

**From:** [Nola Miguel](#)  
**To:** [dencc - City Council](#); [Levingston, Courtney L. - CPD City Planner Senior](#); [Jennings Golich, Jill R. - CPD CA1769 Executive](#); [Brooks, Albus - CC XA1404 Member Denver City Council](#); [Ortega, Deborah L. - CC Member Denver City Cncl](#); [Kniech, Robin L. - CC Member Denver City Cncl](#); [Espinoza, Rafael G. - CC Member Denver City Cncl](#); [Kashmann, Paul J. - CC Member Denver City Cncl](#); [Lopez, Paul D. - CC Member Denver City Cncl](#); [New, Wayne C. - CC Member Denver City Cncl](#); [Gilmore, Stacie M. - CC Member Denver City Cncl](#); [Herndon, Christopher J. - CC Member Denver City Cncl](#); [Flynn, Kevin J. - CC Member Denver City Cncl](#); [Black, Kendra A. - CC Member Denver City Cncl](#); [Susman, Mary Beth - CC Member Denver City Cncl](#); [Clark, Jolon M. - CC XA1405 President Denver City Council](#); [Aguilar, Irene - DEDO CA2309 Administrator III](#); [Sandos, Timothy M. - MO MA1785 Executive](#)  
**Cc:** [Sandra Ruiz](#); [Drew Dutcher](#); [Candi CdeBaca](#); [Jules Kelty](#); [Kayla Birdsong](#); [Jim Garcia](#); [Desiree Westlund](#); [Alma Urbano Torres](#); [Brea Zeise](#); [Rhea Oberst](#); [Lafferty, Heather](#); [Cindy](#); [Samantha Becker](#); [gcalder2](#); [Liliana Flores Amaro](#); [Thomas Scharfenberg](#); [Robin Reichardt](#); [Maria E. De Luna](#); [Virginia Calderon](#); [Laird Horigan](#); [Kaitlin Lucas](#); [carol.briggs@aol.com](#); [carranzajac8@hotmail.com](#); [Victoria Casillas](#); [Fahrberger, Brent J. - CC YA2246 City Council Aide Senior](#); [Aldretti, Susan K. - CC Senior City Council Aide](#); [Orrantia, Jesus M. - CC Senior City Council Aide](#); [Kyle, Polly A. - CC City Council Aide](#); [District 1 Comments](#); [Montoya, Chy - CC Senior City Council Aide](#)  
**Subject:** [EXTERNAL] Continuation of 2535 40th St. Letter and attachments FOR the PUBLIC RECORD  
**Date:** Monday, May 06, 2019 11:45:10 AM  
**Attachments:** [areas of change map from ESNP.pdf](#)  
[Blueprint Equity.pdf](#)  
[Blueprint displacement strategy \(1\).pdf](#)  
[40 Clayton housing ask.pdf](#)  
[40 Clayton--Health Impact Ask.pdf](#)  
[40 Clayton business and commercial ask.pdf](#)  
[Continuation GES letter for 2535 40th St rezone.pdf](#)  
[2535 40th St., letter to Council regarding rezoning proposal 3-31-19.pdf](#)  
[evidence attachments for 2535 40th St. rezone.pdf](#)



**5/5/2019**  
**Re: 2535 E. 40th St. rezone request**

Attachments: neighborhood “asks” to developers during the negotiation process, “area of change map” that was in previous evidence in the public record, excerpts from Comprehensive Plan 2040/BluePrint Denver, previous evidence and letter from the original hearing

Dear Denver City Council Members,

The GES Coalition, Unite North Metro Denver (RNO), The Elyria Swansea Neighborhood Association, Cross Community Coalition, and neighbors adjacent to the property in question decided collectively to oppose this rezone, due to the inequitable impact this development would have on neighbors, specifically worsening and quickening the displacement patterns that the City’s public investments in the 80216 area have exaggerated. GES Coalition committed to facilitate an equitable process, as much as possible in a short amount of time, that was open to all neighbors while centering the most vulnerable neighbors concerns around displacement. Overall, these organized groups and neighbors feel that keeping the I-A zoning would not accelerate displacement and could be beneficial in bringing jobs to the neighborhood. The collective decision stated that the neighbors are more confident in the City’s ability to protect neighbors health in the current I-A zoning, more so than their ability to protect neighbors in the I-MX-3 zoning without any mitigation of displacement caused by the development. Without deliberate and strong actions from the City and applicant that address property taxes, rising rents, and deeper/additional affordable units at this large site, it is the collective conclusion that this rezone proposal to I-MX-3 will worsen health and wellbeing in the neighborhood and set a dangerous precedent for the GES neighborhoods and across the City. At this point in time, the collective coalition of neighbors feel like it is critical that the City pay close attention to what GES neighbors, in particular the most vulnerable and impacted neighbors, say about this process and desired outcomes. As much as within your ability to lead and govern, we ask that you **consider the moral questions in this process as to how vulnerable neighbors are**

**being protected through this massive injection of public and private development in Globeville Elyria and Swansea neighborhoods**--composed of families of modest means who have built and held up this City over generations.

***Agreement process with the developer since the April 8th hearing***

The negotiation process the last month was generally civil and we appreciated the time and recognition from the applicant through this process. A breaking point, however for the neighborhood groups and representatives, was when the applicant did not show up at a “small group” meeting that the mediator had requested, and that neighborhood members had coordinated time away from work to be at. This action did not only lose momentum in a very short time-limited process but also lost faith from neighbors that the applicant indeed cared about this process or take/plan on taking the neighborhood seriously or respect neighborhood feedback in the future. Neighborhood feedback specifically included the feeling that both the developer and the City are “laughing at” our ability to influence this process; and generally it was felt that both the developer and City do not recognize/do not care about the impact that this project is multiplying as far as the displacement of neighbors surrounding the site.

- “Soft promises” were not enough, neighbors felt like they had no guarantees moving forward and that any of the asks that could address displacement would be followed through on. If negotiations don't come out well, what commitments do we have to deeper affordable, neighborhood preference affirmative marketing, additional affordable units, or mitigation of rising property taxes?
- The proposed “Displacement Impact fee” (a \$200/per market rate unit fee) was taken out of the agreement even as a consideration for having a “conversation around”.
- The agreement was written by the applicant, not by the mediator or in collaboration with the neighborhood participants. The neighborhood party was barely given time to edit what was presented by the applicant and were only able to get a couple extra statements or word changes in the final document.
- The “Community Benefits” that were offered by the developer that are taking a significant amount of capital were not identified nor asked for by the neighbors. The new things that were added in, per the asks of the neighborhood were very small and non-committal.
  - It is still unclear what the benefit to having Wonderbound in the neighborhood is, yet they are the beneficiary of the biggest benefit of this project
  - The community did not ask for community gardens, a cooperative space, or work-live units for artists--these were “benefits” identified by the applicant.
  - The neighborhood affirmative marketing plan for the 70 units, deeper affordability to match the need in the neighborhood, or selling of land to the GES CLT for permanent

affordable AND neighborhood accountability are only given as considerations.

- o Additional affordable units were never considered.
- o The “sharing of the traffic study” is the first step to what we hoped would be a comprehensive evaluation of traffic and construction impacts in the area that would also include the City during this critically construction heavy time (no response from a request to NDCC specifically to lead this) and would include action points to reduce impact to neighbors.

***Collective process organized between a coalition of neighbors and neighborhood organizations***

The collective process that was organized between neighbors and GES Coalition, Project Voyce, and three neighborhood RNO's after the April 8th hearing started with the formation of a mediation group. A diverse group of 18 neighbors attended two mediation meetings with the developer and the mediator at Bruce Randolph school. This group (and all groups after) included a balanced mix of youth and elderly, renters and homeowners, English speakers and Spanish speakers, low-income and middle-income earners, and new arrivals to the neighborhood and neighbors who have been here for generations. About half of the 18 neighbor participants live within 200 feet of 2535 E. 40th Ave. Following these two meetings, a smaller group of 3 neighbors was organized as the mediation group, which included one neighbor who lives across the street from 2535 E. 40th Ave, one neighbor from GES Coalition, and one neighbor from an RNO. During this month of negotiation, neighbors simultaneously organized to knock on doors of all homes within 500 feet of 2535 E. 40th Ave on three different occasions. The first time knocking on doors was to give an update on the April 8th City Council Public Hearing, the second time to invite neighbors to the negotiations with the developer, and the third time knocking on doors was to invite neighbors to a Community Reporting about the Good Neighbor Agreement offered by the developer, which was held on May 2nd. All neighbors within 500 feet of 2535 E. 40th Ave were invited to participate in this community reporting and vote. A diverse group of 30 neighbors attended the Community Reporting on May 2nd, and included representation and membership from three Elyria-Swansea RNOs. GES Coalition provided language interpretation, child care, meeting space, and dinner. This Community Reporting meeting was spent reviewing the offer from the developer in the context of the neighborhood plan, and hearing diverse neighbors share diverse opinions about the offer from the developer and the overall proposal to change the zoning of the property. At 9pm, a motion was raised to not sign the offer from the developer, and to not support the zoning change at 2535 E. 40th Ave. The motion passed with 12 votes to not sign/support, 7 votes to sign/support, and 4 votes that abstained. (Six neighbors had to leave the meeting before the motion was called, nearly 1.5 hours after the meeting was scheduled to end.) GES Coalition's role in the community organizing and collective process has been to provide an organizing platform for neighbors who are interested in getting involved around equitable development. GES Coalition also provides analysis and reporting to neighbors on issues related to equitable development, and provides resources that make it possible for neighbors to attend these collective meetings. Since the April 8th hearing, more than 75 unique and diverse Elyria-Swansea neighbors joined the collective process about the proposed zoning change of 2535 E. 40th Ave, and nearly half of these neighbors live within 4 blocks of the site.

***Ongoing Concerns from neighbors, and neighborhood groups***

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The precedent that is set from this case could encourage similar private development in the area without commitment to equitable development; diverse neighbors are concerned of the cascade effect (see areas of change map attached and in the previous report in the public record) that could happen, in particular in GES where there is a major transition of industrial properties that could transition to IMX3 if text amendments and process changes are not implemented immediately. GES, and other vulnerable neighborhoods urgently need an equity implementation overlay that would inform large rezones and development efforts.

- From dis-investment in GES to hyper-multi-billion dollar public investment, is now driving private investment. This rate of investment does not allow neighbors to catch up with it and is harmful to the most vulnerable neighbors.
- Failure of the City-- our City let us down in this process, and showed an utter breakdown in communication between departments and efforts. Our ongoing communication (over the last 4 years) with the City about equitable development seemed to have no relevance when it actually came to private development in Swansea. Neighbors feel "sold off" by the City and do not feel protected by the City. The utter lack of trust in the City's ability to protect and defend vulnerable neighbors is a major factor in this decision.
- Neighbors in GES described this as a "lose-lose" situation. When properties are sold to the highest bidder, the neighborhood having any "wins" feels like the last consideration.
- Neighbors are expected to participate without compensation for their ideas or contributions as neighbors are treated as an obstacle, not a resource.
- Ongoing lack of an inequitable process-- is Council willing to continue to accept unresolved proposals in GES that lack equitable process and lack outcomes that the neighborhood actually contributed to or agree with? Globeville had a similar experience of feeling a lack of process and input on decisions made in their neighborhood, mostly due to a lack of equitable process. **What is going to break this pattern of lack of respect for neighborhood voices?**

**Reiteration of rezoning criteria and values in the new *Comprehensive Plan 2040* and *BluePrint Denver* adopted 2 weeks ago**

- Considering Public Health, safety and wellbeing of neighbors please deeply reflect on the impacts of involuntary displacement. In the original packet submitted to the public record by GES Coalition, the case was clearly made for the dangers of health and well-being without addressing the displacement this market rate housing project could accelerate. As stated in the *Human Impact Partners* article in the record, "*Community residents who experience financial strain and/or displacement, may experience a wide variety of chronic stress-related physical and mental illnesses, including anxiety, depression, hypertension, heart disease, obesity, diabetes, and sleep disorders. Additional constraints on health-protecting resources and exposure to health-damaging environments such as substandard and overcrowded housing could further contribute to a variety of negative health outcomes. Disruption of social networks can lead to additional health challenges, including exposure to fragmented social environments*



*that have higher rates of violence and sexually transmitted diseases.”*

- Consistent regulations for this zoning-- neighbors are concerned about the precedent for this in “areas of change” in the ES Neighborhood Plan. Half of the land in E-S could potentially be in this same category and without equitable development protections, the neighborhood will continue to face unchecked and unmitigated displacement pressures.
- Consistency with neighborhood plans-- as stated previously, while this zoning may match the zoning map, countless other parts of the E-S neighborhood plan were not considered in this process and the zoning map should only be applied in relation to the other parts of the plan as well. Including but not limited to the need for a large development planning process with neighbors.
- Circumstances in the neighborhood--please consider the circumstances of massive amounts of construction, traffic and influx of public and private investment. These circumstances merit equitable development.
- Neighborhood context-- this is the first private development ever done in the Swansea neighborhood of this scale. The neighborhood is a single family home context and all recent rezones have had extensive community involvement and commitment to affordability.
- IMX3 zone district purpose and intent is to buffer residential from industrial uses, yet this zoning could actually prevent this protection with a lack of buffering for incoming residents from the trains, and being limited to 3 stories only.
- In the new Comprehensive Plan 2040, how will private developments actually be incentivized to do significant affordability or work in a shared vision with the neighborhood? When will suggested text amendments to the code be changed and how can we address this case, now? Are we currently unable to influence private development toward truly equitable outcomes? That is a dangerous precedent right now in Denver. It seems like the wrong questions and considering the wrong criteria if equity is not a real consideration.
- What does “equity” really mean? Is 10% affordable at 60% AMI “equitable” in a neighborhood that is 88% 30-50% AMI? Is telling neighbors what is beneficial to them “equity”? Is a lack of commitment from the City to address the concerns around property taxes, deeper affordability or rising rents “equitable” as more and more vulnerable neighbors are displaced?
- The values and statements in the 3 year Denveright process reflects Denver's moral compass--where is the “**deliberate action**” and “**extensive coordination**” to address involuntary displacement from the City in this circumstance?

Denveright Blueprint Denver, Vision for an inclusive Denver 2.2 “Using these \*(equity) concepts to guide implementation will require extensive coordination among city departments. For example, to ensure new city investments or regulatory changes address the needs of areas vulnerable to displacement, city departments leading capital projects must work in lockstep with city departments offering programs to mitigate involuntary displacement.” ...“Mitigating involuntary displacement means **deliberate action** to keep current residents and businesses in place and providing equitable access to the benefits of economic growth for all residents and business owners.” (GES are the areas most vulnerable to displacement in the City)

We appreciate your careful consideration of these points and ongoing commitment to the neighbors in GES moving forward.

Sincerely,

The Globeville Elyria Swansea Coalition, Organizing for Health and Housing Justice, its cooperative board, resident members, and staff

On Mon, Apr 1, 2019 at 10:11 AM Nola Miguel <[nola@gescoalition.com](mailto:nola@gescoalition.com)> wrote:

Dear Denver City Council Members,

Please see the attached letter and packet of supporting documents that we are submitting **to be part of the public record** for the proposed rezone at 2535 40th St. in the Swansea neighborhood.

It is the GES Coalition's position to “approve the I-MX-3 rezone **with Conditions**” for the proposal at 2535 40th St.. The following are the **conditions** that we would like to see attached to this rezone regardless of the owner: 1.) A Community Benefits Agreement is developed and signed with the GES Coalition and at least 1 Elyria Swansea Registered Neighborhood Organization and the developer before the Site Development Plan is approved by the City (see outline of sample agreement in attachments) 2.) A full traffic/construction impact analysis reported on to the neighborhood before any construction is started on the site 3.) A “transformative project” process that includes an “anti-displacement action plan” in the neighborhood, led by the City, completed before Site Development Plan is approved to inform the site plan and design.

If adding these conditions is not possible, we feel the proposed I-MX-3 zoning would be harmful to the neighborhood and would ask that you do not approve of this change in the zoning code. Since we do not yet seen the "development agreement" with the City or any type of movement on an MOU; this is our best judgement as to a compromise that will give the neighborhood some confidences moving forward.

We would appreciate confirmation that this will indeed be added to the public record.

Thanks for your attention to this issue,

Nola

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