neighborhoods. Residents of Congress Park worked with the Denver Planning Office in the early 1970s to rezone half of the neighborhood R-0 to protect their area's property values and to keep the neighborhood a bastion of what one resident later called “traditional single families.”³⁰¹

The year before the CHUN mayor's forum, two same-sex pairs – one male, one female -- had been kicked out of their homes in Congress Park after neighbors complained they were violating R-0 zoning.³⁰² While gay and lesbian couples were not the only non-traditional households moving into the neighborhoods adjacent to Capitol Hill, they were probably the most visible of these households and the least wanted by neighbors. The two couples were asked by the city to leave their homes at a time when queer Denverites had an uneasy relationship with the city they lived in, and the

Street to the West, York Street and University Boulevard to the east, and the bed of Cherry Creek to the south. The statistical neighborhood of Congress Park is bounded by East Colfax Avenue to the north, York Street to the west, Colorado Boulevard to the east, and East Sixth Avenue to the south.

³⁰⁰ Neighborhood data, np,nd, box 13, folder 27, CHUN Records, Denver Public Library.

³⁰¹ Chris Whitbeck, “Double Challenge Looms for R-0 Zoning,” *Denver Post*, October 3, 1976; Whitbeck, “Denver Roommates.”

³⁰² Whitbeck, “Denver Roommates.”

McNichols administration as a whole.³⁰³ A rare appearance of the mayor in the neighborhood many considered to be the heart of Denver's gay and lesbian community seemed like a good time to remind assembled city officials of this. Gerald Gerash, a Capitol Hill resident who co-founded the Gay Coalition of Denver (GCD) in 1972, asked McNichols why no gay members had been appointed to the Commission on Human Relations, the city's civil-rights community, and if he would June 29th as Gay Pride Day in Denver. The mayor's response was that homosexuality wasn't a "great qualification" for being on the CHR, and that he was unlikely to ever make such a proclamation.³⁰⁴ An unidentified man asked Chief Dill if an agreement made in 1974 between the Denver Police Department and the GCD to prohibit department employees from using "derogatory terms such as 'queer' and 'faggot' in referring to gay persons and that gay persons would not be arrested for conduct which would not subject heterosexuals to arrest." was actually being followed³⁰⁵ Dill's response is unknown.

The previous chapters have looked at how people living in R-0-zoned parts of Denver have used restrictive single-family zoning to keep their homes and neighborhoods stable at a time of immense social and cultural change. This chapter tells a different story. It looks at a group of Denverites who lived, socialized, and politically organized in the neighborhood that people who lived in R-0-zoned area feared becoming. Capitol Hill in the 1970s was a neighborhood full of apartments, renters, and people living "non-

³⁰³ In this dissertation, I use the term "queer" to describe people who identified or were perceived as gay, lesbian, bisexual or transgender, as well as people who engaged in same-sex sexual relations without identifying themselves as a gender or sexual minority. While using "queer" roughly as a synonym for gay, lesbian, bisexual and/or transgender – a usage common among historians and other academics who study sexual minorities in the United States – I recognize that many of the people I am writing about in this chapter would have regarded the term as derogatory. When a person I am writing about in this chapter identifies in available sources as a certain identity, I use that term to refer to them.

³⁰⁴ Dykes, "Mayor Visits Capitol Hill."

³⁰⁵ Index card, box 10, folder 18, CHUN Records, Denver Public Library.

traditional” lifestyles. To residents of other neighborhoods in east Denver, Capitol Hill’s mix of people and buildings seemed like a chaotic mess. People in Park Hill, Country Club, and other areas used R-0 zoning to keep this “mess” from spreading to their neighborhoods, where it might lessen property values and damage neighborhood stability. When the Greater Park Hill Community decided to intervene in the *Rademan* lawsuit, the subject of the previous chapter, it did so because members feared that without strict residential zoning, their neighborhood was doomed to become Capitol Hill.³⁰⁶

This fear was not new. In the mid-1960s, members of the Park Hill Action Committee, the GPHC's successor, contrasted the stable, racially-diverse neighborhood they lived in (or thought they lived in) with a particular section of Capitol Hill:

There is in Denver a section of town once called Quality Hill.³⁰⁷ In its day, Quality Hill extended roughly from East 7th to East 11th Avenues, Grant Street to Downing. The most impressive homes in Denver were built there, and the 'best' people in Denver lived there. Some of the homes still exist, a few of the people still live there. But most of Quality Hill's best homes have been cut up into rooming or apartment houses, torn down to make way for apartment or office buildings, or simply allowed to deteriorate. Few even know now that that area was called Quality Hill.³⁰⁸

To the PHAC, R-0 zoning would keep Park Hill from sharing the fate of Capitol Hill.

³⁰⁶ Olsen, “Family’ Fights Zoning Barrier.”

³⁰⁷ Quality Hill was a section of Denver just south of Henry Brown's original Capitol Hill development. Elite Capitol Hill residents began moving a few blocks south to Quality Hill when more middle- and working-class people began moving into Brown's development. Quality Hill wasn't “quality” for long – after about a decade, elites began decamping across East 6th Avenue to the Country Club. But the historic district in this area, and a park located at East Tenth Avenue and Pennsylvania Street still bear the name “Quality Hill.”

³⁰⁸ Quoted in Longino, “Park Hill Action Committee,” 39.

But what seemed like chaos to some meant freedom to others. The apartments of Capitol Hill nurtured lifestyles unwelcome in other parts of the city, accommodating those unwilling or unable to fit in more family-oriented neighborhoods. Capitol Hill became the center of Denver's counterculture, the place single people of all ages and orientations called home, and, as this chapter focused on, and the heart of the city's increasingly visible gay and lesbian population. It was a neighborhood diverse in many ways, except for one: almost all of the residents of Capitol Hill, regardless of their income, sexuality, and lifestyle, were white.³⁰⁹ For Denver, it was unique, but neighborhoods like Capitol Hill sprung up in other cities across the United States in the decades following World War II.³¹⁰

Capitol Hill contained almost no R-0 zoning, but you cannot understand the spread of restrictive single-family zoning in Denver without it. Capitol Hill was a symbol, representing the fears of people living in traditional residential neighborhoods at a time of immense cultural change. But it was also a political force. It was a coalition of gay and straight neighborhood residents, led by CHUN, which successfully fought to end the city's prohibitions on unrelated people living together. That story is told in the next chapter. This chapter, though, focuses on how Capitol Hill became a queer neighborhood,

³⁰⁹ Neighborhood data, np, nd, box 13, folder 27, CHUN Records, Denver Public Library.

³¹⁰ On San Francisco, see Nan Amilla Boyd, *Wide-Open Town: A History of Queer San Francisco to 1965* (Berkeley: University of California Press, 2005); Josh Sides, *Erotic City: Sexual Revolutions and the Making of Modern San Francisco* (New York: Oxford University Press, 2009); On Los Angeles, see Lillian Faderman, *Gay L.A.: A History of Sexual Outlaws, Power Politics, and Lipstick Lesbians* (Berkeley: University of California Press, 2009); C. Todd White, *Pre-Gay L.A.: A Social History of the Movement for Homosexual Rights* (Champaign-Urbana: University of Illinois Press, 2009). On Seattle, see Gary Atkins, *Gay Seattle: Stories of Exile and Belonging* (Seattle: University of Washington Press, 2003). The Capitol Hill neighborhood in Seattle was named (in part) after Denver's Capitol Hill. On Philadelphia, see Marc Stein, *City of Sisterly and Brotherly Loves: Lesbian and Gay Philadelphia, 1945-1972* (Philadelphia: Temple University Press, 2004).

and how gay and lesbian Denverites used its spaces and places to both form community and advocate for their rights as citizens.

Capitol Hill in the Twentieth Century

Capitol Hill was never intended to be a neighborhood full of apartments or renters. It was founded in the 1880s as an exclusive neighborhood for Denver's elite. Like Park Hill, its origins lay in the visions of a single man. But Jacob Downing's white utopia on east Denver's fringes paled in ambition to Henry C. Brown's enclave of mining millionaires.

Brown was a real-estate developer originally from Ohio. An orphan, he traveled from St. Louis to Oregon and finally to Denver in 1860. He filed homestead claims on a hill overlooking the young city, and built a home for himself in 1864 on "Brown's Bluff."³¹¹ This area was sandy, barren, and still too distant from established parts of the city to appeal to potential landowners. Brown was staking his future on his feelings that Denver would grow eastward. Brown donated 10 acres of his land to the State of Colorado in 1868 as a potential site for the state capitol building, hoping that this would increase the value of his land. Eventually, this would become the site of the capitol, but the state held off on construction until 1886. By then, the residential parts of Brown's development were flourishing. But the neighborhood's topography, and the eventual completion of its most prominent landmark, combined to give Capitol Hill its name.³¹²

³¹¹ Leonard and Noel, *Mining Camp to Metropolis*, 47.

³¹² *Ibid.*, 45.

Early Denver, as both residents and visitors alike remarked, was squat and ugly. Dusty streets were lined with ramshackle wooden buildings, and the city's built environment barely matched the aspirations of its early founders. It sat in a topographic sink near the confluence of the South Platte River and Cherry Creek, which meant the young city was prone to devastating floods, and the smoke, smells and other pollution of nineteenth-century urbanism clustered around the city's two rivers. Elite residents sought to distance themselves from this, building their homes as far from the confluence as possible. In the 1860s and early 1870s, this meant Seventeenth Street and other areas we now associate with downtown. In the 1880s, though, it meant Capitol Hill.

Brown's Capitol Hill development offered its residents plenty of room, stunning mountain views, a sense of exclusivity, and social and spatial distance from the noise, crowding, and pollution of the rest of the city. Its residents built elaborate stone mansions, whose solidity seemed to indicate that the good times would last forever. But many neighborhood fortunes evaporated after Colorado's silver economy crashed in 1893. The repeal of the Sherman Silver Purchase act nearly wrecked the state's undiversified economy; even Capitol Hill residents who hitched their star to shipping or selling goods were wiped out.

Most histories of Capitol Hill focus on the opulent buildings and lifestyles of its early residents.³¹³ While these stories are important for understanding the neighborhood's origins, and some of its distinctive built environment, they mean that the story of Capitol Hill in the twentieth century tends to be depicted as a narrative of decline. But Capitol Hill did not decline – it diversified. Even when it was an enclave of the elite, it was

³¹³ See Bretz, *Mansions of Denver*, 10, Zimmer, *Denver's Capitol Hill*, and Barbour, "Vanished Neighborhood."

somewhat diverse – servants living in the neighborhood's mansions far outnumbered their employers. In the 1890s, as Denver's economy slowly recovered, the neighborhood became home to more middle- and working-class city residents. More modest housing began to nestle among the remaining mansions, and the remaining wealthy residents of Capitol Hill began to build less ostentatious homes. Some of these were built on land that used to be elaborate gardens or lawns – landowners affected by the crash sold off excess property in order to stay afloat. Streetcars began to connect Capitol Hill to downtown in the 1890s, as well, making it an ideal neighborhood for commuters.³¹⁴

As Capitol Hill became more economically diverse, its built environment changed. Smaller single-family homes began to outnumber stone mansions, but both forms of housing were eclipsed by the amount of multi-unit housing going up in the neighborhood. Row houses, small duplexes and triplexes, and apartment buildings both big and small also began to fill in the remaining available land in Capitol Hill. Some lamented that the neighborhood was now becoming “too inclusive,” and was doomed to decline now that multi-unit housing was dominating its built environment, but Capitol Hill offered residents more housing options than other neighborhoods in central Denver.³¹⁵

The apartment houses that were going up in Denver in the 1890s were designed to attract the middle class. Capitol Hill was becoming a neighborhood of apartments at a transformative time in urban architecture. For much of the nineteenth century, multi-unit housing in larger, older cities elsewhere in the United States meant the tenement house –

³¹⁴ Goodstein, *Denver's Capitol Hill*, 22.

³¹⁵ *Denver Times*, 1901, quoted in Bretz, *Mansions of Denver*; 10; Phil Goodstein, *Denver's Capitol Hill*, 22.

crowded, unsanitary buildings where poor, often immigrant, families crammed into whatever small spaces they could afford.³¹⁶ But the apartment buildings sprouting up in Denver and other cities at the end of the nineteenth century were intended to be distinct from tenements. Apartments were constructed for the middle class; tenements were where poor and working-class urban dwellers lived. Each unit in an apartment building was a “complete” home – a kitchen plus separate living and sleeping spaces – intended for one household. It was the presence of a kitchen distinguished Capitol Hill's apartments from the rooming houses that could also be found in the neighborhood and in Denver's central business district.

Some of the early apartment buildings in Capitol Hill were as ornate as the stone mansions that surrounded them. The elaborate detail distinguishing buildings like the Perrenoud, constructed in 1902 at 836 East 17th Avenue, the Grafton, built in 1890 at 1020 East 17th Avenue, or the Cornwall Apartments, built in 1901 at 1317 Ogden Avenue signaled exclusivity to both residents and outsiders, yet it was less expensive to live there than it would be in a single-family house in the same area.³¹⁷ But even the style and solid construction of many of these early apartment buildings did not quell fears among older neighborhood residents, urban planners and others that they were actually tenements in disguise. The presence of any multi-unit, rented housing in the neighborhood would cause Capitol Hill's property values to fall and inch the area closer to eventual slumhood.

³¹⁶ Banner, *American Property*, 165.

³¹⁷ Goodstein, *Denver's Capitol Hill*, 23; “History of the Perrenoud,” <<http://theperrenoud.com/history/>> (accessed December 1, 2013); National Register of Historic Places, “Listings – Denver County,” <<http://www.nationalregisterofhistoricplaces.com/CO/Denver/state2.html>> (accessed December 1, 2013).

Capitol Hill's built environment did make the neighborhood's population distinctive in one way – apartments, rooming houses, and other multi-unit housing meant that the people living in Capitol Hill would be renters, rather than property owners. Until condominiums became more legally feasible in the early 1960s, there was no clear path to ownership for people living in the neighborhood's apartments. Some residents of high-end apartment buildings, like the aforementioned Perrenoud, managed to become cooperatives – a system where residents formed a corporation that owned the building -- but Denver had very few co-ops.³¹⁸ Renting had its benefits, of course. Landlords had to maintain the property and make needed repairs, rather than tenants. Short-term leases gave tenants the ability to move as their economic fortunes changed. But, renting gave apartment dwellers little long-term stability. Rents could always go up. Landlords could always sell their buildings without notifying their tenant. A high number of renters meant less long-term stability for Capitol Hill.

But zoning made this existing instability worse. To Denver planners, apartment buildings were at best a necessary evil. When the city wrote its first comprehensive zoning code in 1926, Capitol Hill was given zoning intended to discourage the construction of more multi-unit housing. But apartment buildings and rooming houses flourished in the neighborhood in the 1930s and 1940s, despite existing zoning. Capitol Hill's zoning was rarely enforced, and the city's Board of Adjustment-Zoning readily gave out zoning variances to property owners seeking to convert single-family structures into multi-unit housing in the neighborhood. As explained in Chapter 1, Denver almost lost its ability to enforce its zoning codes because of the increasing number of apartment

³¹⁸ Banner, *American Property*, 169; “History of the Perrenoud.”

buildings in the neighborhood. Two Capitol Hill homeowners running a rooming house out of their home at 738 Pearl Street filed suit against the city after they were denied a building permit. The city and neighbors argued that if the Fikes did not convert their home back to a single-family home, the essential residential character of their part of Capitol Hill would be damaged. But in his ruling, Judge William Black argued, somewhat wistfully, that the damage to the neighborhood's "character" had already been done:

The court is not unmindful of the grandeur of the area in the early 1900s, when pioneers of the gold and silver days built stately homes in the area; the show places which the tourist of the day viewed from sight-seeing cars and carriages. The court has seen the district and area in question in its early grandeur, and has seen the evidence unfold that has completely changed the ownership, the nature, and the use of the majority of the properties in the district. The [Fikes] are not the exceptions to the rule. The few who object must yield to the....growing community and its needs.³¹⁹

When the Denver Planning Office wrote a new comprehensive zoning code in 1956, Capitol Hill was almost entirely zoned R-3 and R-4 – the highest-density residential zoning available in Denver. Some blocks in the southern edges of the neighborhood that still had a large number of single-family homes were zoned R-1 and R-2, lower-density single-family zoning, and business districts in the neighborhood, particularly along East Colfax Avenue or Broadway, were zoned for commercial use.³²⁰

The neighborhood's R-3 and R-4 zoning benefitted developers rather than Capitol Hill residents, the majority of whom rented, rather than owned, the places they called

³¹⁹ Findings of Fact and Conclusions of Law and Order, *Fike and Fike v. Jabelonsky*, A-58020, Denver District Court, 1949, box 6, Kurtz Papers, Denver Public Library.

³²⁰ City and County of Denver, Department of Zoning Administration, *Zone Map, City and County of Denver* (Denver: City and County of Denver, 1955), 1.

home. In other neighborhoods, particularly those zoned R-0 or R-1, zoning protected residents: it stabilized property values and limited the sorts of buildings and uses allowed in their community. In Capitol Hill, zoning gave property owners and developers more flexibility over what they could do with their land. However, this flexibility threatened the homes and long-term stability of the people actually living in Capitol Hill. Planners justified Capitol Hill's zoning because of the transient nature of the area's population, but this same zoning arguably made the neighborhood more transient, by placing the needs of developers over residents. An apartment boom in the 1950s and 1960s filled in the few remaining undeveloped parcels of land in the neighborhood, and more single-family homes were demolished to create more multi-unit housing.³²¹

The 1956 zoning code made Capitol Hill legally a “non-family” neighborhood, isolating the neighborhood as an island of apartments, rooming houses, and other, more diverse, forms of residential structures in a sea of single-family housing. Zoning also exacerbated other problems in Capitol Hill. The age of Capitol Hill's buildings and the high number of renters living in the neighborhood combined with the neighborhood's multi-family zoning to make it difficult for people looking to buy the few remaining single-family homes in the neighborhood to get approved for a mortgage. High numbers of potentially transient residents and older buildings made banks and other mortgage lenders skittish about Capitol Hill's long-term stability.³²²

Being a “non-family” neighborhood in 1950s and 1960s Denver was potentially perilous. Denver government and business elites worried openly about how white,

³²¹ Goodstein, *Denver's Capitol Hill*, 127.

³²² Meeting minutes, CHUN Board of Governors, January 6, 1972, 10; meeting minutes, CHUN, January 27, 1974, 2; both box 1, folder 1, CHUN Papers, Denver Public Library.

middle-class families seemed more interested in the city's growing suburbs than Denver itself. They were willing to “suburbanize” the city to lure them back – reshaping downtown through urban-renewal projects designed to attract shoppers, businesses and capital back to the core city, building highways to speed suburbanites to and from Denver, encouraging the building of large-scale shopping centers at the expense of small, existing neighborhood commercial districts, and protecting the city's remaining middle-class residential neighborhoods through strong single-family zoning.

Capitol Hill became one of the places that the city tried to put buildings, infrastructure and land uses that residents and property developers wanted to avoid placing in other, more traditional neighborhoods, thanks to the neighborhood's zoning, and its proximity to Denver's central business district. One-way streets intended to speed suburban residents between their homes and downtown, halfway houses, juvenile facilities, and adult businesses displaced by urban-renewal projects in downtown Denver began to cluster in Capitol Hill in the late 1960s.³²³

In 1969, neighborhood residents formed the Capitol Hill Congress to defend their neighborhood from these unwanted land uses, triggered by the city's plans to turn East 11th and 12th Avenues into one-way streets. Capitol Hill, as explained in the previous chapter, had become home to the city's counterculture in the 1960s. The Capitol Hill Congress was full of young adults who had learned community-organizing skills in the anti-war and other movements of the 1960s.³²⁴ The organization successfully fought the conversion of the two streets (although other streets going through Capitol Hill were later

³²³ Goodstein, *Denver's Capitol Hill*, 126-130.

³²⁴ Goodstein, *DIA and Other Scams*, 281; Capitol Hill United Neighborhoods, “History,” <<http://chundenver.org/about-chun/history/>> (accessed December 1, 2013).

constructed into one-way streets), and began focusing on other neighborhood problems, such as a lack of low income housing in Capitol Hill and other neighborhoods, and potential urban-renewal projects.³²⁵

In 1971, the group changed its name to Capitol Hill United Neighborhoods (CHUN). In many ways, CHUN was similar to other neighborhood organizations in Denver. Its members lobbied the city for improvements to roads and parks, monitored their area for problems, and believed that area residents should have more say in their neighborhood's future. But Capitol Hill's unusual demographics meant CHUN was different, too. CHUN members argued that the things the rest of Denver saw as Capitol Hill's problems were instead strengths. Neighborhood residents were lucky to live in what they saw as Denver's "great urban neighborhood," a place with a diverse, eclectic built environment where young and old, rich and poor, renters and homeowners, and bohemians of every variety lived together.³²⁶

CHUN would eventually lead the movement to reform R-0 zoning to allow unrelated people to live together in single-family neighborhoods. It did so as part of its long-standing support for Capitol Hill's large gay and lesbian population, which was becoming an important, and increasingly visible, part of the "great urban neighborhood" in the early 1970s.

³²⁵ Meeting minutes, GPHC, September 2, 1971, 1, box 2, folder 12, PHAC-GPHC Records, University of Denver; flyer, Capitol Hill Congress, nd [August 1971?], 1, box 9, folder 58, CHUN Records, Denver Public Library.

³²⁶ CHUN, "Capitol Hill: Denver's Great Urban Neighborhood," nd [1973?], 1, box 1, folder 10, CHUN Records, Denver Public Library.

Queer Capitol Hill after World War II

Not everyone who came to the Denver metropolitan area during or after World War II came as part of a family. Single men and women also moved to Denver, and not all of them were heterosexual. Many historians have looked at how World War II helped create queer communities in American cities by bringing in an influx of single men and women, now unconnected from hometowns and families, to urban areas.³²⁷ Denver was no exception. Homosexuality had existed in Denver as long as there had been a Denver, of course, but records of early gay residents are scarce and anecdotal.³²⁸

Denver's first gay bar, the Pit opened in 1939 on Seventeenth Street downtown, but closed soon after.³²⁹ It took a war to create another, which made queer Denverites more visible to people who saw their presence as a problem to manage. Mary's Tavern, located on Broadway near the Civic Center, originally attracted a heterosexual clientele. But airmen stationed at Lowry Air Force Base began patronizing the tavern, acting "blatantly gay in behavior."³³⁰ These same enlisted men began frequenting other nearby bars along Broadway, the far western edge of Capitol Hill. The *Denver Post*, surveying the changes in its city since the war, declared in 1949 that homosexuality was now at an

³²⁷ Allan Berubé, *Coming Out Under Fire: The History of Gay Men and Women in World War Two* (New York: The Free Press, 1990; Chapel Hill: University of North Carolina Press, 2010), 271; John D'Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States, 1940-1970*, 2nd ed. (Chicago: University of Chicago Press, 2012), ch. 2; Lilian Faderman, *Odd Girls and Twilight Lovers: A History of Lesbian Life in America* (New York: Columbia University Press, 1991), ch. 6, Boyd, *Wide-Open Town*, 9.

³²⁸ Thomas J. Noel, "Gay Bars and the Emergence of the Denver Homosexual Community," *Social Science Journal* 15, no. 2 (April 1978): 60-61.

³²⁹ Noel, "Gay Bars," 61.

³³⁰ *Ibid.*

“all-time high” in the area, thanks to the war, large-scale economic changes, and the “speeded-up tempo of postwar living.”³³¹

Heterosexual handwringing over homosexuality in Denver in the 1940s through the mid-1970s focused on the activities of gay men in public or semi-public spaces: cruising for sex at the Civic Center or socializing in gay bars. (Lesbians were rarely, if ever, mentioned in mainstream media reports on city’s “growing homosexual problem.”³³²) Even friendly press, reporting on the increasing visibility of Denver’s gay and lesbian organizations, set their stories in bars, coffee shops, at the meetings or headquarters of social and political organizations, or in other public and semi-public places. But what about private spaces? Where did gay and lesbian Denverites actually live? This is a complicated question to answer, since it is impossible to know which, and how many, Denver residents identified as queer in the decades following World War II. But, given patterns of residence common in gay neighborhoods in other cities, the locations of bars, organizations, and other institutions catering to Denver’s gay and lesbian population, and the actual addresses of queer-identified people that appear in police reports, the media, and other sources, it is clear that many of them lived in Capitol Hill.

Capitol Hill became a queer neighborhood in part because of its built environment, which was created – and then enforced -- by its zoning. Studies of queer neighborhoods in other American cities have noted much overlap between areas with a high gay and lesbian population and high numbers of both renters and multi-unit

³³¹ Bernard Beckwith, “Violations of Moral Code Increase Following Wars, Economic Stress,” *Denver Post*, May 31, 1949.

³³² Bob Whearley, “Homosexuals in Denver: ‘Militant Minority’ Poses Serious Problem for Society,” *Denver Post*, February 14, 1965.

housing.³³³ The same built environment that many Denverites saw as a liability became, for a certain percentage of Capitol Hill's population, an opportunity. Apartments, rooming houses, and other multi-unit housing offered benefits like anonymity, flexibility, and proximity to both commercial districts and other single people. If the nature of your romantic relationship required privacy, if you valued economic flexibility due to discrimination in jobs and housing, and if you wanted to be near bars, restaurants or other places full of people like you, an apartment in Capitol Hill would be an ideal place to live.

The neighborhood became the center for both the meetings and membership of Denver's first organization for gay men. The Denver chapter of the Mattachine Society, founded in January 1957, held its meetings in the homes – largely apartments – of its members. The Denver chapter began only seven years after activist Harry Hay and several other men founded the Mattachine Society in Los Angeles. Hay, a member of the Communist Party, feared that “McCarthyism was setting up the pattern for a new scapegoat and it was going to be us – Gays.”³³⁴ Gay men needed to organize in order to protect themselves in an inhospitable political climate. The organization was small at first, focusing only on southern California. But the Mattachine Society gained more attention in the mid-1950s, after publicly opposing the arrest of several of its members, and chapters began in other cities.³³⁵

Mattachine member Hal Call, who became one of the first openly gay journalists in the United States and who helped the organization fight obscenity charges in the mid-

³³³ Robert Bailey, *Gay Politics, Urban Politics: Identity and Politics in the Urban Setting* (New York: Columbia University Press, 1999), 60-66.

³³⁴ Quoted in Craig M. Loftin, *Masked Voices: Gay Men and Lesbians in Cold War America* (Albany: State University of New York Press, 2012), 19.

³³⁵ Loftin, *Masked Voices*, 19.

1950s, had Colorado roots. In 1950, he was the young publisher of the World-Independent in the coal-mining town of Walsenburg, where he was respectably engaged to marry a member of a prominent local family. He had to travel to other parts of the state to be himself – sometimes he would go to Alamosa to visit his lover Bill, and he also visited Denver frequently. In Denver, he frequented the aforementioned Mary's Tavern, but also the Steak Bar, located in the basement of a downtown bus station, and the Ship's Tavern, the bar in the Brown Palace Hotel, where “ranchers lassoed gay boys.” At the Ship's Tavern, he met his lover Jack Feiertag, with whom he moved to San Francisco in 1952.³³⁶

Schoolteacher Elver Barker founded the Denver chapter of Mattachine. In organization newsletters and other documents, the society's members used pseudonyms – Barker's was “Carl B. Harding.”³³⁷ A native of Wyoming, he was living in Oakland in the 1950s, when he was fired from his job as a social worker for being gay. Barker was already a member of the San Francisco Mattachine chapter – possibly crossing paths with Call – when he decided to move to Denver. He found a job working for the Aurora Public Schools, and moved into an apartment at 1353 Vine Street in Capitol Hill.³³⁸

It is unlikely that Denver would have had a chapter of the Mattachine Society without Barker. Unlike San Francisco, New York, Chicago, and other cities with active chapters, Denver was a smaller city, isolated from both the west and east coasts. But the presence of Barker, who continued to work for the national organization, writing articles

³³⁶ James T. Sears, *Behind the Mask of the Mattachine: The Hal Call Chronicles and the Early Movement for Homosexual Emancipation* (New York: Routledge, 2013), 19-20.

³³⁷ Sears, *Behind the Mask*, 294.

³³⁸ Peggy Lowe, “Gay Activists Recall Long Fight for Rights,” *Denver Post*, June 27, 1999; D'Emilio, *Sexual Politics, Sexual Communities*, 119; *Denver Area Council of the Mattachine Society Newsletter* 3, no 10 (October 1959), 1, box 1, Gay Coalition of Denver Papers, MSS1151, Stephen H. Hart Library and Research Center, History Colorado [hereafter History Colorado].

for the Mattachine Review and preparing handbooks and educational materials for chapters across the United States, made Denver an important hub for gay-male political and social organizing in the late 1950s. Other founding members of the Denver Council of the Mattachine Society included “Barry Sheer,” a college student at the University of Colorado; “Bill Matson,” a Nebraska native and Capitol Hill resident, who served as the organization's librarian. Chapter newsletters were edited by state employee “Rolland Karcher,” and “Harley Beckman,” who worked at St. Joseph's Hospital.³³⁹ Denver Mattachine had members in a ten-state swath of the interior West, and members of other chapters traveling across the country found welcoming places to stay in the homes of local members.³⁴⁰

Denver Mattachine had a large geographic impact, but its spatial footprint in Denver was small. Its members, at least those whose addresses were listed in the organization's newsletter, largely lived, like Barker, in apartments, and these were where Mattachine meetings, newsletter work-parties, and other activities took place. Most of these meetings took place in various residences in Capitol Hill, where both the organization's library and post-office box were located. In one meeting, members debated the merits of living in an apartment in central Denver versus purchasing a house in the suburbs.³⁴¹ Members agreed that urban apartments were more ideal for gay men:

³³⁹ Sears, *Behind the Mask*, 394.

³⁴⁰ The ten states were Colorado, Montana, Wyoming, North and South Dakota, Utah, New Mexico, Kansas, Nebraska and Oklahoma. *Denver Area Council of the Mattachine Society Newsletter* 4, no. 1 (January 1960), 8, box 1, Gay Coalition of Denver Papers, History Colorado; Sears, *Behind the Mask*, 394.

³⁴¹ Known Capitol Hill addresses where known Mattachine Society meetings took place are: 1353 Vine Street, 1082 Clarkson, 1644 Lincoln, 979 Downing, and 1201 Race. Two other meetings took place in the Baker/South Broadway area of Denver, one near Lowry Air Force Base, and one just south of Capitol Hill in the Alamo Placita neighborhood. Only the organization's newsletters from late 1959 to mid-1961 available, either in Denver archives or at the larger Mattachine Society archives at the ONE National Gay and Lesbian Archives in Los Angeles.

The suburban areas of new housing might not be the most desirable places to buy, since there seems to be little chance for privacy in them, and a high degree of conformity seems to be expected by the kind of people -- largely families -- who reside in them....[s]tay with the city, was the group's advice. Not only does it contain all kinds of individuals with a degree of anonymity...not so anonymous differences are accepted with considerable equanimity.³⁴²

In September 1959, Denver hosted the national convention of the Mattachine Society.³⁴³ It was the only time the organization held a convention outside of California or New York. The convention was Barker's idea.³⁴⁴ He and other members of Denver Mattachine lined up several local speakers such as Robert Allen, the majority leader of the Colorado House of Representatives, who gave a talk on civil liberties and William Reynard from the Colorado chapter of the American Civil Liberties Union.³⁴⁵ The Denver convention differed from previous meetings not just in its location – at Barker's suggestion, leaders of the organization gave a press conference where they used their own names and allowed themselves to be photographed and interviewed by local media. “Denver,” Barker argued, “is a modern, progressive city, and can take it!”³⁴⁶ In one way, he was right: local media, including both the News and the Post, covered the convention favorably and seriously.³⁴⁷

But he misjudged just how progressive Denver was. Two undercover officers from the Denver Police Department – described in Denver Mattachine's newsletter as “two burly gentlemen” -- attended the convention, as well. Several weeks later, the police got a

³⁴² *Denver Area Council of the Mattachine Society Newsletter* 4, no. 12 (December 1960), 3-4, box 1, Gay Coalition of Denver Papers, History Colorado.

³⁴³ Marc Stein, *Rethinking the Lesbian and Gay Movement* (New York: Routledge, 2012), 61-62.

³⁴⁴ D'Emilio, *Sexual Politics, Sexual Communities*, 119.

³⁴⁵ Rolland Howard, “Notes on the Convention,” *Denver Area Council of the Mattachine Society Newsletter* 3, no. 10 (October 1959), 3, box 1, Gay Coalition of Denver Papers, History Colorado.

³⁴⁶ Cited in D'Emilio, *Sexual Politics, Sexual Communities*, 120.

³⁴⁷ “Mattachine Society to Meet,” *Rocky Mountain News*, August 30, 1959; “Group to Discuss Homosexual Needs,” *Denver Post*, September 4, 1959; “Group Seeks to End Homosexual Stigma,” *Rocky Mountain News*, September 6, 1959.

warrant to search the apartments of several Mattachine members: Barker, Matson, and others. Matson's apartment was home to the Denver chapter's library, and police arrested him, charging him with “illegal possession of pornographic articles.”³⁴⁸ Matson lost his job, and was sentenced to 60 days in jail. Other members quietly resigned from their jobs, and began distancing themselves from the organization, since the Denver police had seized a list of members' names and addresses from Matson's apartment. The Denver chapter of the Mattachine Society lasted a few more years before it disbanded in 1961, but it lost much of its membership and momentum after the police arrested Matson. Barker moved back to Wyoming, but returned to Denver in 1972, setting up a small art studio in Capitol Hill, where he lived and made his living as a painter until his death in 2004.³⁴⁹

The 1960s were a turbulent decade in Colorado and the rest of the United States, but little changed for Denver's gay and lesbian population. In the ten years between the disbanding of Denver Mattachine and the founding of the Colorado Alliance for Homosexual Equality in 1971, there was no organization in the Denver area for gay men or lesbians. Queer life in the city, whether in Capitol Hill or elsewhere, was clandestine, limited to a few sympathetic bars or restaurants. Police aggressively hassled the patrons of gay bars, theaters, and other spaces, and the few mentions of homosexuality in the Denver media were far from supportive.³⁵⁰ The *Denver Post*, which ran a series of articles “exposing” the activities of gay men and lesbians in their city in 1965,

³⁴⁸ *Denver Area Council of the Mattachine Society Newsletter* 3, no. 10 (October 1959), 1, box 1, Gay Coalition of Denver Papers, History Colorado; *Denver Post*, October 10, 1959; D'Emilio, *Sexual Politics, Sexual Communities*, 120.

³⁴⁹ James B. Meadow, “Elver Barker Courageously Worked for Gay Rights,” *Rocky Mountain News*, September 9, 2004.

³⁵⁰ Whearley, “Militant Minority.”

editorialized that “the city can – and must – make certain that the Denver homosexual community is contained and restricted, that Denver does not become known as a haven for homosexuals.”³⁵¹ In response, Mayor Thomas Currigan, when asked about the city’s treatment of its gay population, replied:

I have taken an oath to uphold the constitution and the laws of the United States and the State of Colorado and the charter and ordinances of the City and County of Denver. That includes upholding the law against homosexuality, which is in violation of natural law, as well as the man-made regulations controlling it. If and when legislation is passed changing society’s official position toward homosexuality, I will review my stand on the matter. Until that happens, however, I will not discuss or debate this question with anyone.³⁵²

Denver itself may not have become the “haven for homosexuals” the Post feared, but Capitol Hill certainly did. In the 1970s, Capitol Hill began to blossom with queer organizations, and a robust network of gay-friendly coffee houses, bookstores, restaurants and other businesses in the neighborhood acted as informal community centers. If you were a gay man or lesbian in Denver in the 1970s, you might not live in Capitol Hill, but chances were that you socialized or attended meetings in the neighborhood, due to its density of community infrastructure. The aforementioned (but short-lived) Alliance had its headquarters at 1400 Lafayette Street -- a site that would also be home throughout the 1970s to the Denver outpost of the Metropolitan Community Church, the Gay Community Center of Denver, the coffeehouse of the Denver Lesbian Center, and the Denver chapter of the Lesbian Task Force of the National Organization of Women.³⁵³

³⁵¹ *Denver Post*, February 16, 1965, quoted in Noel, “Gay Bars,” 62.

³⁵² Quoted in Noel, “Gay Bars,” 63.

³⁵³ *The New Way*, November 28, 1971, 5, box 1, Gay Coalition of Denver Papers, History Colorado; handwritten list of addresses in Denver subject files, ONE National Gay and Lesbian Archives, University of Southern California.

Bookstores selling gay-themed magazines and books were located on East Colfax Avenue near the Colorado State Capitol and on East 20th Avenue.³⁵⁴ Coffeehouses were scattered along East 17th Avenue, along with some restaurants and bars.

Many gay-friendly businesses and organizations were attracted to Capitol Hill; others were pushed. In the late 1970s, urban renewal projects -- particularly the Auraria and Skyline Urban Renewal Projects -- were uprooting numerous bars, bookstores, X-rated movie theaters, restaurants, and other businesses in and near downtown that were known to be gay-friendly. The Red Roach and Cherry Creek Tavern, two bars catering to both gay men and lesbians, were located in the historic, and largely Hispanic, neighborhood of Auraria, just west of Denver's central business district.³⁵⁵ The neighborhood was destroyed, and its residents and businesses relocated in the early 1970s to make way for a college campus. More bars, adult theaters and other businesses flourished along Larimer Street, part of which was also torn down and redeveloped in the early 1970s. The nearest place for such businesses to go was along East Colfax in Capitol Hill -- the neighborhood's multi-family zoning also allowed for a wide array of businesses to be located in the neighborhood, as well.³⁵⁶ Urban renewal and other redevelopment projects downtown, designed to modernize central Denver and make it more business friendly, had the side effect of concentrating "undesirable" businesses in Capitol Hill, which both concerned and liberated neighborhood residents.

³⁵⁴ "Women's Bookstore Planned for this Area," *Life on Capitol Hill*, June 28, 1975, 1; advertisement, *The Word is Out*, March 1980, 3.

³⁵⁵ Bob Whearley, "Homosexuals in Denver: Clientele Feels Safer in 'Gay Bars'," *Denver Post*, February 16, 1965.

³⁵⁶ Letter, T.J. Millisack to Mrs. John C. Lee, September 3, 1971, 1, box 5, folder 14, McNichols Papers, Denver Public Library; Alan Katz, "East Colfax Backers See Boom," *Denver Post*, July 21, 1996, box 1, Uptown on the Hill Papers, WH1943, Denver Public Library.

The network of community institutions in the neighborhood made it possible for queer Denverites to band together politically to demand more rights and just treatment from both the City and County of Denver and the State of Colorado. The first effective queer political organization founded in the 1970s in Capitol Hill was the Gay Coalition of Denver [GCD]. It was founded in 1973 by five Denverites – two gay men and three lesbians -- impatient with the slow pace of change and lack of political action in the city.³⁵⁷ The Coalition ran a community coffeehouse, organized a speaker's bureau, sponsored films and plays, and held support and coming-out groups at its eventual headquarters at 1450 Pennsylvania Street. But much of its early activity was focused on ending police brutality and defending queer Denverites – mainly gay men – who were arrested by the city for violating local sodomy and obscenity laws.

Colorado was a relatively progressive state in the early 1970s when it came to gender and sexuality. The state rescinded its sodomy laws in 1971 – the fourth state in the United States to do so.³⁵⁸ The Colorado legislature also passed a law in 1972, banning discrimination based on sex. But Denver itself was not as progressive as its state was in the early 1970s. The police department and the district attorney's office eagerly targeted and prosecuted Denverites caught in what the city defined as “lascivious acts.” Denver's City Council showed little interest in liberalizing city laws, even though Mayor McNichols requested that it change them to be in line with more liberal state laws.³⁵⁹ In 1973, Denver forbade “fondling” between members of the same sex in public or semi-

³⁵⁷ Gerald Gerash, “The Origins of the Center – How and Why it Came About,”

<http://www.denvergayrevolt.com/origins_of_center.html> (accessed November 29, 2013);

³⁵⁸ William N. Eskridge, *Dishonorable Passions: Sodomy Laws in America, 1861-2003* (New York: Penguin Books, 2008), 177.

³⁵⁹ Bill Sonn, “Butterflies and Wallflowers Discuss Sex,” *Straight Creek Journal*, October 30-November 6, 1973, 7.

public spaces, loitering, discussing same-sex sexual activity in public, and men wearing women's clothing (although it was completely legal for women to wear men's clothing).³⁶⁰

The Coalition fought the Denver Police Department's deliberate entrapment of men looking for sex at two different areas in Capitol Hill – the grounds of the Colorado state capitol building and Cheesman Park. The DPD used a bus they called the “Johnny Cash special.” The bus driver, an undercover cop, would approach men and offer them free tickets to a Johnny Cash concert if they got on the bus. Once inside, the driver would proposition his target for sex. If he agreed, other undercover cops would appear from the back of the bus and arrest him. In late 1972 and early 1973, 60 to 125 men a month were arrested by the city for agreeing to engage in sexual activity that was legal in Colorado.³⁶¹ But while homosexual sex was newly legal in Colorado, “fondling” or sexual solicitation between members of the same sex was still illegal in Denver. Gay men were still being arrested in Denver despite the loosening of state laws – what changed was the charges they were arrested under. It didn't help that vice cops working the “homosexual surveillance” beat essentially defined “lewd acts” as sexual activity “not normal to the everyday conduct of normal people.”³⁶²

The Coalition used two approaches to get the Denver police from hassling Capitol Hill residents. First, it sued the city. Nearly 98 percent of the men arrested in these two places for “lewd acts” were gay men, and in its suit, the Coalition argued that the Denver

³⁶⁰ Gay Coalition of Denver, “Facts About Tonight's Meeting,” November 19, 1973, 1, box 2, Gay and Lesbian Organizations Collection, MSS1498, History Colorado; Gerash, *Gay Revolt at Denver City Council, October 23, 1973, and The Beginning of an Organized Gay Community*, directed by Gerald Gerash (Denver: np, 2009), DVD.

³⁶¹ Letter, Gay Coalition of Denver to McNichols, Max Zall, and Art Dill, nd [February 1973], 1, box 1, folder 3, Gay Coalition of Denver Papers, History Colorado.

³⁶² Deposition, James Edward Lux, October 18, 1973, in *Gay Coalition of Denver v. City and County of Denver* [C-37520], 14, box 1, folder 10, Gay Coalition of Denver Papers, History Colorado.

police were violating state and federal equal-protection laws by targeting a specific population, even though sexual orientation was not covered by these laws.³⁶³ Its second approach was persuading City Council to revise the city's criminal code so that it was more in line with state laws regarding sexual conduct.³⁶⁴ Members of the Coalition met with councilmen throughout 1973, trying to get a hearing before the council. Most members of the all-male Council refused to meet with members of the group, even Robert Koch, the councilman for Capitol Hill. But even some councilmen who agreed to meet with the group were hostile to their cause. Councilman Edward Burke told Coalition members, "if gays don't like it in Denver, they can go to Glendale."³⁶⁵ Of the thirteen men on City Council, only two were sympathetic to the Coalition's cause – William Roberts and Irving Hook. Roberts was the only African-American councilman; Hook City Council's only Jewish member.³⁶⁶

The Coalition finally got City Council to discuss criminal-code revisions at a meeting in October 1973. More than 300 people showed up at the meeting to testify or support the Coalition's efforts – many wearing green carnations on their lapels to identify themselves. The discussion was put on the end of a crowded agenda – the be-carnationed had to sit through a lengthy discussion of the city's perpetual annexation problems before their concerns could be heard.³⁶⁷ By the time the city's anti-gay policies came up for discussion, the meeting was almost over. Koch reluctantly allowed the meeting to go

³⁶³ Gerash, "The Origins of the Center."

³⁶⁴ Gay Coalition of Denver, *Newsletter* 4 (October 1973), 1, box 2, Gay and Lesbian Organizations Collection, History Colorado.

³⁶⁵ Gerash, *Gay Revolt at Denver City Council*.

³⁶⁶ Gerash, *Gay Revolt at Denver City Council*; Sonn, "Butterflies and Wallflowers Discuss Sex." Roberts brokered the merger between the Park Hill Action Committee and the Northeastern Park Hill Civic Association in 1969 that is mentioned in Chapter 3.

³⁶⁷ Jeff Rosen and Cecil Jones, "City Council Moves Forward [sic] on Annexations," *Rocky Mountain News*, October 24, 1973; Sonn, "Butterflies and Wallflowers Discuss Sex."

longer, after Hook and Roberts complained, although he refused to allow Coalition lawyer Gerash to show slides detailing the statistics his group had compiled.³⁶⁸ More than 35 people testified in favor of changing the code. In the end, over the course of several months of meetings, City Council voted to revise its criminal code, repealing all of the anti-gay provisions in Denver city law.³⁶⁹

The Coalition's victory at City Council, which it called “one of the most significant events in the history of the Gay community in Denver,” was just the beginning of its political advocacy. It, along with queer organizations in Boulder and Colorado Springs, began advocating for gay-rights laws at the state level, perhaps sensing that it was unlikely to get any such laws through Denver City Council anytime soon. The Coalition helped draft legislation that would ban discrimination based on sexual orientation in employment, housing, custody situations, education, and other areas, and allow for same-sex marriage. Although several Denver politicians endorsed the legislation, it failed to gain any traction in the state legislature.³⁷⁰

More successfully, the Coalition worked to get Robert Koch out of office. Capitol Hill needed a city representative friendlier to the neighborhood's queer population, leaders of the Coalition argued: “If you are a registered voter is [sic] the Capitol Hill district we need your help to get the Koch out of City Council. His district has a large number of gay people in it, but he has shown himself to be totally unresponsive.”³⁷¹ A year and a half later, Capitol Hill neighborhood activist Cathy Donohue was elected to

³⁶⁸ Sonn, “Butterflies and Wallflowers Discuss Sex,” 7.

³⁶⁹ Gerash, *Gay Revolt at City Council*; Gay Coalition of Denver, *Newsletter* 6 (December 1973), 1, box 2, Gay and Lesbian Organizations Collection, History Colorado.

³⁷⁰ Sandae Custard, “Gays and Supporters Seek Civil Rights Endorsement,” *Big Mama Rag* 3, no. 6 (November 1974), 12.

³⁷¹ Gay Coalition of Denver, “Facts Regarding Tonite's City Council Meeting,” November 19, 1973, 1, box 2, Gay and Lesbian Organizations Collection, History Colorado.

Koch's council seat, one of the first women elected to City Council.³⁷² Active with CHUN since its founding, Donohue was elected largely due to that organization's support, but her friendliness towards her neighborhood's queer residents won her gay support, as well, which she repaid in advocacy. During her nineteen years on Council, Donohue was gay Denver's best friend in city government, and she would play a crucial role in changing R-0 zoning to allow unrelated people to live together in the late 1980s.

The Coalition's lawsuit against the city ended in an agreement between the organization and the Denver Police Department. The DPD agreed to stop harassing the patrons of gay bars and appoint a liaison between the Denver police and the Coalition.³⁷³ Yet, the Denver police continued to harass gays and lesbians in Capitol Hill and other places in the city despite its agreement with the Coalition.³⁷⁴ In 1974, undercover officers arrested two men for kissing in The Brew, a gay bar located at 608 East 13th Avenue.³⁷⁵ In 1975, the department issued numerous jaywalking citations in the 1200 and 1300 blocks of Broadway to patrons going into or coming out of the Broadway Lounge, a popular queer bar.³⁷⁶ Some people receiving tickets reported that police handed them copies of *The Gay Blade*, “a publication which points out the 'evils' of homosexuality in graphic terms,” with their jaywalking citations.³⁷⁷ The police also tended to ignore violence toward Capitol Hill's gay population. James Pupura, a resident of 1129 Clarkson, complained to the Coalition that the police offered no help when several people attacked

³⁷² Cathy Reynolds was also elected to an at-large Council seat that year. The two Cathys were the only women on Council until the mid-1980s. Barbara Young, “Councilwoman Cathy Donohue – She Represents Us at City Hall,” *Life on Capitol Hill*, October 1975, 4; Chaer Robert, “Legacy of Leadership: Denver City Councilwomen,” *Colorado Women's News*, October 16, 2003.

³⁷³ “Coalition and Police Reach Agreement,” *Rhinoceros* 1, no. 1 (November 1974), 1.

³⁷⁴ “Gays Meet Vice Chief,” *Big Mama Rag* 2, no. 8 (June 1974), 4.

³⁷⁵ Enoch Needham, “The Kissing at the Brew Trial,” *Straight Creek Journal*, June 25-July 2, 1974, 1.

³⁷⁶ Complaint forms, box 1, Gay and Lesbian Organizations Collection, History Colorado.

³⁷⁷ Frank Driscoll, “Flatfoot Booted for Gaywalker Grudge,” *Rocky Mountain Journal*, October 20, 1976, 1.

and beat him at the nearby intersection of East Colfax Avenue and Lincoln Street two weeks prior. He had called the station to report the attack, but no avail. "...the officer on the phone asked me if I was beat up. I said I was, and he replied very rudely, 'good.' He continued to shout in my ear on the phone telling me to mind my own 'faggot' business..."³⁷⁸ Police antagonism towards queer Denverites continued throughout the 1970s, turning deadly in June 1977, when a vice officer shot and killed Eugene Levi, an African-American gay man. The Denver District Attorney did not file charges against Officer Daniel O'Hayre, arguing that the shooting was accidental.³⁷⁹ Despite community protests, O'Hayre did not lose his job and advanced up the ranks the police department, eventually becoming a division chief.³⁸⁰

Same-Sex Households and R-0 Zoning

Police brutality and harassment and a lack of legal protections were the biggest problems the Gay Coalition of Denver, and its successor, the Gay Community Center of Colorado, founded in 1976, tried to solve. But another problem began to emerge in the late 1970s. There was little reported discrimination in housing based on sexual orientation in Capitol Hill, but what happened when queer Denverites, particularly same-sex couples, tried to move to other parts of the city? Capitol Hill had its attractions, but it also had some problems – a high crime rate, few schools, and little housing available for purchase. People wanting more room, their own backyard, a safer neighborhood, or better

³⁷⁸ James E. Pupura, complaint, nd, 1, box 1, Gay and Lesbian Organizations Collection, History Colorado.

³⁷⁹ The June Seventh Committee, *The Killing of Eugene Levi by Vice-Officer Daniel O'Hayre: A Critical Report*, 1, box 2, Gay and Lesbian Organizations Collection, History Colorado.

³⁸⁰ *Sekerak v. City and County of Denver*, 1 F.Supp.2d 1191 (1998). O'Hayre was a defendant in an unsuccessful lawsuit charging the Denver Police Department with gender discrimination.

schools, needed to look elsewhere. But same-sex households --- people living together as lovers, partners, or roommates -- moving into other neighborhoods in east-central found that their new neighbors, and neighborhoods, weren't as amenable to their presence as Capitol Hill would have been.³⁸¹

Sometime in 1974, Diane Bliel and Karen Williamson moved to a house in Congress Park, the neighborhood just to the east of Capitol Hill. Congress Park had many of the amenities that Capitol Hill had – easy access to downtown, affordable housing. But the neighborhood had more single-family homes for purchase or rent, and it also had excellent schools for Williamson’s young son. Bliel and Williamson's exact relationship remains unknown – the Denver media referred to them as “roommates” – but the two women had lived together for quite some time.

The two women lived in the southern half of Congress Park, which was zoned R-0. The white, middle-class residents of this part of the neighborhood worked with the Denver Planning Office in the early 1970s to rezone this half of the neighborhood R-0 to keep their property values stable.³⁸² The two women quietly lived in their rented home for two years before an anonymous neighbor informed the city that their household violated local zoning. During hearings before the Board of Adjustment-Zoning in October 1976, other neighbors argued that Bliel and Williamson threatened Congress Park’s future. One

³⁸¹ Frank Murr, “What Can YOU Do in ’77?,” *The Love Letter*, January 1977, 1, box 2, Gay and Lesbian Organizations Collection, History Colorado.

³⁸² In 1970, 97.9 percent of Congress Park’s residents were white. 37.7 percent of its housing units were single-family detached homes. Neighborhood data, nd, np, box 13, folder 27, CHUN Records, Denver Public Library.

man argued, “the zoning guarantees nothing but traditional single families will live next door, and that improves property values and the stability of the neighborhood.”³⁸³

Bliel and Williamson did not go quietly. The women's landlord also fought the vacancy order, calling them the finest tenants he had ever ha. The two women even tried to legally adopt one another in order to stay in their home. However, they dropped adoption proceedings after the city attorney's office told them the City and County of Denver would still not consider them kin. In Colorado, an adult adopted by another adult was only considered a legal relative for inheritance purposes.³⁸⁴ Afterward, Bliel said that staying in their home, in the end, wasn't worth it. Even if the two sued to reverse the vacancy order, “the neighbors would still hate us.”³⁸⁵

The two women were not the only Congress Park residents in the same predicament in the fall of 1976. Robert Allen and Charles Shilling, who lived just two blocks away, were also being forced out of their home of four months by Denver's zoning laws. Allen and Shilling had only lived in the area for a few months, having only recently purchased their home. But the real-estate agent who sold the two men their home did not tell them how their block's zoning would affect them. After neighbors reported them to the Zoning Administration, Allen and Shilling threatened to sue the city, and, like Bliel and Williamson, looked into adoption as a way to remain in their home. In the end, though, the two men sold their house and moved away.³⁸⁶ Congress Park was not the only place that same-sex households were facing problems. In Park Hill, Wilbur Andrews and

³⁸³ Whitbeck, “Double Challenge.”

³⁸⁴ *Martin v. Cuellar*, 279 P.2d 843 (1955), 131 Colo. 117; Peter N. Fowler, “Adult Adoption: A 'New' Legal Tool for Lesbians and Gay Men,” *Golden Gate University Law Review* 14 (1984), 667n.

³⁸⁵ Whitbeck, “Denver Roommates.”

³⁸⁶ *Ibid.*

Albert Pride purchased a home together on Monaco Parkway in 1977, and received a cease-and-desist order from the city a year later, ordering them to vacate. Andrews and Pride successfully fought to stay in their home, although it took a four-year fight against both neighbors and the city to do so. Throughout the process, the two men's lawyer told the media that neither of them wanted to discuss their personal life.³⁸⁷

The actual relationship of the people living in these three households is unknown. News media tended to call them "roommates" while hinting at a stronger relationship, and the people involved did not answer questions about their relationship. But the act of living together for a long time, purchasing a house together, or, more seriously, trying to become legal kin through the difficult (and, in Colorado, ineffective) tool of adult adoption suggest that Bliel and Williamson, Allen and Shilling, and Andrews and Price were likely more than just roommates. Regardless of their actual relationship, neighbors certainly thought of them as a threat to the "family" atmosphere of Congress Park and Park Hill. In addition, gay organizations were beginning to view R-0 zoning as a form of housing discrimination that needed to be remedied.

R-0 Zoning and the Gay and Lesbian Vote in the 1983 Mayoral Election

In 1983, William McNichols had been Denver' mayor for fourteen years. Originally, he was appointed to the city's top office in the waning days of 1968, when his predecessor Thomas Currigan resigned to work in private industry. But he had won three mayoral elections since by wide margins, usually beating city District Attorney Dale

³⁸⁷ Bonnie Schuldt, "Two Roommates Successfully Challenge R-0 Zoning," *Denver Post*, October 20, 1982; Rita Robinson, "Not in My Neighborhood," *Denver Magazine*, November 1979, 9.

Tooley for the office.³⁸⁸ McNichols successfully shepherded Denver through the 1970s, investing in infrastructure, and winning over the business community by advocating for more growth and helping to reshape downtown to fit their needs. But the mayor often seemed at a loss when confronted with the immense social and cultural changes going on within his city.³⁸⁹

Overall, his administration was largely apathetic – even hostile, at times -- to both gay and lesbian Denverites and the neighborhood they lived in. McNichols did ask City Council to liberalize city morality laws, but he also supported the police department in 1973 against the Coalition's lawsuit and refused to give city grant money to the Coalition or the GCCC for projects even though they qualified for them.³⁹⁰ Because of this, Denver's gay organizations were eager to see McNichols voted out of office. In 1979, when McNichols successfully ran for his third term in office, the GCCC endorsed ski-industry executive Garry Mitchell for mayor, the only candidate to endorse creating a gay-rights ordinance in Denver. (Felicia Muftic, the other challenger in the race, argued that such an ordinance was unnecessary and would “divide the city.”) Although the gay-led “Dump McNichols” movement garnered some attention, it had little effect on the eventual outcome of the race.³⁹¹

³⁸⁸ Gary Delsohn, “The McNichols Years: Skilled Politician or Out-Of-Touch Chief Executive?” *Denver Post*, February 6, 1983.

³⁸⁹ Phil Goodstein, *DIA and Other Scams*, 209.

³⁹⁰ Letter, McNichols to Gay Coalition of Denver, February 21, 1973, 1, box 1, folder 8, Gay Coalition of Denver Papers, History Colorado; letter, McNichols to Rev. Ed Nelson, March 5, 1979, 1, box 24, folder 41, McNichols Papers, Denver Public Library; Phil Nash, “The Center – Then and Now,” <<http://www.glbtat35.org/p/timeline.html>> (accessed December 2, 2013).

³⁹¹ Nash, “The Center – Then and Now;” Kenneth T. Walsh, “Homosexuals Start 'Dump McNichols' Movement,” *Denver Post*, March 20, 1979; Kenneth T. Walsh, “Muftic Opposed to Gay Rights Measure,” *Denver Post*, April 13, 1979.

But, just four years later, McNichols looked vulnerable. After fourteen years of “Mayor Bill,” some Denverites just seemed ready to have a fresh face in the mayor's office. Some of the six other candidates in the 1983 election were courting constituencies that McNichols had ignored or alienated during his long administration. And many city residents still smarted from the city's botching of a blizzard that shut Denver down in December 1982. Inept snow removal and McNichols' decision not to seek federal disaster-relief funds to help businesses and residents hurt his standing among voters who might otherwise choose to keep the incumbent mayor in office.³⁹² R-0 zoning, and its impact on gay and lesbian Denverites, became a surprising campaign issue in the 1983 election. But in a year when there were many candidates and many issues, the seven men seeking the mayoralty sought every vote they could. Most observers originally predicted that the 1983 race would be, in the end, another contest between McNichols and Tooley – all other candidates were considered serious underdogs.

One of these underdogs was Federico Peña, a Hispanic lawyer originally from Texas, who had been elected to the Colorado state legislature in 1979. Peña, along with other long-shot candidates like lawyer Monte Pascoe and former state representative Wellington Webb, focused his campaign on people who often felt left out of city politics: Hispanics, African-Americans, other racial and ethnic minorities, women, people living in central Denver, neighborhood organizations, and gay men and lesbians.³⁹³

³⁹² William E. Schmidt, “Denver Mayor, 72, Announces Re-Election Bid for Fourth Term,” *New York Times*, March 1, 1983.

³⁹³ Gary Delsohn, “Peña's Early Coalition Strategy a Winner,” *Denver Post*, June 22, 1983; Rodney Hero, “The Election of Hispanics in City Government: An Examination of the Election of Federico Peña as Mayor of Denver,” *Western Political Quarterly* 40, no. 1 (March 1987): 97; Carlos Muñoz, Jr. and Charles Henry, “Rainbow Coalitions in Four Big Cities: San Antonio, Denver, Chicago, and Philadelphia,” *PS* 19, no. 3 (Summer 1986): 606.

Webb and his wife, Wilma, had a strong record of supporting gay rights, but Peña spent more time actively courting queer voters. Peña visited every gay bar in Denver during his campaign, and in campaign stops, he frequently spoke about issues affecting gay and lesbian Denverites – prejudice in jobs and housing, the need for an amendment to the city charter banning discrimination, and the need to end R-0 zoning restrictions.³⁹⁴

The issue of allowing unrelated people to live together became a campaign issue because newly-formed gay political groups, such as the Denver Municipal Election Committee [DMEC]. The DMEC was a side project of the GLCC, formed in spring 1983 with the help of Lee Rudofsky, a well-known gay real-estate agent who specialized in selling property in R-0-zoned areas near Capitol Hill, and Cathy Donohue, Capitol Hill's representative on City Council.³⁹⁵ DMEC's goal was to get more queer Denverites to vote, and, indirectly, to gain more political capital for Capitol Hill, by targeted 25 precincts in central Denver, most in Capitol Hill, where, in its estimates, at least a quarter of eligible voters were lesbians or gay men. Vigorous voter-registration and fundraising campaigns ensued. The DMEC also asked the seven candidates for mayor how they stood on various issues affecting queer Denver. Six of the seven candidates answered DMEC's questions (Tooley did not respond) and their answers were published in the GLCC newsletter and distributed, through DMEC, to potential gay voters. One question candidates answered was “Homosexuals are prohibited from living in R-0 zoned neighborhoods presently. As Mayor, what will your position be on R-0 zoning?”³⁹⁶ The

³⁹⁴ Wellington E. Webb, *Wellington Webb: The Man, the Mayor and the Making of Modern Denver* (Golden, CO: Fulcrum Publishing, 2007), 124-25; Delsohn, “Peña's Early Coalition Strategy a Winner.”

³⁹⁵ Advertisement, Almor Realty, *The Denver Magazine*, November 1979, 28.

³⁹⁶ Denver Municipal Election Committee, “Denver Mayoral Candidates Speak Out,” May 12, 1983, in Denver Subject Files, ONE National Gay and Lesbian Archives, University of Southern California.

discriminatory nature of R-0 zoning was obvious, but DMEC's ties to the real-estate industry might explain why the group focused on this issue so much.

McNichols defended Denver's zoning restrictions, while admitting that there might be occasions where unrelated people might need to live together – a disabled city resident might need “live-in” help, for example. Most other candidates, though, admitted R-0 zoning was discriminatory, although they differed on how to solve the problem while still preserving the character (and the potential votes) of single-family neighborhoods like Park Hill and Congress Park. (Sudmeyer told the DMEC that he was opposed to all zoning in Denver, not just single-family zoning.) In his answers, Peña argued that “R-0 zoning is unnecessarily restrictive and fails to acknowledge the realities of today's housing market or modern lifestyles,” and pledged to amend the city's zoning code to allow unrelated people to live together in R-0-zoned neighborhoods.

Tooley and Peña received the most votes in the May 1983 election, but neither man gained a majority. In the month between the general election and the runoff, the two men participated in a series of debates, two of which were sponsored by DMEC and other gay organizations.³⁹⁷ The involvement of DMEC meant that R-0 zoning became an even bigger issue in the runoff election. At one debate, held at Tracks, a popular nightclub northeast of downtown, Peña took on R-0 zoning, telling the audience that “we ought to allow two individuals who are not married to purchase a home in this city.” Tooley agreed, calling the R-0 restrictions “silly.” Peña and Tooley's opposition to R-0 zoning

³⁹⁷ These organizations were Gays and Lesbians for Action in Politics and DMEC. Bill Walker, “Peña, Tooley Divide Over Gay Policies,” *Denver Post*, June 16, 1983.

marked the first time candidates for the city's chief office (one of whom was already an elected city official) had spoken out publicly against the family restrictions.³⁹⁸

Peña won narrowly, getting only a few thousand more votes than Tooley. As Denver's first Hispanic mayor, his election gave many underrepresented city groups hope. But getting Denver through the 1980s would be more difficult than it seemed. Gay and lesbian Denverites would get some of what they wanted out of the Peña administration, but not everything. As he promised, R-0 zoning changed during his administration. But gay and lesbian Denverites, and others affected by zoning restrictions on unrelated people living together, would have to wait until near the end of Peña's two terms in office for this change to happen.

Capitol Hill was explicitly designated a "non-family" neighborhood by the city when it gave the neighborhood high-density residential zoning in the 1950s, and lesbians, gay men, and other gender and sexual minorities were about as far from a traditional family as most Denverites could imagine in the 1960s and 1970s. But both combined to enact social and political change in a city that hoped to ignore both.

This combination of people and place was a result of the built, social, and legal landscape that developed Capitol Hill over the span of the twentieth century, especially after World War II. The apartments, bars, and other spaces of Denver's densest neighborhood became a home to queer city residents, and the neighborhood served as a base for Denver's growing number of gay organizations and other community institutions.

³⁹⁸ Gary Delsohn, "Tooley, Peña Pledge to Fight Zoning Law," *Denver Post*, June 14, 1983.

Yet, R-0-zoned neighborhoods south and east of Capitol Hill were often unwelcoming to same-sex households – a reminder to gay and lesbian Denverites that, despite their gains, they were still second-class citizens in their own city. R-0 zoning would, as Peña promised, end in the 1980s, and gay activists played a part in its end. However, public debate over the costs and benefits of single-family zoning in Denver during that decade focused less on same-sex couples or households and more on the right of unmarried heterosexual couples to live anywhere in Denver they wanted.



Figure 7. Streetscape of multi-family housing on the 1200 block of Emerson Street in Capitol Hill. The building to the left is an apartment building constructed in the late 1940s, and the building on the right is a single-family home from the 1890s that was later converted into apartments. (Photo by author.)

Chapter 6: “Living in Sin” and the End of Single-Family Zoning in the Late 1980s

Federico Peña’s vow to end single-family zoning restrictions an attempt to woo gay and lesbian voters was a smart move in a tight election. After he won the 1983 election Peña enjoyed a lot of autonomy as mayor. He, like his predecessors, had wide latitude to appoint city officials in addition to veto power over legislation passed by City Council.³⁹⁹ But, despite his campaign promises, amending the zoning code was not something Peña, or even his Zoning Administration, could do. That power lay solely in the hands of City Council, and for most of the 1980s, the majority of Council members opposed changing Denver’s definition of a family. But in May 1989, City Council made it legal for two unrelated people to live together in the city’s many single-family neighborhoods. Council members voted 7 to 6 to change the definition of “family” embedded in Denver’s zoning code, allowing any two people not related by blood, marriage or adoption, plus their children, to occupy a house together in parts of the city zoned R-0 and R-1.⁴⁰⁰

This dissertation examines how various groups of Denverites, including the city’s Zoning Administration, opposed or wanted to reform the city’s strict definition of what a family was. But just as many people supported keeping single-family zoning intact,

³⁹⁹ City and County of Denver, “How Denver City Government Works,” <<http://www.denvergov.org/denvercitygovernmentanoverview/tabid/424414/default.aspx>> (accessed December 10, 2013); Thomas E. Cronin and Robert D. Loevy, *Colorado Politics and Policy: Governing a Purple State* (Lincoln: University of Nebraska Press, 2012), 298.

⁴⁰⁰ “Denver Kills Law that Barred Homes With Unwed Couples,” *New York Times*, May 3, 1989; Drew Digby, “Council Ends Ban on Living Together,” *Denver Post*, May 2, 1989.

especially people living in neighborhoods with lots of R-0 zoning, and the City Council members representing them. So why did Denver's zoning laws finally change in 1989?

The answer is complex. Part of the reason is that the city was enforcing its zoning laws more against unmarried heterosexual couples, often with children -- households that fit the single-family norm enshrined in Denver's zoning code in all ways except for a marriage license. One of these unmarried heterosexual couples sued the city after the Zoning Administration ordered them out of their house in 1984. Although the couple eventually lost, the possibility that either the Denver District Court or Colorado Supreme Court might rule in their favor helped motivate opponents of R-0 zoning in the late 1980s. One of these opponents was Capitol Hill United Neighborhoods (CHUN). Historically, neighborhood organizations had been among the most vocal defenders of single-family zoning. But CHUN became the first such organization to call for zoning reform, commissioning a study analyzing what R-0 zoning was actually used for. CHUN's data found an eager audience in a City Council that was younger, more liberal, and had more female members than ever before. Together, these conditions set the stage for the end of single-family zoning in Denver.⁴⁰¹

Even before Peña made single-family zoning a campaign issue in 1983, some city officials had called for reforming the city's zoning code. The most high-profile voice for reform was Anthony Jansen, the city's top zoning official during the Thomas Currigan and William McNichols administrations. His office was in charge of enforcing the law, and Jansen often had to defend his office's actions in front of the zoning board or in

⁴⁰¹ Pam Maples, "Voters Remove Silchia, McIntire from City Council," *Rocky Mountain News*, May 20, 1987.

court. To Jansen, single-family zoning restrictions created a lot of work, even though his office did not actively search for people violating the law. Investigating complaints lodged by neighbors and enforcing the law against offenders burdened his staff. It was often difficult for zoning officials to determine whether or not the people living in a house were actually related – people could claim their roommates were their brothers or cousins. Unmarried people living together could claim to be common-law spouses. People who seemed to be residing in a dwelling under investigation might say they were just visiting, instead. Untangling the often-complicated relationships of their city’s residents was not something Denver zoning investigators really relished.⁴⁰² Jansen also believed that laws restricting some neighborhoods to households where everyone was related by blood, marriage, or adoption was “archaic,” even though his office continued to enforce the law. In 1977, Jansen proposed changing the zoning code to allow any two people, regardless of their relationship, to live anywhere they wanted in the city. But “pressure from families living in R-0 neighborhoods” meant that his proposed reforms went nowhere.⁴⁰³ Jansen continued to be a critic of the law he still enforced until 1983, when Peña named Dorothy Nepa to the post of Zoning Administrator. During the 1980s, Nepa and her staff continued to investigate complaints and issue cease-and-desist orders against people violating city zoning laws. But in early 1988, Nepa proposed changing Denver’s definition of “family” to allow up to four adults not related by blood, marriage,

⁴⁰² Jim Estus, “Neighborhood Planning Project: R-0 Zoning,” December 1988, 8-12, box 31, folder 37, CHUN Records, Denver Public Library.

⁴⁰³ Robinson, “Not in My Neighborhood,” 9; Carol Green, “Core-City Task ‘Monumental,’” *Denver Post*, nd [1977?], box 23, folder 25, CHUN Records, Denver Public Library.

or adoption to live together.⁴⁰⁴ But, like Peña, Nepa could only recommend, rather than make changes to the zoning code.

At least one member of City Council was willing to change the zoning code in the early 1980s. But while Peña used R-0-zoning as an issue to deliberately woo gay and lesbian voters, Cathy Reynolds, one of the two at-large members of City Council, wanted to change Denver's definition of a family because zoning was affecting unmarried heterosexual couples. In 1983, Reynolds proposed allowing two legally unrelated people to live together in R-0-zoned neighborhoods because of Eric Swanson and Susan Rupp.⁴⁰⁵ The couple bought a house at 791 St. Paul Street in Congress Park in 1982. Like hundreds of households violating city zoning laws before them, Rupp and Swanson were investigated by the Zoning Administration following a neighbor's complaint. At their hearing before the zoning board, 26 neighbors showed up to testify that their presence in Congress Park could damage both property values and neighborhood stability.⁴⁰⁶ The board gave Rupp and Swanson six months to move out of their house, even though the two, as Swanson explained, “consider[ed] ourselves to be a single-unit family.”⁴⁰⁷ Colorado allowed for common-law marriage, so the two could have become legally married just by claiming they were – an option unavailable to many of the other people who had appeared before the zoning board for violating R-0 zoning since 1956. But Rupp and Swanson declined, arguing that becoming married would “ope[n] them up to legal

⁴⁰⁴ “What Do CHUN Members Think About R-0 Zoning?,” *The Urban Dweller*, March/April 1988, 1; Fulcher, “City Seeks to Change Single-Family Zoning,” *Denver Post*, [March 1988?], box 35, folder 101, Kopel Papers, Denver Public Library.

⁴⁰⁵ Dave Krieger, “Cohabitants' Still Scofflaws Under Denver's Legal System,” *Rocky Mountain News*, December 16, 1982; “Park Hill's Political Leaders: Cathy Reynolds,” *Greater Park Hill News* 12, no. 11 (October 1983), 13.

⁴⁰⁶ Bonnie Schuldt, “Unwed Pair Must Move On,” *Denver Post*, February 9, 1983.

⁴⁰⁷ Schuldt, “Unwed Pair Must Move On.”

community-property commitments, which neither wants to be forced to make.”⁴⁰⁸ Rupp and Swanson were just one example – at least four other unrelated pairs living together in the Congress Park, Country Club or Park Hill neighborhoods appeared before the zoning board in early and mid-1983.⁴⁰⁹

The Swanson and Rupp case marked a change in how Denver media depicted R-0 zoning. Before the early 1980s, R-0 zoning was seen as a fringe issue, an obscure clause in an unreadable zoning code that only affected socially marginal groups in the city: renters living in basement apartments, members of urban communes, and same-sex households living outside the “safe” boundaries of Denver’s gay neighborhood. But, in the 1980s, both media attention and complaints lodged by neighbors focused on something different: unmarried heterosexual couples. But the growing numbers of straight couples deciding to live together without getting married changed the popular interpretation of single-family zoning. R-0 became known as the “living-in-sin law,” a moniker obscuring decades of city and neighborhood harassment of households consisting of people other than one man, one woman and their children.⁴¹⁰ Some people who strongly advocated for using R-0 zoning to protect neighborhoods in the 1960s and 1970s began to argue that using the zoning code to enforce “morality” was wrong.

Denver Post architectural columnist Joanne Ditmer, for example, supported the GPHC’s

⁴⁰⁸ John Head, “Cities Shun Zoning Ban on Unwed,” *Denver Post*, 3 January 3, 1983.

⁴⁰⁹ One was a pair of heterosexual female roommates, living at 468 Lafayette Street. The others were unmarried couples, living at 956 Adams Street, 2950 Birch Street, and 674 Steele Street (Joanne Ditmer, “Find Some Other Ways to Protect Neighborhoods,” *Denver Post*, May 1, 1983; Bonnie Schuldt, “Tipsters’ Turn in R-0 Violators,” *Denver Post*, June 1, 1983).

⁴¹⁰ Michelle Fulcher, “‘Living-in-Sin’ Law Trapped Mexican Consul, 3 Nuns,” *Denver Post*, nd [1988?], box 35, folder 101, Kopel Papers, Denver Public Library; Drew Digby, “Council Gives Initial Approval to Ending ‘Living-in-Sin Law,’” *Denver Post*, February 1, 1989; John Ashton, “Sex and the Single-Family Dwelling,” *Westword*, February 15-21, 1989.

use of R-0 zoning to keep unwanted land uses out of their neighborhood.⁴¹¹ But, in the early 1980s, she argued that the same zoning should not be used to enforce moral standards in a city whose demographics were changing dramatically. “Zoning,” she argued, “was originally intended to be protective, as in controlling light, air and density, but when you get into living styles, especially in our changing culture, it becomes dangerously inflammatory.”⁴¹² Unfortunately, Reynolds' proposed reforms failed. Her changes had the support of the Zoning Administration and a few other people on City Council, but the majority of council members voted against redefining a family in the city's zoning code. Even some of the more liberal members of Council, such as District 11 representative William Roberts, chose to leave the zoning code intact. Roberts represented Park Hill, and had brokered the merger between the Park Hill Action Committee and the Northeastern Park Hill Civic Association in 1969.⁴¹³

A little over a year after City Council rejected changing the city's zoning code, Norma Dotson and Ysidro Zavala purchased a house in February 1984 in southwest Denver. Their house was originally owned by the Seventh-Day Adventist Church, which planned to eventually use it as a church. Zavala and Dotson held a housewarming party soon after moving in, which impelled a neighbor to complain to the city that the house was being used as a “sort of religious crash pad.”⁴¹⁴ At a hearing in front of the Board of Adjustment-Zoning, neighborhood confusion over who, exactly, owned the house was

⁴¹¹ Joanne Ditmer, “Zoning Should Protect Neighborhoods,” *Denver Post*, August 24, 1969; Joanne Ditmer, “‘Spirit’ Secret to Park Hill,” *Denver Post*, nd [1971?], both box 35, folder 71, Kopel Papers, Denver Public Library.

⁴¹² Joanne Ditmer, “Zoning Should Not Deal With Morals,” *Denver Post*, January 8, 1983.

⁴¹³ Krieger, “Cohabitants' Still Scofflaws.”

⁴¹⁴ John Ashton, “Lost in the R-0 Zone,” *Westword*, June 1-7, 1988, 11. None of the media reports about Zavala and Dotson, nor any of the available court documents about the case, list the exact address of their house.

cleared up, and complaints about Dotson and Zavala were dropped. But the Zoning Administration discovered that the two were unmarried during its investigation of the complaint, and told Zavala and Dotson they had six months to get married or the city would force them out of their home.

Like Swanson and Rupp before them, Zavala and Dotson could have claimed to be common-law spouses. However, they did not want to, believing the City and County of Denver had no business asking them to get married. The pair filed suit against the city, arguing that single-family zoning was unconstitutional, and that there was no “compelling state interest” in making a legal distinction between married and unmarried couples.⁴¹⁵ Zavala and Dotson lost in Denver District Court in July 1985. Judge Leonard Plank ruled that legal precedent – in this case, *Rademan v. City and County of Denver*, discussed in chapter 3 – meant that he could not rule the ordinance unconstitutional.⁴¹⁶ Zavala and Dotson appealed to the Colorado Supreme Court, which did not hear their case until 1987. In July 1988, it ruled against them. Citing its 1974 *Rademan* decision, the court argued that Denver’s zoning laws did not violate state equal-protection laws.⁴¹⁷

Even though Zavala and Dotson eventually lost, their lawsuit worried Denver city leaders. What if the Colorado Supreme Court ruled in the couple’s favor? The precedent was there. Ever since the U.S. Supreme Court ruled in its 1974 decision *Village of Belle Terre v. Boraas* that zoning laws restricting the number of unrelated people who could live together were constitutional, state courts had been slowly chipping away at the

⁴¹⁵ Ashton, “Lost in the R-0 Zone.”

⁴¹⁶ *Zavala v. City and County of Denver*, 759 P.2d 664 (1988).

⁴¹⁷ *Zavala v. City and County of Denver*, 759 P.2d 664 (1988), John Sanko, “Unwed Couple Wins Hearing Over Zoning,” *Rocky Mountain News*, nd [1988], box 35, folder 99, Kopel Papers, Denver Public Library; Lubow, “Not Related by Blood,” 165.

ability of cities to define a “family.” The California Supreme Court, for example, ruled in 1980 that the city of Santa Barbara violated residents’ right to privacy through its zoning laws. The state constitution, the court ruled, guaranteed Californians’ right to “live with whomever one wishes, or at, least to live in an alternate family with persons not related by blood, marriage or adoption.”⁴¹⁸ Similar rulings in New York, Michigan, and New Jersey also invalidated single-family zoning laws in those states. Although these rulings were based on state law, not federal, and thus did not apply to Colorado, legal interpretations of zoning laws in the late 1980s were beginning to favor the rights of individuals over the ability of cities to control their own populations.⁴¹⁹

While the Colorado Supreme Court deliberated, people both for and against changing Denver’s definition of a “family” were expressing their opinions on the issue. Some of the strongest opposition to reforming R-0 zoning came, unsurprisingly, from Park Hill. Single-family zoning was tightly woven into the identity of the neighborhood. During Council debates on the issue, both current and former members of the Park Hill Action Committee and the Greater Park Hill Community testified against revising R-0 zoning, arguing that the family restrictions in the zoning code helped stabilize their neighborhood in the past and helped preserve the “family values” of Park Hill and similar residential areas in the present.⁴²⁰ Without single-family zoning, they argued, Park Hill would never have been able to successfully integrate in the 1960s and 1970s.⁴²¹ R-0

⁴¹⁸ *City of Santa Barbara v. Adamson*, 27 Cal.3d 123 (1980), quoted in Lubow, “Not Related by Blood,” 158.

⁴¹⁹ Lubow, “Not Related by Blood,” 157-8.

⁴²⁰ Linda Cayton, “Public Testimony Forces Change in R-0 Language,” *Greater Park Hill News*, February 16-March 15, 1989, 1.

⁴²¹ *Ibid.*, 1.

zoning remained important to Park Hill even in the late 1980s. Neighborhood resident Robert Duncan wrote in a letter to Peña:

As a resident of Park Hill, I can tell you that a major consideration in my decision to purchase my home was the R-0 zoning. To change this would be, in my opinion, a breach of faith by the city. In the four years I have lived in Park Hill, my home and my cars have been broken into twice... It is difficult to endure this, but my wife and I are trying to be committed to living in the city. If you allow or otherwise encourage expanding the definition of the R-0 Zoning District it will be very distressing because one of the large benefits to living in the city will be gone.⁴²²

But not all supporters of keeping R-0 zoning intact came from central Denver neighborhoods. One of the strongest voices in favor of single-family zoning was Council member Theodore “Ted” Hackworth, who represented a large swath of southwest Denver. The residential neighborhoods in his district were, for the most part, built after World War II and were essentially suburban in their architecture, design and distance from downtown.⁴²³ Southwest Denver was the center of organized opposition to court-ordered school busing in the early 1970s, and Hackworth’s politics reflected the views of his constituents. He was elected to the Denver School Board in 1971 and then to City Council in 1979.⁴²⁴ Hackworth was also involved in neighborhood politics, often working with neighborhood organization the Harvey Park Improvement Association [HPIA].

⁴²² Letter, Robert Duncan to Federico Peña, July 11, 1988, 1-2, box 35, folder 100, Kopel Papers, Denver Public Library.

⁴²³ Ken Schroepel, “Denver’s Single-Family Homes by Decade: 1940s” < <http://denverurbanism.com/2012/05/denvers-single-family-homes-by-decade-1940s.html>>; “Denver’s Single-Family Homes by Decade: 1950s” < <http://denverurbanism.com/2012/05/denvers-single-family-homes-by-decade-1950s.html>>; “Denver’s Single-Family Homes by Decade: 1960s” < <http://denverurbanism.com/2012/06/denvers-single-family-homes-by-decade-1960s.html>>” (all accessed January 2, 2014).

⁴²⁴ Kieran Nicholson, “Long-time Denver Councilman Ted Hackworth Dies,” *Denver Post*, November 9, 2009.

Harvey Park had R-1, rather than R-0 zoning (meaning that residents could have a tenant living in their homes), but the HPIA saw itself as a strong protector of single-family neighborhoods from the threat of multi-family housing.⁴²⁵ The organization helped support the GPHC in the early 1970s in its legal case against Myles Rademan and his communal family.

Hackworth's support of R-0 zoning was based on some of the same arguments that supporters had been using since the mid-1950s – restrictive zoning protected property values, lowered density in residential neighborhoods, and protected neighborhood “character.” But Hackworth also represented something new – his arguments in the media and at Council meetings on the zoning issue were inflected with the language of 1980s “culture war.” He saw “family values” as equal in importance to property values.” Single-family zoning helped protect “families and traditional values” from the changing moral codes and social diversity that was making homosexuality, unmarried couples living together, and other social and cultural issues more acceptable.⁴²⁶

Hackworth was not alone. Other conservative members of Council echoed Hackworth's defense of traditional families, and some Denverites opposed to changing R-0 zoning argued they “deserve[d] to have their family-oriented lifestyle given zoning protection.”⁴²⁷ One was real-estate agent Sonia Leonard Leonard, who distributed hundreds of flyers in her Country Club neighborhood, as well as other neighborhoods in

⁴²⁵ Sally Hutchings, “HPIA Champions Cause of Single-Family Neighborhood,” *Southwest Sentinel*, January 15, 1975, box 4, Theodore “Ted” Hackworth Papers, WH1785, Denver Public Library.

⁴²⁶ Drew Digby, “Council Gives Initial Approval to Ending ‘Living-in-Sin’ Law,” *Denver Post*, February 1, 1989.

⁴²⁷ Kevin Flynn, “R-0 Zoning Cohabitation Debated,” and “Zoning Proposal to be Amended,” *Rocky Mountain News*, nd [April 1989?], both box 35, folder 101, Kopel Papers, Denver Public Library.

east-central Denver. Each exclaimed “Your Zoning May Be Taken Away!” explaining that proposed changes to R-0 zoning might “affect the lifestyle that you have chosen for yourself and your family.”⁴²⁸ Duncan, in his letters to Peña, argued, “why should not there be a small portion of the City designated just for families?” And one anonymous author, writing a pro-R-0 statement in the Denver Country Club neighborhood newsletter, attributed the family restrictions to Denver's success in preserving its center-city neighborhoods: “Perhaps our strict definition of a single unit dwelling is why Denver still has fine family neighborhoods, while many other cities do not.”⁴²⁹

But just as many people supported allowing unrelated people to live together in Denver's single-family neighborhoods. Hundreds of people called Council member Cathy Donohue in reaction to Leonard Leonard's flyer, which was distributed in her district. Many callers supported R-0 zoning, but just as many told Donohue, “I live with someone,' or 'this is stupid: get rid of it.”⁴³⁰ Donohue represented a part of Denver particularly prone to being divided on the issue. Council District 10 included dense, gay-friendly Capitol Hill, but also the single-family neighborhoods of Country Club and Congress Park. Despite the demographics of her district, Donohue wanted to reform R-0 zoning. As she told the alternative weekly *Westword*, “I don't believe we should live in a society where people can report on other people just because they don't like their looks. I mean, if they don't shovel their walks or if they don't pick up their trash or if they make a lot of noise late at night or any of that, we've got rules to report them on. But not if you

⁴²⁸ Ashton, “Sex and the Single-Family Dwelling.”

⁴²⁹ “Five Reasons to Support Denver's Single Unit Dwelling Definition and to Protect Our R-0 Zoning,” *Country Club Clarion*, Winter 1989, 1, box 1, folder 37, CHUN Records, Denver Public Library.

⁴³⁰ *Ibid*, 1.

just don't like their looks -- or if one is black and one is white, or if they're both the same sex.”⁴³¹

Donohue's views were echoed by the neighborhood organization she helped found. For most of the 1970s and 1980s, CHUN was essentially neutral on the issue of R-0 zoning, unlike other neighborhood organizations in Denver. CHUN was always more skeptical about zoning enforcement than its counterpart organizations elsewhere in the city. After all, Capitol Hill itself was zoned in ways that benefitted developers over residents, doing little to protect the people actually living in the area. Whenever conflicts over R-0 zoning happened in areas represented by CHUN, the organization's leaders tended to not get involved. At most, they might suggest mediation as a way to solve the problem.⁴³²

But CHUN leaders decided to join the fight to reform R-0 zoning. Their involvement was crucial to the city finally allowing unrelated people to live together in single-family neighborhoods. The organization commissioned a study to find out how the city and its residents actually used R-0 zoning. The study's author, Jim Estus, studied urban planning at the University of Colorado at Denver, where he took classes from Dr. Bernie Jones, a co-founder of CHUN and a long-time opponent of single-family zoning restrictions. In the early 1970s, Jones, a sociologist, tried to help Myles Rademan, Julian Beaver, and the rest of their communal household stay in their Park Hill home. Jones testified at GPHC meetings on the commune's behalf, arguing that communal families

⁴³¹ Ashton, "Sex and the Single-Family Dwelling."

⁴³² Meeting minutes, CHUN Board of Delegates, November 20, 1986, 1-2, box 3, folder 9, CHUN Papers, Denver Public Library.

were just as valid as traditional families and suggesting ways to rewrite Denver's zoning code to make both neighborhoods and communes happy.⁴³³

Estus' data with City Council members and these findings helped frame the debate over zoning reform, possibly persuading undecided Council members to vote in favor of changing R-0 zoning. CHUN's study found a pattern of anonymous harassment, targeting interracial couples, single people, unmarried couples, all of which took the city's time and manpower to investigate. Estus looked at 120 complaints lodged with the Zoning Administration between 1986 and 1988 about unrelated people living together in the same house. The vast majority of the complaints (83 percent) came from areas of Denver that weren't even zoned R-0; rather, the Zoning Administration was acting as a hotline for anonymous Denverites to complain about anyone who didn't seem to fit into the definition of a traditional family.⁴³⁴

Estus' report also showed that Denver had much stricter rules against unrelated people living together than almost all of its suburbs or other Colorado cities. The city adopted R-0 zoning in 1956 as part of a modernization plan that was intended to keep the city attractive to white, middle-class families that might otherwise move to the suburbs, an argument echoed throughout the 1960s and 1970s by residents of R-0-zoned neighborhoods. But, ironically, unrelated people who wished to share a house in a residential neighborhood had more freedom to do so in suburban areas, as well as other cities along Colorado's Front Range. Two unrelated adults could live together in Lakewood and Broomfield. The number increased to three adults in Boulder, Fort

⁴³³ Meeting minutes, GPHC Board of Governors, December 7, 1972, 1-2, box 5, Branscombe Papers, Denver Public Library.

⁴³⁴ Estus, "Neighborhood Planning Project," 8-12.

Collins, Littleton, Wheat Ridge, Cherry Hills Village, and unincorporated areas of Adams and Boulder Counties. Four unrelated adults could share a home in Aurora, Englewood, and Northglenn. The most generous places were Colorado Springs, Arvada, and unincorporated areas of Arapahoe County, where five adults not married by blood, marriage, or adoption could share a residence. One suburb, Westminster, did not specify the number of people who could live together. Rather, its zoning code required houses and apartments to have at least 400 square feet of living space for each person, legally related or not. The tiny enclave of Glendale eschewed zoning altogether. The only municipality in the Denver metropolitan area with stricter rules about who could live together than Denver itself was the elite enclave of Greenwood Village, which did not allow unrelated people to live in the same dwelling at all.⁴³⁵

CHUN's involvement was important not just because of the data the organization provided. It also marked the first time a neighborhood organization representing areas of Denver zoned R-0 advocated for changing how the city defined a family. Capitol Hill residents founded the organization in 1969 to advocate for their neighborhood's interests, and much of CHUN's activities since focused on the needs of Denver's densest residential area. But in the 1980s, neighborhood organizations were required to register with the city. During the registration process, each organization had to specify the boundaries of the part of Denver it represented. CHUN's official boundaries did not stop at Capitol Hill – rather, the organization claimed an area it called “greater Capitol Hill”: more or less all of east-central Denver between downtown and Colorado Boulevard, from the banks of Cherry Creek in the south to East 22nd Avenue in the north. “Greater Capitol

⁴³⁵ Estus, “Neighborhood Planning Project,” 24; Head, “Cities Shun Zoning Ban.”

Hill” included the neighborhoods of Congress Park, the Denver Country Club, Cherry Creek, and some R-0-zoned areas in the very south of Capitol Hill.⁴³⁶ To the city, CHUN was a registered neighborhood organization, legitimately representing the interests of these areas before Council. But neighborhoods could have more than one registered neighborhood, and other groups representing the same areas – the Denver East Central Civic Association, the Cherry Creek Improvement Association, and others – fought hard to protect their zoning. But CHUN was more well-known than these groups. One of its co-founders sat on City Council. It had real data to use to support its arguments against R-0, an argument which seemed to have a lot of momentum in its favor going into early 1989.

CHUN's advocacy and the fact that R-0 zoning was becoming known as a heterosexual issue overshadowed the role gay and lesbian Denverites played in ending single-family zoning restrictions. The city's queer residents and organizations had long worked to give same-sex couples the right to live together in single-family neighborhoods. But, in the late 1980s, changing the zoning laws was just one part of a larger political movement. Organizations like the Equal Protection Ordinance Coalition, founded in 1988, wanted the city to completely ban discrimination in jobs, housing, and other areas based on sexual orientation. Boulder had passed a similar law in 1987; nearly a decade after Aspen became the first city in Colorado to prohibit anti-gay discrimination. In Denver, R-0 zoning was just part of a larger pattern of homophobia – but eliminating it was a small, but important step to completely outlawing discrimination in Denver. EPOC organizations, along with other organizations such as the Denver chapter of Parents and

⁴³⁶ Goodstein, *Denver's Capitol Hill*, 1.

Friends of Lesbians and Gays, urged members and others to show up in droves to City Council chambers during hearings on R-0 reform. If the zoning laws were changed, the EPOC argued, it would “set the stage for the introduction of our civil rights ordinance. Be there or be evicted!”⁴³⁷

Zoning Reform and the “Single-Family City”

Some Denverites attending City Council meetings devoted to zoning reform believed R-0 zoning protected their homes and neighborhoods. They believed strict residential zoning stabilized property values and ensured some degree of social homogeneity in the areas they were proud to live in. Denver's economy floundered in the 1980s, following the near-collapse of Colorado's energy economy in the first part of the decade, and a similar breakdown in real-estate in the middle of the 1980s. While the Denver area grew, more people moved out of Colorado than moved in.⁴³⁸ Housing prices in the city dropped, unemployment rose, and economic stability seemed scant. But in the 1980s, the city also became more diverse. From 1980 to 1990, the Denver metropolitan area's Hispanic and African-American populations increased by 29 and 23 percent, respectively, while the white population of Denver itself was declining.⁴³⁹ Denver was not just becoming more racially diverse – many different types of households were finding homes in its

⁴³⁷ Equal Protection Ordinance Coalition, “Action Alert,” April 1989, 1, box 2a, envelope “EPOC,” Gay and Lesbian Organizations Collection, History Colorado; Parents and Friends of Lesbians and Gays, Denver Chapter, Newsletter, February 1989, 4, box 35, folder 101, Kopel Papers, Denver Public Library.

⁴³⁸ Donald Blount, “‘80s Downturn Spurred State to Scale New Peaks,” *Denver Post*, April 12, 1996

⁴³⁹ The Hispanic population of the Denver metropolitan area went from 163,394 in 1980 to 211,005 ten years later. There were 74, 875 African-Americans in the metro area in 1980, and 92,296 in 1990. The population of the city itself also shrank, from 492, 365 in 1980 to 467,610 in 1990. United States, Department of Commerce, Census Bureau, *Racial and Ethnic Segregation in the United States, 1980-2000* (Washington, D.C.: Government Printing Office, 2002).

neighborhoods. The people in some of these households were fighting for both social legitimacy and the right to legally live in all Denver neighborhoods at the same time that proponents of single-family zoning restrictions sought stability.

Throughout Denver's history, its civic leaders, business elites, and others have continually sought stability. Denver's narrow definition of “family” widened at a time when the city was changing, but R-0 zoning was a product of another period of rapid change. In the mid-1950s, Denver seemed to be losing ground to its suburbs. If white, middle-class families seemed to be bypassing the center city for the suburbs, why not create zoning that might attract more of them to Denver? Restrictive residential zoning was designed to appeal to white traditional families living in detached homes they owned, but it was applied onto a city that was much more socially, racially, and architecturally diverse. Planners could do this because of the inherently exclusionary nature of zoning. Zoning drew boundaries between wanted and unwanted land uses and, by extension, wanted and unwanted people. The “wanted” people in 1950s Denver were white traditional families, but zoning codes had always favored these families above all others.

But the single-family ideal also intersected with another vision of Denver's future. In the 1950s and 1960s, Denver city and business elites also wanted their city to at least seem to be racially progressive. They looked to Park Hill as the symbol of Denver's future. If its residents could peacefully integrate their neighborhood while keeping their property values high, then Park Hill and Denver itself could be an example to other cities of positive racial relations. Park Hill is an example of how residents used the top-down phenomenon of R-0 zoning to assert some level of control over their own changing neighborhood. PHAC and GPHC members used the single-family city ideal to fight racial

discrimination in housing in their neighborhood and city. Park Hill residents tried to vigorously uphold their zoning laws while they were also working to create strong relationships between white and black neighborhood residents, fight the city's real-estate industry, and lobby for stronger fair-housing laws.

In many ways, their success shows how important single-family zoning was to residential neighborhoods. Property values remained relatively high in Park Hill south of East 32nd Avenue – the northernmost boundary of the neighborhood's R-0 zoning – and it continued to attract black, white, and an increasing number of Hispanic middle- and upper-class residents before and after R-0 zoning was reformed. Northernmost Park Hill – that area between East 32nd and East 38th Avenues – did not fare so well. In the 1970s and 1980s, crime and poverty increased. The number of city-owned public-housing units in the neighborhood also increased. The neighborhood was turning into the place that neighborhood activists in the 1950s and 1960s feared their neighborhood might become.⁴⁴⁰

But Denver's future lay as much in Capitol Hill as Park Hill – something city planners in the 1950s would not have been able to predict, nor endorse. From 1989 to the present, Denver has moved further and further away from the single-family ideal city elites once cherished, in both its built environment and the makeup of its households. Capitol Hill's once-distinctive built environment of apartments and other forms of multi-family housing is being replicated all across the city. Few detached single-family houses have been built in the city since 2000, except for a few housing developments on the edge of the city and

⁴⁴⁰ Goodstein, *Park Hill Promise*, 520.

“scrapes” – new, often bigger houses built where older ones once stood.⁴⁴¹ Construction of new multi-unit housing – condominium towers downtown, apartment buildings erected next to light-rail lines, and “loft-style” apartment buildings in central-city neighborhoods – is making Denver denser, and rates of homeownership are declining. There are fewer traditional families with children, who make up only XX percent of the city's households, and nearly 40 percent of city residents live alone.

But the story of R-0 zoning is not just about elite visions of the future, or the aggregate changes in Denver's built environment and demographics. In this dissertation, Denver's definition of a “family” helps us see the changing ways that city residents related to one another and to the neighborhoods they lived in. The households caught up in zoning enforcement included landlords and their tenants, roommates living together, urban communes, same-sex couples, unmarried heterosexuals, people holding meetings in their homes, and African-American and Hispanic families living in once-white neighborhoods. Zoning laws are an unexpected place to find family laws – normally, regulation of the family is something that federal and state governments, rather than cities, do. But the story of Denver's attempt to regulate families in the cause of social and economic stability reveals a lot about how ideas about race, families, sexuality, and neighborhoods changed in both Colorado and the United States as a whole after World War II.

⁴⁴¹ Ken Schroepel, “Denver’s Single-Family Homes by Decade: 2000s” <<http://denverurbanism.com/2012/05/denvers-single-family-homes-by-decade-2000s.html>> (accessed January 12, 2014).

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