

A History of Golden Zoning

By Don Cameron

Golden Colorado circa 2020 has zoning that is best described as Euclidean in form.

Euclidean zoning prescribes various areas in town to have various uses, by right, and other uses that can be obtained by special permit.

The zoning was put in place over years, but predominantly after the creation of the planning commission in 1954 by Ordinance 359.

Prior to Euclid¹ (a court case from Ohio) it was not clear that the government had a role in regulating land use and individual landowners could pretty much do what they want. But in 1922 the Supreme Court ruled that municipalities did have the right to regulate land use.

Golden's history of zoning was initially one of mutual agreement between some of the town's settlers and the city, in laying out streets, creating easements for streets and utilities, but often leaving the land development to the individual owners. This sort of planning resulted in building on some lots that no longer meet lot minimums, a variety of housing types and a mix of commercial and residential in some areas.

From 1954 and onward though, this mix of uses did not fit neatly into the districts that were created.

The street and traffic patterns were different too. Ford, Jackson, Washington, 19th Street and 8th Street were all regional roads which carried a lot of traffic into and out of the city.

Because of the mix of use types that already existed some areas were zoned as commercial even though they had a large proportion of housing that was built as single family homes.

Other areas were zoned for higher density, such as R2 and R3 in anticipation of growth that in some cases still has not come (9th street and much of Ford street for example). Later developments were zoned PUD with uses identified that were specified on the plats and may have been mixed type.

Redlining in Golden

In parallel to this history there were also racially restrictive housing policies that were in place in the country, including Golden. Specifically, redlining was a practice put in place by

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<http://www.cityofeuclid.com/community/development/PlanningandZoningDivision/EuclideanZoningHistoricDocuments>

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the Home Owners Loan Corporation in 1938². There was definitely redlining in Denver as can be seen in the map linked in the footnotes.

Redlining did two things:

1. defined areas where federally backed loans **could** be obtained.
2. defined areas where federally backed loans **could not** be obtained

Since Golden had no associated redline map, **does Golden have a legacy of redlining?**

To answer this question, let's look at more of Golden's history.

From the 1880s and into the 1920's much of the city had already been platted for streets, utilities and residences. Areas to be built out were defined on these plats and an owner could pretty much do what they want. There were no explicit covenants preventing Blacks or non-Caucasians from buying or building in Golden.

However, the 1920s also saw a government filled with KKK members and sympathizers, cross burnings on South Table Mountain³ and a reduction in Black (Negro at the time) members in the county (see graph next page).

There were so few Blacks in the county and city in the 1920s that the KKK activities directly above St. Joseph's Catholic church (where the Coors tourist parking lot is in 2020) bore the brunt of the animus associated with their activity.

There was a measurable racist element in the population, and there was not a welcoming environment, the plats were already written, and the residential land use defined, so there was little "need", if being exclusive, to be racist in zoning because there was no demand (that is, few black people lived in Golden).

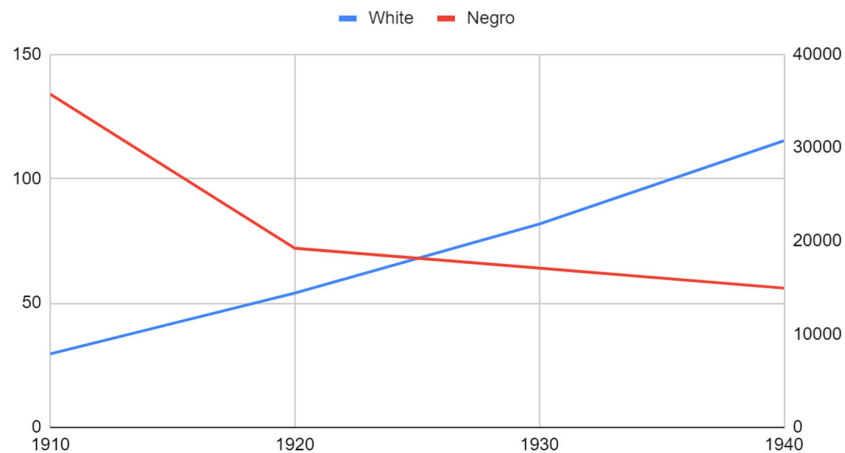
This "lack of need for racist/exclusionary zoning" changed though in the late 30s and the boom associated with gearing up for and fighting WWII.

² <https://history.denverlibrary.org/news/new-whg-redlining-maps-denver>

³ Golden Transcript September 27, 1923

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White and Negro Populations in Jefferson County Colorado



Population for Jefferson County, source US Census

Again, land use at the time was mostly protecting individual property rights. While the Supreme court had ruled in 1928 that cities could control land use, there was a very hands-off approach to this. So the “law” was on the side of homeowners.

Starting in the 20s and into the 40s it was common for people to say that they would only sell their individual property to those of the Caucasian race, or non-Negro race individuals.

The courts backed up this right because they were protecting the homeowners’ use of their land and had no civic duty to prevent this discrimination.⁴ Blacks were excluded from being shown properties in these restrictive neighborhoods, and if they tried to purchase them, might have it taken away soon after.

In 1942, outside the court system, there was a case of a Black family trying to build a new development and victory garden near what is now Boyd street. The family said they would put in all the utilities required to government code. Still, white citizens of Golden protested.

Here is a bit of an article from October 22nd, 1942 from the Golden Transcript:

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Caucasians only: the Supreme Court, the NAACP, and the restrictive covenant cases.

Citizens Protest to City Council

A large number of citizens appeared before the city council Wednesday evening, and stated that a group of colored people had taken possession of the land recently purchased by them east of the Clark's Garden addition, within the city limits of Golden, and were apparently staking out some proposed building sites. These citizens protested to the city council the starting of a colored settlement in Golden.

It was pointed out in the meeting that the sale of the property had been approved by the county court on September 24, and that the purchase price for the 30-acre tract was \$1,500, not including some legal and abstract of title cost.

It says:

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The article goes on to say that at the mayor's direction, a citizen's committee was formed to negotiate with the FHA to not allow this sale to go through and not fund it, claiming city expenses to extend utilities would be burdensome. One of the citizens appointed to this committee was Casper Bussert.

Golden had few areas that were not platted, but when a new plat was put in for the Sunshine Park Addition (Plateau Pkwy) in 1944, by this same Casper Bussert, he was sure to add a restriction to limit to only Caucasians right on the plat. This is a government document, signed by elected officials, with built-in racist covenants from the Sunshine Park Addition Plat.

Ownership in this subdivision shall be restricted to members of the Caucasian race.

While this would seem to violate the 14th Amendment, the Supreme Court had already ruled that the 14th Amendment was about states, and states rights, not discriminating based on race, but was silent on individuals ability to discriminate, and therefore they were able to do so if they so chose.

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However in the late 40s the NAACP and others started pushing back on these covenants using an interesting argument. If a black person were to buy a restricted property and then the city or state were to enforce the covenant, now it was a state action for carrying out the enforcement and that would violate the 14th amendment. Therefore the state did have a conflict. It could not both give the right to discriminate to individuals and take away enforcement of the 14th amendment that eliminated slavery and gave Blacks the right to buy and own property.

Developers in the Denver area were always watching what the courts were doing. And unlike Golden which had mostly been platted (before annexation of some later parcels), developers addressing the WWII time frame housing boom put restrictive covenants in place. [This map](#) shows where the sale was restricted, and the picture below shows one such restriction on the plat:

Stipulate that no lot at any time shall be occupied or owned by any person or persons of Mongolian or Negroe races, and if such occupancy shall continue for an aggregate period of 30 days, then the title thereto shall revert to us, our successors or assigns. However, this provision shall not prohibit the employment of such races by the occupants.

In 1948 the Supreme Court ruled that these types of covenants were no longer enforceable.

Almost immediately, and certainly by 1950 one sees a complete change to the covenants created in Golden and surrounding areas. This includes Golden Heights, Golden Hills, Beverly Heights, Belvedere and others. Rather than explicitly restrict an area to Caucasians, there were new restrictions put in place to exclude those without access to capital.

Even though redlining was no longer practiced, there were (and are) limits on Blacks ability to get loans on favorable terms. Some loans were interest only for the term of the loan for example, so one did not gain any equity until the loan term ended. Failure to make even one payment could result in an "owner" losing their home with no equity.

When new restrictions were put in place, by the FHA, they were targeted to people without access to loans. These restrictions included:

1. Minimum lot sizes (which was added to city code)
2. Minimum building sizes
3. Architectural control committees who had final say on whether something could be built.

An additional clause that was targeted against families with kids was the *Nuisance Clause*, that limited activities based on the opinion of the architectural control committee. Most of these committees have faded over time, but they are still in the county records and could be reconstituted if sufficient numbers of homeowners were to pursue it.

These covenants were backed up through FHA financing, "In particular, the FHA established minimum standards for lot size, setbacks, and separation from existing structures which in effect precluded many center city residences from loan eligibility, including row houses and attached dwellings."⁵

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[https://www.law.upenn.edu/journals/jlasc/articles/volume11/issue2/Nier11U.Pa.J.L.&Soc.Change131\(2007\).pdf](https://www.law.upenn.edu/journals/jlasc/articles/volume11/issue2/Nier11U.Pa.J.L.&Soc.Change131(2007).pdf)

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Another way to interpret this is that R1 zoning as laid out in the city code shows a direct link from *racist covenants*, to *restrictive covenants*, to *exclusionary zoning* all of which kept housing out of the hands of Blacks.

The legacy of this is the noticeable and persistent wealth gap in this country.

Blacks, by being excluded from homeownership have not been able to build wealth, escape blighted neighborhoods, or be in integrated schools. The school funding model based on property taxes necessarily accrues more money in wealthy neighborhoods than poor neighborhoods and school districts are self-segregated by wealth and therefore race.⁶

In summary, Golden's history follows the narrative of the country with respect to race. Our land planning was silent on race, in the law, when the culture was loudly screaming to stay out if you were Black, then systematic and built into the code and restrictive to this day to those without access to capital.

Notes (Added 12/31/2020) from The Color of Law, that was not available upon writing the above summary.

Page 48, "To prevent lower-income African Americans from living in neighborhoods where middle-class whites resided, local and federal officials began in the 1910s to promote zoning ordinances to reserve middle-class neighborhoods for single-family homes that lower-income families of all races could not afford.

Page 53, "In the years since the 1926 Supreme Court ruling [Buchanan struck down racial zoning], numerous white suburbs in towns across the country have adopted exclusionary zoning ordinances to prevent low-income families from residing in their midst. Frequently, class snobbishness and racial prejudice were impossible to disentangle their motives and to prove that the zoning rules violated constitutional prohibitions of racial discrimination.

Page 59, "Zoning that created neighborhoods of only single-family homes could not keep out middle-class African Americans. Hebert Hoover's seemingly race-neutral zoning recommendations could not prevent African Americans who could afford to live in expensive communities from doing so." So the government created programs to make it difficult for African Americans to buy homes.

1. Encouraged whites to move from apartments to SFR as a patriotic duty to invest in community, with like minded people with whom they wanted to associate.
2. Created loan programs that were reasonable, like 15 and 25 year mortgages that were not interest only. But loan approval was based on appraisals that were explicitly racist.
3. FHA financed developments only if they would exclude blacks, such as Levittown.
4. Mortgages to blacks were not backed by FHA, so their terms were not as good. Levittown houses were 750 sq feet and sold for \$8,000, no money down (about \$75K today). By 1948 most housing was constructed with government financing.

⁶ <https://tcf.org/content/commentary/exclusionary-zoning-continues-racial-segregations-ugly-work/>

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5. "In 1973, the U.S. Commission on Civil Rights concluded that the "housing industry, aided and abetted by Government, must bear the primary responsibility for the legacy of segregated housing....Government and private industry came together to create a system of residential segregation".

Page 88, "Only in 1962, when President John F. Kennedy issued an executive order prohibiting the use of federal funds to support racial discrimination in housing did the FHA cease financing subdivision developments whose builders openly refused to sell to black buyers.

Blockbusting - Since blacks could only get contract mortgages (large down payment, interest only, no equity) they would work double shifts, sublet, ignore maintenance and let property run down. Speculators would buy white houses in the neighborhood at a discount, and these loans were backed by FHA. So while blacks could not get government backed loans, speculators could, for the same neighborhood. This drove white flight. And this happened in Denver (page 100)

Page 111, "In 2000, 41 percent of all borrowers with subprime loans would have qualified for conventional financing with lower rates, a figure that increased to 61 percent in 2006. By then, African American mortgage recipients had subprime loans at three times the rate of white borrowers.

Page 115, "Like the homes in Rollingwood, each house included a bedroom with a separate entrance, so the owner could rent it to another war worker. The development was financed by a seven-million-dollar FHA-authorized loan from the Bank of America and the American Trust Company."..."and the deeds included restrictive covenants to prevent future resales to African Americans."

Page 117, around 1955, in Mountain View California, "when officials discovered that the project would not be segregated, the town adopted a new zoning law increasing the minimum lot size from 6,000 to 8,000 square feet, making the project unfeasible for working-class buyers." An attempt to build a segregated development in Milpitas to support Ford UAW workers was stopped when the sewer connection fee was increased by a factor of 10. But later due to protests by UAW lead to a combining of the white and black projects and it proceeded.

Page 122, petty government actions, "like denial of access to public utilities; determining, once African Americans wanted to built, that their property was, after all, needed for parkland; or discovering that a road leading to African American homes was "private." They included routing interstate highways to create racial boundaries or to shift the residential placement of African American families.. And they included choosing school sites to force families to move to segregated neighborhoods if they wanted education for their children.

153 and onwards, generational poverty was enforced with vagrancy laws and "slavery by another name", where people were fined, could not pay, then used as slaves which the 13th amendment did not eliminate. To get support from Southern Democrats, SS, minimum wage protection and recognition of labor unions excluded occupations held by blacks in agriculture and domestic service. African Americans were excluded from government contracts, CCC, etc.

Page 179, why it is hard to get past the current lack of black home ownership. Parents' economic status is commonly replicated in the next generation. The value of white working- and middle-class families' suburban housing appreciated substantially over the years, resulting in vast wealth difference, "Because parents can bequeath assets to their children, the racial wealth gap is even more persistent down through the generations than income differences." We waited too long to undo it, homes have become unaffordable, Federal tax code mortgage deduction provides no benefit to renters, all benefits accrue to suburban home owner. Federal programs have been primarily around rental assistance.

Remedies, 196 and on: School integration, requires busing due to neighborhood segregation, that is not by choice but by laws that discriminated against moving. Page 198, "federal, state, and local governments might adopt equally aggressive policies to desegregate". Update school curriculum. Require governments to "affirmatively further" the 1968 Fair Housing Act. Identify goals to remedy segregated conditions. Page 202, buy homes as they become available, sell for lower price and let the buyers build equity. Federal funds to help middle class blacks buy in suburban neighborhoods. Deny mortgage deduction in areas that do not take action to overcome racial disparity. Ban zoning ordinances that prohibit multifamily housing or require large lot sizes. These rules prevent both lower-income and middle-class families from settling in affluent suburbs. Require inclusionary zoning but in all areas, not just denser areas. In Montgomery County Maryland, 12-15 percent is set aside for moderate incomes, but then it purchases $\frac{1}{3}$ of those and sets them aside for rental to the lowest incomes. More section 8 funding. For example increased subsidy if used in an area with a lower poverty rate. Note that section 8 is limited despite high demand, but the mortgage deduction is not limited to first come, first serve.

By the time the federal government decided finally to allow African Americans into the suburbs, the window of opportunity for an integrated nation had mostly closed. In 1948, for example, Levittown homes sold for about \$8,000, or about \$75,000 in today's dollars. Now, properties in Levittown without major remodeling (i.e., one-bath houses) sell for \$350,000 and up. White working-class families who bought those homes in 1948 have gained, over three generations, more than \$200,000 in wealth.

Most African American families—who were denied the opportunity to buy into Levittown or into the thousands of subdivisions like it across the country—remained renters, often in depressed neighborhoods, and gained no equity. Others bought into less desirable neighborhoods. Vince Mereday, who helped build Levittown but was prohibited from living there, bought a home in the nearby, almost all-black suburb of Lakeview. It remains 74 percent African American today. His relatives can't say precisely what he paid for his Lakeview house in 1948, but with Levittown being the least expensive, best bargain of the time, it was probably no less than the \$75,000 he would have paid in Levittown. Although white suburban borrowers could obtain VA mortgages with no down payments, Vince Mereday could not because he was African American. He would have had to make a down payment, probably about 20 percent, or \$15,000.

One-bath homes in Lakeview currently sell for \$90,000 to \$120,000. At most, the Mereday family gained \$45,000 in equity appreciation over three generations, perhaps 20 percent of the wealth gained by white veterans in Levittown. Making matters worse, it was lower-middle-class African American communities like Lakeview that mortgage brokers targeted for subprime lending during the pre-2008 housing bubble, leaving many more African American families subject to default and foreclosure than economically similar white families.

Seventy years ago, many working- and lower-middle-class African American families could have afforded suburban single-family