

TO: Denver City Council
FROM: Denver Planning Board
DATE: May 17, 2023
RE: Legislative Map Amendment 2022I-00261

Documentation of Deliberations

On May 3, 2023 the Denver Planning Board held a public hearing on the proposed Legislative Map Amendment for multiple locations in the University Hills neighborhood. The Planning Board recommended by a vote of 8-1 that City Council deny the proposed map amendment, citing plan consistency concerns with several components of the proposal.

While the Board was not able to recommend for approval the proposal as it was presented (specific concerns are detailed below), members expressed their anticipation and belief that the applicant, Councilwoman Black, would be able to work with staff, affected property owners and the community to address the Board's concerns prior to the scheduled City Council public hearing.

The Board's specific concerns were:

- 1) The councilmember proposes to rezone the properties at 4101 and 4301 East Evans Avenue to C-MX-16, rather than C-MX-20 as the adjacent properties are currently zoned. Blueprint Denver includes these properties in the Regional Center designation of the adjacent properties, as does the recently approved (but not yet adopted) Near Southeast Area Plan. The Board noted that these properties were recommended in the Near Southeast Area Plan to have a maximum base height of 20 stories, and a maximum EHA incentive height of 30 stories.

In testimony, it was stated that a 16-story district was proposed to ensure that the incentive heights as allowed through the recently approved Expanding Housing Affordability text amendment (EHA) would not exceed 20 stories. The Board found that this was in direct contradiction with the specific plan guidance for these sites and the more general plan guidance that "future base height guidance" specifically references the base height and that any height incentives should be in addition to the base height. Accordingly, the Board found that this proposed zone district was not consistent with plan guidance.

- 2) The councilmember proposes to rezone 5307 East Yale Avenue to S-MX-5A. Similarly to the above-referenced properties on East Evans Avenue, this parcel is recommended in the Near Southeast Area Plan for a maximum base height of eight stories, and a maximum EHA incentive height of 12 stories. In testimony, a similar explanation to point 1 above was given for the proposal to rezone this parcel to five stories rather than eight. For the same reasons as the East Evans properties, the Board found that this proposed zone district was not consistent with plan guidance.
- 3) Finally, the councilmember proposes to rezone properties at 4640, 4700 and 4770 E Iliff Avenue from their current CMP-H (Campus-Healthcare) to S-MU-3 (a three-story multiunit residential district). The stated intent of this proposal was to implement Near Southeast Area Plan recommendations for Low Medium Residential at this location, transitioning from taller development closer to Colorado Station to the north toward the lower scale single-unit development and school to the south. During the Planning Board's April 19 review and approval of the Near Southeast Area Plan, the board recommended changing the Future Neighborhood Context at this location from Suburban (S) to General Urban (G). In response to this change to the Area Plan, and after further consideration of existing uses on the site, the councilmember asked board members to recommend a modification to rezone instead to G-RO-3, a multi-unit residential district that also allows limited office and clinic uses, which are currently established on these properties.

During the hearing, the board heard testimony from owners of these properties and community members expressing concern that the proposed zoning may limit redevelopment opportunities and the ability to expand an existing affordable healthcare clinic to offer additional services. Testimony from some property owners and community members who spoke in support of the existing clinic indicated a lack of understanding of the proposal. Testimony from the applicant was that the required amount of notice for a rezoning was provided.

While board members generally agreed with the concept of height transitions, they expressed concern that the evidence presented regarding effective outreach for this sub-area of the rezoning package was not consistent with equity principles in Blueprint and Comp Plan, which identifies that achieving equity may require not treating every person or place exactly the same.

Board members recommended additional dialogue to balance the objectives of property owners, residents of the surrounding community and other stakeholders, improve understanding of the proposed zone district and its consequence for current and future uses, and to explore alternative zone districts that would still be consistent with Near Southeast Area Plan guidance while allowing the property owner opportunities for a mix of uses. After discussing several ways to potentially provide that additional time, the board moved a recommendation of denial forward so that dialogue could continue while the map amendment proceeds on its current

schedule, and so that the current City Council could act on it before the end of their term later this summer.

As confirmed by the City Attorney's Office during the meeting, Planning Board is limited to making a recommendation regarding the rezoning proposal as received. Planning Board does not have the ability to recommend approval conditional on changing the proposed zone districts to different zone districts than the proposal presented by the applicant. Planning Board does also not have the ability to recommend approval for some sub-areas of a proposal while recommending denial of other sub-areas. This limited latitude was an essential element in the Board's ultimate motion.

The Board wishes to make clear its support for and belief in the importance of legislative map amendments as a follow-up to the neighborhood planning process. The board recommends early outreach with affected property owners to ensure that potential impacts on current and future uses of those properties are well understood by all parties before moving such map amendments forward to Planning Board and City Council.