

Attachment 1: Application

Zone Map Amendment (Rezoning) - Application

| PROPERTY OWNER INFORMATION* | | PROPERTY OWNER(S) REPRESENTATIVE** | |
|---|--|--|--------------------------------|
| <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION | | <input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION | |
| Property Owner Name | Bellco Credit Union | Representative Name | Jim Erwin-Svoboda |
| Address | 7600 E Orchard Road, Suite 400N | Address | 6162 S Willow Drive, Suite 320 |
| City, State, Zip | Greenwood Village, CO 80111 | City, State, Zip | Greenwood Village, CO 80111 |
| Telephone | 303-689-7947 | Telephone | 303-770-8884 |
| Email | dkearbey@bellco.org | Email | JimErwinSvoboda@GallowayUS.com |
| <p>*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p> | | <p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p> | |
| <p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</p> | | | |
| SUBJECT PROPERTY INFORMATION | | | |
| Location (address and/or boundary description): | 10353 E Mississippi Avenue, Denver, CO 80247 | | |
| Assessor's Parcel Numbers: | 06154-04-046-000 | | |
| Area in Acres or Square Feet: | 80,819 SF (1.855 AC) | | |
| Current Zone District(s): | B-1 * (Ordinance 44 (1994)) | | |
| PROPOSAL | | | |
| Proposed Zone District: | S-MX-3 | | |

| REVIEW CRITERIA | |
|--|--|
| <p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p> | <p><input checked="" type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan. Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input checked="" type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p> |
| <p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p> | <p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input checked="" type="checkbox"/> Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:</p> <p style="margin-left: 20px;">a. Changed or changing conditions in a particular area, or in the city generally; or</p> <p style="margin-left: 20px;">b. A City adopted plan; or</p> <p style="margin-left: 20px;">c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code. Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District. Please provide an attachment describing how the above criterion is met.</p> |
| REQUIRED ATTACHMENTS | |
| Please ensure the following required attachments are submitted with this application: | |
| <p><input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format)</p> <p><input checked="" type="checkbox"/> Proof of Ownership Document(s)</p> <p><input checked="" type="checkbox"/> Review Criteria, as identified above</p> | |
| ADDITIONAL ATTACHMENTS | |
| Please identify any additional attachments provided with this application: | |
| <p><input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s)</p> <p><input checked="" type="checkbox"/> Individual Authorization to Sign on Behalf of a Corporate Entity</p> | |
| Please list any additional attachments: | |
| <p>A letter summarizing the neighborhood outreach completed to date has been included as part of the formal application package.</p> | |

REZONING GUIDE

Rezoning Application Page 3 of 3



PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

| Property Owner Name(s) (please type or print legibly) | Property Address City, State, Zip Phone Email | Property Owner Interest % of the Area of the Zone Lots to Be Rezoned | Please sign below as an indication of your consent to the above certification statement | Date | Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed, (C) title policy or commitment, or (D) other as approved | Has the owner authorized a representative in writing? (YES/NO) |
|--|---|--|---|----------|---|--|
| EXAMPLE John Alan Smith and Josie Q. Smith | 123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov | 100% | <i>John Alan Smith</i> <i>Josie Q. Smith</i> | 01/01/12 | (A) | YES |
| Bellco Credit Union LeeAnn Downey | 10353 E Mississippi Avenue Denver, CO 80249 303-689-7947 dkearbey@bellco.org | 100% | DocuSigned by: <i>LeeAnn Downey</i> E8874C6B56504B8... | 9/15/20 | (A) | YES |
| | | | | | | |
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Last updated: August 29, 2018

Return completed form to rezoning@denvergov.org

201 W. Colfax Ave., Dept. 205

Denver, CO 80202

720-865-2974 • rezoning@denvergov.org

Rezoning Justification Letter – Denver Zoning Code Criteria Analysis

10353 E Mississippi Avenue
December 17, 2020

Thank you for taking the time to review our Zone Map Amendment application for the property located at 10353 E Mississippi Avenue (northeast corner of S Geneva Street & E Mississippi Avenue. This request would rezone the property from the Chapter 59 B-1 with conditions, to the S-MX-3 district under the current Denver Zoning Code (DZC). Included below is the analysis of the proposed Zone Map Amendment request against the following Denver Zoning Code sections:

Section 12.4.10.7: General Review Criteria Applicable to All Zone Map Amendments,
Section 12.4.10.8: Additional Review Criteria for Non-Legislative Rezoning

Section 12.4.10.7: General Review Criteria Applicable to All Zone Map Amendments,

The City Council may approve an official map amendment if the proposed rezoning complies with all of the following criteria:

- A. Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the City's plan. The applicable adopted plans are the Comprehensive Plan 2040 and Blueprint Denver.

Analysis:

Comprehensive Plan 2040:

The Comprehensive Plan 2040 focuses on six vision elements forming a sustainable, comprehensive vision for the City. The proposed rezoning is in alignment with the following goals:

Equitable, Affordable and Inclusive – Goal 1.1 is to ensure that all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities.

- The current zoning restricts the site to be “developed in a manner as shown on the site plan” that is on file in the Office of the Clerk and Recorder under Filing No. 93-1159, dated December 17, 1993. Based on this site plan, it appears the only redevelopment that can occur at this site is a drive-thru ATM use. Rezoning the site to S-MX-3 would provide an opportunity for residents to achieve this goal via an expanded use list. The variety of uses anticipated for the proposed site could include a fuel station, eating and drinking



establishments (with or without a drive-thru), and other retail uses typically found within a suburban, mixed-use development.

Strong and Authentic Neighborhoods – Goal 2.1 is to create a city of complete neighborhoods.

- Strategy A is to build a network of well-connected, vibrant, mixed-use centers and corridors.
 - Rezoning the site would fit this goal by providing an opportunity for commercial development growth, and an increase in services located within close proximity to the adjacent neighborhood. Current zoning only allows for a drive-thru bank use, which is the same use as the parcel to the east.
- Strategy D is to encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities.
 - The current use on the property is a vacant drive-thru ATM service. The proposed rezone would allow infill development to activate the land, and would provide an opportunity for retail/commercial services to help strengthen the surrounding neighborhood.

Environmentally Resilient – Goal 5.8 is to clean our soils, conserve land and grow responsibly.

- Strategy A is to promote infill development where infrastructure and services are already in place.
 - This area already has infrastructure (roads, utilities, landscaping) in place. As a result, rezoning the site to expand the list of allowable uses would help achieve the goal of conserving land and growing responsibly.

Denver and the Region – Goal 2 is to embrace Denver's role as the center of regional growth.

- Strategy A is to direct significant growth to regional centers and community centers and corridors with strong transit connections.
 - The proposed rezone site is designated as a Community Corridor within Blueprint Denver. These corridors are accessible to a larger area of surrounding neighborhood users (bus stop located directly east of the site) and provide the opportunity for a mix of uses to thrive along a strong roadway corridor (such as E Mississippi Avenue). This site is a desirable area for allowing additional commercial services to serve the surrounding community.

Rezoning the subject property to S-MX-3 is consistent with Comprehensive Plan 2040 as analyzed above.

Blueprint Denver:

The Blueprint Denver Future Neighborhood Contexts Map and Future Places Map identifies the subject site as Suburban and Community Corridor, respectively. These designations are supportive of the variety of uses that could serve the surrounding neighborhoods as the site is located along a major thoroughfare (E Mississippi Avenue).

The subject property, and surrounding area to the west and north are identified as areas that need to improve access to opportunity. In areas such as this, Blueprint Denver states that it is important to guide change in ways that increase access to basic goods, services and amenities to improve quality of life. The proposed S-MX-3 zoning district would allow for a variety of uses to develop and provide the surrounding neighborhoods access to basic goods and services.

Blueprint Denver also states that everyone in Denver deserves to live in a complete neighborhood, and that a complete neighborhood is where jobs, daily services and recreation are easily accessible.

The following Blueprint Denver policies are supportive of the proposed rezone:

Land Use & Built Form: General – Policy 01 is to promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets.

- Strategy A is to use zoning and land use regulations to encourage higher-density, mixed-use development in transit rich areas including community corridors.
 - The subject site is located along a residential arterial roadway and designated as a Community Corridor, which makes it a desirable area for the mix of uses permitted by the proposed zone map amendment.
- Per Blueprint Denver, Suburban Community Corridors should be consistent with the character of the surrounding area in scale and design. Rezoning to S-MX-3 would fit into the character of the surrounding area given the site previously had a commercial use, and the adjacent/nearby commercial lots are zoned S-MX-5.
- Additionally, Blueprint Denver calls for building heights to be up to 5 stories (70' tall) in Suburban Community Corridors. S-MX-3 would limit building heights to 45' tall, which would be significantly below the 70' threshold. Given the proximity to nearby residential, special attention was given to the transition between the existing zone districts. S-MX-3 would be an appropriate zone district as it serves as a transition from S-MX-5 to S-SU-I, since S-SU-I allows for 35' tall single-family homes.

Land Use & Built Form: General – Policy 03 is to ensure the Denver Zoning Code continues to respond to the needs of the city, while remaining modern and flexible.

- Strategy A is to rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code.
 - The proposed rezone to S-MX-3 would bring the subject property out of the Former Chapter 59 zoning code, and into the current DZC.

Mobility – Policy 01 is to encourage mode-shift – more trips by walking and rolling, biking and transit – through efficient land use and infrastructure improvements.

- Strategy D is to increase the number of services and amenities that are available by walking, rolling and biking by integrating more local centers and corridors into residential areas, especially for areas that score low in Access to Opportunity.
 - The proposed site is in an area that scored low in the Access to Opportunity measurements. There is existing residential development located immediately to the north and west, and across Mississippi Avenue to the south. The proposed S-MX-3 zoning would provide an opportunity to develop the site and increase the services and amenities available to the surrounding neighborhood, thus expanding the ability for walking, rolling and biking by neighbors to the site.
- Strategy E is to promote mixed-use development in all centers and corridors.
 - The proposed site is in an area that scored low in the Access to Opportunity measurements. There is existing residential development located immediately to the north and west, and across Mississippi Avenue to the south. The proposed S-MX-3 zoning would provide an opportunity to develop the site and increase the services and amenities available to the surrounding neighborhoods, thus expanding the ability for walking, rolling and biking by neighbors to the site.

Given the subject property’s location, we find that the rezoning request is consistent with Blueprint Denver, especially since The Future Neighborhood Contexts Map for the site is Suburban, and the Future Places Map identifies the site as a Community Corridor.

- B. Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.

Analysis: The proposed official zone map amendment to S-MX-3 creates a new, uniform zone district with applicable standards for the entirety of the proposed site. The new zone district will create a high-density zoning district that will allow for a variety of uses that fit the suburban commercial corridor context, per the Adopted Plans for this area. The regulations are uniform and at the time of a site plan, will be appropriately reviewed for design criteria.

C. Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety and general welfare of the City.

Analysis: Rezoning to S-MX-3 will allow the development of needed goods and services for the surrounding residents. The site plan will be carefully designed in order to provide a safe, customer friendly entrance/exit to/from the site. In addition, development of the site would require improvements for servicing Electric Vehicles, which have a much lower CO2 output than automobiles that are powered by gasoline. This coupled with strategic site design helps promote the public health, safety, and general welfare.

Section 12.4.10.8: Additional Review Criteria for Non-Legislative Rezonings

In addition to compliance with the general review criteria stated in Section 12.4.10.7, the City Council may approve an official map amendment that the City Attorney has determined is not a legislative rezoning only if the City Council finds the application meets the following criteria:

A. Justifying Circumstances: One of the following circumstances exists

1. The existing zoning of the land was the result of an error;
2. The existing zoning of the land was based on a mistake of fact;
3. The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;
4. Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include
 - a. Changed or changing conditions in a particular area, or in the city generally; or,
 - b. A City adopted plan; or
 - c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.
5. It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.

Analysis: Circumstance 4 exists in the case of this rezoning. The existing zone district for this site is based on the Former Chapter 59 zoning. This zone map amendment would change the zone district to be in conformance with the current Denver Zoning Code. The City has recently adopted new guiding documents in the Comprehensive Plan 2040 and updated Blueprint Denver, which designate the subject site as a Suburban Community Corridor.

- B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements: The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.

Analysis: The Suburban Neighborhood Context is characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks. The S-MX-3 district applies to areas or intersections served primarily by local or collector streets where a building scale of 1 to 3 stories is desired (access to the site is from Mississippi Avenue which is an arterial street). The Zone District Purpose for S-MX-3 is intended to promote safe, active, pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city's neighborhoods. In addition, this zone district intends to improve the transition between commercial development and adjacent residential neighborhoods. Adjacent properties to the east are zoned S-MX-5, and properties to the west/north are S-SU-1, which allows up to 35' tall single-family homes. S-MX-3 provides a transition in building densities and heights between the two neighboring zone districts. The Mixed-Use districts are appropriate along corridors, for larger sites and at major intersections. The Zone District regulations allow for a wide variety of uses and building forms. As development proceeds, the permitted uses and building forms are further defined to provide clarity and predictable development outcomes. Multiple building forms are allowed on a single zone lot. The subject property is in an area that is consistent with the description, purpose, and intent of the S-MX-3 zone district.

Through the analysis above, we find that the proposed rezoning of the subject property to S-MX-3 is consistent with the Comprehensive Plan 2040, Blueprint Denver, and complies with the additional review criteria of DZC Sec. 12.4.10.8.

Neighborhood Outreach Summary – Rangeview Neighborhood Association

10353 E Mississippi Avenue

December 17, 2020

As a supplement to the zone map amendment application package, we have prepared a letter summarizing the Registered Neighborhood Organization (RNO) outreach completed during the beginning of this process (prior to formal application).

Last year, a zone map amendment application was reviewed by the City and it was determined that the application met all the City's applicable review criteria. The request for zone map amendment was scheduled for a public hearing in front of City Council on December 9, 2019. The applicant decided to withdraw the application prior to the public hearing, in an effort to continue discussions with the RNO regarding the proposed rezone.

On May 14, 2020, the project team held a Zoom meeting with the RNO board members, and a few select neighbors. Councilwoman Sawyer was able to attend the meeting and hear about the proposed enhancements that were incorporated into the project at the neighbor's request. The enhancements included:

- Reduction in density of redevelopment (two users down to one user)
- enhanced buffers along the north and west sides
- screen wall along the north to provide barrier between adjacent residential and site
- strategically placing the trash enclosure on the east side of the site
- existing access points to remain, and no new access to Geneva Street

After the meeting, it was apparent that mediation was necessary and both parties entered this process in mid-May 2020. During mediation, it was determined that certain residents would never support the rezone despite what may be agreed to during mediation. However, the RNO (as an entity) has been willing to work with the project team to identify additional enhancements that they would like to see incorporated in order to support the proposed zone map amendment. These additional enhancements include

- Additional screening on west side with landscape wall and new trees
- Light Fixtures to be full cutoff at the property line (reduce potential for light spill)
- Any traffic calming devices within Geneva Street (between Kentucky and Mississippi) deemed acceptable by the City of Denver and City of Aurora would be implemented.
- Soften the west façade of the store and canopy

The project team accommodated the requested changes to the proposed development. As a result, the RNO was going to support from the RNO the rezone and an agreement (between both parties) was going to be wrapped up in late September/early October.



On October 27, 2020, the RNO, the project team, and the mediator participated in a Zoom meeting to discuss the draft agreement, next steps, and timeline. The project team reviewed the agreement and provided their comments to the mediator ahead of the meeting. The RNO had not provided any formal comments (on the agreement) to the mediator. During the call, the RNO made it very clear that they would be unwilling to support the rezone unless the City of Denver closes off the Geneva Street connection to Mississippi Avenue. The RNO acknowledged that their requests to modify the Geneva/Mississippi connection was an existing issue that is unrelated to the rezone and redevelopment of the parcel. This was the first time the project team became aware of this request, which created doubt that an agreement with the RNO would happen. Prior to the meeting, the project team was under the interpretation that the RNO's concerns had been addressed and they would be supportive of the rezone (which is why the mediator had taken the time to create the draft agreement). This new request from the RNO jeopardized all of the mediation that had been completed to date.

On November 10, 2020, another meeting with RNO and mediator was completed. The RNO stated that revisions to the Geneva Street connection to Mississippi Avenue are still necessary in order to gain support of the rezone. The project team has been working with the City of Denver staff to see if there are any modifications to the City right-of-way that would be allowed. Based on numerous discussions with the City during the first part of the year, the project team was told that no modifications would be allowed to the Geneva Street connection to Mississippi Avenue. At the end of the meeting, it was clear the RNO's support of the rezone had become dependent on the City's decision regarding right-of-way modifications. The project team decided to spend another month pursuing the City for a different answer as to potential modifications to the Geneva/Mississippi connection.

On December 9, 2020, the mediator told the project team that, over the past month, the RNO was having internal disagreements as to what they want out of this rezone. The RNO had been weighing the risk/reward of either A) entering an agreement and not opposing the rezone, or B) opposing the rezone.

On December 14, 2020, the mediator told the project team that the neighbors would like to move forward with option A (listed above), if we accommodate all of their requests in a good neighbor agreement. After reviewing their list, it was clear that the RNO did not review the draft agreement that had already been started as most of their requests were already included in the agreement. Based on this, it appears a good neighbor agreement may be completed in the near future.

As mentioned in the Rezoning Justification Letter, the mixed-use zone district intends to improve the transition between commercial development and residential neighborhoods. We believe the neighborhood outreach provided very beneficial discussions and provided an opportunity to address the neighbor's concerns prior to formally submitting our zone map amendment package.

Legal Description

10353 E Mississippi Avenue

The Land referred to herein below is situated in the County of Denver, State of Colorado, and is described as follows:

A parcel of land being a portion of Tract 9, Range View Second Filing located in the Southeast quarter of Section 15, Township 4 South, Range 67 West of the Sixth Principal Meridian, in the City and County of Denver, State of Colorado, more particularly described as follows:

Basis of Bearings: The South line of the Southeast quarter of said Section 15 assumed to bear North $89^{\circ}34'45''$ East.

Beginning at the Northeast corner of Tract 9, Range View Second Filing, whence the Southeast quarter of said Section 15 bears South $45^{\circ}28'29''$ East, a distance of 466.83 feet, more or less;

Thence South $00^{\circ}26'02''$ East, along the East line of said Tract 9, a distance of 269.79 feet to the Northerly right-of-way line of East Mississippi Avenue as described in Reception No. 93-0068665;

Thence along the Northerly right-of-way line the following two courses:

1. South $89^{\circ}34'45''$ West, a distance of 274.63 feet;
2. Northwesterly 39.26 feet along the arc of a tangent curve to the right having a radius of 25.00 feet and a central angle of $89^{\circ}58'04''$, the chord of which bears North $45^{\circ}26'13''$ West, a distance of 35.35 feet to the Easterly right-of-way line of South Geneva Street as shown on the plat of Range View Second Filing;

Thence North $00^{\circ}27'11''$ West, along said Easterly right-of-way line, a distance of 244.74 feet to the Northwest corner of said Tract 9;

Thence North $89^{\circ}33'58''$ East, along the Northerly line of said Tract 9, a distance of 299.71 feet to the Point of Beginning.

10353 E MISSISSIPPI AVE

| | |
|--------------------------|--|
| Owner | BELCO CREDIT UNION 7600 E ORCHARD RD 400N GREENWOOD VILLA, CO 80111-2522 |
| Schedule Number | 06154-04-046-000 |
| Legal Description | RANGE VIEW 2ND FLG PT TR-9 BEGNE COR TR-9 TH S 269.79FT W 274.63FT CV/R RAD 25FT ARC 35.35FT DELTA 89.5804 CHORD N45.2613W 35.35FT TH N 244.74 FT E 299.71FT TPOB |
| Property Type | COMMERCIAL - FINANCIAL BUILDIN |
| Tax District | DENV |

Print Summary

| Property Description | | | |
|------------------------------|--------|----------------------------|------|
| Style: | OTHER | Building Sqr. Foot: | 1011 |
| Bedrooms: | | Baths Full/Half: | 0/0 |
| Effective Year Built: | 1994 | Basement/Finish: | 0/0 |
| Lot Size: | 80,819 | Zoned As: | B-1 |

Note: Valuation zoning may be different from City's new zoning code.

| Current Year | | | |
|--------------|----------|--------------------|------------------|
| Actual | Assessed | Exempt | |
| Land | | \$1,212,300 | \$351,570 \$0 |
| Improvements | | \$217,800 | \$63,160 |
| Total | | \$1,430,100 | \$414,730 |

| Prior Year | | | |
|--------------|----------|--------------------|------------------|
| Actual | Assessed | Exempt | |
| Land | | \$1,212,300 | \$351,570 \$0 |
| Improvements | | \$217,800 | \$63,160 |
| Total | | \$1,430,100 | \$414,730 |

Real Estates Property Taxes for current tax year

Please click on additional information below to check for any delinquencies on this property/schedule number and for tax sale information.

| | Installment 1 (Feb 28 Feb 29 in Leap Years) | Installment 2 (Jun 15) | Full Payment (Due Apr 30) |
|--------------------------|--|-----------------------------------|--------------------------------------|
| Date Paid | | | 4/28/2020 |
| Original Tax Levy | \$14,954.34 | \$14,954.33 | \$29,908.67 |
| Liens/Fees | \$0.00 | \$0.00 | \$0.00 |
| Interest | \$0.00 | \$0.00 | \$0.00 |
| Paid | \$14,954.34 | \$14,954.33 | \$29,908.67 |
| Due | \$0.00 | \$0.00 | \$0.00 |

Additional Information

Note: If "Y" is shown below, there is a special situation pertaining to this parcel. For additional information about this, click on the name to take you to an explanation.

| | | | |
|---------------------------------------|---|---|---|
| Additional Assessment ⓘ | N | Prior Year Delinquency ⓘ | N |
| Additional Owner(s) ⓘ | N | Scheduled to be Paid by Mortgage Company ⓘ | N |
| Adjustments ⓘ | N | Sewer/Storm Drainage Liens ⓘ | N |
| Local Improvement Assessment ⓘ | N | Tax Lien Sale ⓘ | N |
| Maintenance District ⓘ | N | Treasurer's Deed ⓘ | N |
| Pending Local Improvement ⓘ | N | | |

Real estate property taxes paid for prior tax year: **\$26,050.35**

Assessed Value for the current tax year

| | | | |
|----------------------|--------------|------------------------------|--------------|
| Assessed Land | \$351,570.00 | Assessed Improvements | \$63,160.00 |
| Exemption | \$0.00 | Total Assessed Value | \$414,730.00 |

AFTER RECORDING MAIL TO:

Kamlet Reichert, LLP
1515 Arapahoe Street
Tower I, Suite 1600
Denver, Colorado 80202
Attn: Brian P. Jumps, Esq.

SPECIAL WARRANTY DEED

THIS DEED, dated December 16, 2009, by and between **JDM PROPERTIES NO. 2, LLC**, a New Mexico limited liability company, whose address is c/o Wells Fargo Bank, N.A. 1740 Broadway MAC C7300-07E, Denver, Colorado 80274, Attn: Real Estate & Specialty Assets ("**Grantor**"), and **BELLCO CREDIT UNION**, a Colorado nonprofit corporation ("**Grantee**"), whose address is 7600 East Orchard Road, Suite 400 N, Greenwood Village, Colorado 80111:

WITNESS, that the Grantor, for and in consideration of the sum of \$10.00, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the Grantee, its successors and assigns forever, all of its rights, title and interest which the Grantor has in and to the real property, together with improvements, if any, situate, lying and being in the City and County of Denver and State of Colorado, described in **Exhibit A**, attached hereto and made a part hereof for all purposes (the "**Property**").

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the Property, with the hereditaments and appurtenances, together with all of Grantor's right, title and interest, if any, in and to any strips of land, streets and alleys abutting or adjoining such real property, and together with any and all minerals and mineral rights, aggregate and aggregate rights, water and water rights (whether decreed or undecreed, tributary, nontributary or not nontributary, surface or underground, appropriated or unappropriated, permitted or unpermitted), and wells appurtenant or appertaining to or otherwise benefiting or used in connection with the real property, subject, however, to the matters set forth in **Exhibit B** attached hereto and made a part hereof for all purposes (the "**Permitted Exceptions**").

TO HAVE AND TO HOLD the said Property, with the appurtenances, subject to the Permitted Exceptions, unto the Grantee, its successors and assigns forever. The Grantor, for itself, its successors and assigns, does covenant and agree that it shall and will **WARRANT AND FOREVER DEFEND** the Property in the quiet and peaceable possession of the Grantee, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, by, through or under the Grantor, but not otherwise.



EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

PARCEL A:

TRACT 9, RANGE VIEW SECOND FILING,
EXCEPT THAT PORTION CONVEYED TO THE CITY OF AURORA BY DEED
RECORDED MAY 28, 1993 AT RECEPTION NO. F-93-068665,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO.

PARCEL B:

TRACT 8, RANGE VIEW, ACCORDING TO THE RECORDED PLAT THEREOF,
EXCEPT THAT PORTION CONVEYED TO THE CITY AND COUNTY OF DENVER BY
INSTRUMENT RECORDED SEPTEMBER 17, 1974 IN BOOK 945 AT PAGE 678,
ALSO EXCEPT THAT PORTION CONVEYED TO THE DEPARTMENT OF
TRANSPORTATION, STATE OF COLORADO BY INSTRUMENT RECORDED JULY 16,
2005 AT RECEPTION NO. 2005118831,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO.

EXHIBIT B

PERMITTED EXCEPTIONS*

1. Real property taxes and assessments for the year 2009 and subsequent years, a lien not yet due or payable.
2. The following item as set forth on the plat of Range View Second Filing, to-wit:
 - a. An easement for utilities and incidental purposes over the Northerly and Easterly 8 feet of Parcel A.
3. An easement for sewer and incidental purposes granted to City and County of Denver by the instrument recorded June 7, 1971 in Book 332 at Page 113, over the Northerly 10 feet of said Tracts 8 and 9 and the Westerly 10 feet of said Tract 8. (Affects Parcels A and B)
4. Covenants, conditions and restrictions, which do not include a forfeiture or reverter clause, set forth in the instrument recorded July 28, 1971 in Book 358 at Page 620. Provisions regarding race, color, creed, and national origin, if any, are deleted. (Affects parcel B)
5. An easement for utilities and incidental purposes granted to Public Service Company of Colorado, by the instrument recorded April 17, 1975 in Book 1040 at Page 48 upon the terms and conditions set forth in the instrument. (Affects parcel B)
6. An easement for utilities and incidental purposes granted to Public Service Company of Colorado, by the instrument recorded December 21, 1992 in Book 6745 at Page 601 (Arapahoe County Records) upon the terms and conditions set forth in the instrument, over the Easterly 25 feet of the Northerly 10 feet of the Southerly 40 feet of said Tract 9. (Affects Parcel A)
7. An easement for utilities and incidental purposes granted to Public Service Company of Colorado, by the instrument recorded December 21, 1992 in Book 6745 at Page 602 (Arapahoe County Records) upon the terms and conditions set forth in the instrument, over the Westerly 25 feet of the Northerly 10 feet of the Southerly 40 feet of said Tract 8. (Affects Parcel B)
8. Terms, conditions, provisions, agreements and obligations contained in the Ordinance Relating to Zoning recorded February 4, 1994 at Reception No. 9400020239. (Affects Parcels A and B)
9. Terms, conditions, provisions, agreements and obligations contained in the Ordinance Relating to Zoning recorded February 14, 1994 at Reception No. 9400027300. (Affects Parcels A and B)
10. An easement for utilities and incidental purposes granted to Public Service Company of Colorado, by the instrument recorded March 24, 1994 at Reception No. 9400053851

upon the terms and conditions set forth in the instrument, over the Westerly 8 feet of said Tract 9. (Affects Parcel A)

11. An easement for drainage facilities and incidental purposes granted to the City and County of Denver by the instrument recorded June 21, 1994 at Reception No. 9400100523. (Affects Parcel A)
12. Terms, conditions, provisions, agreements and obligations contained in the Ordinance Relating to Zoning recorded August 4, 1994 at Reception No. 9400122988. (Affects Parcels A and B)
13. Terms, conditions, provisions, agreements and obligations contained in the Application to Amend the Boundaries of a Designated Zone Lot, 59-25 recorded September 8, 1995 at Reception No. 9500109923. (Affects Parcels A and B)
14. An easement for traffic Signalization and incidental purposes granted to the City and County of Denver by the instrument recorded December 1, 1995 at Reception No. 9500149919. (Affects Parcel A)
15. An easement for utilities and incidental purposes granted to Public Service Company of Colorado, by the instrument recorded October 22, 1998 at Reception No. 9800176610 upon the terms and conditions set forth in the instrument. (Affects Parcel B)
16. Survey matters as disclosed by instrument recorded December 20, 1993 at Reception No. 9300174340. (Affects Parcels A and B)

* Unless otherwise noted all recording references are to the City and County of Denver records.

STATEMENT OF AUTHORITY

(Section 38-30-172, C.R.S.)

- 1. This Statement of Authority relates to an entity named BELLCO CREDIT UNION.
- 2. The type of entity is a Colorado nonprofit corporation.
- 3. The entity is formed under the laws of Colorado.
- 4. The mailing address of the entity is 7600 East Orchard Road, Suite 400N, Greenwood Village, CO 80111.
- 5. The name or position of each person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is:

LeeAnn Downey, CAO

- 6. The authority of the foregoing persons to bind the entity is limited as follows:
None.
- 7. This Statement of Authority is executed on behalf of the entity pursuant to the provisions of §38-30-172, C.R.S.
- 8. This Statement of Authority amends and supersedes in all respects any prior Statement of Authority executed on behalf of the entity.

Executed this 15th day of August, 2019.

Name: LeeAnn Downey
 LeeAnn Downey, CAO

STATE OF COLORADO)
) :ss
 COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 15th day of August, 2019, by LeeAnn Downey, as CAO of Bellco Credit Union, a Colorado nonprofit corporation.

MICHELLE JASINSKI-WHITE
 NOTARY PUBLIC
 STATE OF COLORADO
 NOTARY ID 20144009598
 MY COMMISSION EXPIRES FEBRUARY 28, 2022

Michelle Jasinski-White
 Notary Public

My Commission expires: February 28, 2022

September 15, 2020

City and County of Denver
Community Planning and Development
201 West Colfax Avenue, Department 205
Denver, CO 80202

RE: *The property commonly known as 10353 E Mississippi Avenue, Denver, Colorado (the "Property"), owned by Bellco Credit Union, a Colorado nonprofit corporation (the "Owner")*

To Whom it May Concern:

The purpose of this letter is to notify the City and County of Denver (the "City") that Galloway & Company, Inc. (Galloway), is the property owner's representative. Accordingly, the Owner acknowledges and authorizes Galloway to submit a Zone Map Amendment application to the City for the Property.

Thank you and please do not hesitate to contact the undersigned with any questions.

Best Regards,

BELLCO CREDIT UNION, a Colorado
nonprofit corporation

DocuSigned by:

William Downey

E0074C0B50504B8...

Attachment 2: Currently Adopted Ordinance (1994) and Site Plan (1993)

BY AUTHORITY

ORDINANCE NO. 44
SERIES OF 1994

COUNCIL BILL NO. 1148
Series 1993

COMMITTEE OF REFERENCE:
Economic Development,
Zoning, Planning and
Land Use

9400020239 1994/02/04 09:38:31 1/ 2 ORD
ARIE P. TAYLOR - DENVER COUNTY .00 .00 AWE

A B I L L

FOR AN ORDINANCE RELATING TO ZONING, CHANGING THE ZONING CLASSIFICATION FOR A SPECIFICALLY DESCRIBED AREA, GENERALLY LOCATED AT 1060 SOUTH GENEVA STREET, RECITING A CERTAIN REASONABLE CONDITION APPROVED BY THE OWNER AND THE APPLICANT FOR THE ZONING CLASSIFICATION, AND PROVIDING FOR A RECORDATION OF THIS ORDINANCE.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That upon consideration of a change in the zoning of the land area hereinafter described, Council finds:

1. That the land area hereinafter described is presently classified as a part of the R-S-4 District;

2. That the owner and the applicant propose that the land area hereinafter described be changed to B-1 with a certain reasonable condition which the owner and the applicant have approved;

3. That in their application the owner and the applicant have represented that if the zoning classification is changed pursuant to their application, the owner and the applicant approve and agree to the following reasonable condition to the requested change in zoning classification related to the development, operation and maintenance of the land area hereinafter described:

That the land area hereinafter described will be developed in a manner as shown on the site plan as filed in the Office of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, on the 17th day of December, 1993, Filing No. 93-1159.

Section 2. That the zoning classification of the land area in the City and County of Denver described as follows or included within the following boundaries shall be and hereby is changed from R-S-4 to B-1 with a reasonable condition approved by the owner and the applicant, which reasonable condition is set forth in Subsection 3 of Section 1 hereof:

Tract 9, Range View Second Filing, except that portion conveyed to the City of Aurora for roadway purposes by Deed recorded May 28, 1993, at Reception No. 930068665, City and County of Denver, State of Colorado; in addition thereto those portions of all abutting public rights-of-way, but only to the centerline thereof, which are immediately adjacent to the aforesaid specifically described area.

Section 3. That the foregoing change in zoning classification is based upon the reasonable condition approved by the owner and the applicant which reasonable condition is set forth in Subsection 3 of Section 1 hereof; and no permit shall be issued except in strict compliance with the aforesaid reasonable condition. Said reasonable condition shall be binding upon the owner and the applicant for the change in zoning classification and shall be binding upon all successors and assigns of said owner and said applicant, who along with said owner and said applicant shall be deemed to have waived all objections as to the constitutionality of the aforesaid reasonable condition.

Section 4. That this ordinance shall be recorded by the Department of Zoning Administration among the records of the Clerk and Recorder of the City and County of Denver.

PASSED BY THE COUNCIL Jan 29 1993 1993

[Signature] - PRESIDENT

APPROVED: [Signature] - MAYOR 1.27 1993

ATTEST: [Signature] - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

PUBLISHED IN THE DAILY JOURNAL Dec. 30 1993 Jan. 28 1994

PREPARED BY: ROBERT M. KELLY, ASSISTANT CITY ATTORNEY 11/2/93

REVIEWED BY: Don Wilson asst CITY ATTORNEY 1993

SPONSORED BY COUNCIL MEMBER(S) _____



001148

12117



93-1159
SITE PLAN: 1000 SOUTH GENERAL ST.
CRD 444, SERIES 1994

December 14, 1993

Ms. Dorothy Nepa, Zoning Administrator
Zoning Administration Department
200 W. 14th Avenue, Suite 201
Denver, Colorado 80204

RE: Rezoning Application NO. 4101

We, the undersigned owners of property under application for the rezoning referenced above, do hereby agree to the following commitments and conditions related to the development, operation and maintenance of the subject property:

Subject property should be developed generally in a manner as shown on the attached site plan, to be referenced as Exhibit A. Said site plan was developed for BELLCO CREDIT UNION by Lee Architects on November 29, 1993, Job NO. 93049.

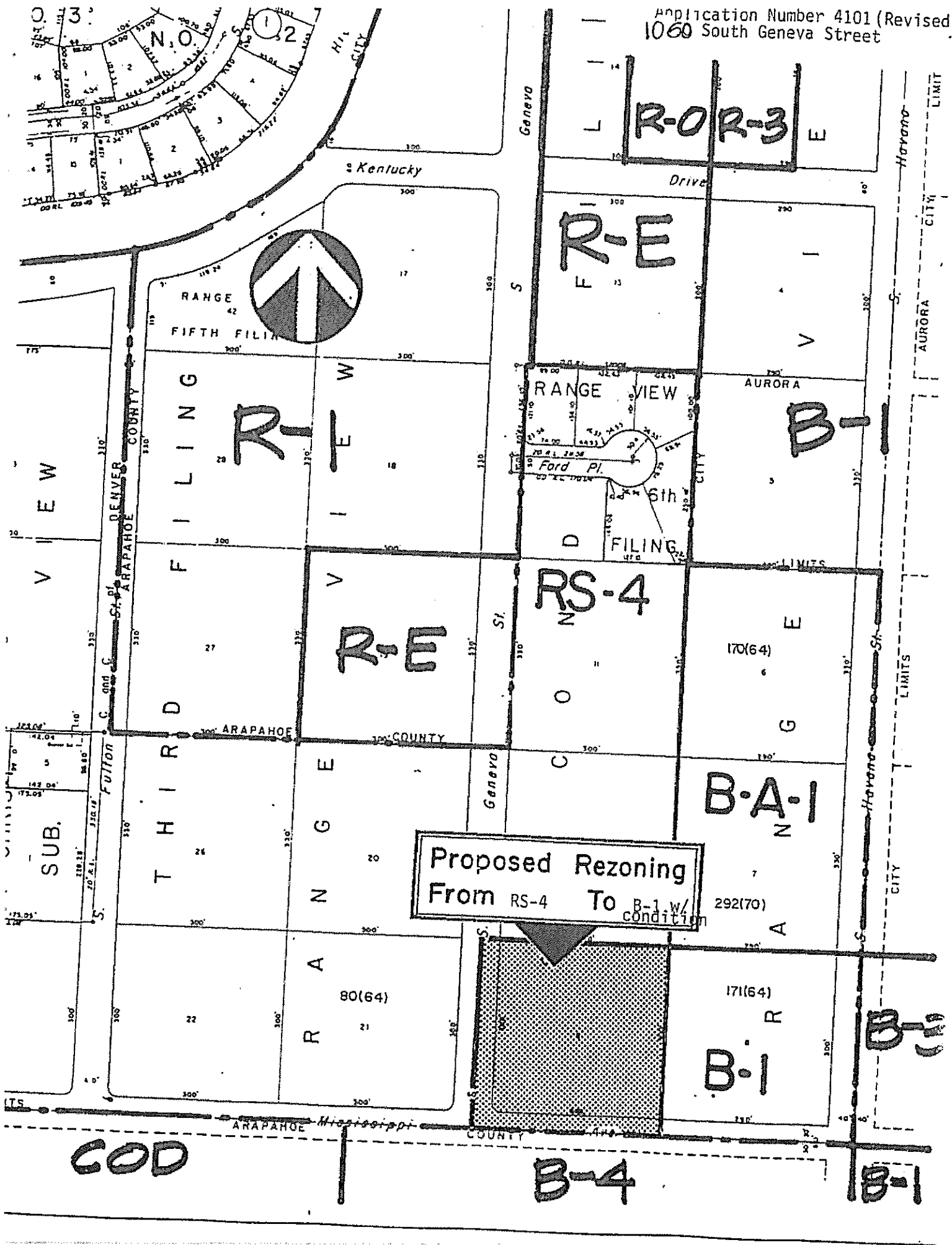
As a result of continued negotiations with the surrounding neighborhood and our financial institution needs, we may decide to add or delete before consummation of the project. Already known to us since the site plan was submitted to you is that we will build 10 drive-ups rather than the 8 shown to accommodate our membership needs. Also, a property owner on the NW side of the subject property for security reasons may want a fence rather than to berm the property. We intend to develop the subject property in a manner generally shown noting the previous comments.

These conditions shall apply to all successors and assigns, who along with the present owner, shall be deemed to have waived all objections as to the constitutionality of these provisions.

Douglas A. Ferraro
Douglas A. Ferraro
President

INDICATE TYPE OF OWNERSHIP:

XXX -- Holder of Deed of Trust



Proposed Rezoning
From RS-4 To B-1 w/
condition

COD

B-4

B-1

R-OR-3

R-E

R-E

R-E

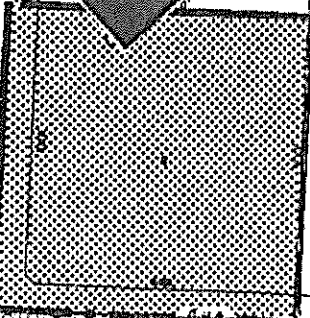
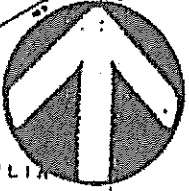
RS-4

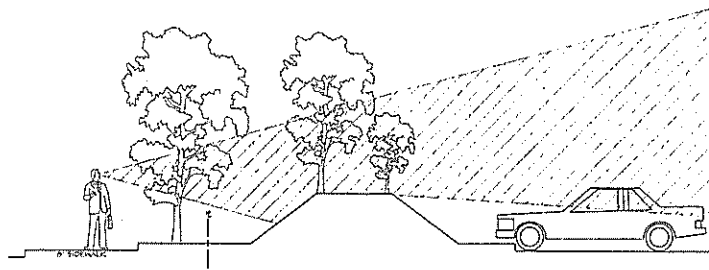
B-A-1

B-1

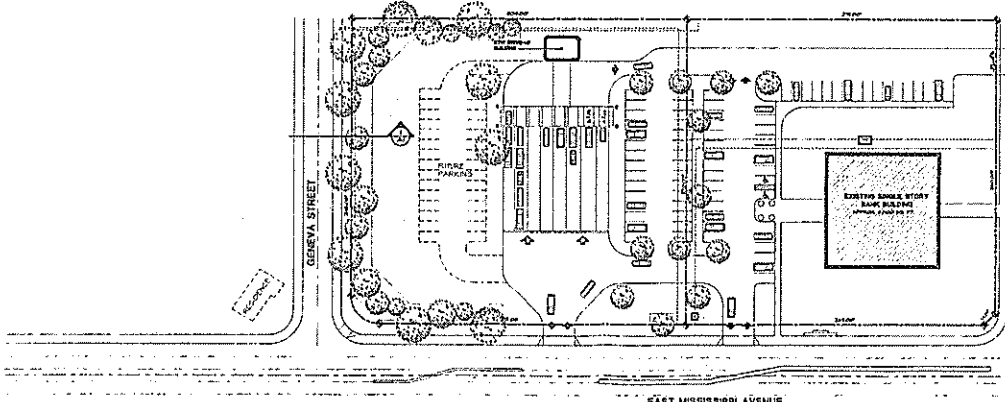
B-1

B-1

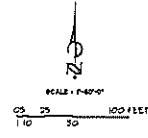




① BERM SECTION
SCALE 8" = 1'-0"



SITE PLAN



LEE ARCHITECTS/
INTERIOR DESIGNERS



BELCO CREDIT UNION

430-14

21 NOV 02 09:02 AM '02
PROJECT: 02-00-01
LTD: KJC
SITE PLAN

A-0

Attachment 3: Public and RNO comment letters



March 28, 2021

Re: Proposal from Murphy USA to construct a Murphy Express Gas Station at 10353 E. Mississippi Ave. Request for Denial of Zone Map Amendment (Rezoning) 10353 Mississippi Ave B-1 with Condition to S-MX 3. Any S-MX-3 zone operation at this location is inappropriate. No potential 24 hour business should occupy this parcel of land at 10353 E. Mississippi Avenue.

On May 13, 2019, agents of Galloway and partners Murphy Oil and Root Land Group presented a site plan for this location to the Rangeview RNO. The plan included S-MX-3 zoning for a large gas station, C-store, and an unspecified tandem commercial building. Since then, we have met again with representatives from Murphy Oil and others of their development team and they have removed the other unspecified commercial building from their proposal. Now the site plan call for an eight pump (16 gas hoses) and the convenience store (C store).

We request that the rezoning to S-MX-3 and site plan for a gas station and C-store be denied.

We also respectfully ask that Denver Community Planning & Development consider a rezoning context more consistent with this parcel's former B-1 zoning with limitations as to height (one-story), type of business allowed, and a character that is more compatible with suburban single-family homes abutting the land on two sides.

Property Not Consistent with Adopted Plans

The Bellco Credit Union at 1075 South Havana Street fronts Havana Street to the north of the proposed gas station site. The Credit Union was recently remodeled and reflects the character of the South Havana Business Improvement District in Aurora. The property that is the subject of this rezoning request fronts East Mississippi Ave rather than Havana Street. The requested S-MX-3 zoning is not consistent with the residential character and zoning context of Denver properties adjacent to the subject property, nor with other properties in the greater Rangeview neighborhood.

Prior to Bellco's remodel, this property acted as drive-through ATM lanes for the credit union. Bellco incorporated ATMs on the Havana side of its property, making access from East Mississippi to ATM lanes on the west side of its property unnecessary.

Prior to a rezoning for drive-through ATM lanes, this property was zoned residential. It was made B-1 with restrictions as to access and use and with landscape requirements attached.

Land and Surroundings Indicate a Return to the Original Residential Zoning

While Bellco's remodeled building is consistent with the Havana BID, the Mississippi Ave property should not be considered part of that commercial area. The properties in the Rangeview neighborhood immediately adjacent to this site are all zoned residential. The adjacent properties immediately north of 10353 Mississippi Ave are single-family residences. The properties across Geneva and properties to the west along Mississippi also are single-family residences. Significant construction and remodeling on the Geneva properties to the north has taken place and or is underway. All of that construction is residential. Properties on the Denver side of Mississippi in the Rangeview neighborhood are all residential. Several vacant properties along Mississippi are also being developed as residential properties. Sixty-plus residential homes were constructed on the south side of Mississippi west of King Soopers. Again, the King Soopers site fronts Havana and is part of the Aurora BID district.

The Proposed Map Amendment is not consistent in the Neighborhood Context

Rangeview is an Area of Stability, not an Area of Change. There is a school bus pickup on the western border of the Bellco property on South Geneva Street.

There is no justifying circumstance for granting significant commercial up-zoning of this parcel: ○ No error in the 2010 process or designation

- No zoning mistake-of-fact basis
- No failure to take into account the natural characteristics of the land
- No change in character or its surrounding environs
- No credible public interest reason to depart from existing zoning

More appropriate Zoning for this Property

If not returned to the original residential neighborhood zone context, we ask that any future rezoning be comparable to B-1 with the same restrictions as to use, height and character. For example, - Access to site limited to current access at light installed for this property on Mississippi or on Havana across Bellco Credit Union property.

- Ingress/egress prohibited to the residential neighborhood via S. Geneva Street.
- Maintenance of current berms and addition of landscaping to protect the established residences. - Construction of a wall on the north side of lot to protect the single-family, residential homes immediately adjacent to the lot. Locate this wall south of the City of Denver water pipe access easement.
- Trash removal and loading restricted to south or east side of property.
- Limit to one story in height.
- Limit uses to those allowed in former B-1 District.

Previously, the City Planning Board moved to deny and/or could not recommend approval/disapproval of a rezoning of this land from B-1 with Condition to S-MX-3. Unless strict limitations are in place, commercial site plans are not compatible with the residential context (S-SU-I) of properties adjacent to the site.

However, CPD's continuing to recommend to potential buyers an S-MX-3 rezoning for this parcel serves to invite a continual slew of site plans that would maximize high-traffic commercial activities and threaten the adjoining neighborhood with significant negative impacts.

One and a half blocks east of the proposed site, on the north side of Mississippi also, is a former gas station/car wash site that now sits vacant and is properly zoned by the City of Aurora for a gas station and convenience store. It has ingress and egress from both Mississippi and the street immediately on the east side of the corner property.

At that May 13 meeting with our RNO, the realtor expressed that anyone with \$2M could buy the Bellco property and build something else, implying that Murphy was buying that property for development. At a subsequent meeting held on Friday, September 13, the Murphy representative stated that Murphy was only going to lease the property from Bellco, not purchase. This zoning request could then lead to Murphy, at some point in the future, not renewing their lease and another company could come in and exercise their rights to fully occupy that site as proposed by the city. More than likely, that zoning could have a greater negative impact to our neighborhood.

Going forward, please review and reaffirm the residential character of the adjacent Rangeview properties when considering future preliminary site plans for this parcel. And please deny the proposed Galloway/Murphy Oil site plan and rezoning to S-MX-3 for this parcel.

Submitted by:

Anthony Hill
Chairperson, Rangeview RNO committee for Bellco site redevelopment
960 S Geneva St
Denver, CO 80247
anthonybhill@gmail.com
303-720-4495

Roger Miller, President
Rangeview RNO
845 S. Geneva St.
Aurora, CO 80247
Rangeviewhomesda@gmail.com
RogerMiller69@gmail.com
303-667-8899



The Range View Neighborhood Association is bounded by Havana Street on the east, Dayton Street on the west, Mississippi Avenue on the south and the High Line Canal on the north.

Case # 2020I-00076

Location: 10353 E. Mississippi Ave.

We, the under signed, are opposed to the rezoning request of Belco property to S-MX-3 from B-1. We also are opposed to the proposed 8 pump/16 hose gas station and convenience store. We believe the S-MX-3 is not consistent with the neighborhood context. The rezoning does not further public health, safety, and welfare.

| Address | Printed Resident's Name | Signature |
|---------------------|-------------------------------|-----------------------|
| 900 S. Geneva | Sharon Glenn Stall | SG Stall |
| 900 S GENEVA ST | TOO KITTRESON | Too Kitterson |
| 923 S. Geneva St | Koite Singer | Koite Singer |
| 923 S Geneva St | Pamela Eades | Pamela Eades |
| 938 S Geneva St | Maria Ostling | Maria Ostling |
| 951 S Geneva | Melissa Hayden | Melissa Hayden |
| 959 S Geneva | Rose SURPRENANT | Rose Surprenant |
| 977 S Geneva | Annella Levi | Annella Levi |
| 1061 S Geneva St | Huong Nam Lee | Huong Nam Lee |
| 1016 S. Geneva | Yana Dehalalyant | Yana Dehalalyant |
| 990 S. Geneva St. | Libby Anderson | Libby Anderson |
| 986 S. Geneva St | SALLY & CORY STEPHENS | Sally & Cory Stephens |
| 990 S. Geneva St. | PRISCILLA BROWN | Priscilla Brown |
| 940 S. GENEVA ST | DON KELLEY | Don Kelley |
| 10290 E. KENTUCKY | JAMES SKIP WALKER | James Skip Walker |
| 10290 E Kentucky Dr | Patricia Jean Walker | Patricia Jean Walker |
| 910 S Geneva St. | MARIA D. FLORES | Maria D. Flores |
| 910 S. Geneva St. | Juan M. Flores | Juan M. Flores |
| 930 S. GENEVA ST | LARRY M. CHALSTON | Larry Chalston |
| 941 S. Geneva St | Mary A. Oeda Mary Alicia Oeda | Mary Alicia Oeda |
| 1010 S Geneva ST | Don Stahl | Don Stahl |
| 1010 S Geneva St | Jileen Stahl | Jileen Stahl |
| 1010 S. Geneva St. | Peggy Stahl | Peggy Stahl |
| 1010 S. Geneva St | Jon Larmer | Jon Larmer |
| 917 S Geneva St | Y. L. J. F. L. | Y. L. J. F. L. |



The Range View Neighborhood Association is bounded by Havana Street on the east, Dayton Street on the west, Mississippi Avenue on the south and the High Line Canal on the north.

Case # 2020I-00076

Location: 10353 E. Mississippi Ave.

We, the under signed, are opposed to the rezoning request of Bellco property to S-MX-3 from B-1. We also are opposed to the proposed 8 pump/16 hose gas station and convenience store. We believe the S-MX-3 is not consistent with the neighborhood context. The rezoning does not further public health, safety, and welfare.

| Address | Printed Resident's Name | Signature |
|----------------------|-------------------------|-----------------------|
| 940 S. Emporia St | Linda M Rea | Linda M Rea |
| 940 S. Emporia St | DAULA REA | D → Rea |
| 950 S. Emporia St | Connie Larscheidt | Connie Larscheidt |
| 910 S. Emporia St | Brandon Anderson | Brandon Anderson |
| 9800 E. Kentucky Dr. | Melissa Solis | Melissa Solis |
| 9800 E. Kentucky Dr. | Rosa Maria Iniguez | Rosa Maria Iniguez |
| 9800 E. Kentucky Dr. | Raul Antonio Iniguez | Raul Antonio Iniguez |
| 9800 E. Kentucky Dr | Maria Elena Gutierrez | Maria Elena Gutierrez |
| 9750 E. Kentucky Dr | Helci A. Boyard | Helci A. Boyard |
| 9750 E. Kentucky Dr. | Jackie A. Boyard | Jackie A. Boyard |
| 907 S. Emporia St | Duane Tomich | Duane Tomich |
| 937 S. Emporia | SUCANT RILL | SUCANT RILL |
| 947 S. Emporia St. | Percy Devine | Percy Devine |
| 980 S. Emporia St | PAUL TONI MILLER | Paul Miller |
| 980 S. Emporia St | Bryan Miller | Bryan Miller |
| 9875 Emporia St | SEAN SMIDY | SEAN SMIDY |
| 970 S. Emporia St. | Kenneth W. Johnson | Kenneth W. Johnson |
| 957 S. Emporia St | Paul Perca | Paul Perca |
| 950 S. Emporia St | Justin Larscheidt | Justin Larscheidt |
| 950 S. Emporia St | CONNIE LARSCHIEDT | CONNIE LARSCHIEDT |
| 11 | ROBERT LARSCHIEDT | ROBERT LARSCHIEDT |
| 960 S. Emporia St | Michael Kenyon | Michael Kenyon |
| 960 S. Emporia St. | Cynthia M Kenyon | Cynthia M Kenyon |
| 977 S. Emporia St | Corre D Short | Corre D Short |
| 967 S. Emporia | DIANA ZIMAREY | DIANA ZIMAREY |



The Range View Neighborhood Association is bounded by Havana Street on the east, Dayton Street on the west, Mississippi Avenue on the south and the High Line Canal on the north.

Case # 20201-00076

Location: 10353 E. Mississippi Ave.

We, the under signed, are opposed to the rezoning request of Bellco property to S-MX-3 from B-1. We also are opposed to the proposed 8 pump/16 hose gas station and convenience store. We believe the S-MX-3 is not consistent with the neighborhood context. The rezoning does not further public health, safety, and welfare.

| Address | Printed Resident's Name | Signature |
|--------------------------|-------------------------|---------------------------|
| 10130 E. Kentucky Dr (A) | CRAIG H. TAYLOR | Craig H. Taylor |
| 9750 E. Kentucky Dr | Floyd Boyard | Floyd Boyard |
| 10160 E Kentucky Dr (A) | Michael Aitken | Michael Aitken |
| 977 S Galena | Lisa + Brad Haugean | Lisa + Brad Haugean |
| 922 S Galena | Lily Haugean | Lily Haugean |
| 10160 E Kentucky | Pam Puleo Aitken | Pamela Aitken |
| 10160 E Kentucky Dr | Spencer Aitken | Spencer Aitken |
| 10160 E Kentucky Dr | Arlene L. Puleo | Arlene L. Puleo |
| 10160 E Kentucky Dr | SALVATORE PULEO | Salvatore Puleo |
| 10200 E Kentucky | B D MACASINE | B D Macasine |
| 10250 E Kentucky | Kathleen M King | Kathleen King |
| 10250 E Kentucky | Michael A Stice | Michael A Stice |
| 10353 E Kentucky | LARRY R SWEET | Larry R Sweet |
| 10353 E Kentucky | Barbara Sweet | Barbara Sweet |
| 932 S. Galena St | Anneke Nelson | Anneke Nelson |
| 932 S. Galena St | Ethan Heffler | Ethan Heffler |
| 922 S. Galena St | Lily Haugean | Lily Haugean |
| 10373 E Kentucky Dr. | James A Malone | James A Malone |
| 10373 E. Kentucky Dr. | Gandy Malone | Gandy Malone |
| 10373 E. Kentucky Dr. | Minnie Passmore | Minnie B. Passmore |
| | | |
| | | |
| | | |
| | | |
| | | |

From: [d brotzman](#)
To: [Stueve, Ella C. - CPD City Planner Senior](#); [Dalton, Kyle A. - CPD CE3124 City Planning Manager](#); [Laura Aldrete](#)
Cc: [Diane Brotzman](#); [Roger Miller](#)
Subject: [EXTERNAL] Re: Proposal from Bellco/Murphy USA to construct a Murphy Express Gas Station and Convenience Store at 10353 E Mississippi Ave.
Date: Wednesday, January 27, 2021 8:06:37 PM
Attachments: [Rezoning opposition letter 012521 \(1\).docx](#)
[Gas Station Moratorium .docx](#)

Attached is our Request for Denial of Zone Map Amendment Application #2020I-00076 10353 E Mississippi Ave. From B-1 with Conditions to S-MX-3. The Request also contains an attachment for the moratorium that has been proposed to City Council.

January 27, 2021

Ella Stueve
Senior City Planner
ella.stueve@denvergov.org

Laura Aldrete
Executive Director, Community Planning and Development
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Roger Miller
President, Rangeview Neighborhood Association
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Re: Proposal from Bellco/Murphy USA to construct a Murphy Express Gas Station and Convenience Store at 10353 E Mississippi Ave.

Request for Denial of Zone Map Amendment Application #2020I-00076 10353 E Mississippi Ave. From B-1 with Conditions to S-MX-3

Under DZC Sec 12.4.10.7 General Review Criteria the proposal must comply with all of the general review criteria. It woefully fails to do so.

Public Health, Safety and General Welfare

The proposed use for this property does not further the public health, safety and general welfare of the City. For the closest neighbors, this proposed use jeopardizes their health, safety and general welfare. Denver's Environmentally Resilient Goal 5.8 is to clean our soils, conserve land and grow responsibly. Bellco/Murphy's proposed use of a gas station at this site does not meet this goal in any way.

Negative Air Quality and Health Effects

A number of compounds injurious to human health are released from gas stations during vehicle fueling and from underground storage tank vents. Benzene is the gasoline constituent most harmful to human health. The proven causal relationship between benzene and cancer is well documented and accepted by the scientific community – gas stations are classified by the Environmental Protection Agency as a point of source for benzene and according to the World Health Organization there is no safe level for benzene. The health effects for those living near a gas station range from nausea to cancer including significant increased risk of childhood leukemia, anemia, increased susceptibility to infections and adverse pregnancy outcomes.

The California Air Resources Board (ARB) Handbook notes that adverse effects extend out as far as 1000' from a high-volume gas station. The Handbook describes those most vulnerable to adverse health effects and sensitive land uses as children, the elderly, and those with pre-existing serious health problems affected by air quality. This site is within 50' - 125' of several backyards where children could be playing and within 1000' of many residential homes. It is also within 250' of a school bus stop where children wait for the bus and depart the bus every school day.

Negative Impacts To Ground And Surface Waters

Because of the high traffic volume and refueling, convenience stores with gas pumps pose an unusually severe threat to ground and surface waters. One study found that contaminant levels in convenience store – gas station runoff were 5 to 30 times higher when compared to residential runoff. These findings have prompted the USEPA and a number of states to list vehicle fueling locations as stormwater hotspots.

Fuel storage tanks and pipelines pose another source of contamination. Researchers have found that a significant portion of the spilled gasoline can migrate through concrete pads. Scientific studies indicate that a gasoline plume can travel up to 400' underground. Those same studies find that another 100' should be added for containment measures. Gas dispensers should be no closer than 500' to a well.

Many homes in the Rangeview neighborhood use domestic wells for irrigation and drinking water to their homes. Several are immediately adjacent to the proposed gas station and wells are within that dangerous and unhealthy radius. Rangeview groundwater is unusually close to the surface which will exacerbate groundwater contamination.

Additional Negative Impacts to the Residential Neighborhood

Bellco/Murphy's gas station proposal will cause an increase in traffic to the residential neighborhood. The proposed zoning will also increase, trash, noise, light pollution and will potentially increase crime. These factors all add up to a decreased property value to the neighboring residents. The potential failure of the applicant's planned gas station project could result in a empty and unusable site at a prominent location in the midst of several residential neighborhoods. Because of contamination issues and the cost of removing buried tanks, gas station redevelopment can take years.

Property Not Consistent with Adopted Plans

The Bellco Credit Union at 1075 South Havana Street fronts Havana Street. The Credit Union was remodeled and reflects the character of the Havana Business Improvement District. The property that is the subject of this rezoning request fronts Mississippi Ave rather than Havana Street. The requested S-MX-3 zoning would not be consistent with the residential character and zoning of the Denver properties adjacent to the subject property and other Denver properties in the Rangeview neighborhood and other nearby residential neighborhoods.

The developer and planning staff have misidentified this site and Mississippi as a community corridor in Blueprint Denver. Recent development and development for

previous decades has all been residential along this stretch of Mississippi. The Planning Board in previous hearings directed staff to institute a Study of this corridor and then consider this site under the findings of that Study. The Planning Department has not yet undertaken this task.

Uniformity of District Regulations and Restrictions

The proposed official map amendment results in regulations and restrictions that are not uniform. Planning staff identified only a handful of properties in S-MX-3 adjacent to residentially zoned property. The Denver Planning staff has not been able to identify a gas station abutting a single-family residential neighborhood under S-MX-3 zoning anywhere in Denver.

DZC Sec 12.4.10.8 Additional Review Criteria for Non-Legislative Rezoning:
The proposal must comply with the additional review criteria. The application does not.

Justifying Circumstances

Bellco/ Murphy has indicated the justifying circumstances for the change to current zoning falls under the following criteria:

Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:

- a. Changed or changing conditions in a particular area, or in the city generally;
- or,
- b. A City adopted plan; or
- c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.

This area remains residential. Conditions have not changed to create a need for a gas station with all its harmful impacts or other uses allowed under S-MX-3.

The developer hangs its hat on the adoption of Blueprint Denver for the change of conditions. However, Blueprint Denver does not adequately address this area. Again, the Planning Board directed Planning staff to conduct a Study for this stretch of Mississippi to prevent illegal spot zoning. That Study has not taken place. In *Clark v. City of Boulder*, 146 Colo. 526, 362 P.2d 160 (1961) the Colorado Court of Appeals found rezoning of part of a planned residential area to allow a gas station was arbitrary and constituted illegal spot zoning. In *Whitelaw v. Denver City Council*, 405 p.3d 433 (2017) rezoning under Blueprint Denver was used to show a non-arbitrary change of condition when there is a specific showing that the rezoning is not out of character with the adjacent area. Simply citing Blueprint Denver is not enough. There must be facts to support the finding. Here there are none. Much like the Clark case, this would create a small island of property with restrictions on its use different than those imposed on the surrounding residential neighborhood. That is improper and results in illegal spot zoning.

Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

The proposed map amendment is simply not consistent with the neighborhood context.

The uses that would be anticipated when rezoning the site to S-MX-3 would include a fuel station, eating and drinking establishments (with or without a drive-thru). None of these types of use would be appropriate for this property. Further, the proposed S-MX-3 would permit structures to tower over adjacent homes. The requested height of three stories is also inappropriate.

This property was zoned residential before the original Bellco rezone to allow a drive-thru ATM. The property is not a commercial transition into the neighborhood but rather is a part of the neighborhood. While Bellco's remodeled building may be consistent with the Havana BID, the Mississippi Ave property should not be considered part of that commercial area. The homes in the Rangeview neighborhood immediately adjacent to this property are all zoned residential. The adjacent properties immediately north of 10353 Mississippi Ave are single-family residences. The properties across Geneva and properties to the west along Mississippi are also single-family residences. Significant construction and remodeling on the Geneva properties to the north has taken place and is underway. All of that construction is residential. Properties on the Denver side of Mississippi in the Rangeview neighborhood are all residential. Several vacant properties along Mississippi are also being developed as residential properties. There are a number of residential neighborhoods currently under construction on the south side of Mississippi behind the King Soopers. The King Soopers site again fronts Havana and is part of the Aurora BID design. There are no other commercial properties in this block from Mississippi to Exposition through the Rangeview neighborhood and no commercial properties to the west to Parker Rd. The Denver properties and Rangeview neighborhood are residential.

More appropriate residential zoning for this property would include:

- Single Unit D (S-SU-D) S-SU-D is a single unit district allowing suburban houses with a minimum zone lot area of 6,000 square feet.
- Row House 2.5 (S-RH-2.5) S-RH-2.5 is a multi unit district and allows suburban house, duplex and Row House building forms up to two and one half stories in height.

Prior to Bellco's remodel, this property acted as drive through or ATM lanes for the credit union. The property was rezoned to B-1 zoning with conditions including restrictions as to access, use and landscaping. Bellco subsequently incorporated drive through lanes into its new building, making the drive through lanes on Mississippi Ave unnecessary. The former B-1 zoning as to height of one story and restricted the type of business allowed.

B-1 Limited Office District:

This district provides office space for services related to dental and medical care and for office-type services, often for residents of nearby residential areas. The district is characterized by a low-volume of direct daily customer contact.

This district is characteristically small in size and is situated near major hospitals or between large business areas and residential areas. The district regulations establish standards comparable to those of the low density residential districts, resulting in similar building bulk and retaining the low concentration of pedestrian and vehicular traffic. Building height is controlled by bulk standards and open space requirements. Building floor area cannot exceed the site area.

It is recommended that this property if not returned to residential zoning be kept in the B-1 zoning or a new zone district with the same restrictions as to use, height and character.

Current Mixed Use – 2x (S-MX-2x) S-MX-2x applies to small sites served primarily by local streets embedded within an existing or proposed neighborhood. These are typically one or two parcels and are limited to low scale building forms and low intensity uses.

S-MX-2x allows conditions.

Conditions that should be required if business rather than a residential use is allowed:

- Access to site limited to current access at light installed for this property on Mississippi or on Havana across Bellco Credit Union property. Access prohibited to residential neighborhood via Geneva.
- Maintenance of current berms and landscaping to protect the established residences.
- Trash removal and loading restricted to south or east side of property.
- Limit to one story in height.
- Limit uses to those allowed in former B-1 District.

Conclusion

This application fails to meet criteria and goals based on the following issues:

- The release of benzene and other air pollutants poses a very serious threat to the health of those who reside in the many homes located within the potential impact zone.
- Allowing a gas station on this site creates a heightened potential for water contamination.
- Locating a gas station in the vicinity of so many homes is likely to lower property values further jeopardizing the character and integrity of the adjacent neighborhoods.
- The potential for blighting if the project fails would degrade the character and integrity of the adjacent neighborhoods.
- The request for a gas station is not consistent or compatible with the neighborhood.
- A change has not occurred that would warrant a gas station at this location. The neighborhood and Mississippi corridor remains residential. The Study of the Mississippi corridor directed by the Planning Board has not taken place.
- Approval would create a small island of property with restrictions on its use different than those imposed on the surrounding residential neighborhoods.
- Residential and zoning classifications similar to B-1 have not been considered by Bellco/Murphy as previously requested by the Planning Board.

We request that you deny this map amendment for the rezone to S-MX-3 and again direct Planning staff to conduct a Study of the Mississippi corridor. We request that you revise the zoning code to provide specific protections for the citizens of our city against the hazards of living in close proximity to a gas station. The moratorium that has been proposed to City Council is attached.

Submitted by:
Daniel and Diane Brotzman
1001 South Geneva Street
Denver, CO 80247

ORDINANCE NO. 2021 - ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY AND COUNTY OF DENVER, COLORADO, EXTENDING THE CURRENT TEN MONTH MORATORIUM ON GAS STATIONS WITHIN 1000 FEET OF A RESIDENTIAL NEIGHBORHOOD.

WHEREAS, the City of Denver is a Home Rule Municipality with all the rights conferred upon it under the Colorado Constitution and laws of the State of Colorado; and

WHEREAS, Article XX Section 6 of the Colorado Constitution grants home rule municipalities the right of self-government in local and municipal matters; and

WHEREAS, Colorado Revised Statutes Section 29-20-102 grants local governments broad authority to plan for and regulate the use of land within their respective jurisdictions; and

WHEREAS, the moratorium is to allow time to conduct a comprehensive study of the impacts to human health from injurious compounds that are released from gas stations during vehicle fueling and from underground storage tank vents and to implement appropriate distances between gas stations and residential neighborhoods; and

WHEREAS, benzene is the gasoline constituent most harmful to human health. The proven causal relationship between benzene and cancer is well documented and accepted by the scientific community – gas stations are classified by the Environmental Protection Agency as a point of source for benzene and according to the World Health Organization there is no safe level for benzene. The health effects for those living near a gas station range from nausea to cancer including significant increased risk of childhood leukemia, anemia, increased susceptibility to infections and adverse pregnancy outcomes; and

WHEREAS, The California Air Resources Board (ARB) Handbook notes that adverse effects extend out as far as 1000 feet from a high-volume gas station; and

WHEREAS, local governments have the authority to establish a moratorium of temporary and reasonable duration; and

WHEREAS, the Colorado Supreme Court in *Droste v. Bd. of County Comm'rs of Pitkin*, 159 P.3d 601 (Colo. 2007) found that a 10 month moratorium was a temporary and reasonable period to adopt ordinances, confirmed through public hearings and imposing a temporary moratorium on land use application reviews; and

WHEREAS, the City Council finds it necessary to institute a moratorium for a ten month period which is a temporary and reasonable duration to enable the City to conduct proper research, outreach, and to enact code in accordance with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. There shall be a continued moratorium of temporary and reasonable duration period of ten months upon approving or permitting gas stations within 1000 feet of a residential neighborhood. The moratorium shall expire on _____, 2021, ten (10) months from the effective date of this Ordinance, unless ended sooner by action of the City Council ending or modifying this moratorium, as the City Council deems appropriate

Section 2. The moratorium is to allow time to conduct a comprehensive study of the impacts to human health from injurious compounds that are released from gas stations during vehicle fueling and from underground storage tank vents and to implement appropriate distances between gas stations and residential neighborhoods.

Section 3. There is an emergency that warrants the enactment of this ordinance and temporary moratorium. Failure to impose proper regulations will allow development to proceed, which may be out of character with the community and will negatively affect the health, safety and welfare of citizens.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this _____ day of _____, 2020.

, Mayor

ATTEST:

, City Clerk





2.97⁹

2.76⁹



ATM

From: [Leah Woolington](#)
To: [Stueve, Ella C. - CPD City Planner Senior](#)
Subject: [EXTERNAL] Zoning Change
Date: Thursday, March 18, 2021 8:40:17 AM

Hi Ella,

I am writing in regards to a zoning change that is coming up for this property:

10353 E. Mississippi Ave.

Zoning change: from B-1 to S-MX-3

Case number: 2020I-00076

My husband and I are opposed to rezoning this property that would allow a gas station to be built on the property. Our children and other children from the neighborhood are picked up/dropped off at the bus stop that is along Geneva St. Many children walk from nearby apartments and have to walk through this property to get to the bus stop. A busy gas station would not be ideal for their daily treks. I think there are other options that would be more suitable for this location such as an office building or even another apartment complex. There are several gas stations within less than a mile. This location has residential houses that are directly across from it and it would distract from the cozy little neighborhood that attracted us to the area.

Sincerely,

Gary and Leah Woolington

MEMORANDUM

TO: Denver Planning Board
FROM: Teryl Gorrell, Holland & Hart LLP, Attorneys for Bellco Credit Union
DATE: March 29, 2021
RE: Official Zoning Map Amendment Application #20201-00076
PROPERTY: 10353 East Mississippi Avenue
OWNER: Bellco Credit Union

As counsel for Bellco Credit Union, we submit this Memorandum in support of the request for rezoning the Property to S-MX-3, which would permit a mix of commercial, service, office and residential building forms and uses and is intended for areas or intersections served primarily by local or collector streets where a building of 1 to 3 stories is desired.

Property Status:

In 1994 the Property was rezoned to B-1 with a condition requiring that it be used only for a drive-up facility serving a neighboring bank building. In 2016 Bellco tore down the neighboring bank building and rebuilt it with relocated drive-up lanes. Use of the drive-up facility on the Property ceased. In 2017, the Property was designated as a separate Zone Lot but it remains subject to its conditional B-1 zoning.

As presently zoned, the Property has only one permissible use, as a drive-up facility for a bank. The Property is not marketable for its single permitted use. Consequently, it has lain dormant and is not contributing anything to the community. As a result of its unmarketability, it is expected that the tax valuation of the Property, and the corresponding property tax payments, will be reduced substantially or even eliminated. The Property can only become a productive contributor to the community through rezoning.

Rezoning History:

In 2018, an application was submitted for rezoning the Property to S-MX-3. At that time, Comprehensive Plan 2000 and Blueprint 2002 were in force, and under Blueprint 2002, the Property was mapped as Single Family Residential on a Commercial Artery in an Area of Stability. Although CDP Staff recommended approval, the Planning Board recommended disapproval, and the application was withdrawn.

In 2019, another application for S-MX-3 rezoning was submitted. Blueprint 2019 had been recently implemented, but the focus of the Planning Board public hearing was more on neighborhood objections to a potential fuel station use than on the impact of the Blueprint 2019 mapping change for S-MX-3 zoning. Only six members of the Planning Board voted on the application, and they deadlocked three to three.

Consequently, the Planning Board did not make an official recommendation, and the application was withdrawn before City Council hearing.

The present application for S-MX-3 rezoning was filed in 2020. With respect to this application, it is significant to note that Blueprint 2019 changed the mapping of the Property to be part of a Community Corridor within the Suburban Neighborhood Context on a Residential Arterial. This mapping change indicates a considered intent under Blueprint 2019 for this Property to be eligible for a mix of uses that includes both commercial and service facilities. Additionally, Denver Comprehensive Plan 2040 has been adopted, and the proposed rezoning is consistent with many of the strategies of that Plan.

Planning Board Review:

As noted on its website (<https://www.denvergov.org/Government/Departments/Community-Planning-and-Development/Boards-and-Commissions/Planning-Board#section-4>) the Planning Board evaluates rezoning requests against the following criteria (per Section 12.4 of the Denver Zoning Code):

- Is the rezoning consistent with completed plans?
- Would the rezoning result in consistent regulations for each property with the same zoning designation citywide?
- Does the rezoning further public health, safety, and welfare?
- Are there circumstances that justify the rezoning?
- Is the rezoning consistent with the neighborhood context and the zone district's purpose and intent?

After evaluation of a rezoning request against the above criteria, the Planning Board is to make a recommendation to City Council.

Rezoning Submittals:

The Applicant has submitted a substantial amount of materials and analyses supporting this rezoning request. Community Planning and Development Staff will be submitting a comprehensive Report that Bellico believes will recommend approval. We note that not a single objection to this rezoning has been raised in the ten City Agency referral responses to the application.

Public Outreach:

After the 2019 application was withdrawn, substantial additional public outreach was undertaken in connection with this 2020 application. The Rangeview Neighborhood Association and a few neighboring residents have opposed the requested rezoning, focusing primarily on opposition to fuel station use as one of the permissible uses under S-MX-3 zoning. At the recommendation of Councilwoman Sawyer, the Owner, Applicant, Rangeview RNO, and the neighbors participated in a lengthy mediation process in an effort to resolve neighborhood concerns. As reported to the Planning Board by the Mediator, the parties were able to reach common ground in their discussions on all but two neighborhood issues, which were a philosophical objection to fuel station use and a specific objection to permissible operating hours. As a consequence, they could not achieve a Good Neighbor Agreement.

The Neighborhood Operational Objections Are Not Consistent With the Applicable Criteria

We note that particular site development of the Property would be subject to later site plan submissions and approval, and that operational matters for a permitted S-MX-3 use would be governed by provisions of Denver’s Revised Municipal Code that are independent of the Zoning Code. The expressed neighborhood concerns regarding the site plan would be incorporated in conformance with the Denver Municipal/Zoning Codes and reviewed by City staff at the time of formal site development plan submittal. At this stage, those operational objections are not consistent with the applicable criteria for Planning Board review, and they should not form the basis of a denial recommendation by the Planning Board.

The Planning Board Should Recommend Approval of the Rezoning

The proposed rezoning has been the subject of rigorous review, which has established the following:

- S-MX-3 rezoning is consistent with both the Denver Comprehensive Plan 2040 and Blueprint Denver 2019.
- The Property is located on a six lane Arterial in a Community Corridor and S-MX-3 zoning is consistent with Blueprint Denver’s street type plan direction.
- The proposed rezoning is consistent with Blueprint Denver’s Future Neighborhood Context plan direction, Future Places plan direction, and Future Growth Areas plan direction.
- There are no City Agency objections to the proposed rezoning.
- The proposed rezoning:
 - Meets the Justifying Circumstances requirements for rezoning;
 - Would result in the uniform application of zone district building form, use and design regulations;
 - Would further the public health, safety and welfare of the City through implementation of adopted plans;
 - Would complement the character of existing surrounding development; and
 - Would be consistent with Neighborhood Context Description and Zone District Purpose and Intent Statements for the Suburban Neighborhood Context.

The proposed S-MX-3 zoning meets all applicable criteria for rezoning of the Property. Therefore, the Planning Board should recommend approval of the rezoning request.

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Request To Continue Hearing For A Period of Ten Months

This request to continue the hearing for a period of ten months is based on the following:

1. A request for Council to pursue a ten month moratorium to study and implement rules concerning a prohibition of gas stations within 1000 feet of residential properties is being reviewed together with regulations concerning air and groundwater monitoring as to the release of carcinogens and other pollutants. The continuance would correspond with the timing of the moratorium.
2. This Planning Board directed staff to study the stretch of Mississippi from Havana Street to Parker Road to determine the appropriate classification for this roadway. This Study has not taken place. The Study could take place during this requested continuance.
3. This Planning Board directed planning staff to meet with the property owner to discuss alternative zoning categories which would not include a gas station. This meeting has not taken place. It is likely that Bellco has refused to consider any alternative that would not include a gas station. Gas station representatives did meet with neighborhood representatives through a City mediator. Those discussions ended in failure as the gas station representatives would not consider air and water monitoring for pollutants and could not come to agreement as to recommendations concerning easements to prevent access to Geneva, berming, sound walls and landscaping to screen the gas station for the residences. With the failure to mitigate the health impacts of the gas station, planning staff could meet with Bellco to discuss other zoning options during the continuance.

Thank you for your consideration.

Daniel and Diane Brotzman

From: noreply@fs7.formsite.com on behalf of [JTRIVISO at GMAIL.COM](mailto:JTRIVISO@GMAIL.COM)
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13705911
Date: Thursday, April 1, 2021 1:45:33 PM

Denver Logo



Thank you for submitting a comment to the Denver Planning Board. Your input will be forwarded to all board members as well as the project manager. For information about the board and upcoming agenda items, visit www.DenverGov.org/planningboard.

| | |
|---|--|
| Name | JONATHAN TRIVISONNO |
| Address | 1051 S GENEVA ST |
| City | DENVER |
| State | Colorado |
| ZIP code | 80247 |
| Email | JTRIVISO@GMAIL.COM |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | Mississippi Ave. From B-1 with Conditions to S-MX-3 |
| Case number | 2020I-00076 |
| Would you like to | Strong opposition |

**express
support for
or
opposition
to the
project?**

**Your
comment:**

Hello. I live across the street at 1051 S Geneva St which this property is in direct view from my front window. I have attended the mediations with the city appointed mediator (Steve) and the RNO (Range view neighborhood Association), and feel like the mediation was not as productive as it could have been due to the fact the mediation focused more primarily on what the neighborhood would want in a proposed site plan for a gas station rather than macro consequences of allowing an S-MX-3 zoning. I understand the need of the property to be developed and to serve a purpose, but I do not believe S-MX-3 is beneficial fit for this property based on my personal views and interests as well as the applicant's (Bellco and Galloway) arguments for this rezoning request. Per the applicant's argument for S-MX-3 and conforming to Denver's Comprehensive Plan 2040 I have the following counter argument:

Applicant's argument for Equitable, Affordable and Inclusive – Goal 1.1 is to ensure that all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities.

Yes this argument is valid as I agree something should go on that property. However there are plenty of amenities and basic services and not to mention 2 gas stations already within walking distance from this property. I do not understand why zoning that will allow for a drive through or a building 45ft high needs to be adopted, as there are other zonings primarily S-MX-2x that would allow for the property to be utilized and not affect the abutting neighborhood with more traffic, noise, and late night business hours.

Applicant's argument for Strong and Authentic Neighborhoods – Goal 2.1 is to create a city of complete neighborhoods

I agree the lot should be developed but see no argument for why S-MX-3 is a better choice other than the fact the applicant is under contract with a buyer who happens to be a gas station which S-MX-3 would allow for that over another zoning that would be less impactful such as S-MX-2, 2x or 2A,. If 97 people in the neighborhood are willing to oppose this zoning request and it was already denied once in 2018 and gridlocked in 2019 then withdrawn, this should speak volumes to why S-MX-3 is not the right answer. How many times does an applicant need to be told no.? I was at the 2019 meeting and council members who were for rezoning to S-MX-3 argued that there needs to be a use for this lot, which I agree with, but they failed to understand the long term and immediate issue at hand which was the request for rezoning was initiated by a gas station, hence the resistance from the neighborhood for a potential gas station to occupy the property.

Applicant's argument for Environmentally Resilient – Goal 5.8 is to clean our soils, conserve land and grow responsibly.

Once again the applicant has hidden their motive which is to be able to get the rezoning passed so that the property can be sold for gas station to be

constructed as they are contractually obligated to adhere to. This argument would work IF that was not the case, but it is well known that a gas station is under contract with the property owner. I do not know how a gas station helps keep our soils clean, conserve land, and grows responsibility. I think it would be a solid argument that none of these goals are met with that type of usage. I would think the City of Denver would be more open to minimizing fossil fuel and emissions in order to help with air quality and the overall goal of the country to be more self-sustainable and carbon free. Applicant's argument for Denver and the Region – Goal 2 is to embrace Denver's role as the center of regional growth.

Yes once again the property needs to be developed, but S-MX-3 is not the solution as there are too many possibilities to what the property can be utilized for in the future and some of those options have unintended consequence that negatively affect the already existing business in the area as well as the local people in the neighborhood.

Applicant's argument for Land Use & Built Form: General – Policy 01 is to promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets. There is no real validity to this argument other than the fact the property owner has not received much interest from potential buyers on the property for other uses. S-MX-3 is presented due to the fact the seller is under contract with a buyer whose will utilize the property for a gas station. If the property owner wanted to actually be consistent with the character of the surrounding area in scale and design, then zoning should be limited to single story construction as the neighborhood which borders ½ of the property are all are single story homes.

Applicant's argument for Land Use & Built Form: General – Policy 03 is to ensure the Denver Zoning Code continues to respond to the needs of the city, while remaining modern and flexible.

I agree the property needs to be functional. I just do not understand why S-MX-3 should be considered again, after multiple attempts. The City Council should reject this request in hopes that it forces the property owners to reconsider their options and try to put a good faith effort in with the neighborhood to work towards an S-MX-2X zoning request. I think it is critical to start small with a more restrictive zoning such as S-MX-2X to see the impacts on the surround neighborhood and to mitigate giving up entire control of the situation in regards to the property usage.

Applicant's argument for Mobility – Policy 01 is to encourage mode-shift – more trips by walking and rolling, biking and transit – through efficient land use and infrastructure improvements.

Once again this sounds great when talking about rezoning to S-MX-3, but fails to reveal the true intentions of the property as the owner wants to get the rezoning approved in order to honor their contractual obligation to sell the property to a gas station operator. This does not increase the number of services and amenities that are available by walking, rolling and biking by integrating more local centers and corridors into residential areas, especially for areas that score low in access to opportunity, as you typically do not perform these activities to put gas in your vehicle.

Applicant's argument for Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety and

general welfare of the City.

The applicant claims by rezoning to S-MX-3 this will promote a healthy environment. On the surface yes this is a valid argument, but the true intentions to getting this rezoning approved is because the applicant has entered a contract with Murphy Oil and Gas to sell the property IF the zoning can get approved. The fact that the applicant states, “rezoning to S-MX-3 will allow the development of needed goods and services for the surrounding residents. The site plan will be carefully designed in order to provide a safe, customer friendly entrance/exit to/from the site. In addition, development of the site would require improvements for servicing Electric Vehicles, which have a much lower CO2 output than automobiles that are powered by gasoline. This coupled with strategic site design helps promote the public health, safety, and general welfare.” This is an illogical argument and is counterproductive to their own argument. This only helps my argument that S-MX-3 appears on paper to be a decent fit to the property in regards to usage until you get an applicant who wants to put something there that is within the zoning rules, but has unintended consequences. How does the City expect to vet future business’ that could be impactful to the neighborhood even though the applicant is within their rights for usage per the zoning?

In conclusion I believe the property owner (Bellco) did not operate in a good faith effort with the neighborhood as directed by Councilwoman Sawyer as they have tried for 2 years to push S-MX-3 zoning through with multiple failed attempts. They entered into a contract to get the property rezoned to allow Murphy Oil and Gas to operate a gas station to ultimately make the mediation process a mere formality. Other rezoning possibilities have not been perused due to the fact the decision was already made by the property owner to move forward in pushing a gas station onto the neighborhood, one that will not improve the lives of the locals in the affected area. I truly do want the applicant to sell the property but I would request the City Council to look at the entire situation for all parties involved for this one of a kind property in Denver as my biggest concern is not the inevitable gas station if this zoning was to be approved, but the long term issue of what is comes after the gas station and the animosity it will bring to the neighborhood when we could of tried to introduce change in a more focused and precise manner. I would advocate that the City Council deny the rezoning request in hopes that the property owner would opt to peruse a more subtle rezoning such as S-MX-2x, 2A.

**If you have
an
additional
document
or image
that you**

[City_Council_4.7.2021.docx \(15k\)](#)

**would like
to add to
your
comment,
you may
upload it
below. Files
may not be
larger than
5MB.**

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From: noreply@fs7.formsite.com on behalf of davisforsythe@gmail.com
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13708844
Date: Friday, April 2, 2021 2:27:54 PM

Denver Logo



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| | |
|---|--|
| Name | Davis Forsythe |
| Address | 3169 W 34th Ave |
| City | Denver |
| State | Colorado |
| ZIP code | 80211 |
| Email | davisforsythe@gmail.com |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 3300 Irving St |
| Case number | 2020I-00181 |
| Would you like to | Moderate opposition |

**express
support for
or
opposition
to the
project?**

**Your
comment:**

I am a neighbor living across the street from this dentist's office, and have some questions and concerns about the proposed rezoning that I hope the Board can address at the meeting.

1) Would rezoning as U-MX-2 really allow installation of a drive thru at this property? Installing a drive through would cause traffic backups on Irving and increased pass-through traffic onto 34th, and the location of this property just past a sharp curve on Irving would make blind entrance/exits to a drive thru potentially dangerous. There are also a number of elementary-school aged children living on 34th (two of them are mine), and adding a drive thru to the 34th/Irving intersection could make street crossings more dangerous. As a neighbor I would strongly oppose zoning this property for a drive thru.

2) Why is U-MX-2 zoning more appropriate than U-MX-2x for this property? They appear to be similar designations, but U-MX-2x specifies "less intense use" and does not include the possibility of a drive thru. Would the Board consider U-MX-2x zoning here as an alternative to U-MX-2?

3) Is it possible for the Board to approve zoning as U-MX-2 but specify that no drive thru may be installed at this property?

4) Would rezoning to U-MX-2 in any way increase the likelihood that the property could be approved for a liquor store or marijuana store in the future? As a neighbor I would strongly oppose any zoning change that increased that possibility (even if the current owner has no immediate plans to do so).

I chose "moderate opposition" above because I am concerned about a drive thru or potential future use of the property as a liquor or marijuana store. I have no objection to construction of a second story and/or mixed residential use at this property, in furtherance of Denver's general aims to increase density and expand housing stock.

Thank you for your consideration.



From: noreply@fs7.formsite.com on behalf of [mayreda at msn.com](mailto:mayreda@msn.com)
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13709969
Date: Saturday, April 3, 2021 11:12:26 AM

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| | |
|---|--|
| Name | Mary Alice Reda |
| Address | 941 S Geneva |
| City | Aurora |
| State | Colorado |
| ZIP code | 80247 |
| Email | mayreda@msn.com |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 10353 E Mississippi Ave |
| Case number | 20201-00076 |
| Would you like to | Strong opposition |

**express
support for
or
opposition
to the
project?**

**Your
comment:**

There is no need for this massive gas station that will negatively impact and have adverse health effects on the surrounding communities. There is a gas station already in use on the east side of Mississippi and Havanna one block away, several others on both Mississippi and Havanna within a one or two mile radius from the proposed location. This plan is excessive and impedes heathy living space for this area and reduce the resale value of homes ranging from 500k to over 100,000,000 million. This is not necessary and should be overwhelmingly rejected. As you know, gas stations emit toxic chemicals in the air and ground. Studies have revealed increased health risks of leukemia, anemia, cancer and infections. We are vehemently opposed to this plan and sincerely hope you consider the health and economic risk factors for such an unnecessary business.

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From: noreply@fs7.formsite.com on behalf of linda.rea8@gmail.com
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13713179
Date: Monday, April 5, 2021 2:24:12 PM

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| | |
|--|---|
| Name | David and Linda Rea |
| Address | 940 S Emporia St |
| City | Denver |
| State | Colorado |
| ZIP code | 80247 |
| Email | linda.rea8@gmail.com |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 10350 E Mississippi Ave |
| Case number | 2020I-00076 |
| Would you like to express support for or opposition to the project? | Strong opposition |
| Your comment: | I believe this is the same rezone and site plan as was presented to the Planning Board in 2019. Bellco and Murphy Oil chose to withdraw the proposal when it appeared they did not have the votes |

to recommend it to Council. Apparently, while our Councilwoman sought rezoning "negotiations" among all the parties, but Bellco and Murphy Oil simply chose to resubmit their nearly identical 2019 plan. We respectfully ask that you reject this up-zone/proposed use.

If you have an additional document or image that you would like to add to your comment, you may upload it below. Files may not be larger than 5MB.

[Bellco_Planning_Bd_2021apr5.docx \(16k\)](#)

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April 5, 2021

To: Denver Planning Board cc: Denver City Council

In Re: Proposal for Zone Map Amendment (Rezoning) 10353 Mississippi Ave from B-1 to S-MX-3, and site plan to construct a gas station and/or food business at 10353 E. Mississippi Ave.

This rezoning application is not truthful in its claims. There are no justifying circumstances for granting commercial up-zoning of this parcel:

- o No error in the 2010 process or designation
- o No zoning mistake-of-fact basis
- o No failure to take into account the natural characteristics of the land
- o No change in character or its surrounding environs
- o No credible public interest reason to depart from the existing zoning.

Rangeview is zoned S-SU-I (Single-family Large-lot Suburban). A gas station and/or fast-food business abutting single family homes is not compatible with the City's adopted plans, nor does the proposed use provide a community need. The community is saturated with nearby gas stations and fast-food establishments along Havana, Mississippi, Leetsdale and Alameda. Furthermore, Rangeview RNO already has a new gas station on its NE corner (thanks to Aurora). Will Denver plop down another on the SE corner, just 2-1/2 blocks south?

This will have significant negative impacts on nearby residents due to increased air, noise and light pollution, and the effects will be wider, too. Metro Denver once again is failing air quality standards. How is green-lighting an unnecessary gas station consistent with City messaging about "going green," reducing vehicle usage, or improving public services? Services for whom?

Periods of vehicle congestion at Havana & Mississippi result in drivers' short-cutting 40+ mph on our residential streets to avoid stoplights at the intersection. It poses a particular danger to child and adult pedestrians in Rangeview where –please note– there are school bus stops on S Geneva St and on E Kentucky Dr. Higher commercial up-zoning will worsen the danger.

E Mississippi Ave is primarily residential for 2-1/2 miles from Havana to Leetsdale. It is not commercial. The existing B-1 granted to Bellco years ago with the RNO's okay was for limited commercial use; it's outrageous for Bellco to seek commercial up-zoning for this parcel. Why did Bellco choose to erect its new building on the commercial corner at Havana rather than on this B-1 parcel? An office building with drive-thru on Havana might have been acceptable to all; but no, Bellco seeks to capitalize at our expense. Our property values drop, theirs rise.

Please reject this unwanted, unwise commercial encroachment into our stable residential neighborhood. Reject S-MX-3 and recommend that CPD consider zoning consistent with B-1 and compatible with S-SU-I.

Respectfully yours,
David and Linda Rea
940 S Emporia St, Denver
Denver, CO 80247

From: noreply@fs7.formsite.com on behalf of [MimiPechon at gmail.com](mailto:MimiPechon@gmail.com)
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13713443
Date: Monday, April 5, 2021 3:49:47 PM

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| | |
|---|--|
| Name | Julianne Pechon |
| Address | 10321 E. Ford Place |
| City | Denver |
| State | Colorado |
| ZIP code | 80247 |
| Email | MimiPechon@gmail.com |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 10353 E. Mississippi Avenue |
| Case number | 2020I-00076 |
| Would you like to | Strong opposition |

**express
support for
or
opposition
to the
project?**

Your comment: Attn:
City of Denver Planning Board

Agenda Item: Rezoning

Address 10353 E Mississippi Avenue
Case # 20201-00076

My name is Julianne Pechon and my home is 10321 East Ford Place in Denver. It is the small cul-de-sac street north of Mississippi at Geneva.

I hope you will not allow a gas station and convenience store to be built on the corner of our neighborhood at Geneva and Mississippi Streets, especially one of this size. I have driven south, beginning at Havana and Colfax to Havana and Iliff and there are no gas stations of this anticipated size, even in commercial areas.

There is already a gas station and convenience store across Havana and there is also a much larger gas station and convenience store 1 block away to the north at Havana and Kentucky. The Phillips 66, at Havana and Mississippi is in a shopping center, which, of course, doesn't have it back up to any homes.

On the other hand, the Exxon at Havana and Kentucky has caused an excessive amount of traffic in our neighborhood from the moment they opened for business.

A gas station and convenience store will have a lot more than many, many cars coming through our neighborhood. The gasoline delivery tankers will cause major traffic jams as they, most likely, will be making deliveries of gasoline a couple of times a week. Will this store also be selling propane, as most do? That's another delivery. How often? Weekly? What will the "conveniences" be that are to be sold there? Milk? Soft drinks? Beer? Bread? Tobacco products? How many vendor deliveries will that be in a day? Obviously, packaged shelf food products will have to be brought in also. More deliveries.

Will they be selling Lotto tickets? Even if a person doesn't want gas or a beer, they could quite possibly add to the traffic to buy their tickets.

Then, of course, there will be trash. I'm sure everyone has heard the loud banging of the doors on the top of dumpsters as they are emptied and again when the dumpsters are slammed to the ground. Many of these commercial pick-ups are in the very early hours of the morning so they won't interfere

with the business. It sounds particularly loud at 2 or 3 in the morning. I know this. The now closed Village Inn backs up to my cul-de-sac and the dumpster is at the back of the restaurant.

It is my understanding that Murphy Oil wants to put in 8 pumps with 16 hoses, thus allowing 16 cars to be filling up simultaneously. That will cause a lot of traffic in our neighborhood. The Phillips 66 has 6 pumps. The Exxon, which has already increased our neighborhood traffic, has 6 pumps. A few blocks to the south, Costco has 6 pumps. And Murphy Oil wants 8 pumps?? How is that additional traffic going to be handled? How will the traffic be handled when delivery trucks are also trying to make deliveries? There is already a traffic light at Havana and Mississippi and another light in the middle of the block to accommodate the customers going into the King Soopers anchored shopping center on the south side of Mississippi. Will there be yet a 3rd traffic light, all within 1 block?

So far, I've only addressed the increased traffic and noise. There is also light pollution associated to this type of business. The signs and island lights will be on all night long glaring into the windows of residents in this neighborhood that were here long before the gas station.

And last, but certainly not least, I have serious concerns for the safety of not just the residents of Rangeview, but for our many extended neighbors. Several streets don't go through to Mississippi, but end in a cul-de-sac. Geneva Street is a through street to exit the neighborhood, and has no sidewalks in many areas. Both kids and adults use the street to walk to the shopping center, walk their dog, ride their bike or push their baby stroller. Many more, especially from Windsor Gardens maintain their independence by walking to the supermarket or driving their electric wheelchairs and scooters to shop.

There are many other potential uses for that piece of land. A gas station would be terrible. A convenience store would be terrible. The combination of the two is perhaps the worst possible combination for Rangeview.

And please consider that when we all bought our homes in this neighborhood, we did it because it was a quiet little peaceful and safe area. We would really like for it to stay that way.

Thank you,
Julianne Pechon



From: noreply@fs7.formsite.com on behalf of [donnareynolds54 at comcast.net](mailto:donnareynolds54@comcast.net)
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13716064
Date: Tuesday, April 6, 2021 3:48:59 PM

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| | |
|---|--|
| Name | Donna Reynolds |
| Address | 10330 E Ford Place |
| City | Denver |
| State | Colorado |
| ZIP code | 80247 |
| Email | donnareynolds54@comcast.net |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 10353 E Mississippi Ave |
| Case number | 2020I-00076 |
| Would you like to | Strong opposition |

**express
support for
or
opposition
to the
project?**

**Your
comment:**

I am writing to declare my 100% opposition to the S-MX-3 rezoning proposal. I live at 10330 E Ford Place, just a 3 minute walk north of the proposed site for a huge Murphy Express 16 pump gas station. I was involved in the opposition when zoning was changed to accommodate the T-Square gas station project located at Kentucky and Havana, a project that was forced down the collective neighborhood throats by City of Aurora. We were made MANY beautiful, thoughtful promises when this project was pushed through – NONE of which have been kept. We have double the traffic we had before, this was not supposed to happen. We have a noticeable increase in crime, this was not supposed to happen. We have significant increase of trash blowing into our yards, which was not supposed to happen. We have daily 4:00 a.m. wake-up calls generated by the dumpsters being emptied, which was not supposed to happen. We have young children who will no longer feel safe playing in this neighborhood. We have many elderly residents who enjoy walks outdoors, but will feel threatened by the increased traffic.

All the courting, cajoling and promises in the world will not convince me this project will not change my quality of living here. It will not convince me there will be no decrease in my property value. It will not convince me that my life will be improved in any way at all.

I must ask the question; just HOW many gas stations does one neighborhood really need? A Google search tells me there are at least 25 stations already, within a 5 mile radius of here. If a driver cannot drive that distance to obtain gas, they shouldn't even have a license.

This is a neighborhood of HOMES, not houses. This is a neighborhood of people and friends, not cars. Surely there must be a better use available for this land.

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From: noreply@fs7.formsite.com on behalf of [kegilchrist1 at comcast.net](mailto:kegilchrist1@comcast.net)
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13716334
Date: Tuesday, April 6, 2021 5:41:29 PM

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| | |
|---|--|
| Name | Kay Gilchrist |
| Address | 1025 S. Elmira St. |
| City | Denver |
| State | Colorado |
| ZIP code | 80247 |
| Email | kegilchrist1@comcast.net |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 10353 E. Mississippi Ave. |
| Case number | 20201-00076 |
| Would you like to | Strong opposition |

**express
support for
or
opposition
to the
project?**

**Your
comment:**

I live in the Rangeview area adjacent to the property in question. This is a quiet neighborhood, with many retired people as well as young families. I am concerned about health risks and increased traffic. The requested rezoning would allow gas pumps and underground fuel tanks very close to children's play areas and homes that have private wells for irrigation, causing a significant health risk for anyone living within 1000 feet. Traffic in and around the area will increase significantly. Please do not approve this rezoning request. Thank you for your attention to this matter and for all your good work on the Denver Planning Board.

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From: noreply@fs7.formsite.com on behalf of [leicht55 at aol.com](mailto:leicht55@aol.com)
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13717548
Date: Wednesday, April 7, 2021 10:34:26 AM

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| | |
|---|--|
| Name | Elfriede Leicht |
| Address | 1000 S. Florence St. |
| City | Denver |
| State | Colorado |
| ZIP code | 80247 |
| Email | leicht55@aol.com |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 10353 E. Missisippi Ave |
| Case number | 2020I-00076 |
| Would you like to | Strong opposition |

**express
support for
or
opposition
to the
project?**

**Your
comment:**

Studies show neg. health impacts for those who live 1000' of gas stations. I am just a bit outside this perimeter yet I support my neighbors/neighborhood! this area can't stand another huge gas station, one was built recently at corner of Kentucky & Havana (Aurora), it's increased traffic on Kentucky with cars going as fast as 40 mph on a 25 mph quiet street despite signs, even a lighted speed tracking sign! There are many peds/bikes in this area due to close proximity to highline canal path. This area has some wells for irrigation & drinking water. I'm concerned about groundwater contamination & airborne gases. There are too many homes, children's play areas/yards nearby, some as close as 60' from site. A gas station may be highest & best use (meaning most \$\$\$) for Bellco, but this rezoning will further degrade, congest & "uglify" this lovely quiet neighborhood! Thank you for your consideration and wise review! Elfriede Leicht

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From: noreply@fs7.formsite.com on behalf of [pameades at aol.com](mailto:pameades@aol.com)
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13717773
Date: Wednesday, April 7, 2021 11:28:54 AM

Denver Logo



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| | |
|--|---|
| Name | Pamela Eades |
| Address | 923 South Geneva Street |
| City | Denver |
| State | Colorado |
| ZIP code | 80247 |
| Email | pameades@aol.com |
| Agenda item you are commenting on: | Rezoning |
| Address of rezoning | 10353 E Mississippi Ave |
| Case number | #20120-00076 |
| Would you like to express support for or opposition to the project? | Strong opposition |
| Your comment: | Please see my attached letter strongly opposing this rezoning action as it is not compatible with the neighborhood. I support development but SMX-3 is not the right zoning for this parcel abutting a neighborhood. Unlike |

one of the goals of Blueprint Denver, there is absolutely no community benefit to my neighborhood.

If you have an additional document or image that you would like to add to your comment, you may upload it below. Files may not be larger than 5MB.

[Pamela_Eades_Rangeview.docx \(13k\)](#)

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April 6, 2021

Regarding Case #20120-00076
Bellco Credit Union Property
10353 E Mississippi Ave

Dear Denver Planning Board,

I would like to express my opposition to the proposed Zoning change of the Bellco Credit Union property from a B1 to SMX-3.

Bellco has been a great neighbor for the 28 years I have lived in Rangeview. The B1 zone with conditions provided a low-use, limited hours business that is completely compatible with Rangeview. Any other new business should meet that criteria and, I would hope, also be a good neighbor as well.

With a SMX-3 zone change and the gas station use (21hours per day by their account) the City of Denver would be changing the fundamental character of the property and subjecting us to external negative impacts and reducing our quality of life forever.

Just to be clear, I am not opposed to business development on the property. I would gladly support any other zone/business use that would not significantly change the character of the property.

I live a block away from the T-Square gas station and over the past 4 years have experienced negative impacts including noise from customers (includes loud mufflers, loud conversations, motorcycles, racing out onto Havana) and deliveries (includes reverse beeping from trucks which is regulated by OSHA, clanging of loading and unloading, trash pickup, loud diesel trucks, conversations). These nuisances are much worse when they happen between 10pm to 6am since it is quieter which make these sounds stand out even more so. Between 10pm and 6am is when I am home, trying to relax or sleep and notice sounds which makes the noise even more annoying. It is worse during the summer when I sit outside in the evening or try to leave my windows open.

Bottom line is High-use, SMX-3 Zoning with 24-hour use is not the right choice for this location. Unlike one of the goals of Blueprint Denver, there is absolutely no community benefit to my neighborhood.

Pamela Eades
923 S. Geneva Street.
Denver, CO 80247



April 6, 2021

J. Aaron Atkinson, Esq.
aa@hackstafflaw.com
(303) 534 - 4317

VIA EMAIL

Denver Planning Board

Re: Official Zoning Map Amendment App. #2020I-00076
Subject Address: 10353 E. Mississippi Ave.
Subject: Opposition to Application

To the Planning Board:

Our firm has been retained to represent the Rangeview Estates Association, which is a registered neighborhood organization proximately located to the property in question with respect to this development application. My client has asked me to offer the following legal analysis in regards to the application to re-zone this area in anticipation of the upcoming Planning Board meeting on Wednesday, April 7th.

The Applicant, Galloway, bears the burden to prove to the Board that this real property should be re-zoned from classification B-1* to S-MX-3; the ultimate purpose of the re-zoning is for Galloway to install and operate a gas station at this location. My client objects to the proposed zone map amendment for its failure to fulfill the necessary criteria in the Denver Zoning Code.

The Board may, but is not required to, recommend approval of an official map amendment if the Applicant can prove that the rezoning will comply with all of the criteria set forth in section 12.4.10.7 of the Denver Zoning Code. The amendment currently before the Board fails to satisfy criteria A ("Consistency with Adopted Plans") and C ("Public Health, Safety and General Welfare"). Additionally, the Applicant must prove compliance with the "Neighborhood Context Description, Zone District Purpose and Intent Statements," but has failed to meet this burden.

First, the proposed amendment runs afoul of various goals set forth in both the Denver Comprehensive Plan and Blueprint Denver. The Comprehensive Plan, for instance, articulates the vision for the future of Denver's communities. A significant part of that vision is focused on Denver's transportation options. In this sense the zoning plan amendment in issue misses the mark. Primarily the amendment would thwart the goals of encouraging modes of transportation other than single-occupant, gas-powered vehicles. (Comp. Plan at 40, Goals ##1 and 6.) Denver's goal is to encourage walking, rolling and transit options for the betterment of its communities. On the contrary, installation of a gas station at this site only serves "car-centric culture" by encouraging increased traffic flows in and out of the site throughout the entire day, which would only undermine those other, more desirable modes of transportation.

The Comprehensive Plan also highlights the desire for unique neighborhoods. (Comp. Plan at 34.) These goals are focused on the assets of a community served by its installations. At first blush, an amendment to S-MX-3 zoning would seem to serve a mixed-use community. (Goal #1.) However,

the end result of this particular zoning classification--installation of a gas station--is antithetical to authentic neighborhoods that take advantage of community assets. This is particularly true in light of the fact that another gas station exists less than two blocks from this particular site. Having two gas stations within two blocks of one another does not enhance the community—this type of density only serves locations such as highway exits. (Goals ## 2, 3 and 8.)

The residents of the Rangeview RNO have a very strong outlook for a successful development of this neighborhood. This vision could be served equally well by several zoning classifications that would restrict the installation of gas stations, which undermine the quality of the community. For example, the zoning classification S-MX-2x would be far more appropriate for this location because of its stated intention to better buffer residential areas from commercial areas. This subset applies to

small sites served primarily by local streets embedded within an existing or proposed neighborhood . . . these are typically one or two parcels and are limited to low scale building forms and low intensity uses.

(Section 3.2.4.2[B].)

The site for this particular location is truly embedded in a residential area—it is bordered to the north and to the west by single-unit homes.

This amendment would not improve the transition between the extensive residential areas to the west of this location and the commercial development—rather, it would deteriorate the transition. (Denver Zoning Code at section 3.2.4.1[D].) Residents of the Rangeview neighborhood - as well as the others in the area—bought their homes with the understanding that this site would be zone B-1 or by another equivalent classification—which prohibits gas stations. Changing this zoning to a classification that goes far beyond the scope of B-1* and would unfairly prejudice the neighboring residents. This particular parcel is the last section of property between single-family residences and commercial enterprise. A highly dense use of the parcel would destroy the healthy and desirable buffer currently between these two differing zoning districts.

The proposed amendment is also contrary to the tenets of Blueprint Denver. Goal #3 zeroes in on prioritizing "walking, rolling, biking and transit" and eschews single-occupancy vehicle transportation. It goes on to highlight "walkable mixed-use centers" and the importance of the authenticity of neighborhoods for Denver's future. (Blueprint Denver at 106, "Mobility.") These tenets supplement the Comprehensive Plan and provide context for development. Installation of a gas station derails that course.

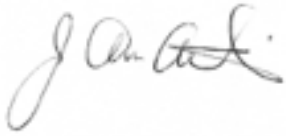
Finally, the Applicant is required to show compliance with the public health, safety and general welfare. (Denver Zoning Code at section 12.4.10.7[C].) The Applicant cannot demonstrate this by virtue of the installation of a gas station. The noise pollution, the air pollution and other secondary effects from this type of installation are significant, and they are exacerbated by the fact that this type of business will operate 24 hours per day. Given the fact that this site is embedded within single-family homes, the repercussions of this type of operation will be far too onerous on neighbors.

In sum, the Applicant is charged with proving to the Board that the proposed amendment is required to serve the public interest. (Section 12.4.10.8[A][4].) The Applicant has failed to even address this necessary element in its submittals. The public interest as outlined in the adopted plans

is geared towards proper buffering and transitions between commercial and residential contexts. The installation of a gas station would destroy that buffer and thus does not serve the public interest in this particular location.

On behalf of my client, the Rangeview RNO, we ask that you deny the application for zoning amendments in its entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Aaron Atkinson". The signature is fluid and cursive, with the first name "J." being the most prominent part.

J. Aaron Atkinson

cc: Rangeview Estates Association

Request To Continue Hearing For A Period of Ten Months

This request to continue the hearing for a period of ten months is based on the following:

1. A request for Council to pursue a ten month moratorium to study and implement rules concerning a prohibition of gas stations within 1000 feet of residential properties is being reviewed together with regulations concerning air and groundwater monitoring as to the release of carcinogens and other pollutants. The continuance would correspond with the timing of the moratorium.
2. This Planning Board directed staff to study the stretch of Mississippi from Havana Street to Parker Road to determine the appropriate classification for this roadway. This Study has not taken place. The Study could take place during this requested continuance.
3. This Planning Board directed planning staff to meet with the property owner to discuss alternative zoning categories which would not include a gas station. This meeting has not taken place. It is likely that Bellco has refused to consider any alternative that would not include a gas station. Gas station representatives did meet with neighborhood representatives through a City mediator. Those discussions ended in failure as the gas station representatives would not consider air and water monitoring for pollutants and could not come to agreement as to recommendations concerning easements to prevent access to Geneva, berming, sound walls and landscaping to screen the gas station for the residences. With the failure to mitigate the health impacts of the gas station, planning staff could meet with Bellco to discuss other zoning options during the continuance.

Thank you for your consideration.

Daniel and Diane Brotzman

From: [Linda Metsger](#)
To: [Stueve, Ella C. - CPD City Planner Senior](#)
Subject: [EXTERNAL] Case number: 2020I-00076
Date: Tuesday, May 18, 2021 4:15:12 PM

My name is Linda Metsger and I am the current president of the Village East Neighborhood Association. Members of our board heard about the proposal to make the site a gas station and we would like to voice our opposition to the gas station on 10353 E. Mississippi.

First of all, it is pretty clear that there is a gas station across the street and many other gas stations in the area. We as a neighborhood have struggled with the abundance of people soliciting handouts at the current gas station and this is something that is obviously conducive for a neighborhood.

We also want to support the Rangeview Neighborhood in not wanting a gas station next to their homes. No homeowner would want the toxic effects of gasoline distribution near their families. We also understand that the station owners were not willing to compromise on limited hours of operation. From a business perspective, this makes sense and so perhaps the owners should put the station next to their own home.h

This is close to our own neighborhood and we believe that yet another gas station is not good community planning and we would like to express our opposition to the plan as it stands.

Linda Metsger
Village East Neighborhood Association
303.696.6839

MEMORANDUM

TO: Denver City Council
FROM: Teryl Gorrell, Holland & Hart LLP, Attorneys for Bellco Credit Union
DATE: June 2, 2021
RE: Official Zoning Map Amendment Application #20201-00076
PROPERTY: 10353 East Mississippi Avenue
OWNER: Bellco Credit Union

As counsel for Bellco Credit Union, we submit this Memorandum in support of the request for rezoning the Property to S-MX-3, which would permit a mix of commercial, service, office and residential building forms and uses and is intended for areas or intersections served primarily by local or collector streets where a building of 1 to 3 stories is desired.

History of the Property:

In 1994, this Property was zoned under Former Chapter 59 as B-1 with a condition limiting its use exclusively to a drive-through ATM facility serving the neighboring Bellco Credit Union building. The parcel served that purpose until 2016, when Bellco tore down the neighboring bank building and rebuilt it with relocated drive-up lanes that are incorporated with the new building. This parcel has sat vacant since then.

As presently zoned, the Property has only one permissible use, as a drive-through ATM facility for a bank. The Property is not marketable for its single permitted use. Consequently, it has lain dormant and is not contributing anything to the community. No sales tax revenues have been generated from the Property, and it is expected that the tax valuation of the Property, and the corresponding property tax payments, will be reduced substantially or even eliminated as a result of its present zoning classification. The Property can only become a productive contributor to the community through rezoning.

Rezoning Application:

This application for rezoning comes before City Council with a recommendation for approval from the Planning Board. The Planning Board followed a recommendation for approval from Community Planning and Development Staff, which concluded the proposed zoning classification meets the criteria of Denver Comprehensive Plan 2040 and Denver Blueprint 2019 for rezoning to S-MX-3.

Two prior rezoning applications were submitted for this Property, neither of which is pertinent to the present application. In 2018, an application was submitted for rezoning the Property to S-MX-3. At that time, Comprehensive Plan 2000 and Blueprint 2002 were in force, and under Blueprint 2002 the Property

was mapped as Single Family Residential on a Commercial Artery in an Area of Stability. Although CDP Staff recommended approval, the Planning Board recommended disapproval, and the application was withdrawn. Significantly, Blueprint 2019 changed the mapping of the Property to be part of a Community Corridor within the Suburban Neighborhood Context on a Residential Arterial. This mapping change indicates a considered intent under Blueprint 2019 for this Property to be eligible for a mix of uses that includes both commercial and service facilities.

In 2019, another application for S-MX-3 rezoning was submitted. Only six members of the Planning Board voted on the application, however, and they deadlocked three to three. Consequently, the Planning Board did not make an official recommendation, and the application was withdrawn before City Council hearing.

Needed Transition from Conditional Zoning

The Property’s present conditional zoning restricts the site to development only according to a 1993 recorded site plan that exclusively allows a drive-through ATM with eight aisles in the center of the site and parking to the east and west of the ATM. Without rezoning, the site cannot be developed other than as illustrated in the 1993 site plan. As CPD Staff noted before the Planning Board, two rezoning strategies from Blueprint Denver’s Land Use & Built Form: General Section, Policy 3 are supportive of this application:

- “Rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code” (p.73).
- “Limit use of site-specific, customized zoning tools—such as Planned Unit Developments (PUDs) and waiver/conditions—to unique and extraordinary circumstances. The zoning code offers a wide variety of zone districts that cover the diverse contexts and places of Denver. Custom zoning tools are most effective when a standard zone district does not exist to implement the adopted plans for an area” (Strategy B, p. 73).

Applicable Criteria

In reviewing a rezoning application, City Council is required to consider the criteria for review contained in Sections 12.4.10.7 and 12.4.10.8 of the DZC:

- DCZ Section 12.4.10.7
 - Consistency with Adopted Plans
 - Uniformity of District Regulations and Restrictions
 - Public Health, Safety and General Welfare
- DCZ Section 12.4.10.8

- Justifying Circumstances
- Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

The Proposed Rezoning is Consistent with Adopted Plans

The applicable Adopted Plans are Denver Comprehensive Plan 2040 and Blueprint Denver (2019). The proposed rezoning is consistent with both:

- Comprehensive Plan 2040
 - This rezoning will enable mixed use development at an infill location that is presently unproductive and not developable.
 - It is consistent with the strategy to build a network of well connected, vibrant, mixed use centers and corridors. (Strong and Authentic Neighborhoods Goal 1, Strategy A, p. 34).
 - It is consistent with the strategy to encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities. (Strong and Authentic Neighborhoods Goal 1, Strategy D, p. 34).
 - It is consistent with the strategy to promote infill development where infrastructure and services are already in place. (Environmentally Resilient Goal 8, Strategy A, p. 54).
 - It is consistent with the strategy to encourage mixed-use communities where residents can live, work and play in their own neighborhoods. ((Environmentally Resilient Goal 8, Strategy B, p. 54).
- Blueprint Denver
 - The Property is served by East Mississippi Avenue and South Havana Street, which are both classified as Arterial streets. It is identified as part of a Community Corridor within the Suburban Neighborhood Context, which represents the most varied development in Denver’s neighborhoods, and in which commercial development is focused along main corridors and centers bordering residential neighborhood. The proposed rezoning is consistent with the Future Neighborhood Context plan direction.
 - The Property is mapped as a Community Corridor in the Future Places Map, which typically provides a mix of office, commercial and residential uses, generally up to 5 stories. The proposed S-MX-3 use is less intensive, at 3 stories, and serves as an appropriate step down in use to the adjacent residential use. It is consistent with the Community Corridor Blueprint Denver Future Places Plan.
 - The rezoning is consistent with the Future Growth Areas plan direction, because it will focus an appropriate intensity of mixed-use growth in a Community Corridor.

The Proposed Rezoning will Promote Uniformity of District Regulations and Restrictions

- The proposed rezoning will eliminate the vestige of conditional site zoning under Former Chapter 59 and bring the Property under the DRC with the uniformity of an appropriate zoning classification.

The Proposed Rezoning will Promote the Public Health, Safety and General Welfare

- Rezoning to S-MX-3 will implement Adopted Plans.
- Compared to current zoning, which permits only a drive-through ATM facility, the S-MX-3 mixed use district will facilitate increased density in a variety of building forms as well as mix of uses that can improve public health and general welfare outcomes.
- Rezoning will broaden the variety of uses allowing residents to live, work and play in the area.

The Justifying Circumstances for Rezoning Are Compelling

- The Property retains a custom zoning restriction under Former Chapter 59 that is not consistent with Denver's adoption of the new Denver Zoning Code.
- The Property is unusable, unproductive, and unmarketable as presently zoned.
- The Property will not become useful or economically productive to the Community until it is rezoned.

The Proposed Rezoning is Consistent with the Neighborhood Context Description, Zone District Purpose and Intent Statements

- The proposed development is moderate in scale, will permit multiple structures on the zone lot and will be separated from neighboring residential uses.
- The proposed site plan provides for substantial buffering from the adjacent residential area.
- S-MX-3 zoning is consistent with both the specific purpose and intent of the Suburban Context.

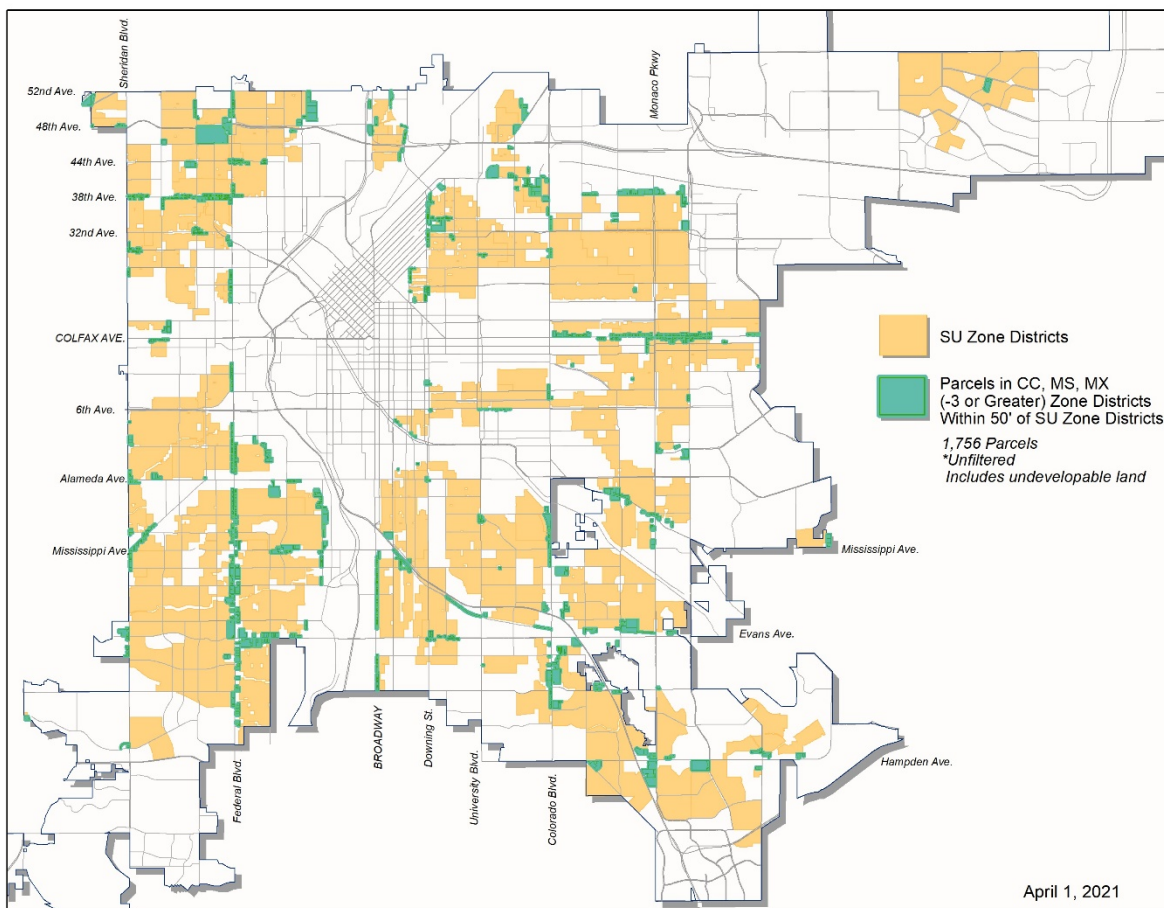
Bellco and Applicant have Engaged in Substantial Public Outreach:

- In May of 2020, the project team held a Zoom meeting with the Rangeview Neighborhood Associations (RNO) and several neighbors, with Councilwoman Sawyer in attendance. As a result, several enhancements were incorporated into the development plan at the neighborhood's request:

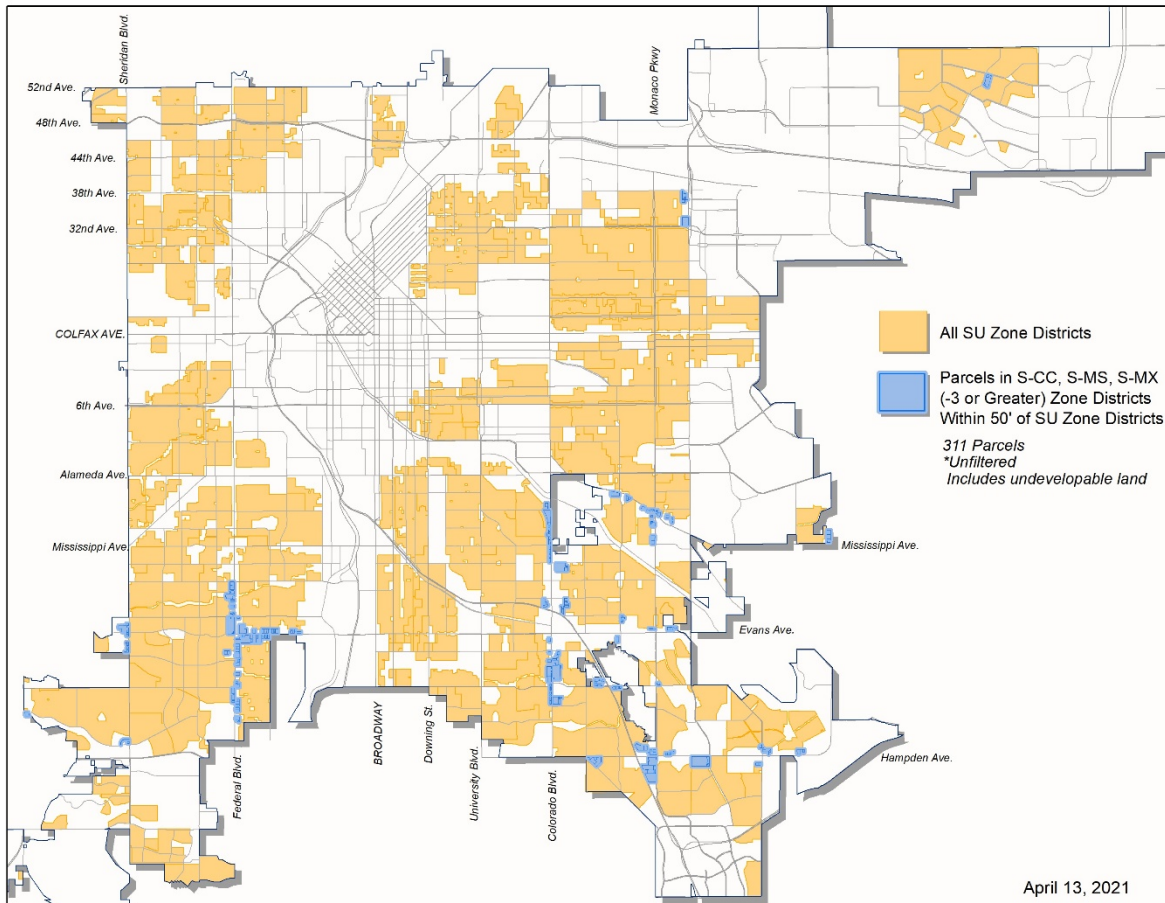
- Redevelopment density was reduced from two users to one.
 - More than 50% of the site would be open space.
 - Enhanced buffering was included along the north and west sides of the Property abutting residential lots.
 - A screen wall was added along the north to provide a barrier between adjacent residential property and the site.
 - The trash enclosure was strategically placed on the east side of the site, away from adjacent residential property.
 - Existing access points off of Havana and Mississippi are to remain, with no new access point from Geneva Street, which is the entry street into the neighborhood.
- At the recommendation of Councilwoman Sawyer, Bellco and Applicant initiated a mediation process with the Rangeview Neighborhood Association and individual neighbors in an effort to resolve neighborhood concerns. As a result of the initial mediation discussions, additional proposed development enhancements were incorporated:
 - Additional screening of the west side with a landscape wall and new trees.
 - Light fixtures to be full cutoff at the property line, reducing the potential for light spill.
 - The west façade of the store and canopy were softened visually.
- Additional mediation meetings were undertaken after Planning Board approval. The parties reached common ground on several points, but they have been unable to reach common ground on two issues: permissible operating hours and a general neighborhood objection to permissible fuel station use. With respect to operating hours, Applicant desires to operate during hours that are consistent with other fuel service facilities in the area. With respect to the issue of general neighborhood opposition to a fuel station use, that should not be the deciding factor for this rezoning because that is an authorized use under S-MX-3 that is consistent with all applicable planning guidance.

There are Over 1,700 Locations in Denver Where S-MX-3 and Greater Intensity Properties Abut Residential Properties

- At the Planning Board hearing, CPD Staff was asked about the prevalence of S-MX-3 zoning adjacent to residential properties. Staff responded by noting that there are over 1,700 parcels in the city that are S-MX-3 or similar, and often greater intensity, adjacent to single unit zoning districts. Below is a map prepared by CDP Staff showing 1,756 Parcels in CC, MX, MX (-3 or Greater) zone districts that are within 50 feet of Single Unit Zone Districts:



- Focusing on adjacency in only Suburban zone districts, below is a map prepared by CDP Staff showing that there are 311 Parcels in S-CC, S-MS, S-MX (-3 or Greater) zone districts that are within 50 feet of Single Unit Zone Districts:



- To the east of the Property is the new Bellco facility that is on land zoned S-MX-5. To the northeast is a four story multi-unit apartment building. To the north are higher density single family lots that back to the four story apartment building. Within this mix, S-MX-3 is an appropriate classification for the Property.
- Applicant has proposed many buffering elements to facilitate the transition between its commercial use and the residential neighborhood.
- The proposed S-MX-3 zoning would meet the intended purpose of a mixed use zone district to improve the transition between commercial and residential neighborhoods.

Neighborhood Site Plan and Operational Concerns are Addressed by the Denver Municipal and Zoning Codes

The particular site development of the Property would be subject to later site plan submissions and approval. The expressed neighborhood concerns regarding the site plan would be incorporated in conformance with the Denver Municipal/Zoning Codes and reviewed by City staff at the time of formal site development plan submittal. Operational matters for a permitted S-MX-3 use would be governed by provisions of Denver's Revised Municipal Code that are independent of the Zoning Code. Those operations would be subject to all applicable environmental and safety laws and regulations.

City Council Should Approve the Rezoning

Bellco and the Applicant have done everything required to meet all applicable criteria for rezoning the Property to S-MX-3:

- S-MX-3 rezoning is consistent with both the Denver Comprehensive Plan 2040 and Blueprint Denver 2019.
- The Property is located on a six lane Arterial in a Community Corridor and S-MX-3 zoning is consistent with Blueprint Denver's street type plan direction.
- The proposed rezoning is consistent with Blueprint Denver's Future Neighborhood Context plan direction, Future Places plan direction, and Future Growth Areas plan direction.
- The proposed rezoning:
 - Meets the Justifying Circumstances requirements for rezoning;
 - Would result in the uniform application of zone district building form, use and design regulations;
 - Would further the public health, safety and welfare of the City through implementation of adopted plans;
 - Would complement the character of existing surrounding development; and
 - Would be consistent with Neighborhood Context Description and Zone District Purpose and Intent Statements for the Suburban Neighborhood Context.

The proposed S-MX-3 zoning would render a moribund commercial property productive again, resulting in new jobs, new sales tax revenues, increased property taxes, and the enhancement of services available to the community.

City Council should recognize that all applicable criteria required for approval have been met and should approve the rezoning request.

From: [Ciara Kimminau](#)
To: [dence - City Council](#)
Cc: [Stueve, Ella C. - CPD City Planner Senior](#); [Aaron Atkinson](#); [Keith Singer](#)
Subject: [EXTERNAL] 10353 E. Mississippi - Written Comments
Date: Thursday, June 3, 2021 11:04:54 AM
Attachments: [image001.png](#)
[2021_06_03_ltr_cc_SENT.pdf](#)

Denver City Council:

As you may know, our law firm represents Rangeview Estates Association in their opposition to the proposed rezoning at 10353 E. Mississippi (application 2020i-00076). Please find attached our written comments on behalf of our client in the form of a letter, and related exhibits at the dropbox link below, to be included in the staff report for the City Council Public Hearing on Monday, June 7.

Exhibits: <https://www.dropbox.com/t/FWwDycD02ws1gWOr>

Thank you,
Ciara

Ciara N. Kimminau, Esq.

 **HACKSTAFF & SNOW**
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Our practice areas include: real estate, entity formation, tax, estate planning, probate, trademarks, and civil litigation.



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June 3, 2021

J. Aaron Atkinson, Esq.
aa@hackstafflaw.com
(303) 534-4317

VIA EMAIL

Denver City Council
City & County Building
1437 Bannock St., Rm. 451
Denver, CO 80202
[dencc@denvergov.org](mailto:dencec@denvergov.org)

Re: Official Zoning Map Amendment App. #2020I-00076
Subject Address: 10353 E. Mississippi Ave.
Subject: Opposition to Application

To the City Council:

Our firm has been retained to represent the Rangeview Estates Association (“Rangeview”), which is a registered neighborhood organization proximately located to the property that is the subject of this development application (“the Application”). My client has asked me to submit the following in anticipation of the upcoming public hearing before the City Council.

The Applicant, Galloway, bears the burden to prove to the Board that this real property should be re-zoned from classification B-1* to S-MX-3; as you are no doubt aware, the ultimate purpose of the proposed amendment is for Galloway to install and operate a 24-hour gas station at this location. My client objects to the proposed zone map amendment due to its failure to fulfill the necessary criteria in the Denver Zoning Code.

The City Council may, but is not required to, recommend approval of an official map amendment if the Applicant can prove that the rezoning will comply with all of the criteria set forth in section 12.4.10.7 of the Denver Zoning Code. (DZC 12.4.10.4[G][2].) Attached hereto as **Exhibit “A”** are these sections of the Code. The amendment currently before the Board fails to satisfy criteria A (“Consistency with Adopted Plans”) and C (“Public Health, Safety and General Welfare”). Additionally, the Applicant must prove compliance with the “Neighborhood Context Description, Zone District Purpose and Intent Statements,” but has failed to meet this burden. See **Exhibit “A.”** Fundamentally, this official map amendment would only be necessary “because of changed or changing conditions” or to promote the public health, safety and general welfare. (DZC 12.4.10.1.) Attached hereto as **Exhibit “B”** is section 12.4.10.1.

The proposed amendment runs afoul of various goals set forth in both of Denver’s Adopted Plans – the Denver Comprehensive Plan and Blueprint Denver, attached hereto as **Exhibit “C”** and **Exhibit “D.”**

Equitable, Affordable and Inclusive

The Applicant asserts that the proposed map amendment would serve this goal in the Comprehensive Plan because S-MX-3 allows for a wider array of uses. (Application at 4.) Attached hereto as **Exhibit “E”** is the relevant page of the Application. According to Galloway, the use as identified in the original site plan is for a bank’s drive-thru ATM.

The Applicant is not accounting for the effects that this dramatic change in use will have upon the surrounding community. Whereas zone B-1 (with conditions) does not allow for the operation of an all-night gas station, S-MX-3 does allow for this type of use. Such a change would fundamentally alter the authenticity of the community; this site is bordered on two sides by single-user residences. In point of fact, several residences are situated directly across South Geneva Street from the site, with no barrier at present other than a few trees. To the extent that the Applicant chooses to operate an all-night gas station (which is the Applicant’s intent), these homeowners will be on the front lines of the noise, light and air pollution that go hand-in-hand with such a use.

Zoning amendments should be designed to further the Comprehensive Plan, and to facilitate “reasonable stability” in zoning codes for nearby landowners. *See, e.g., Holly, Inc. v. Bd. Of County Commissioners of Arapahoe County*, 342 P.2d 1032 (Colo. 1959); *Clark v. City of Boulder*, 362 P.2d 160 (Colo. 1961). The homeowners in Rangeview purchased their homes with the understanding that this lot would be zoned B-1 (with conditions), and that 24-hour use would be prohibited. Contrary to the Applicant’s claim, this dramatic change of use would not serve the community by opening the floodgates to a variety of new uses—those uses would undermine a historic neighborhood within the community. This proposed map amendment jeopardizes that stability, in that the use of S-MX-3 is dramatically less restrictive than that of B-1*.

The Rangeview neighborhood has existed since the 1950s, and several residents have lived there since 1963. Like the property owners in *Holly*, the Rangeview homeowners have the right to rely upon the framework of the B-1* classification because there has been no material change in the character of the area that would justify opening the floodgates to the density of S-MX-3 zoning.

Strong and Authentic Neighborhoods

The Applicant asserts that re-zoning inevitably leads to a “network of well-connected vibrant, mixed-use centers and corridors.” (Application at 5.) Attached hereto as **Exhibit “F”** is the relevant page of the Application. Unfortunately, that is not necessarily the case. To choose a zoning classification that allows for 24-hour use, which will have such negative impacts upon the surrounding residential community, could destroy the authenticity of the community. Other zoning classifications that limit the hours of operation, such as S-MX-2x, discussed below, would be far superior to serving these centers and corridors.

Goal 2 hopes to “enhance Denver’s neighborhoods through high-quality urban design.” Strategy C calls for “thoughtful transitions” to accomplish this goal. “Thoughtful transitions” are reinforced in Blueprint Denver as the hallmark of “urban design.” (**Exhibit “D”** at 20.)

S-MX-3 is not a “thoughtful transition” for this parcel of land. This amendment would not improve the transition between the extensive residential areas to the west of this location and the commercial development—rather, it would highlight the stark differences in the transition. (DZC 3.2.4.1[D.]) Attached hereto as **Exhibit “G”** is section 3.2.4.1. This lot is the gateway between substantial, single-user residences and the commercial uses to the east. At present, the use by Bellco softens the transition between these fundamentally differing polarities. To open the zoning to 24-hour use, which is more commonplace directly off of Havana to the east, would only highlight the stark differences between these two geographies. Residents of Rangeview - as well as the others in the area—bought their homes with the understanding that this site would be zoned B-1* or another equivalent classification—which prohibits 24-hour gas stations. Changing this zoning to a classification that goes far beyond the scope of B-1* would unfairly prejudice the neighboring residents. This particular parcel is the last section of property between single-family residences and commercial enterprise. A highly dense use of the parcel would destroy the healthy and desirable buffer currently between these two differing zoning districts.

Strategy D goes further along these lines, invoking “public health, safety, environmental wellbeing[.]” The Applicant is required to show compliance with the public health, safety and general welfare. (DZC 12.4.10.7[C], **Exhibit “A”** at 4.) Here the Applicant cannot demonstrate this by virtue of the installation of a gas station. The noise pollution, the air pollution and other secondary effects from this type of installation are significant, and they are exacerbated by the fact that this type of business will operate 24 hours per day. Given the fact that this site is embedded within single-user homes, the repercussions of this type of operation will be far too onerous on neighbors. This amendment would likewise compromise these values. The Rangeview community witnessed firsthand the secondary effects from installation of an all-night gas station at the southeast corner of Havana and Mississippi. The noise, air and sound pollution from these installations—allowable under S-MX-3—are devastating to an established neighborhood. All-night uses of any sort do not serve these cherished community values, but rather are a disservice to them.

In this sense the map amendment in issue misses the mark. Primarily, the amendment would thwart the goals of encouraging modes of transportation other than single-occupant, gas-powered vehicles. (**Exhibit “C”** at 40, Goals ##1 and 6.) Denver's goal is to encourage walking, rolling and transit options for the betterment of its communities. On the contrary, installation of a gas station at this site only serves "car-centric culture" by encouraging increased traffic flows in and out of the site throughout the entire day, which would only undermine those other, more desirable modes of transportation.

The Comprehensive Plan also highlights the desire for unique neighborhoods. (**Exhibit “C”** at 34.) These goals are focused on the assets of a community served by its installations. At first blush, an amendment to S-MX-3 zoning would seem to serve a mixed-use community. (Goal #1.) However, the end result of this particular zoning classification--installation of a gas station--is antithetical to authentic neighborhoods that take advantage of community assets. This is particularly true in light of the fact that another gas station exists less than two blocks from this

particular site. Having two gas stations within two blocks of one another does not enhance the community—this type of density only serves locations such as highway exits. (Goals ## 2, 3 and 8.)

Another glaring misfire with respect to this application lies in the Comprehensive Plan’s desire for “Connected, Safe and Accessible Places.” (**Exhibit “C”** at 39.) The presence of a gas station on this parcel violates every single Goal outlined in this section of the Plan. It would not service any interest other than a “car-centric culture” that breeds single-occupancy drivers. The Comprehensive Plan militates against this culture and the proposed amendment.

Finally, the Comprehensive Plan expresses the desire for environmental resiliency. (**Exhibit “C”** at 51.) Blueprint Denver is also geared in part toward “reducing climate-altering emissions.” (**Exhibit “D”** at 21.) The installation of a 24-hour gas station in this location would invite air, sound and other pollutants that undermine that goal. Goals such as those addressing reduction of greenhouse gas emissions, (**Exhibit “C”** at 52, Goal #1), and air quality, (**Exhibit “C”** at 54, Goal #9), should be at the forefront of the Council’s decision-making in denying this proposed amendment.

The residents of Rangeview have a very strong outlook for a successful development of this neighborhood. This vision could be served equally well by several zoning classifications that would restrict the installation of gas stations, which undermine the quality of the community. For example, the zoning classification S-MX-2x would be far more appropriate for this location because of its stated intention to better buffer residential areas from commercial areas. This subset applies to

small sites served primarily by local streets embedded within an existing or proposed neighborhood . . . these are typically one or two parcels and are limited to low scale building forms and low intensity uses.

(DZC 3.2.4.2[B], **Exhibit “G.”**)

Importantly, this classification closely mirrors B-1 from Chapter 59. To provide a similar framework to what has been in existence in this area historically would serve the interests of favorable transitions between neighborhoods. This is particularly true where residents purchased their homes in reliance upon the B-1* classification and its restrictions on 24-hour use.

The site for this particular location is truly embedded in a residential area—it is bordered to the north and to the west by single-unit homes. If the Council is animated to amend the zoning irrespective of Rangeview’s position outlined herein, it should impose a condition that mirrors the condition upon certain automobile services (light) as found in Denver Zoning Code section 11.4.19.1(4), which restricts hours of operation for these businesses to from 7:00 a.m. and 10:00 p.m. where they abut single-user residential zoning. Attached hereto as **Exhibit “H”** is section 11.4.19.1.

The proposed amendment is also contrary to the tenets of Blueprint Denver. Goal #3 zeroes in on prioritizing "walking, rolling, biking and transit" and eschews single-occupancy vehicle transportation. It goes on to highlight "walkable mixed-use centers" and the importance of the authenticity of neighborhoods for Denver's future. (**Exhibit “D”** at 106, "Mobility.") These

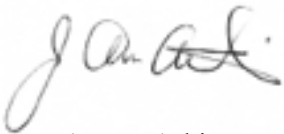
tenets supplement the Comprehensive Plan and provide context for development. Installation of a gas station derails that course.

In sum, the Applicant is charged with proving to the Board that the proposed amendment is required to serve the public interest. (DZC 12.4.10.8[A][4], **Exhibit "A"** at 4.) The Applicant has failed to even address this necessary element in its submittals. The public interest as outlined in the adopted plans is geared towards proper buffering and transitions between commercial and residential contexts. The installation of a gas station would destroy that buffer and thus does not serve the public interest in this particular location.

Council should be aware that my client and the developer did undergo extensive settlement discussions with hopes of arriving at a mutually agreeable solution. My client actively participated in those negotiations in good faith. The fundamental problem, as outlined above, lies in the hours of operation of the gas station in concert with the secondary effects that the nature of the proposed use will wreak on the neighboring community. While the Applicant did agree to reduce its hours of operation from 24 to 18 hours per day, this concession simply does not relieve those secondary effects as outlined herein. Consequently, negotiations simply broke down and no agreement was reached.

On behalf of my client, we ask that you deny the Application for zoning amendments in its entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Aaron Atkinson". The signature is fluid and cursive, with the first name "J." being particularly prominent.

J. Aaron Atkinson

cc: Rangeview Estates Association: Ksinger@catchitintime.org
Ella Stueve, Case Manager: Ella.Stueve@denvergov.org

Attachment 4: Mediation Summary

Rezoning for 10353 East Mississippi Avenue (Bellco Property)

March 2021

At the request of Councilwoman Sawyer, I worked with Rangeview Neighborhood Association (Rangeview) and the immediate neighbors along Geneva Street, and with Bellco Credit Union (Bellco) and Galloway & Company who represents Murphy Oil, to reach resolution on a Good Neighbor Agreement that would allow Bellco to rezone their property at 10353 East Mississippi to S-MX-3 without Rangeview's and the neighborhood's opposition.

This was not a quick or simple facilitation/mediation. Both sides in this rezoning discussion worked hard, diligently and in good faith to find a resolution. In the end we reached agreement on all points but one.

The challenge being;

- Rangeview and the immediate neighbors do not believe a fuel station is an appropriate use for this property, given the proximity to residential and the inherent impacts of a fuel station on their quality of life.
- Bellco believes S-MX-3 is an appropriate zone district given the City's adopted plan guidance and the fact that the property fronts Mississippi and is relative adjacent to Havana and other businesses, and that this zoning allows for a fuel station.

Our challenge was to reach agreement upon specific points in a Good Neighbor Agreement that would effectively mitigate the neighbor's concerns, while still allowing Bellco to rezone to S-MX-3 and build a Murphy's fuel station.

We met together and separately numerous times. We worked through countless drafts outlining and agreeing to very specific points on many aspects of development and the site plan. [Landscaping, north and south enhanced buffer walls, mitigated west facing design of Murphy's, no access from property to Geneva Street, location of fuel tanks, berm and ongoing maintenance of retention area, etc.] We worked with the transportation departments of Denver and Aurora to address issues and concerns along Geneva and through the neighborhood. We agreed upon potential covenants and deed restrictions to ensure key enforcement points.

Throughout this process Rangeview, the immediate neighbors and Bellco were pushed to the very edge of what they would accommodate, no one was really happy or enthusiastic about the outcome, but remained committed to doing their best to reach resolution.

In the end we failed to reach a resolution for two reasons, one very specific and the second more nuanced.

1. Hours of operation was a deal-breaker. Rangeview made the argument that being adjacent to residences and families, the hours should be considerate and reflective of this fact, and said they could accept hours of operation being 6:30a-11:00p. Bellco, Galloway and Murphy maintained their business model would not work with the neighbor's proposed hours, and they would not set actual hours until very close to opening, but reserved the right to hours of operation consisting of 4:00a-1:00a. This truly ended the discussions.
2. Philosophical differences. At a very core level, Rangeview and the neighborhood believe and maintained that this location is not appropriate for a fuel station, as it will negatively impact their neighborhood and their quality of life. Bellco, Galloway and Murphy believed equally strongly that the proposed zoning and use is consistent with Denver's adopted plan guidance and the location fronting a busy street like Mississippi.

Based upon these two points, we were unable to reach agreement.

Attachment 5: Protest Petition Memo



DENVER
THE MILE HIGH CITY

Community Planning and Development
Planning Services
Plan Implementation

Caryn Wenzara, AICP Senior City Planner
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201 W Colfax Ave, Dept 205
Denver, CO 80202
p: 720-865-2940
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www.denvergov.org/planning

TO: Denver City Council
FROM: Ella Stueve, Senior City Planner
DATE: June 3, 2021
SUBJECT: Petition of Protest - Council Bill #0404, Series 2021

OVERVIEW OF STAFF REVIEW PROCESS TO IMPLEMENT REVIEW CONSISTENT WITH DIVISION 12.4.10.11 OF THE CODE.

- Step 1: Create 200 foot buffer map - Created by CPD and attached
- Step 2: Confirm that all addresses signed are in the buffer
- Step 3: Confirm that all signatures are valid and accurately represent ownership
 - Donald Stahl and Peggy Stahl signed on behalf of the Donald and Peggy Stahl Joint Revocable Trust, owner of 1010 S Geneva Street. Staff determined that the documentation provided is not adequate. A trust instrument/document which shows the individuals signing are the trustees would be required to include 1010 S Geneva Street towards the area included in protest.
- Step 4: Calculate valid signatures to assess percentage

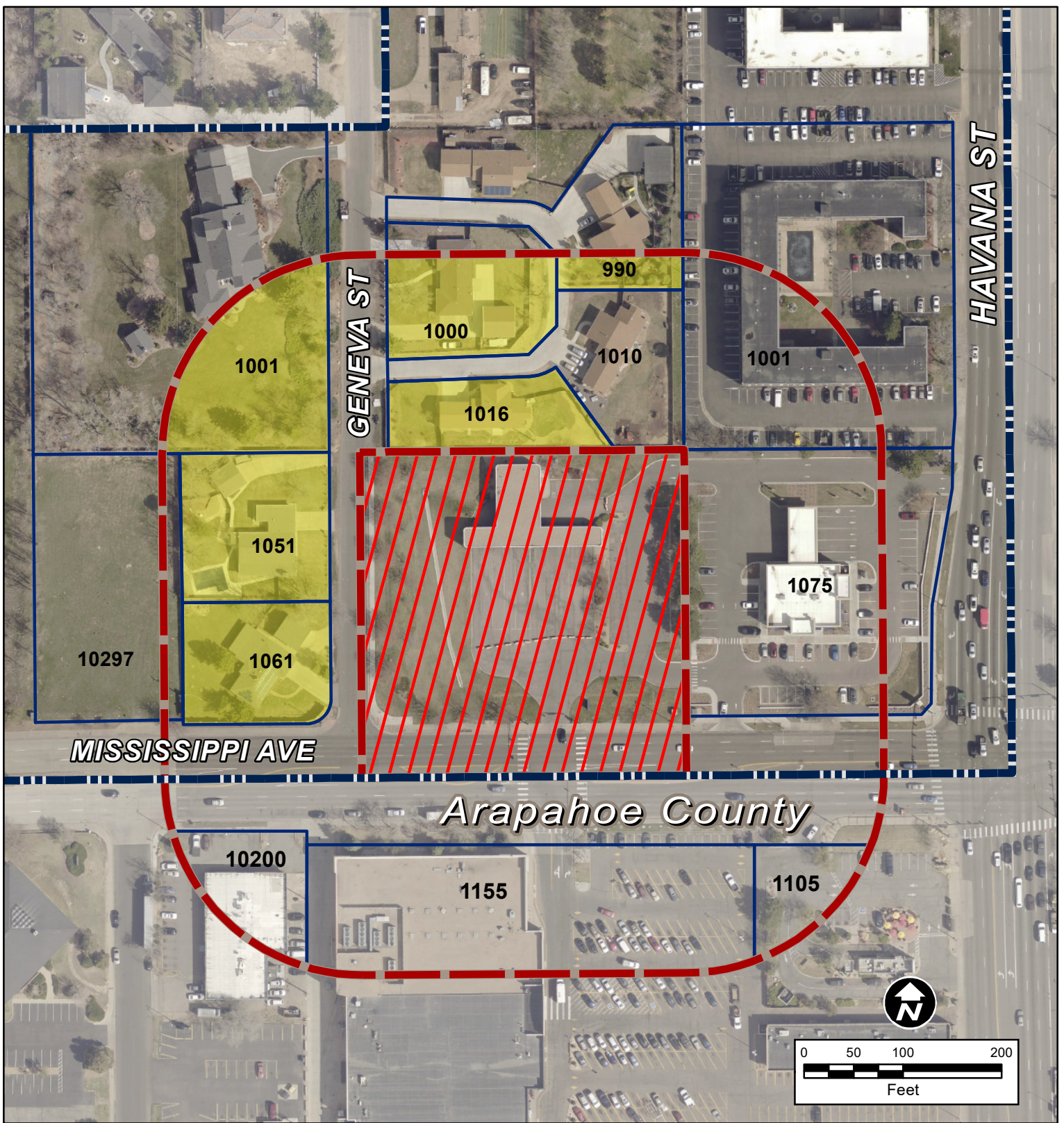
CALCULATION RESULTS

LAND AREA OF VALID SIGNATURES





| | |
|---------------------|-------------------------------------|
| N/A | within the subject area |
| 26.6% 103,568 SF | within 200 feet of the subject area |

RESULTS OF CALCULATION (CHECK AND HIGHLIGHT APPLICABLE BOX)

| | |
|----------|---|
| X | In view of the twenty (20) or more percent protest, it will be necessary for City Council to cast ten (10) affirmative votes for passage. |
| | In view of the less than twenty (20) percent protest, this petition does not constitute a legal protest. |



Protest Petition Area Map- Amendment #20i-00076

-  Proposed Map Amendment 20i-00076
-  County Boundary
-  200' distance from perimeter of proposed map amendment
-  Full or Partial Parcels With Qualifying Owner Signatures

FINAL
Signatures for 26.6%
of the area received

Signatures of the owners of 20 percent or more of the total land area from the perimeter of the area proposed for change to a distance of 200 feet outside is required.

Total area of 200' distance from the perimeter of the amendment = 389,216 Sq Ft

20% = 77,843 Sq Ft Needed