Planning Board Documentation of Deliberations

To: Denver City Council
From: Denver Planning Board
Date: August 7, 2024
RE: Map Amendment 2023I-00202, Rezoning 3821-3897 N Steele Street and 3800-3840 York Street (York Street Yards)

Deliberation

On May 15, 2024, the Denver Planning Board held a public hearing on the above-referenced map amendment. The Denver Department of Community Planning and Development (CPD) recommended approval of the rezoning application with the condition that the application be amended to include a waiver that limits the residential uses to a maximum of 70% of the total gross floor area of the site. The intent of the waiver was to ensure that the site continues to have a mix of uses that support employment, as recommended in adopted plans. The waiver would be applied to the area proposed to be rezoned to I-MX-5.

The Planning Board voted unanimously (7-0) to recommend approval of the application as submitted without the staff recommended condition.

The Planning Board had an extensive discussion, including several questions of staff and the applicant. Some members expressed agreement with the intention to ensure the site has a continued mix of uses in the future. However, several members were concerned with implementation of the preliminary waiver language as proposed and/or the use of a waiver in general. Key points of concern included:

1. **Precedent and Monitoring Challenges**: The suggested approach for an I-MX waiver is not used anywhere else in the City and staff had not identified a mechanism for monitoring the residential Gross Floor Area (GFA) across multiple buildings and owners. It also may create financing complications for current and future owners due to shifting and unclear entitlements.
2. **Notification to Future Buyers**: It is unclear how future buyers would know that there are limitations on their I-MX-5 zoning for the site. If the land is ever subdivided, there is no plan for recording the shifting availability of the 70% GFA residential allowance between the different properties. There is also no clear way to determine at what point in time (sale, concept submittal, SDP, full entitlement, full build-out,) a use of the residential quota would be locked in.
3. **Affordable Housing Finance**: The ambiguity around what the allowed uses are on a site may be a barrier to affordable housing finance tools.
4. **Future Text Amendment**: It is our understanding that CPD would like to develop a text amendment for the I-MX zone district to promote a better mix of residential and light industrial uses and prevent these I-MX zones from being developed as 100% residential. CPD's recommended waiver provides a stop-gap measure before the I-MX standards are adjusted. Assuming this text amendment is approved in the future by City Council, if these properties

were rezoned with CPD's recommended waiver, a rezoning would be needed to remove the waiver. This seems to be an undue burden on the applicant based on the unfortunate timing of their application.

5. **Timeline for Future Text Amendment**: There is no clear timeline for the future text amendment to promote a better mix of residential and light industrial uses. CPD staff indicated that this was not scheduled within their current work program. Staff did not seem confident that this waiver would be applied to all future I-MX rezoning requests between now and the planned text amendment to the I-MX zone designation. This furthers the board's perception that this waiver is an undue burden on the applicant.
6. **Current Use and Plan Guidance** : Based on current leases and investment in tenant improvements along with representations by the property owner at the Planning Board hearing, there is no indication that the existing buildings would be redeveloped in the near future. The Blueprint and small area plan guidance recommend mixed uses which is consistent with the I-MX-5 district Additionally, this property is not in the identified manufacturing preservation areas in Blueprint Denver where prohibiting residential to preserve existing industrial is recommended.
7. **Height Guidance Conflict**: The Planning Board also discussed the conflict in height guidance between the Elyria & Swansea Neighborhood Plans (3 stories) and Blueprint Denver (5 stories). The Board ultimately deferred to the 5 story recommendation from Blueprint Denver based on the perceived lack of engagement of Clayton residents in the development of the Elyria & Swansea Plan, the fact that Blueprint Denver came later in time, the change in neighborhood context since the adoption of both Plans due to the City's investment in the 39th Avenue Greenway, and the full-throated support for the rezoning from the Clayton community.
8. **Community Support**: The Clayton Registered Neighborhood Organization (RNO) sent a letter of support for this rezoning along with various other community members and, at the time of the Planning Board hearing, there had been no letters or comments in opposition to the rezoning.
9. **Preservation:** Planning Board responded to staff concerns around potential demolition of the York Street Yards by recognizing additional tools in the city's toolbox for addressing demolition should that be proposed at a future date.
10. **Remit of the Board**: Our understanding of our remit is to evaluate the compliance of the rezoning with adopted plans, independent of which of the allowed use types will eventually be developed at the properties under the zone district.

The Planning Board unanimously recommended that City Council approve the proposed rezoning, without the condition of the 70% residential use waiver, to ensure clarity and fairness for the applicant and other applicants in similar situations seeking an I-MX rezoning and in recognition of consistency with adopted plans and support from the community.