

From: [Christine O'Connor](#)
To: [dence - City Council](#)
Cc: [Buchanan, Brad S. - CPD Office of the Manager](#); [Pyle, Michelle A. - Community Planning and Development](#)
Subject: Boulevard One Rezoning Applications
Date: Monday, August 25, 2014 9:11:42 AM

To: Denver City Council Members
From: Christine O'Connor
Date: August 25, 2014
Re: Three Lowry "rezonings" for Boulevard One

Good morning Councilmembers:

Tonight Council will be asked to approve waivers customizing three zone districts on a 72 acre parcel in Lowry. These are only the first three rezonings that will be brought forth on this parcel. I will not attend, but please accept this as my testimony for tonight. I am concerned that if Council approves these amendments, it could signal to developers in Areas of Change that waivers and conditions are back in the planning toolbox. We will be setting aside Peter Park's concerns about waivers and conditions^{<!--[if !supportFootnotes]-->[1]<!--[endif]-->} and forgetting Council's intent to avoid piecemeal rezoning.^{<!--[if !supportFootnotes]-->[2]<!--[endif]-->} I believe tonight's hearing raises questions about the Code enacted to bring predictability to zoning and to render unnecessary negotiated deals, waivers and conditions.

I request that Council discuss whether a desire for a more intense level of urban density (than available in the Code) provide grounds for Council to apply waivers and carve new zone districts in these Amendments..

If Council determines that it is appropriate to apply waivers, Council should also allow reconsider the requested waiver to change to parking requirements in the G-RH-3 district (a request for a waiver requiring two spaces per unit rather than one space that was denied at Planning Board because of CPD's desire not to alter the Code).

If Council approves de facto new zone districts, language should be included in the ordinances to the effect that these three zoning amendments "are being approved because there is not time to conduct a public remapping of the Lowry Area prior to zoning of Boulevard One, that Council does not want to hold up these developments, and that these zoning amendments will not be deemed to represent the existing contexts or densities on built Lowry and will not be applied going forward in any remapping process."

Discussion:

CPD Staff states this is a "case study" in imposing more urban forms on an area of "lower-intensity residential land uses such as single family or duplex" in an Area of Change. Staff states the forms available do not allow the owner Lowry Redevelopment Authority to match the Boulevard One development to the existing "legacy" Lowry. The Staff Report to Denver's

Planning Board further states that this might necessitate a change in the Code. Yet instead of going through a legislative remapping process with the Lowry community to determine appropriate contexts and districts (as the City did with most other areas in 2008-09) CDP is coming in the back door customizing three new zone districts through the use of “waivers.” [\[3\]](#)

The owner Lowry Redevelopment Authority has agreed to give up its obligations under U-SU-A, U-SU-B and G-RH3, and seeks to acquire new significantly less restrictive regulations increasing the footprint on each parcel. I understand the owner could not achieve the desired forms in any other zone district, but predictability means that land owners abide by the New Zoning Code designations. Remapping could have been undertaken to create a unique Lowry Zoning District (as suggested) or new zone districts could have been arrived at through a public process, which mirrored the process of remapping in other areas in 2008-09.

Please closely examine the waivers and new conditions. These waivers to the (New Code) G-RH-3 district, for example, include height increase from 30-40 feet, significant decreases in setbacks, eliminating 50% maximum lot coverage and reducing bulk plane requirements. Staff reasons that “legacy” (built) Lowry reflects these conditions. This argument is flawed, as LRA and its consultants and CPD staff are fully aware of the extensive R-1 areas on Lowry, areas with 15 or 20 foot setbacks (or greater!), the existence of front loading garages even in the newer northwest area, and many other areas that are not reflected in “legacy” examples chosen for Staff’s PowerPoint presentation. It should be noted that neither the Buckley Annex General Development Plan nor the GDP dictate this increase in the intensity of urban forms.

Is it Council's desire to set a precedent that means waivers will be available for any applicant in an Area of Change who desires “more urban forms” than the New Code offers? The discussion about precedent did not occur at LUTI, and I hope it is addressed tonight.[\[4\]](#)

If the custom zone districts find favor with Council, Council should also honor the requests of neighbors to modify the parking requirements in the third application. This waiver or condition to require two minimum parking spaces per unit rather than one was initially included in Owner’s application, but removed because CPD stated it would not approve this waiver. CPD does not want to “mess with” the New Zoning Code by changing parking regulations. Yet this is precisely what Council will be doing if it approves the applications – changing the code. Additionally, the Text Amendments just posted for CCN District alter the parking requirement from .75 parking spaces per unit to 1 parking space per unit in the Urban Center context. It can be done and is being done in Cherry Creek. It can be done here if Council approves other waivers. While it is true these parking recommendations are made in an addendum at the end of the new Boulevard One Design Guidelines, Council must recognize that administratively enforced guidelines do not have the binding effect of zoning.

Citizens on Lowry have expressed desire to plan to avoid overflow parking from under parked living units/rentals. Numerous public meetings and in letters and survey results from Crestmoor and Lowry RNOs. Council will see a long list of public meetings but will not be given the survey content, or the hundreds of comments and concerns that have been raised. To the best of my knowledge, only two waivers at issue today (namely removal of ADUs and inclusion of more stringent parking requirements) came from public input. (Other matters were addressed in public meetings but are not before you in the waivers and conditions.)

Lowry was removed from the citywide remapping process in 2009 because CPD found it was

too complicated to remap areas such as Lowry that had waivers and conditions. Remapping the omitted areas was to take place post enactment of the Code, but has not occurred, even though LUN raised the issue numerous times and the suggestion has been made that Lowry have its own zone code classification as CCN does.

Accordingly, we are long overdue for a public process to accomplish legislative remapping. The new zone districts you are being asked to vote on today should not inform any future effort to rezone areas omitted from the New Code, an effort that is still on CPD's "to do" list.

Thank you for wrestling with these complicated issues. I believe they will prove quite important to future stakeholders.

<!--[if !supportEndnotes]-->

<!--[endif]-->

<!--[if !supportFootnotes]-->[\[1\]](#)<!--[endif]--> "I was shocked when I first saw the code Denver was operating under. It was one of the most complicated codes I had ever seen, all negotiated on a transactional basis. That [approach] erodes what zoning does. There's no overall vision or plan." Peter Park in the Colorado Independent in 2009.

<!--[if !supportFootnotes]-->[\[2\]](#)<!--[endif]--> "[...] City Council has determined that the need to correct errors and respond to changing conditions [...] should not be done by piecemeal amendment, but by adoption of an entirely new zoning code and official map." Ordinance No. 333 enacting the New Zoning Code (emphasis added)

<!--[if !supportFootnotes]-->[\[3\]](#)<!--[endif]--> It is important to note the just filed amendments for the Cherry Creek North District. This legislative rezoning creates new districts through a long community wide process.

<!--[if !supportFootnotes]-->[\[4\]](#)<!--[endif]--> In June LUTI committee listened to Staff's summary. One councilmember then stated that staff had made its case for waivers, and another made a brief comment about sustainability. No one asked if Council should consider the precedent of waivers, whether crafting new zone districts in this fashion was appropriate, what the implications might be for future applicants etc. Similarly, there was no discussion about the request from residents for a parking waiver to be added to the third rezoning (G-RH-3).

From: [Lowry United Neighborhoods](#)
To: [Christine O'Connor](#)
Subject: Council hearing set for Aug. 25
Date: Monday, August 18, 2014 10:44:03 AM

Three Buckley areas to be rezoned Aug. 25 at City Council

Next Monday, Aug. 25, 2014, City Council will vote on the first three rezonings (two Single Family areas and one rowhouse/single family attached area) for Buckley. The rezonings can be found in the [Proposed Rezoning](#)s of Denver's Community Planning & Development department. (Scroll to April 10 applications at bottom of list.)

These first three rezoning applications (detailed in LUN's email dated May 27, 2014) went to Planning Board June 4, and public requests for 2 parking spaces per unit in the Rowhouse area were rejected. This summer, the applications went to the Land Use, Transportation & Infrastructure Committee (LUTI), a Council Committee charged with carefully examining impacts on transportation and infrastructure before the entire Council sees a rezoning.

The LUTI Committee (on which Mary Beth Susman sits and was present) held no discussion about:

- the precedent of creating new zone districts through the back door by using "waivers/conditions" (this would be first time City has applied waivers/conditions since the New Code except in a few PUDs which already had waivers/conditions)
- the request by area residents for a condition requiring two parking spaces per unit in the row house and single family attached area (see May 27 email for details).

Given Planning Board's decision, and LUTI committee's subsequent decision to move this forward without discussion of these matters, approval next Monday by full Council is certain. Similarly custom crafted zoning is likely to be forthcoming for the remaining areas of Buckley in the coming weeks. Those are the areas with 450 apartments and the commercial mixed use. The applications are not available at this time.

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