



Land Use, Transportation & Infrastructure Committee Summary Minutes

Tuesday, November 27, 2012 10:30 AM City & County Building, Room 391

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

Committee Staff: Gretchen Williams

Council Members Present: Brown, Lehmann, Montero, Robb, Shepherd

Members Absent: Lopez

Bill Requests

- BR12-0807** Changes the zoning classification from C-CCN (Urban Center Neighborhood Context, Cherry Creek North) to C-MX-8 (Urban Center Neighborhood Context, Mixed Use, 8 story max. height) with a condition that a regulating plan be filed for property at 245 Columbine in Council District 10.
Kyle Dalton, Community Planning & Development

This 0.48-acre site is in the middle of the west side of the 200 block of Columbine in Cherry Creek North. The request is to change the zoning to C-MX-8 (urban center mixed-use with 8-story max.) with the condition that a regulating plan be developed for the site.

The site currently contains a 3-story structure; most buildings in the area are 1 to 4 stories, although 6 to 11 story buildings are within one or two blocks. This is an area of mixed uses including office, retail and some

residential.

Community Planning & Development (CPD) staff found that the proposed zoning is consistent with adopted plans, including Comprehensive Plan 2000; Blueprint Denver; and the 2012 Cherry Creek Area Plan (CCAP), which recommends mid-rise buildings of 5 to 8 stories with entries oriented to the street and with design elements and details accommodating to pedestrians. The proposed rezoning also is consistent with the CCAP's recommendation that revised land use regulations be adopted for the Cherry Creek North Business Improvement District by demonstrating that a regulating plan is necessary in order to make the zoning compatible with the CCAP recommendations.

The justifying circumstance for the rezoning is changed and changing conditions and character of the Cherry Creek North area. The Planning Board unanimously recommended approval at its meeting on Oct. 17.

The condition for a regulating plan recognizes that the current zoning classifications available do not adequately match the CCAP goals. The regulating plan will better reflect those goals during the process of developing and adopting new zoning regulations.

The applicants have met with and presented to several groups and organizations in the larger Cherry Creek area. CPD received 13 letters in favor of the rezoning and 30 opposed.

Brian Klipp, project architect, gave an overview of the regulating plan. The building envelope provides for a 96 foot height in 7 stories. At 31 feet above street level, there is a setback on the facade along Columbine and another above that. This provides height without creating a sheer wall up from pedestrian level. The building will be stepped down toward the lower-scale more residential neighborhood north of 3rd Ave. The plan is for two levels of parking underground with egress/exit on Josephine, not Columbine. The 7th level is planned for residential units; the first level is

retail; office space will occupy the middle floors.

Gene Hohensee, president of Cherry Creek North Neighborhood Assoc. (CCNNA) said the group opposes the 245 Columbine project on a vote of 41 to 4. He noted that the group has a history of approving proposed projects, but residents are now worried about the impact of these 12 to 15 new projects on the 100-year-old streets and on property values. He noted that Capital Hill United Neighborhoods (CHUN) opposed this project by 13 to 3. The building is too tall and its floor area ratio (FAR) exceeds the zoning as well as the FAR of other buildings in Cherry Creek. It has a higher FAR than buildings along 1st Ave. The developer has not done a traffic study, even though CCNNA requested one. CCNNA requests that Council revise the zoning in the area rather than and create regulating plans for each development. Project by project is not smart development. CCNNA wants smart development, not over-development.

Councilman Brown said many of the neighbors were involved in developing the CCAP; now they object to a project that conforms to it. He does not understand the neighborhood.

Councilwoman Robb said some people do not feel that this project meets the goals of the CCAP; others do, including CPD staff. While it is unfortunate the plan did not resolve all issues as we had hoped, we have this request in front of us now.

Councilwoman Montero moved to move it to Council. Brown Seconded.

Councilwoman Robb said she did not think the application was ready to move out of Committee, and prior to voting on the motion on the floor, she wanted CPD staff to address some of the issues raised in the testimony, such as how the FAR compares to buildings on 1st Ave.

Mr. Dalton responded FAR is not part of the rezoning process, and he is not familiar with the FAR of the proposed building or the 1st Ave. buildings. Several items impact FAR, such as the use and if parking is underground or at grade since parking does not count in FAR.

Councilwoman Robb asked about the parking ratio (parking spaces per square foot). Brent Farber, representing the developer, said there are 116 spaces and roughly 90,000 square feet of rentable floor area, so the ratio is about 1.5 spaces per 1000 square feet. Mr. Dalton added that parking requirements vary by use, so it is difficult to know if that is enough parking without knowing the uses. However, the minimum ratio required for office use in C-MX-8 is 1.25 per 1000 square feet. All of this is reviewed at the project development review stage with final plans.

Councilwoman Robb asked the ratio in Cherry Creek North zoning. Mr. Dalton responded that it depends on the use, but commercial is 3 per 1000. The CCAP recommends that the parking ratios be reconsidered. The Councilwoman noted the proposed ratio (1.5/1000) is about half of the current Cherry Creek North ratio.

Asked the advantage of holding this in Committee, Councilwoman Robb said that since the Planning Board hearing, some progress has been made in talks between the developer and the neighborhood, and she hopes for more time for folks to talk. This neighborhood has worked through these issues in the past, given enough time. She would like to bring it back on Jan. 8.

Councilwoman Lehmann supported that, adding it is better to put the time on the front end considering how long the building will be there.

A motion offered by Councilmember Montero, duly seconded by Councilmember Montero, to file the bill failed by the following vote:

- AYES: Brown, Montero(2)
- NAYS: Lehmann, Robb, Shepherd(3)
- ABSENT: Lopez(1)
- ABSTAIN: (None)

BR12-0879 Text Amendment to the Denver Zoning Code to revise regulations for noncommercial (including political) signs.
Tina Axelrad, Community Planning & Development

This text amendment was initiated by the City Attorney's Office. The Planning Board recommended approval on Nov. 21 following a public hearing without any testimony presented. Community Planning & Development (CPD) requests permission to file the bill early, on Nov. 29, so that 1st reading is on Dec. 3 with public hearing and final consideration on Jan 7. No public comment has been received to date.

The purpose of the amendment is to clarify the city's distinctions between commercial and noncommercial, including political signs, and to ensure that allowances and limitations are unambiguous.

Currently, the code defines "sign, noncommercial" and "sign, political" signs even though political signs are a type of noncommercial sign. The definition of "sign" exempts a list of specific devices such as retail window displays and flags, certain symbols and crests (i.e., VFW), time/temperature displays, and works of art, as long as those contain no commercial content. These devices are not currently regulated as "signs", which may potentially raise concerns about unequal treatment compared to other noncommercial signs and political signs.

Another facet is that current language is unclear if an owner of a permitted commercial sign (Bob's Grocery) can change the message content from commercial to noncommercial (Support Referendum 2A). The intent is to allow this, but there is lack of clarity in current language.

Thirdly, the code contains regulations that do apply to "political and noncommercial signs" as to reasonable time, place and manner, but it is unclear about the city's treatment of certain types of noncommercial speech that are arguably "signs" as well.

The proposed amendments clarify all of these aspects:

- Delete definition of "sign, political" and make clear that the definition of

"sign, noncommercial" includes political signs.

- Remove all exemptions (except window display) from the definition of "sign" and treat flags, time/temperature devices, etc. as noncommercial signs as long as they meet the definition of sign.
- Allow for substitution of message on permitted commercial signs.
- Add reasonable regulations on flags as noncommercial signs on both residential (regulate size, upkeep) and nonresidential (regulate illumination) properties.
- Make revisions to clarify that political signs are treated the same as noncommercial signs, and that previously exempted devices (flags, balloons, banners) are regulated as noncommercial signs.
- Change permitted size of noncommercial sign on residential property from 8 sq. ft. to 15 in order to accommodate flags and other noncommercial signs so as not to prohibit flags (or anything in this category) by a size regulation (most standard flags are 3x5).

Kerry Buckey, Assistant City Attorney, explained that the City is currently involved in a law suit regarding signs and an executive session is requested.

A motion offered by Councilmember Brown, duly seconded by Councilmember Montero, to go into executive session on a matter of client-attorney privilege carried by the following vote:

AYES: Brown, Lehmann, Montero, Robb, Shepherd(5)
NAYS: (None)
ABSENT: Lopez(1)
ABSTAIN: (None)

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

AYES: Brown, Montero, Robb, Shepherd(4)
NAYS: (None)
ABSENT: Lopez(1)
ABSTAIN: Lehmann(1)

Presentations

1

The Economics of Denver Mountain Parks

Scott Gilmore and Bob Finch, Parks and Recreation

Scott Gilmore, Deputy Manager for Parks, said the Denver Mountain Parks (DMP) system includes 14,000 gorgeous acres. It includes such well-known parks as Red Rocks, Lookout Mountain and Genesee as well as less known parks. It is difficult to convey the importance of this resource to the citizens of Denver. The Department is trying to get word out to the public and also trying to make the system sustainable on its own merits.

Bob Finch, Natural Resources Director, said implementation of the Mountain Parks Master Plan, which was adopted five years ago, is one of his charges. He presented an operational vision for the DMP for the years 2013-2018.

The year 2013 is the Centennial of Denver Mountain Parks, and there are plans to utilize that fact for a public relations campaign. It is also the 40th anniversary of Jefferson Open Space Program and the 20th anniversary of Great Outdoors Colorado, or GOCO. It is important to recognize that these three entities work closely together and that Denver is not out there on its own.

DMP had a dedicated mill levy between 1912 and 1956, but since then, it has been operated on very little. DMP has an annual \$800,000 budget and 10 staff. One of the primary goals is to create an appropriate budget for personnel and services and a cost recovery model.

A copy of the presentation is attached.