Planning Board Comments

Submitted on	18 September 2024, 10:18AM
Receipt number	704
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Your information

Name	Same Green
Address or neighborhood	Hale
ZIP code	80220
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Agenda item you are commenting on

Rezoning

Rezoning

Address of rezoning	1401 North Fairfax Street
Case number	2022I-00162

Draft plan

Plan area or neighborhood

Proposed text amendment

Project name

Historic district application

Name of proposed historic district

Comprehensive Sign Plan

Address of comprehensive sign plan

Case number

DURA Renewal Plan

Address of renewal project

Name of project

Other

Name of project your would like to comment on

Submit your comments

Would you like to express support or opposition to the project?	Strong opposition
Your comment:	The proposed rezoning of 1401 N Fairfax St from U-TU-C to U-RH-3A would have significant negative impacts on the character and integrity of the Hale neighborhood. Furthermore, the application raises concerns about the owner's intentions and adherence to city regulations. 1. Misrepresentation and Deceptive Intentions The application misleadingly treats the property at 1401 Fairfax St and the adjacent side yard at 1421 Fairfax St as separate entities. In reality, these parcels are part of a single property. This misrepresentation suggests a deliberate attempt to exploit the rezoning process to facilitate a future division and sale of the property, circumventing previous city denials. By labeling the attached side yard as a "vacant lot," the application obscures the true intentions behind this request. Key Issues: • Both the main property and the side yard are currently listed for sale separately, indicating an intent to divide and sell post-rezoning. (Property listings: https://uniqueprop.com/view-listings/?propertyId=1387151-sale&safari-private=false & https://uniqueprop.com/view-listings/?propertyId=1372168-sale&safari-private=false) • The owners have previously attempted to subdivide the property but were denied due to concerns about maintaining neighborhood consistency. This application appears to be a strategic maneuver to bypass those denials. • The application treats 1401 Fairfax (building) and 1421 Fairfax (side yard) as separate entities, despite them being a single property. This raises concerns about the true intent of the rezoning, which appears to be a tactic to ultimately divide the lot – something previously denied by the city. • Past attempts by the owners to split the property and recent property listings advertising the side yard as a potential building site further support this suspicion. 2. Incompatibility with Denver's Planning Goals The Proposed Rezoning Fails Every Established Criteria: • Denver Comprehensive Plan 2040: This high-density development would drastically alter Hale's primarily low-density character, undermining the plan's goals of preserving neighborhood authenticity. • Infill Development: The plan promotes development where

infrastructure is sufficient. Rezoning to U-RH-3A would increase density beyond what the existing infrastructure can support. Furthermore, dividing the lot and rezoning only a portion of the property would create a new development in a neighborhood that is already relatively developed straining services and contributing to urban sprawl.
• Blueprint Denver: This rezoning contradicts the goals of Blueprint Denver by introducing higher-density development that disrupts the Urban Neighborhood Context and designated Low Residential future place.
• Urban Neighborhood Context: The property is situated in a context characterized by low-scale, multi-unit buildings embedded within single-unit residential areas. The proposed increase in density would significantly alter this established environment.
• Low Residential Future Place: This area is designated for a mix of single- and two-unit uses. The rezoning to a higher density does not align with this intended use, undermining the neighborhood's existing character.
• Neighborhood Compatibility: The plan emphasizes development consistent with current neighborhood patterns. The proposed U-RH-3A zoning introduces high-density development that disrupts the existing low-density character.
• Historical and Community Assets: The side yard at 1421 Fairfax has been a vital green space and historical element for nearly 100 years. The rezoning threatens this asset, contrary to the plan's intent to preserve such features.
• The East Area Plan: Emphasizes the preservation of neighborhood context, and historic buildings ensuring that new developments enhance rather than detract from existing conditions (Section 4, pages 10-15). The proposed rezoning fails to align with these criteria:
o Preservation of Historical and Community Assets: The plan advocates for the protection of historical structures and community assets. The side yard at 1421 Fairfax St, an integral part of the same property as 1401 Fairfax St, has served as a vital green space and historical element for nearly 100 years. The rezoning proposal threatens to undermine this asset, contradicting the plan's intent to preserve such features.
o Consistency with Local Context: The East Area Plan stresses the importance of new developments being consistent with local context. The shift to U-RH-3A introduces higher density that disrupts the established residential character, conflicting with the plan's goal of maintaining neighborhood consistency.

2. Creates Inconsistent Regulations Citywide:
Granting this application sets a troubling precedent and creates a zoning patchwork within the neighborhood. This inconsistency would make future development planning chaotic and threaten the neighborhood's established character (Article 12.4.10, Denver Zoning Code).
• Parcel Misclassification: The application erroneously classifies the adjacent lot (1421 Fairfax St) as "vacant". This misclassification undermines the historical and current use of the property and sets a dangerous precedent for partial rezoning that can circumvent past city denials (Denver Zoning Code, Section 12.4.10.2).
• Evasion of Regulations: The property owners' history of attempting to divide the property and recent property lot listings suggest this rezoning is a strategy to bypass previous denials and regulations, setting a concerning precedent for regulatory evasion.
3. Detrimental to Public Health, Safety, and Welfare:
• Traffic Congestion and Infrastructure Strain: Increased density is likely to exacerbate existing traffic issues on local streets. The strain on essential infrastructure like water, sewer, and emergency services can also be significant, impacting overall quality of life.
• Loss of Green Space: The side yard attached to the 1401 Fairfax building provides valuable green space provides valuable green space within the neighborhood. Eliminating it would decrease the overall quality of life and contribute to the urban heat island effect.
• Public Health and Infrastructure Strain: Increased density from the rezoning could lead to traffic congestion, strain on local infrastructure, and decreased property values. The proposal dose not provide adequate measures to address these impacts (Denver Comprehensive Plan 2040,

Chapter 4, page 95).
• Community Well-being: The rezoning would likely harm the overall well-being of the community by altering its character and potentially displacing residents.

4. Lack of Justifying Circumstances:
• Legal Establishment of the 8th Unit: If the intent is to legalize the 8th unit, a variance or zoning adjustment should be pursued under the current regulations as directed by the BOARD OF ADJUSTMENT ZONING APPEALS on April 12, 2022. The proposed rezoning does not address this process and undermines the established zoning framework.
• Previous Applications: The property owners have previously attempted to split the property and have been denied multiple times. The current application appears to be an attempt to bypass these denials by rezoning only a portion of the property, which does not present a new or compelling justification for the change.
• Community Needs: The application does not adequately address specific community needs or demonstrate how the rezoning would address gaps in housing supply in a way that aligns with the broader planning goals of Denver.
• No Compelling Reasons: The applicant has failed to provide compelling circumstances that warrant the rezoning. The proposed changes would not address any significant public interest or benefit.

5. Incompatible with Neighborhood Context and Zoning Intent
• Historic and Community Impact: The side yard (1421 Fairfax St) is an integral part of the property's historical context and community value. Rezoning threatens to undermine this context, altering the neighborhood's established character.
• Preservation of Neighborhood Character: The U-TU-C district is designed to support multi-unit residential development while maintaining neighborhood scale. Rezoning to U-RH-3A would introduce higher density that is inconsistent with the existing neighborhood context and scale.
• Neighborhood Context: Rezoning to U-RH-3A conflicts with the low-density, residential nature of the Hale neighborhood and the intended purpose of the U-TU-C district, which is to maintain neighborhood integrity (Denver Zoning Code, Section 12.4.10.5).
• Historical Value and Community Impact: The side yard (1421 Fairfax) has been a part of the property for nearly 100 years, contributing to the neighborhood's character and providing valuable green space. The rezoning undermines this historical context and community asset.

Precedent and Past City Decisions
The property, encompassing both 1401 and 1421 N Fairfax St, has been a significant part of the Hale neighborhood for nearly a century. The side yard at 1421 Fairfax St, far from being a "vacant lot", is an integral component of the property, provides valuable green space in a densely populated urban area, and has historically contributed to the neighborhood's aesthetic and environmental quality. According to Denver Zoning Code Section 12.4.10, which emphasizes the preservation of structures and features that contribute to the established character of an area, rezoning this property, or a partial area of this property, to facilitate a future lot split would be contrary to the goal of preserving neighborhood character.

Historical Context and Zoning Consistency
• Legally Established Use and Historical Precedents: The property at 1401 N Fairfax St. has a well-documented zoning history. The Zoning Administrator's decision of April 12, 2022, confirmed that the legally established use on the property is a 7-unit multi-unit dwelling, as determined by a variance granted in 1937 and subsequent zoning decisions. This decision was based on substantial evidence and was upheld by the Board of Adjustment.

If you have an additional document or image that you would like to add to your comment, you may upload it below. Files may not be larger than 5MB.

1401 Fairfax.pdf
1401 NORTH FAIRFAX STREET_zoning research_7.27.20 (1).pdf
1401 N. Fairfax St. CPD Final Use Desicion 2022.pdf