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## Land Use, Transportation & Infrastructure Committee Summary Minutes

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**Tuesday, October 09, 2012      10:30 AM      City & County Building, Room 391**

**Committee Members:** Robb, Chair; Montero, Vice-Chair; Brown; Lehmann; López; Shepherd

**Committee Staff:** Gretchen Williams

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**Council Members Present:** Brown, Lehmann, Montero, Robb, Shepherd, Susman, Nevitt

**Members Absent:** Lopez

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### Bill Requests

**BR12-0675** Changes the zoning classification for 200 & 234 Columbine and 2600 E. 3rd Av. from C-CCN (Urban Center context, Cherry Creek North) to C-MX-5 (Urban Center context, Mixed Use, 5 story max.) on the north 150 ft. and C-MX-8 (Urban Center context, Mixed Use, 8 story max.) on the south 350 ft., both with a condition requiring a Regulating Plan, in Council District 10.

*Kyle Dalton and Tina Axelrad, Community Planning & Development;  
Kelly Davis, Oz Architecture*

This 1.43 acre site is a full one-half block, the east side of Columbine between 2nd and 3rd avenues, in Cherry Creek North. Currently there are three buildings on site, and the zoning is C-CCN for mixed use commercial zoning. This zoning does not require retail uses on the ground floor, which the Cherry Creek Area Plan strongly recommends.

The proposed zoning is C-MX-8 and C-MX-5 with a condition requiring a Regulating Plan for the entire site. The Regulating Plan is to address some of the

recommendations of the Cherry Creek Area Plan (CCAP), such as transparency of first floor retail windows. Adopted design standards also address certain issues deemed desirable based on the CCAP.

Staff determined that the proposed zoning does comply with adopted plans, including Comprehensive Plan 2000, Blueprint Denver and the recently-adopted Cherry Creek Area Plan. The site is in an Area of Change as described in Blueprint Denver.

The proposed zoning does support achievement of several goals articulated in the CCAP. The justifying circumstances for the rezoning are that the area is changing and there is desire for re-development.

The Planning Board held a public hearing on Sept. 5, after which the Board voted 8 in favor, 1 opposed and two recusals.

Prior to the adoption of the CCAP and submission of the revised rezoning application, CPD received 147 +34 some degree of support, 83 some degree of opposition. At that point in time, the Cherry Creek North Neighborhood Association did not support the rezoning.

Since the revised application was submitted, CPD has received 3 letters in support and 27 opposed.

CPD recommends the condition of a Regulating Plan because:

- An adopted area plan (CCAP) exists and contains clear recommendations that cannot be achieved with the existing available zone districts.
- A process will be under way soon to update the zoning text and zoning map for the Cherry Creek North area to better implement the vision and recommendations of the CCAP.
- The condition of the Regulating Plan can bridge the gap between the adopted plan and the future zoning discussion.

Tina Axelrad, Community Planning & Development, presented an explanation of the Regulating Plan concept as defined in the Denver Zoning Code. This is the first instance where it is being applied in other than the Master Planned context. The Regulating Plan is approved administratively by the Manager of CPD; it is appealable to the Board of Adjustment.

The Plan helps create predictability and certainty of future development. It is a binding document, helping to better implement adopted plans. It is a typical tool used in other cities with form-based zoning.

A Regulating Plan does not change the zoning entitlement of the owner, but it may

reduce the number of building forms or stories available for the specific site. It is not a complicated document that does not take long to prepare.

Kelly Davis, Oz Architecture, presented the proposed regulating plan for the subject site, showing how it addresses the goals of the Cherry Creek North Urban Form Working Group. His presentation is attached to this meeting summary. The height at 2nd Ave. is 8 stories; it steps down to 7 stories in mid-block; and it steps down to 4, 3 and 2 stories approaching 3rd Ave. in order to avoid shading the sidewalk and to provide additional solar access. The Columbine Street facade will be modulated to prevent a monolithic frontage. A through-building feature will break up the Columbine facade toward the south end of the block, and a "notch" will address that issue further north.

Wayne New, President of the Cherry Creek North Neighborhood Association, said the organization no longer opposes the proposed zoning or the project. The neighborhood appreciates Councilwoman Robb's involvement and that she had the urban design work done. This is now a good project. He wanted to impress how important the White Paper (on urban form and design) is to the neighborhood, as its only protection against overdevelopment. There needs to be a collaborative process, and the neighborhood should have a role in the Regulating Plan. The Planning Board and City Council should be involved in the development of the Regulating Plan.

Molly Urbina, Interim Manager of CPD, said the Regulating Plan will not be utilized broadly. The concept is to use it where there is a gap between adopted goals and existing zoning. Cherry Creek North will have a new zone district in 2013 which reflects the CCAP, so it makes sense to apply the Regulating Plan as a condition of rezoning.

Ms. Urbina said that when CPD uses the Regulating Plan tool, it will always be by a condition placed on the requested new zoning. But it cannot be approved until the zoning has been approved by Council and is in the place. The Regulating Plan is a public document, available to anyone interested. Any neighborhood can request a Regulating Plan as a condition on a rezoning, but only CPD can require it.

Zone districts come with specific heights, which are entitlements. A Regulating Plan also becomes part of the entitlement, and it may change the heights or other aspects from the zoning.

The Regulating Plan was added in the first amendment to the new Zoning Code in 2011.

Councilman Brown asked about the time it takes to get a plan created and approved. The architect said the area plan took much longer. Once that plan was adopted, the regulating plan took only a couple of weeks to complete.

Councilwoman Montero expressed concern that these Regulating Plans will take too many resources from other planning efforts. She also stated that the process could

be inequitable. For example, the Swansea/Elyria neighborhood needs a master plan.

Ms. Urbina said the applicant for a rezoning would be asked for a Regulating Plan only where an area plan is in place that differs from the zoning.

Councilwoman Robb stated that the Cherry Creek North neighborhood was not excluded from this process.

A motion offered by Councilmember Susman, duly seconded by Councilmember Brown, to file the bill carried by the following vote:

- AYES: Susman, Brown, Lehmann, Montero, Robb, Shepherd(6)
- NAYS: (None)
- ABSENT: Lopez(1)
- ABSTAIN: (None)

**Presentations**

- 1 Confluence Park Plan status.**  
*Mark Bernstein, Parks & Recreation; Craig Coronato, Wenk Associates*

Mark Bernstein, Parks & Recreation, and Craig Coronato, Wenk Associates, presented the history of the project, the public process involved, and the preferred plan. The presentation is attached to this meeting summary.

Over 7000 people were informed of the process via many methods, including social media and several existing websites to get the word out about the planning process and to gather information and ideas. Surveys, both on-line and personal intercepts in the park, were used to gather specific information from the public about the needs and desires.

Confluence Park was constructed in the mid-1970s, and it was the first urban whitewater park in the nation. Shoemaker Plaza is being documented for historic purposes before any reconstruction begins.

The public input was summarized as "Go big or go home."

The preferred concept is known as "The Loop", based on the shape of the proposed new bridge and connecting trails. Circulation and connectivity were two of the primary considerations.

The final concept plan will be refined and presented on Oct. 15 in a public meeting.

Potentially, a Confluence Park District, encompassing several of the amenities along the river, could become a funding mechanism. Councilman Nevitt found this an interesting concept, and asked if this will be addressed in the master plan. Mr. Bernstein said not specifically, but the plan will set the stage for exploring the possibilities.

Councilwoman Lehmann said the riparian zone plants and animals as well as water quality need to be addressed.

Councilwoman Montero said she likes the connections and the circular pattern, which is repeated in City of Cuernavaca Park. It is important that the cultural and historical elements be acknowledged.

The final key stakeholders meeting will be held on Oct. 10, and the last public meeting is on Oct. 15 from 6:00-8:00 p.m. at REI.