

**To:** Jason Van Hooser, Senior City Planner

**From:** West Highland neighbors

**CC:** Gilbert Vigil, Property Owner  
Chris Student, Property Owner Representative

**Date:** May 16, 2021

**Re:** Rezoning of 3300 Irving Street, Denver, CO 80211

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We are writing to oppose the re-zoning application for the property at 3300 Irving Street (the Property). We do not oppose construction of new housing, including new multi-unit housing or mixed commercial/residential uses for this property. But the requested re-zoning to U-MX-2, which would allow construction of a commercial business with drive-thru, is inconsistent with Denver's zoning code and approved plans, and with the character and well-being of the surrounding neighborhood. For these reasons, the application should be denied.

We appeal to Denver's Land Use, Transportation, and Infrastructure Committee, and to Denver's City Council to deny the application to rezone the Property, noting that the request to re-zone the Property to U-MX-2 is not in accordance with the Denver Zoning Code's intent, purpose, or standards and it directly contradicts Denver's Comprehensive Plan 2020-2040 (*Denver's Comprehensive Plan*) and its supplement, *Blueprint Denver*.

### **Conflicts with the Zoning Code and Approved Plans**

Rezoning the Property from PUD to U-MX-2 is not congruent with the Denver Zoning Code purpose, intent, and standards. It does not align, as required by section 5.3 of the Zoning Code, with the standards and priorities outlined in *Denver's Comprehensive Plan* and *Blueprint Denver*. The re-zoning request also directly conflicts with the Denver Department of Transportation and Infrastructure's Pedestrian Priority Areas.

Re-zoning the Property to U-MX-2 would decrease access to health services for all, decrease safe pedestrian-scaled areas, and would not maintain or preserve the character or authenticity of the neighborhood, as required by the Zoning Code and the adopted plans. Given the location of the property, re-zoning the Property to U-MX-2 would not strengthen multimodal connections near transit areas or deliver a multi-modal network to encourage walking and biking, two key components of the U-MX-2 zoning purpose and priorities in the Denver Comprehensive Plan.

### **Neighborhood Context and the Property's Zoning History**

The Property is located in the middle of the West Highlands neighborhood, a neighborhood in which over 95% of properties are zoned residential. The Property itself is entirely surrounded by residential units and a city park for several blocks in all directions. See the map included in Appendix A for a visual depiction of the property's placement in the neighborhood. The Property itself was zoned for strictly residential use until 2005, when its zoning was narrowly modified to allow for construction of the dental office that occupies the Property now.

**Rezoning the Property for Non-medical Uses Would Limit Access to Health Services**

Goal 6.4 of *Denver Comprehensive Plan 2040* aims to increase access to health services for all. The Property’s current zoning provides residents with increased access to dental care, congruent with Denver’s city plan. Replacing an existing commercial medical property in an area with limited commercial medical offices would impact our community’s access to health services.

**Rezoning the Property for a Drive-Thru Would Not Promote and Protect the Character of the Neighborhood**

According to Zoning Code section 5.2.2.1, “the intent of the residential districts is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context. These regulations allow for some multi-unit districts, but not to such an extent as to detract from the overall image and character of the residential neighborhood.”

Section 5.1 of the Zoning Code states “commercial uses are primarily located along mixed-use arterial or main streets but may be located at or between intersections of local streets. In this context, a drive-thru commercial property at the intersection of a local street in an entirely residential area would significantly disrupt the character of the neighborhood and significantly decrease safety for neighborhood children who regularly play in the neighborhood. A drive-thru commercial property in this neighborhood would be appropriate for a mixed-use arterial or main street location such as 38<sup>th</sup> Avenue, but not its current location.

Section 5.2.3.1 of the Zoning Code states “Mixed Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city’s neighborhoods.” Adding a drive-thru commercial property conflicts with the purpose of mixed-use zones. Rather than promoting an environment with access to transit, walking, and shopping, it would promote increased vehicle use and decrease access to pedestrian-based shopping.

Section 5.2.3.1.C of the Zoning Code states that the general purpose of mixed-use districts is to “ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.” Inserting a commercial property with a drive-thru into an entirely residential area does not meet this criteria. The character of this West Highlands residential area is primarily pedestrian-based with people walking to and from the city park two blocks from this property. Re-zoning for a pedestrian-based commercial property (i.e. U-MX-2x) would be better-suited to meet this Zoning Code criteria.

**Rezoning the Property for a Drive-Thru Is Counter to Denver’s Pedestrian-Safe Priorities**

Section 5.2.3 of the Zoning Code states that the purpose of mixed-use zoning is, among other things, to “promote safe, active, and pedestrian-scaled, diverse areas” and “in the Urban Neighborhood Context, promote a pedestrian-active street front.” Section 5.3.1.6 states the intent of zoning standards is, among other things, to give prominence to the pedestrian realm as a defining element of neighborhood character.

Allowing for a commercial property under zoning U-MX-2x could potentially promote a pedestrian-active street front. However, the application for U-MX-2, and its allowance of a drive-thru commercial property would make pedestrian activities more unsafe and would promote vehicular use rather than promote a pedestrian-active street front.

Goal 3.1 of *Denver's Comprehensive Plan* aims to encourage more trips by walking, rolling, biking, and transit. This goal is supported by the Denver Department of Transportation and Infrastructure's Pedestrian Priority Areas and Denver's Community Planning and Development Blueprint. The re-zoning proposal directly conflicts with all three plans. The property at 3300 Irving falls within Denver's Pedestrian Priority area, as shown in Appendix B, which provides a map of Denver's Pedestrian Priority Areas. *Blueprint Denver's* goal for urban areas, including West Highland, is to foster a high degree of walkability, bikeability, and good access to transit with less reliance on cars. Rezoning of the property to allow for a commercial property with a drive-thru directly conflicts with Denver's pedestrian priorities.

### **Rezoning the Property for a Drive-Thru is not Consistent with *Blueprint Denver***

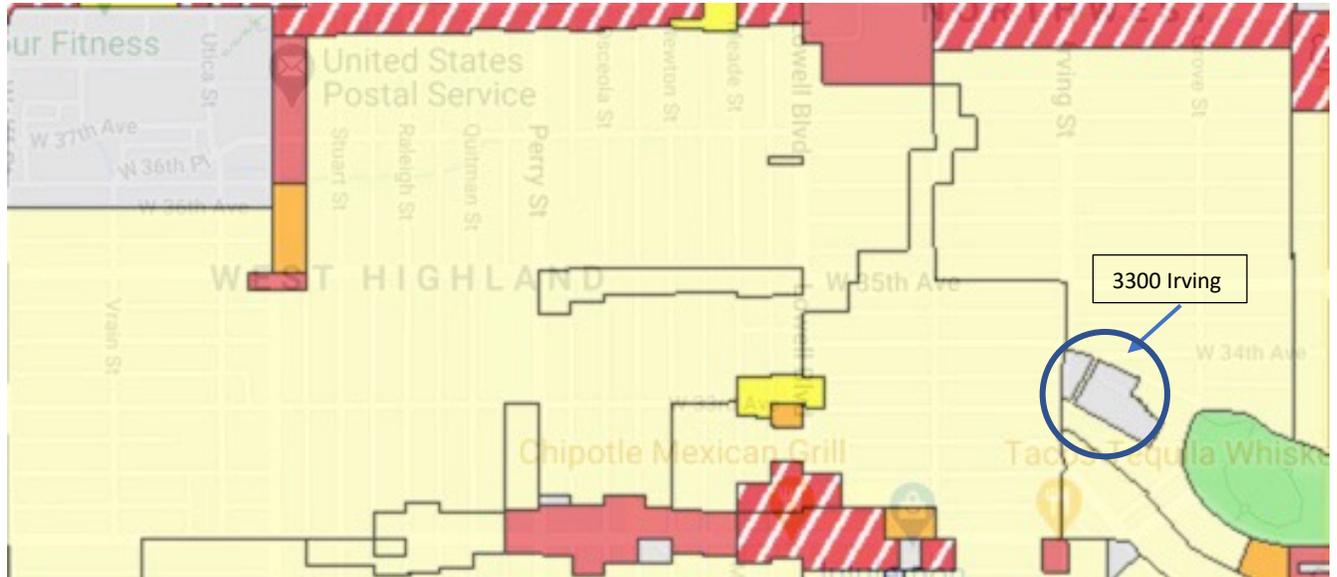
The Staff Report at pages 11-12 states that this property is classified as "Residential Low" in the Urban context, and goes on to explain that "[T]he Urban neighborhood context is described as containing 'small multi-unit residential and *low-intensity* mixed-use buildings typically embedded in single-unit and two-unit residential areas....'" (emphasis added). See Appendix C (the Property is designated as "Low"). Nothing in the description for U-MX-2 zoning suggests that it is appropriate for or intended to permit or encourage "low intensity" development. By contrast, U-MX-2x zoning is expressly described as a "less intense use" and does not allow for construction of a drive-thru business. Put simply, there is nothing "low-intensity" about authorizing installation of a drive-thru business on the residential streets in this location.

### **Rezoning the Property for a Drive-Thru Would Not Result In "Consistent Regulation for Each Property With the Same Zoning Designation Citywide"**

The Staff Report concluded, without substantive discussion, that rezoning this property (currently zoned Residential 2, with an exemption allowing only a dental office) to U-MX-2 would promote the goal of consistent regulation for like properties. Because of the highly unique nature of the current zoning, we suspect there are few other properties with comparable zoning, and neither Staff nor the applicant pointed to other instances where a property with such restrictive zoning was rezoned U-MX-2. In this context, "consistent regulation" cannot fairly be described as a mark in favor of this application.

# Appendix A

Current Denver [zoning map](#) of the West Highlands neighborhood.



**Legend** ✕

- Single Unit (SU)
- Two Unit (TU)
- Multi Unit (MU, RH, RO, TH)
- Residential Mixed Use (RX)
- Commercial Corridor (CC)
- Mixed Use (MX, M-GMX)
- Main Street (MS)
- Cherry Creek North (C-CCN)
- Downtown (AS, C, CPV, GT, LD, TD)
- Downtown - Civic (D-CV)
- Industrial - Light (I-A)
- Industrial - General (I-B)
- Industrial - Mixed Use (I-MX, M-IMX)
- Campus (EI, EI2, ENT, H, H2, NWC)
- Special (O-1)
- Open Space - Public Parks (OS-A)
- Open Space - Recreation (OS-B)
- Open Space - Conservation (OS-C)
- Airport (DIA)
- Planned Unit Development (PUD-D, PUD-G)

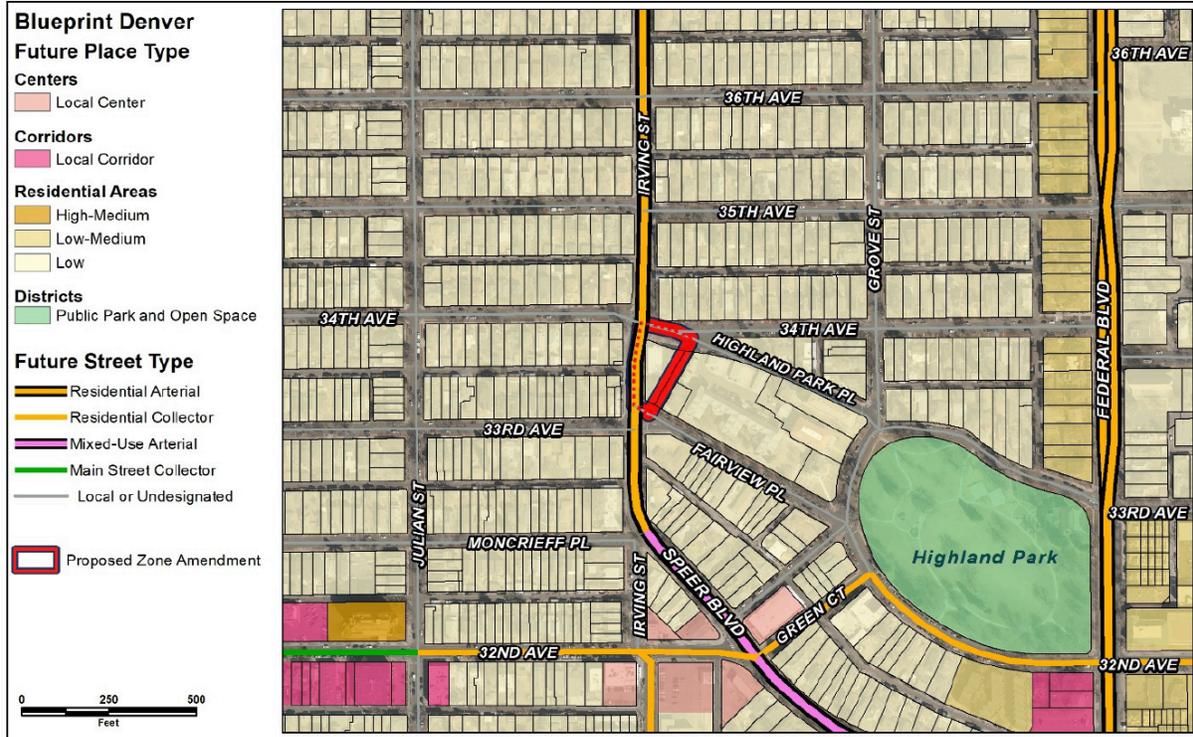
Appendix B

Map of Denver Department of Transportation and Infrastructure's [Pedestrian Priority Areas](#).



# Appendix C

## Blueprint Denver Future Places



Signature <i>Dari Forsythe</i>	Date 5/12/21
Name Davis Forsythe	Address 3169 W 34 <sup>th</sup> Ave Denver CO 80211

Signature <i>Lauren Forsythe</i>	Date 5/12/21
Name Lauren Forsythe	Address 3169 W. 34 <sup>th</sup> Ave Denver, CO 80211

Signature <i>Jessica Gilliam</i>	Date 5/13/21
Name Jessica Gilliam	Address 3127 W. 34 <sup>th</sup> Ave Denver, CO 80211

Signature <i>Maurice McCauley</i>	Date 5/14/21
Name Maurice McCauley	Address 3111 W. 34 <sup>th</sup> Ave Denver, CO 80211

Signature <i>Margho Dunna-hoo-Kirsch</i>	Date 3/14/21
Name Margho Dunna-hoo-Kirsch	Address 3142 W 37 <sup>th</sup> ave

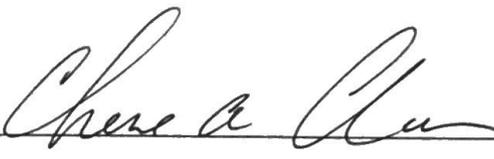
Signature Mary Francis Date 5/11/2021  
Name Mary Francis Address 3064 W. 34<sup>th</sup> ave

Signature Deanna Peterson Date 5/11/2021  
Name Deanna L Peterson Address 3357-9 Federal (Rental)  
3076-3078 (Home)  
W. 34<sup>th</sup>  
Denver, Co 80211

Signature Corey Dodd Date 5/11/2021  
Name Corey Dodd Address 3173 W 34<sup>th</sup> Ave  
Denver, CO 80211

Signature Lauren Berdofe Stewart Date 5/11/2021  
Name Lauren Berdofe Stewart Address 3089 W. 34<sup>th</sup> Ave  
Denver, CO 80211

Signature Scott Gilpin Date 5/11/2021  
Name Scott Gilpin Address 3046 W. 34<sup>th</sup> Ave.

Signature  Date 5/12/21

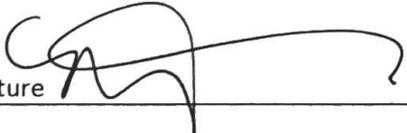
Name Cherie Ann Chan Address 3161 W. 34<sup>th</sup> Ave  
Denver, CO 80211

Signature  Date 5/12/2021

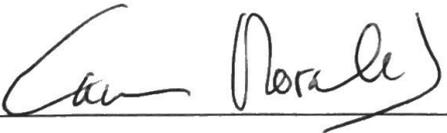
Name Matt Chan Address 3161 W. 34<sup>th</sup> Ave  
Denver, CO 80211

Signature  Date 5/12

Name Shawn Sendar Address 3104 W. 36<sup>th</sup> Ave  
Denver, CO

Signature  Date 5/12/21

Name Megan "Ande" Yahr Address 3079 W. 34<sup>th</sup> Ave  
Denver, CO 80211

Signature  Date 5/12/21

Name CARMEN MORALEDA Address 3063 W. 34<sup>th</sup> Ave  
Denver, CO 80211

Signature 	Date 5/11/21
Name Deborah Roberts	Address 3053 W 34th Ave DENVER, CO 80211

Signature 	Date 5/11/21
Name KRISTIN K. AMBUCHAN	Address 3457 Federal Blvd Denver CO 80211

Signature 	Date 5/11/2021
Name Anne Spires DeLong	Address 3190 W 35th Ave Denver CO 80211

Signature 	Date 5/11/2021
Name Mat Ambuchan	Address 3457 Federal Blvd Denver CO 80211

Signature 	Date 5/12/2021
Name Kris A. Proctor	Address 3041 W. 34th Ave Denver CO 80211

**From:** [Michelle Evans](#)  
**To:** [Van Hooser, James - CPD CE0429 City Planner Senior](#)  
**Subject:** [EXTERNAL] Dentist office at 3300 Irving street  
**Date:** Tuesday, May 25, 2021 8:56:27 PM

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Dear Mr Vanhooser,

Being a home owner near the dentist office on 3300 Irving Street and 34th Ave my husband and I, along with our fellow neighbors, are very concerned about the rezoning efforts to allow a drive-thru. I know there's been a petition signed by our neighbors that we weren't able to sign (out of town) so we wanted to make sure our voices were heard as well.

Allowing a drive-thru would significantly impact bikers and pedestrians. Given the property is on a tight blind corner with one lane of traffic going each direction, a drive-thru could not only cause traffic back-ups but the blind corner makes it very dangerous. After two recent fatal crashes in the neighborhood, there is currently a neighborhood effort to increase transportation safety in this area. Which a drive-thru at that location would be working against those efforts.

The city has already made strides to improve pedestrian and bicycling priorities, including by redesigning the intersection at 35th and Irving. Installing a drive-thru in the middle of a city pedestrian and bicycling priority areas would actively constrain city efforts.

West Highland is designated as a low-residential area, which “consists predominately of single and two-unit uses on smaller lots. Some civic and institutional uses are compatibly integrated throughout and limited mixed-use can occur along arterial and collector streets, as well as where commercial uses have been already established” The Dentist office is NOT on an arterial road.

West Highlands is designated as a low residential area with some local corridors that should promote “active frontages and an intimate, pedestrian scale” with “low intensity that easily integrates into the neighborhood.” “pedestrian priority areas are typical and cyclists have access through high and medium use of bicycle facilities and local streets.” A drive-thru would not comply with the city plan to introduce active frontages with an intimate pedestrian scale.

There would also be increased traffic on 34th Ave. As Federal Blvd is only a couple blocks away a drive-thru would cause increased traffic on 34th as an additional route traffic would use to access it. This is a quiet residential neighborhood with children that play in the front yards, heavy foot traffic, bicyclists and people out walking their dogs. Turning 34th ave into a busy thoroughway would disrupt the neighborhood and would increase the risks to pedestrians. Also to note in the neighborhood there are signs that say no idling vehicles and a drive-thru would work against those efforts for less emissions for the neighborhood and near by park.

I sincerely hope you take these concerns seriously and will not allow the zoning change (drive-thru) to pass so we can keep our neighborhood safe and pedestrian friendly.

Thank you,  
Michelle and Byron Evans  
3137 W 34th Ave

[Sent from Yahoo Mail on Android](#)

**From:** [Mary Francis](#)  
**To:** [Van Hooser, James - CPD CE0429 City Planner Senior](#)  
**Cc:** [Sandoval, Amanda P. - CC Member District 1 Denver City Council; kniechatlarge; Deborah Ortega - Councilwoman At Large](#)  
**Subject:** [EXTERNAL] Rezoning concern: 3300 Irving Street  
**Date:** Friday, June 4, 2021 6:36:18 AM

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Hi James,

I would like to submit the below comment for the rezoning request for 3300 Irving Street.

The rezoning request is cause for serious concern. If approved, the property would be authorized for a drive-thru, which would cause significant negative repercussions in my residential neighborhood.

**Safety concern:** The property is on a blind corner, just as Speer Blvd zigzags into Irving street. It is already a relatively dangerous intersection that the city has proactively taken efforts to make safer, including by installing a street light and a nearby cement barrier. A drive-thru in this area would be incredibly dangerous and, with one lane traffic, has the potential to create significant traffic back up around the blind corner where Speer transitions into Irving.

**City planning concern:** The property is in the middle of the city's "pedestrian priority zone" and the city has active plans to make the property and surrounding two blocks more pedestrian friendly. One block away is the city's priority bike zone, which the city has already invested resources to support, including by installing a bike and pedestrian friendly roundabout this year. Allowing a drive-thru on the property would actively contradict the city's plan for the area.

**Neighborhood character concern:** The property is entirely surrounded, by blocks on each side, with residences. It is in the middle of a residential neighborhood. The property was formerly a church and was granted permission to be turned into a dentist office. Rezoning the dentist office into a commercial property would turn what has always been a property that has provided the community a service (church, healthcare) into a commercial center. This is a change my community is willing to accept. However, permitting a drive-thru would significantly impact the character of the neighborhood, would impact children's ability to play in the neighborhood, and would bring in unwarranted noise and traffic. Permitting a drive-thru in a residential neighborhood would support commercial profit over the benefit of the residents.

Through the petition process for this property I have spoken to nearly 50 of my close neighbors. While most agree a commercial property would be fine, even welcome, 100% expressed dismay at the thought of a drive-thru being put into the neighborhood.

Regards,  
Mary Francis

**From:** [Matthew Horn](#)  
**To:** [Sandoval, Amanda P. - CC Member District 1 Denver City Council](#); [Grunditz, Naomi R. - CC City Council Aide District 1](#); [Van Hooser, James - CPD CE0429 City Planner Senior](#)  
**Subject:** [EXTERNAL] Concern regarding rezoning 3300 Irving  
**Date:** Wednesday, June 9, 2021 11:29:13 AM

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Hello Amanda and James! I hope you can spare a moment of your busy schedule to read this email.

I'm writing out of concern for plans to rezone 3300 Irving, 80210. I live directly diagonal from this property across the intersection (see attached photo). My neighbors and I are united in our request to reconsider the plans to re-zone this property.

I live with my partner, Collin, and our two dogs. We love our house and the neighborhood, but are concerned about the increasing traffic in the area, as well as safety, noise and pollution.

Our neighborhood has a significant number of families, small children and dogs. I am concerned for their safety given the increasing, high-speed vehicle traffic. Rezoning this to commercial property with allowance for drive-through will absolutely make this problem worse, increasing vehicle traffic and thereby endangering numerous pedestrians and children who frequently cross this intersection.

We are often woken up at night by cars, trucks, and motorcycles traveling well above the speed limit. Cars frequently make dangerous manoeuvres, honking at each other. This area should be a pedestrian priority zone.

I'd like to work together with you and my neighbors to address this problem. I understand this owner does not plan to build a drive-through. If that is the case, there is no need to use that zoning code.

Please reconsider your upcoming decision to rezone this property to either:

1. A zoning code which does not allow a drive through OR
2. Residential property

Thank you and I hope you have a wonderful day!

Matthew Horn  
3301 W 34th Ave, Denver, CO 80211

**From:** [Kris Proctor](#)  
**To:** [Van Hooser, James - CPD CE0429 City Planner Senior](#)  
**Subject:** [EXTERNAL] 3300 Irving  
**Date:** Thursday, June 10, 2021 9:15:06 AM

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I live at 3041 W 34th and walk past the property at 3300 Irving daily. The amount of traffic at that signal a bind turn in the road directly to the south of the building and a pedestrian bike friendly crossing directly to the north would make a drive thru completely unsafe in this residential neighborhood.

We have supported Denver's plans to promote safe pedestrian and biking in our neighborhood even when it means change access point to our house because a car can no longer turn on 35th going south off Irving. A potential drive thru even if the current owner says they will not develop it leaves it open to occurring in the future at no benefit to the neighborhood and no cost to the owner to rezone without that part in the zoning.

It feels like very poor planning for the city to be advocating to the public and marketing the city as safe for pedestrians and bicyclist and then grant zoning in areas that are in direct opposition to these ideas. You and the city must make decisions based on the ideas you promote and have the courage of convictions to follow through with them. Thank you for taking the time to think through this proposed rezoning.

Kris A. Proctor  
3041 W 34th Ave  
Denver CO 80211