

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 11:05:23 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.

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



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From: [Linda Rea](#)
To: [denc - City Council](#)
Cc: [Roger & Suzanne Miller](#)
Subject: [EXTERNAL] 10353 E. Mississippi Ave. Case 2020I-00076
Date: Sunday, May 23, 2021 8:39:47 AM
Attachments: [Bellco City Council 2021may23.docx](#)

We respectfully ask that Council members read the attached comments pertaining to a Bellco parcel rezoning on East Mississippi.

May 23, 2021

To: Denver City Council

cc: Rangeview RNO

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. **Case 2020I-00076**

This rezoning application is not truthful in its claims. There are no justifying circumstances for granting 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 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, undesired gas station consistent with City messaging about "going green," reducing vehicle usage, or improving public services?

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: [Ken Johnson](#)
To: [denc - City Council](#)
Subject: [EXTERNAL] Bill # 21-0404 / June 7, 2021
Date: Monday, May 10, 2021 2:44:32 PM

Dear City Council,

I'm writing to voice my opposition to the zoning change request for a gas station at the Bellco property near E Mississippi Ave and Havana St, which is upcoming Bill 21-0404 scheduled to be heard on June 7, 2021.

The zone change is incompatible to the existing neighborhood framework, and will increase the current traffic bottleneck across from King Soopers and will increase cut-through traffic in the Rangeview neighborhood. The homes adjacent to the Bellco property will experience much more pollution (fumes, noise, and lights), which would be especially burdensome if the gas station is approved for their requested hours of operation.

Thank you very much for your consideration.

Kenneth W Johnson
970 S Emporia St
Denver, CO 80247
303-349-8996
kjohn80210@aol.com

From: [Keith Singer](#)
To: [dencc - City Council](#)
Cc: [Roger Miller](#); [Fabby](#)
Subject: [EXTERNAL] Monday Council Meeting
Date: Friday, June 4, 2021 9:59:10 AM
Attachments: [Rangeview-Bellco good faith.pdf](#)
[Rangeview Pictures.pdf](#)

Dear Council Members,

Please include the attached documents for the Monday, June 7th, Council Meeting on behalf of the Rangeview Neighborhood Association.

In regards to:

Request for Rezoning

Address: 10353 E. Mississippi Avenue

Neighborhood/Council District and CM: Windsor Neighborhood / Council District 5, Sawyer

RNOs: Rangeview Neighborhood Association, Inter-Neighborhood

If possible, can you confirm receipt of this email.

Please let me know if you have any questions.

Best regards,

Keith Singer
Executive Director

Catch It In Time

A 501(c)(3) organization

www.catchitintime.org

2675 S. Abilene Street

Suite 175

Aurora, CO 80014

720-290-7984

From: [d brotzman](#)
To: [Hancock, Michael B. - MO Mayor](#); [dence - City Council](#); [District 1 Comments](#); [Flynn, Kevin J. - CC Member District 2 Denver City Council](#); [Torres, Jamie C. - CC Member District 3 Denver City Council](#); [Black, Kendra A. - CC Member District 4 Denver City Council](#); [City Council District 5](#); [Kashmann, Paul J. - CC Member District 6 Denver City Council](#); [Clark, Jolon M. - CC Member District 7 Denver City Council](#); [Herndon, Christopher J. - CC Member District 8 Denver City Coun](#); [District 9](#); [City Council District 10](#); [stacie.gillmore@denvergov.org](#); [kniechatlarge](#); [Deborah Ortega - Councilwoman At Large](#); [Diane Brotzman](#)
Cc: [Salazar, Alan B. - MO MA2952 Executive](#); [kristinbronson@denvergov.org](#); [Laura Aldrete](#); [conor@westword.com](#); [contact7@thedenverchannel.com](#)
Subject: [EXTERNAL] Re: Request for a Zoning Moratorium Concerning Zoning Protections For Residential Properties From Air and Water Contamination Generated From Gas Stations
Date: Sunday, April 11, 2021 6:38:19 PM
Attachments: [Gas Station Moratorium \(1\).docx](#)
[Public Hearing on Rezoning 10353 E.docx](#)

We again renew our plea to enact a moratorium to stop the development of gas stations abutting residential property until a study can be completed to determine what is a safe distance between residential property and gas stations. The goal is to avoid cancer causing health and environmental impacts for your citizens living near them.

This past week the Denver Planning Board voted to move forward a map amendment to change the zoning from B-1 with conditions to S-MX-3 zoning. S-MX-3 zoning is required to allow the proposed gas station. Bellco as owner of the property has entered into a contract with Murphy USA to build a gas station at this property once rezoning is approved by City Council. This request will be in front of Land Use, Transportation and Infrastructure Committee this Tuesday. The proposed gas station would sit next to a wooden privacy fence. Just over that fence are children's play areas, kitchens and the family rooms of our neighbors. Bellco and Murphy Oil have requested to put underground fuel storage and benzene releasing fuel pumps mere feet away from our neighbors' homes. Please move the moratorium forward to stop this.

The Planning Board all agreed that

No one should have to live next to a gas station

but many Board Members felt they had no choice but to follow the Planning Departments recommendation for approval. Planning staff indicated the criteria concerning health, safety and welfare should not take into account air and groundwater contamination. That would be a determination for Council not the Planning Board. The moratorium and regulations previously proposed would take into account the deadly health impacts of living near a gas station.

Please move the moratorium forward now to stop this.

Daniel and Diane Brotzman

On Sunday, March 28, 2021, 08:10:56 PM MDT, d brotzman <dbrotzman@yahoo.com> wrote:

We have previously contacted you proposing a moratorium to have City staff research and bring back zoning changes to City Council to protect not only our neighborhood but all residential neighborhoods throughout Denver from contamination from leaking underground storage tanks and airborne pollution from gas station pumps and vehicles. Attached is proposed language concerning both zoning and regulatory language:

Land Use

Gasoline Fueling Stations shall be prohibited within 1,000 feet from a platted residential lot.

Air Quality Monitoring and Testing for All Gasoline Fueling Stations.

- a. Pre-Construction Air Quality Testing. Operator shall conduct air sampling for a period of five (5) consecutive days prior to any construction activities for any Gasoline Fueling Station. Operator shall conduct baseline sampling using a continuous monitoring system that detects total hydrocarbons. Operator shall conduct baseline sampling at least thirty (30) days in advance of any construction activities at the Gasoline Fueling Station. Results of the baseline air sampling must be received by the City prior to the issuance of building permits.
- b. Continuous Air Monitoring after completion. The Operator shall conduct continuous air monitoring capable of detecting total hydrocarbons. Continuous air monitoring is defined as data points obtained at least once per hour minute, and twenty-four (24) hours per day.
- c. Data related to air monitoring or sampling during any phase shall be reported to the City quarterly. Reports shall include, at a minimum, a summary of continuous monitoring methods used, location of each continuous monitor, maximum one (1) hour minute and average concentrations over the reporting period (for each parameter monitored). The report should include the number of grab samples collected, the date, time, and reason for collecting each grab sample, and the concentration range for each pollutant. All exceedances of health-based limits should be reported along with any measures taken to mitigate the emissions.

d. Leak Detection and Repair. The Operator shall develop and maintain a Leak Detection And Repair (LDAR) program using modern leak detection technologies such as infra-red (IR) cameras for equipment.

e. The Operator shall conduct at least semi-annual inspections of all equipment at the Gasoline Fueling Station; more frequent inspections may be required based on the nature and location of the facility and as required by state rules. At least once per year, the Operator shall notify the City five (5) business days prior to an inspection of its facilities to provide the City the opportunity to observe the inspection.

e. Records. The Operator will maintain records of all leaks found, the date the leaks were repaired, and the date the location is re-screened to verify that the leak has been repaired. Such records must be maintained for five (5) years and must be made available to the City upon request.

f. Repairs. Except when an emergency circumstance would necessitate an immediate repair, Operator must repair leaks as quickly as practicable. If more than two (2) days of repair time is needed after a leak is discovered, an explanation of why more time is required must be submitted to the City.

Thank you for your consideration.

Daniel and Diane Brotzman

On Wednesday, January 27, 2021, 07:47:18 PM MST, d brotzman <dbrotzman@yahoo.com> wrote:

Mayor & Council,

We discovered that the City of Denver does not have zoning protections for residential properties from air and water contamination generated from gas stations. There is a currently a zoning application before the Denver Planning Board requesting a gas station that would severely impact our residential neighborhood in a negative manner with environmental contamination. Since this matter is now before the Planning Board it's status quasi judicial so further facts on this particular case will have to wait until this matter comes before City Council. Even though the discussion as to this particular property must wait, we feel that no single family residential property should have to go through the long and arduous process that we have been forced to endure for many years.

We are proposing a moratorium to let City staff research the issue and

bring back zoning changes to City Council to protect not only our neighborhood but all residential neighborhoods throughout Denver from contamination from leaking underground storage tanks and airborne pollution from gas station pumps and vehicles. 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 proposed moratorium is attached. We thank you for your consideration.

Daniel and Diane Brotzman

From: [Fry, Logan M. - CC YA2245 City Council Aide](#)
To: [dmb823](#); [City Council District 5](#)
Cc: dbrotzman@yahoo.com; [dencc - City Council](#)
Subject: RE: [EXTERNAL] Proposal for Zone Map Amendment (Rezoning) 10353 Mississippi Ave from B-1 to S-MX-3
Date: Friday, June 4, 2021 10:13:08 AM

Good morning Diane,

Thank you so much for reaching out to our office with this message. I wanted to let you know we've received it and I have taken the liberty of cc'ing the dencc@denvergov.org email address. This address is where you (or anyone) should send comments on rezonings. That email address ensures your comments will be on the record and that all the Councilmembers will review them before the hearing.

Thanks again Diane, please let me know if there is anything else I can do to be of assistance. Stay well!

Sincerely,
Logan Fry

Logan Fry • Council Aide
Councilwoman Amanda Sawyer • District 5
Phone 720-337-5555
Denvergov.org/CouncilDistrict5

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-----Original Message-----

From: [dmb823](#) <dmb823@earthlink.net>
Sent: Friday, June 4, 2021 9:21 AM
To: City Council District 5 <DenverCouncil5@denvergov.org>
Cc: dbrotzman@yahoo.com
Subject: [EXTERNAL] Proposal for Zone Map Amendment (Rezoning) 10353 Mississippi Ave from B-1 to S-MX-3

Councilmembers,
The public hearing regarding a zone map amendment for 10353 E Mississippi Ave is on Monday June 7th.

This issue concerns a Denver lot that is currently owned by Bellco. This lot was originally a residential lot and is part of the Rangeview neighborhood. The rezoning to B-1 with Conditions was approved to allow the bank to put drive-up banking lanes on the lot but conditions stated this was the only thing that could be built here and required no access to the neighborhood, berming and landscaping. This was a very low impact use for this property as promised by Bellco.

Bellco (Mississippi and Havana) has ignored its promise of low impact and requested a zoning change for this property from B-1 with Condition to S-MX-3. This zoning would allow a number of types of businesses that are not compatible with the neighborhood, including the proposed use of a 16 pump gas station and convenience store.

Currently there is no commercial development in this block through the Rangeview neighborhood – even Aurora did not approve this type of development in this block. There is also no commercial development from this point west to Parker Road. This particular zoning should not be allowed at this location.

A gas station/convenience store will have a negative impact on residential property values in the neighborhood. Nobody, including most members of the Planning Board, wants to live this close to a gas station. This is evidenced by several neighbors already making the decision to leave. The change in zoning would bring a business with long hours of operation, noise, light pollution, increased crime, and increased traffic and trash problems. The proposed gas station also comes with very serious health risks for those living nearby.

Many studies indicate negative health impacts for those who live within 1000' of gas stations. The health effects range from nausea to cancer including significant increased risk of childhood leukemia, anemia, increased susceptibility to infections and adverse pregnancy outcomes. The concern is with airborne gases and contamination from underground fuel tanks to the groundwater. Many of our neighbors use domestic wells for irrigation and drinking water. The proposed zoning would allow gas pumps and underground fuel tanks directly across the fence from children's play areas, kitchens, bedrooms and family rooms with some homes only 60' away from the site.

The State of Colorado does have some monitoring requirements for gas stations but these are not sufficient to safeguard the health of surrounding neighbors. Cities across the country have enacted distancing requirements for gas station development in residential neighborhoods. This zoning request should be denied until Denver puts similar precautions in place.

My husband's parents built a home at 1001 S Geneva St in 1960 and requested to be part of Denver when they were given a choice between Denver and Aurora. We decided to invest in Denver and remodeled the home because we appreciate this unique, special neighborhood and wanted to live here.

Please support our desire to keep this a special and healthy neighborhood by denying this zoning change request for 10353 E Mississippi Ave, directing the City to conduct studies regarding the health impacts of those living near gas stations, and enacting distancing regulations to protect the health and welfare of all Denver citizens.

Respectfully,
Diane Brotzman
1001 S Geneva St
Denver, CO 80247