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## Land Use, Transportation & Infrastructure Committee Summary Minutes

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**Tuesday, March 25, 2014      10:30 AM      City & County Building, Room 391**

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

**Committee Staff:** Debra Bartleson

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

**Members Absent:** None

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### Bill Requests

**BR14-0199 Approves the rezoning of 12 South Garfield Street from PUD #583 to G-RH-3 in Council District 10.**

*David Gaspers, Community Planning & Development*

David Gaspers, Community Planning & Development (CDP), reported that the proposal is to change the zoning from a PUD to G-RH-3 to allow development of a two family unit on the property. The property is currently a vacant corner lot bounded by Ellsworth Aveune to the north and Garfield Street to the west. The property is surrounded by multi-unit row houses and duplexes. Blueprint Denver noted this area as "Urban Residential", and the site is an Area of Stability. The Planning Board approved the proposal on March 5.

Councilmember Robb stated that there were design guidelines established in Cherry Creek and she questioned how those guidelines will be applied. Mr. Gaspers said the guidelines weren't officially adopted, so the plan is to update and adopt those plans in the future. CPD will be including this plan in the workplan schedule.

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

AYES: Susman, Brown, Lehmann, Lopez, Montero, Robb, Shepherd(7)  
NAYS: (None)  
ABSENT: (None)  
ABSTAIN: (None)

**BR14-0245 Approves a rezoning of 2420-2490 S. University Boulevard from G-MX-3 (General Urban Mixed Use Three Story) to G-RX-5 (General Urban Residential Mixed Use Five Story) in Council District 6.**

*Deirdre Oss, Community Planning and Development*

Deirdre Oss, Community Planning & Development (CPD), reported that the property is owned by Nodef Colorado, Inc. and the Colorado Seminary (10% owned). The property encompasses almost a full half-block of South University Boulevard between Harvard and Wesley avenues. The proposal is to rezone the property from General Mixed Use Three Story (G-MX-3) to General Urban Residential Mixed Use Five Story (G-RX-5). Ms. Oss noted that north of Wesley Avenue and along University is similar zoning. Ms. Oss explained that Blueprint Denver identifies this site as an Area of Stability and also an area for quality infill development. The site has been hosting functionally obsolete buildings suggesting that there is potential for block development. The proposal will allow for mixed use with a focus on residential development and will continue to incorporate the predictable height and building form standards which would allow for five stories.

Councilmember Shepherd asked why the zone of "RX". Ms. Oss said the zoning is related to public health, safety, and general welfare uses to clearly identify one single zone consistent with the desired land use plan. It allows for predictable zoning standards with compatibility to development adjacent to the residential zone district. The proposed zoning caps at the height of 70' and requires upper story setbacks at 27' and 51' when adjacent to a protected residential district. Some of the uses under this zoning, for example, include food sales, auto and communications services.

Ms. Oss said staff received responses both in support and opposition from property owners and the registered neighborhood organization where the property is located (list of letters and map located in staff report). The Planning Board held the public hearing on this proposal on March 5.

Councilmember Robb asked what the differences are between the 2010 plan and this proposal. Ms. Oss explained that the current proposal adds more intensity heading north and that the five-story height is what zoning permits now in this area. Primarily, the zoning changes from three-story to five-story.

Councilmember Shepherd asked about neighborhood concerns

regarding construction workers on the street and parking needs in the area. Ms. Oss stated that the new zoning will require one off-site parking spot per dwelling unit and one bicycle spot per four units of parking. She noted that when the developer applies for construction permitting the City requires a plan for construction staging to address those concerns early on.

Councilmember Susman said it looks like the proposal is going higher and reducing uses. Ms. Oss said the applicant chose to go that route, but in the end, it will be Council's decision for balance in the development. The Councilwoman asked if the rental units could be changed to condominiums in the future. Sean Maley, Tessler Development Representative, said the plan is for rental units, but the real estate developer he represents has experience with transitioning units from rentals to condos and it is possible to change the units in the future.

Councilmember Brown said a traffic study is being done by the developer and that Council and staff should have that information soon. This zoning is located in his district, and traffic is always an issue.

Ms. Oss said the plan is to have first reading on the bill on April 7 with a public hearing at least four weeks from that date.

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

- AYES: Susman, Brown, Lehmann, Lopez, Montero, Robb, Shepherd(7)
- NAYS: (None)
- ABSENT: (None)
- ABSTAIN: (None)

**Presentations**

- 1 Update: (Information Only): Text amendment re: Fresh produce and cottage food sales.**  
*Councilmember Kniech, At-Large; Sarah Showalter, Community Planning & Development*

Sarah Showalter, Community Planning & Development (CPD), explained that the purpose of the amendment proposal is to bring Denver into compliance with the State of Colorado Cottage Food Act. The amendment would allow Denver residents to sell fresh produce they grow at home or in a community garden directly to consumers from their home. Current zoning allows for limited businesses (home occupations), but direct retail sales of food or food products are prohibited. The changes add "Home Occupation" to the list in the code as "Fresh Produce and Cottage Foods Sales". The new home occupation will be allowed in all zone districts as "L-ZP" subject to use limitations and it will require a zoning permit. The permit will cost \$20 and only allows the individual who is named in the permit

to conduct the home sales. The food is defined as fresh fruits, vegetables and herbs, marijuana grown edibles are not allowed in this amendment/zoning. (See attachment.)

Ms. Showalter explained that limitations include sales only allowed from 7 a.m. to dusk, and sales may occur indoors or outdoors. No non-resident employee can participate in sales, and one small window or wall sign will be allowed.

The ordinance is sponsored by Councilmember Kniech and Councilmembers Shepherd and Brooks.

The notification of the proposal was sent to Registered Neighborhood Organizations and City Council on February 26. A presentation was conducted at the March 5 Planning Board meeting. A draft for the public to review is posted on the CPD website. The plan is to come back to Committee in May for approval.

Councilmember Kniech explained that the proposal is coming a little late for the growing season this year, but she and others wanted to get this information out for public outreach and she didn't want to sacrifice the informal period which added 3-4 weeks. Councilmember Shepherd said the legislation will help to address access to food and healthy eating. This is an opportunity get to know your neighbors and to know where your food is coming from, said Councilmember Shepherd. She read a written comment from Councilmembers Brooks who noted that food justice is a top priority and this amendment allows for jobs and community health.

Councilmember Kniech said street advertising on corners will not be allowed and this amendment does not allow food canning, just jams and jellies. Bob McDonald, Environmental Health, explained that canned fruits and jams are allowed because the process has lower risk and growth of bacteria. Councilmember Susman asked if the cleanliness of the home or what pesticides are used will be monitored. Mr. McDonald said if an individual is adhering to cottage food laws and those issues are not regulated activities, their agency would only serve as a resource and follow up if there are problems. Environmental Health does not routinely inspect for pesticides, but will inspect if there are problems, but it is no different than purchasing fruit from a store and the recommendation to wash produce before eating. Ms. Showalter stated that state law requires that who sells the produce must be able to answer questions from the purchaser. Councilmember Kniech said the proposal does not lower the standards, and that these proposals are not any different than purchasing produce from a farmer's market.

Councilmember Brown asked if the amendment limits selling to seasons, specifically four months of the year. He has concerns about produce selling because of retail marijuana. Judith Steele, Excise & License, stated that if it is found that a permitted marijuana business is found to be in violation of marijuana regulations (using this amendment), they wouldn't issue a license to the establishment and if they received a complaint about these issues, they will have detectives investigate the business operations. Ms. Showalter said both

agencies (EH and CPD), including Neighborhood Inspections could shut them down because it would not be an approved use based on zoning.

Councilmember Montero asked if free testing would be available for those areas where there is contaminated ground. Mr. McDonald said he was not familiar with soil contamination issues, but he could look into that. Councilmember Kniech said generally it is recommended to bring in dirt and raise the soil bed, but that the state extension office may be able to test the soil. Councilmember Shepherd stated that CSU tests for content of soil, but not contamination.

Councilmember Susman asked about other uses such as selling children's clothes will be allowed. Ms. Showalter said she was not sure, but the City has policies about food, not handmade clothing. She will check with the City Attorney's Office to see what they opine. She noted that child care services are the only services allowed outside and garage sales are allowed only four times a year.

Councilmember Robb said it was unclear if the Colorado Cottage Act and zoning language requires a food safety course. Councilmember Kniech said yes and on average classes cost \$60. Mr. McDonald said Environmental Health charges \$30 for food training classes.

Councilmember Brown asked that they consider limiting the proposal to a seasonal basis, and aligning the proposal to produce seasons.

Councilmember Kniech said the next steps include receiving comments and feedback from Denver residents. People can submit comments to [robin.kniech@denvergov.org](mailto:robin.kniech@denvergov.org) or [Sarah.showalter@denvergov.org](mailto:Sarah.showalter@denvergov.org) or go to [www.denvergov.org](http://www.denvergov.org) and search for the Cottage Food text amendments. Also, Councilmember Kniech's website will have the information posted.