



Land Use, Transportation & Infrastructure Committee Summary Minutes

Tuesday, October 19, 2010 11:00 AM City & County Building, Room 391

Members Present: Johnson, Madison, Montero, Robb, Sandoval

Members Absent: Hancock

**Other Council
Present:**

Committee Staff: Gretchen Williams

Bill Requests

**BR10-0916 Changes the zoning of the parcels at 3300 and 3316 Tejon
from U-MS-2 to U-MS-3.**

A motion offered by Montero, duly seconded by Madison to approve filing a bill changing the zoning of the parcels at 3300 and 3316 Tejon from U-MS-2 to U-MS-3 carried by the following vote:

AYES: Johnson, Madison, Montero, Robb, Sandoval(5)

NAYS: (None)

ABSENT: Hancock(1)

ABSTAIN: (None)

Zoning Map Amendment Application 2010I-00014 requests a change in zoning from U-MS-2 to U-MS-3 on two properties at the northeast corner of Tejon and W. 33rd Ave. in Council District 9.

The property owner is the applicant, who wants the additional height allowed under U-MS-3. He argues that because the zoning on the other three corners of the intersection allow three stories, his property should be allowed the same number of stories. He has no plans at this time to redevelop either property.

Most of the structures in the area are between one and four stories. Land use is mixed, and this corner is a business area embedded in residential.

The neighborhood organizations were notified of the application, the Planning Board hearing and this Committee meeting. Letters of support were received, some from owners of abutting the properties. Highlands United Neighbors, Inc. (HUNI) submitted a letter of opposition to the proposed U-MS-3, although it would support U-MX-3. This is based on the higher parking requirements for restaurants and other commercial uses in MX-3 (4.5 spaces per 1000/square feet rather than 2). Since other commercial properties on Tejon in the area are MX-3, HUNI does not support giving this property owner an unfair advantage.

The property was posted for 15 days prior to the Planning Board hearing on Oct. 6, after which the Board voted unanimously to recommend approval.

Community Planning & Development recommends approval of the request. It is consistent with adopted plans, such as Blueprint Denver, which identifies this as an Area of Change with mixed use land use concept, and Comprehensive Plan 2000. The legal basis for the approval is change of conditions in that the citywide rezoning changed the zoning of the other three corners to C-MX-5 and U-MX-3.

The properties on the east side of Tejon were rezoned from B-3 to MS-2 in the citywide rezoning due to the height of the existing structures: no more than three stories with the majority being two. The other corners are allowed three and five stories. This corner was zoned MS (main street) rather than MX (mixed use) because the existing structures are built to the property line in main street fashion, and because of the location of parking to the side of the structure.

Peter Park, Manager, Community Planning & Development, stated that MX allows parking between the building and sidewalk. MS zoning better dials into the existing context and applies a zone district that helps carry forward the existing context.

These two buildings can change use without providing any additional parking since they were constructed prior to 1967 (1929 and 1933). The concern expressed by HUNI is that if they are ever torn down and replaced, under the MS zoning they would still not have to provide more parking. HUNI prefers the MX.

Mr. Park said the CPD recommendation is to carry forward the MS parking requirement and not to allow a building form that allows a building set back from a parking lot. The proposed MS-3 retains everything about use and form; the only difference is that it allows one additional story.

Councilwoman Montero invited the owner to the table. Mr. Peavy said he applied for MS-3 because the property south of his could have five stories and he could only have two. He went to a HUNI meeting to discuss his application. Only three members were there, and they had no problem with the proposal. Now HUNI wants MX. He has room for 20 parking spaces on the north side of the north building, where he may establish a restaurant. Rosalinda (of Rosalinda's Restaurant) is supportive of the plan, and she submitted a letter of support.

In response to a question from Councilwoman Robb, Mr. Peavy said he was not

focused on the citywide rezoning. Ms. Lucero said her understanding was that HUNI was not focused on this particular block during that process.

Councilwoman Robb reminded the Committee that this is a quasi-judicial matter, and the charge for the Committee is to determine if this application has had adequate public involvement and is ready to move to Council.

After considering holding the application in Committee, it was decided to move it out but also request that Mr. Peavy meet with HUNI before the matter comes to Council for a public hearing.

Presentations

1 **Denver Zoning Code: 3 Months After Adoption**
Peter Park, Manager, Community Planning & Development

The intention of this discussion was to present an overview of: 1) text amendments to the new code; 2) permit activity under the former and the new code during the 6-month overlap period; and 3) decisions made by the Zoning Administrator during his temporary (6-month) authority to make interpretations and decisions about the provisions of the code when actual building projects come up against unforeseen problems. This authority is only exercised in instances where the code language actually will be amended to incorporate his adjustments.

Text Amendments

1. Creation of three new zone districts and of requirements for regulating plans in the Master Planned Context was adopted by City Council on Aug. 9, 2010.
2. A set of errata, correcting such things as page headers, section numbers and typographical errors, was adopted on Sept. 13.
3. Regulation of growing medical marijuana in residential areas will have a public hearing at Council on Oct. 25.
4. Insertion of a missing section heading in the district-specific form standards for detached accessory structures, which appear in several different articles, will have a public hearing on Nov. 15.
5. A package of changes and corrections identified by the public and staff and prioritized based on changes that need to be made prior to the end of the 6-month parallel code period (Dec. 21). This package will be introduced to Committee on Oct. 26 with action requested at the Nov. 9 meeting, aiming for Council adoption on Dec. 20.

Permit Activity since Adoption

Permit activity is summarized in a chart contained in the attached presentation materials. The columns identify the categories under which permits may be issued. Most applicants had the choice of using the new or former code for 6 months. Permits issued under the former code were further broken down by whether the property had been rezoned by adoption of the new code or were not rezoned (PUDs, zoning with waivers & conditions; these properties did not have the option of using the new code).

“Zoning permits” during this period were primarily for change of use, such as changing of tenants in a retail structure, rather than new construction, which has been slow.

Mr. Park said the nine permit applications for new duplexes do not indicate the rush to build duplexes, as some feared. Most permits in the 1 and 2 family category are for small projects, such as room additions or garages. Most of the smaller contractors are familiar and comfortable with the old code and opted to stay with it for these small projects. Another factor is that many of the regulations that would impact these small projects did not change in the new code.

More flexibility in the Main Street districts has benefitted several projects. Plans for a new 7-11 at Colfax and Josephine utilized increased build-to range and the administrative adjustment for irregularly-shaped lots. A replacement McDonalds at Colfax and Pennsylvania could not have been built under the former code. The new site plan utilized the new garden wall build-to and wall design transparency alternatives.

Upzoning at 17th and Lafayette allowed for a medical office building with ground floor retail and restaurant by removing the B-4 floor area ratio (FAR) of 2 to 1. The project will benefit the entire neighborhood.

Parking adjustments in an area rezoned from R-3 to G-MU-3 enabled a planned 24-unit residential structure to reduce the height by one story and replace parking with entrances to 6 ground-level units, maintaining the unit count necessary to make the project feasible. Parking was reduced from 1.5 spaces per unit to 1, and there was a 25% reduction due to transit proximity. The project will provide 20 off-street parking spaces. Another planned 24-unit residential project at Logan and 1st Ave. with the same zoning was unable to build under the B-3. With G-MU-3, it is feasible, and it also will provide 20 parking spaces.

Six-Month Authority

The Zoning Administrator has used his 6-month special authority to approve a change in determination of a Primary Street for a house facing the short end of the block. By changing the Primary Street to the short side of the block, the property owner can continue the existing condition of the shallow Side Street setback as a

second story is added.

The Argonaut Liquor Store constructed a new building on its site with the plan to demolish the old building to expand its parking. Under both former Main Street zoning and the new code, surface parking is not allowed between the building and any street, so the plan was not allowed. The solution was to add a new building right at the corner of Colfax and Washington to achieve the intentions of Main Street zoning. Parking can be allowed between the side street and the second building. The parking fronting on Colfax will be screened with a decorative fence.

Councilwoman Robb noted that these examples partially explain why we needed a new zoning code: to make it easier to do the type of development and site planning that the City desires.

2 Wastewater Management: S. Platte River Project Alterations *Kim Watanabe, Wastewater Management*

The purpose of this presentation is to provide an overview and the context for three ordinances which will soon be before Council to amend agreements and construction contracts. The City is working on the third phase of the extensive S. Platte restoration project. Phase I, the Central Platte Valley Reach, was completed in 1995; Phase II, the Colfax Reach, was completed in 2001.

Current work in the Zuni-Sun Valley/Lakewood Gulch Reach began in Nov. 2009 and should complete in April 2012. The work is 30% complete now. It involves flood protection improvements and habitat restoration. It is a \$15.4 million construction contract, which is shared primarily by the City and the Urban Drainage and Flood Control District, although there is a long list of stakeholders, including Colorado Dept. of Transportation, Denver Water, and RTD. The West Corridor of FasTracks parallels Lakewood Gulch, and a transit station will be located in this reach, at Federal, Howard and Lakewood Gulch.

Council will be asked in the near future to amend the following three documents.

Agreement with Denver Water, reflecting work being taken over by the City (see contract amendment below).

Agreement with Urban Drainage & Flood Control District, reflecting the City's share of an increase in the cost of the design work due to changes.

Construction contract amendments reflecting changes in scope, including a reduction in the project amount due to changing to a less expensive top-down wall construction (as opposed to the original plan to construct from the bottom of the river; neither one is easy nor inexpensive). Denver Water was going to contract for some of the project needs, including the relocation of its Conduit 18, a 54-inch water main. However, Denver Water is behind schedule, and it is more efficient and less expensive to add to the City's construction contract as a change order.