Community Planning and Development
Planning Services

201 W. Colfax Ave., Dept. 205
Denver, CO 80202
p: 720.865.2915
f: 720.865.3052
www.denvergov.org/CPD

TO: Denver City Council
FROM: Courtland Hyser, AICP, Senior City Planner
DATE: April 21, 2016
RE: Denver Zoning Code – Text Amendment #7 to revise the Airport Influence Overlay (AIO) Zone District

I. CPD Recommendation

Based on the review criteria for a text amendment stated in the Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), CPD staff recommends that City Council approve Denver Zoning Code Text Amendment # 7 to revise the Airport Influence Overlay (AIO) zone district.

II. Summary and Purpose

Sponsor

Councilwoman Stacie Gilmore, Council District 11, initiated this text amendment to the Denver Zoning Code to revise the Airport Influence Overlay (AIO) zone district.

Purpose

The proposed text amendment is intended to create more opportunities for housing to promote transit-oriented development near 61st & Peña Station, and continue reasonable protections for residential development in this area, consistent with current zoning waivers and conditions.

Current AIO Zone District

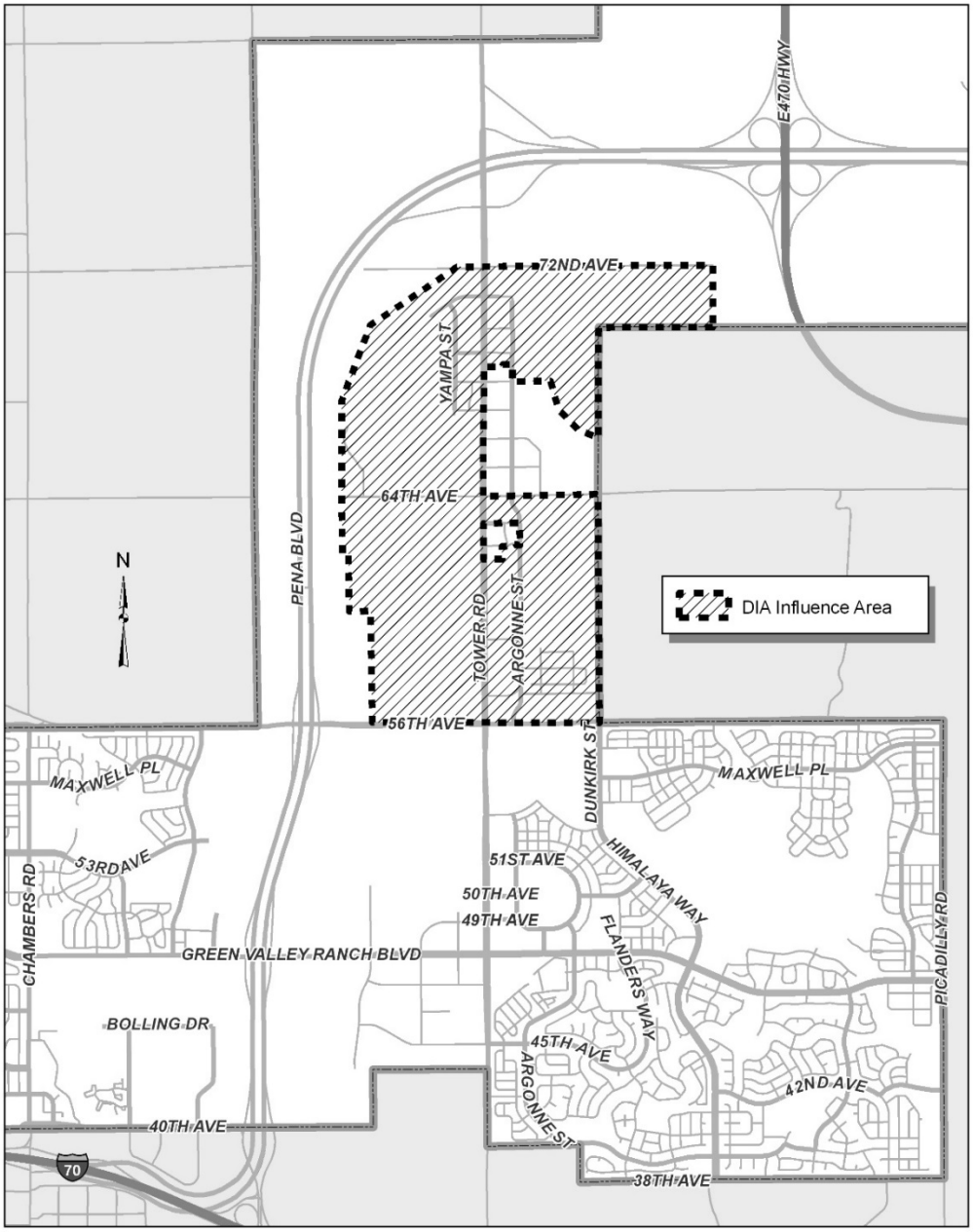
The AIO zone district is located north of 56th Avenue, east of Peña Blvd. It currently is of little effect because all properties in the area, except DIA-zoned land, retain Former Chapter 59 zoning. However, it will apply when properties rezone into the Denver Zoning Code.

Single and two-unit residential is currently prohibited in the entire AIO district and the text amendment does not change this prohibition. Multi-unit residential and similar uses are currently prohibited north of 62nd Avenue. Avigation easements are required concurrent with rezoning and site development plans.

Proposal

The proposed text amendment will amend the boundary where multi-unit residential and similar uses will be allowed, expanding two blocks north to 64th Avenue. In conjunction with this change, noise disclosure statements will also be required for residential development throughout the district. Changes to the language under which zoning permits, zoning permits with informational notice, and site development plans are referred to Denver International Airport are also proposed to clarify the time limit for the airport's review. Minor conforming amendments are proposed to clean up the affected sections of the code. See the attached proposed redline draft text amendment enclosed with this staff report.

Denver International Airport Influence Area



III. Public Process

Below is a summary of the public process for this text amendment.

October 29, 2015 Councilwoman Gilmore contacts CPD to initiate this text amendment.
December 5, 2015 Councilwoman Gilmore and CPD staff presented a summary of the amendment to Inter-Neighborhood Cooperation Zoning and Planning committee.

January 29, 2016	Draft of DZC text amendment posted to CPD website for public and City agency review; Email notice to all Registered Neighborhood Organizations (RNOs) and City Councilmembers, with link to redline draft and summary.
February 4, 2016	Council district office met with Montbello 20/20.
February 11, 2016	Council district office held a town hall meeting at which the councilwoman and CPD explained the proposed text amendment.
February 12, 2016	CPD and Aviation meeting with property owners throughout the AIO zone district to explain and hear comments on the proposed AIO text amendment and accompanying building code revisions.
February 16, 2016	Public notification sent for March 2, 2016, Planning Board Public hearing. Notice was emailed to all RNOs and City Councilmembers.
February 17, 2016	Council district office met with Green Valley Ranch Metro Board.
February 23, 2016	Council district office met with Next Gen Cabinet.
February 29, 2016	Council district office met with Green Valley Ranch Homeowners Association Board.
March 2, 2016	Planning Board public hearing.
March 16, 2016	Neighborhoods & Planning Committee meeting.
March 29, 2016	City Council first reading.
April 4, 2016	Public notification sent for April 25, 2016, City Council public hearing. Notice was emailed to all RNOs and City Councilmembers.
April 25, 2016	City Council public hearing.

As of the date of this staff report, one letter had been received in support of the proposed text amendment from Montbello 20/20, a registered neighborhood organization. One letter was received from an area property owner representative, Ferd Belz, in support of the proposed text amendment. The letters are attached to this staff report.

IV. Criteria for Review and CPD Staff Evaluation

Zoning text amendments are subject to the review criteria found in Section 12.4.11. Accordingly, CPD analyzed the proposed Denver Zoning Code text amendment #7 for compliance with the review criteria (restated below) and finds that the proposed text amendment meets each of the criteria.

1. <u>The proposed Text Amendment is Consistent with the City's Adopted Plans</u>

The Text Amendment is consistent with the City's following adopted plans:

A. *Comprehensive Plan 2000*
B. *Blueprint Denver* (2002)
C. *61st & Peña Station Area Plan* (2014)
D. *The Gateway Concept Plan* (1990)

A. Denver Comprehensive Plan 2000

The proposed text amendment is consistent with many objectives and strategies found in Comprehensive Plan 2000, including the following:

- Conserve land by:
  - Designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods.

    - Creating more density at transit nodes.
- Encourage mixed-use, transit-oriented development that makes effective use of existing transportation infrastructure, supports transit stations, increases transit patronage, reduces impact on the environment, and encourages vibrant urban centers and neighborhoods.
- Ensure that land-use policies and decisions support a variety of mobility choices including light rail, buses, paratransit, walking and bicycling, as well as convenient access for people with disabilities.

The proposed text amendment is consistent with the objectives and strategies of Comprehensive Plan 2000 as it allows a wider range of allowed uses, promoting the development of mixed-use communities, allowing more density in a transit-oriented development area, and allowing for a vibrant urban center to take shape.

B. Blueprint Denver – 2002

The proposed text amendment is consistent with many objectives and strategies found in Blueprint Denver – 2002.

Blueprint Denver states the following regarding the Gateway area:

> "The area south of 56th Avenue has the potential to be a mixed-use community providing essential services for the residential development in Gateway and the adjoining Green Valley Ranch and Montbello neighborhoods. North of 56th, much of the land is restricted to commercial use because of proximity to the airport. While much planning has been done to locate and design a grid of streets and to accommodate commuter rail to the airport, more planning is needed to direct development in the Gateway to meet the goals of Plan 2000. The Gateway Concept Plan has been adopted, but many of its concepts are outdated."

Blueprint Denver acknowledged the age of the Gateway Concept Plan, which was one reason the plan was replaced near the commuter rail station with the 61st & Peña Station Area Plan (described below).

The area affected by the change in allowed uses, between 62nd and 64th Avenues from Peña Boulevard to Dunkirk Street, is designated by Blueprint Denver as Transit-Oriented Development, Commercial Corridor, Mixed Use, or Open Space. The areas designated as Open Space have been set aside for that purpose in the 61st & Peña Station Area General Development Plan. The other Blueprint Denver concept land use designation areas all contemplate various intensities of mixed uses, all of which contemplate some degree of residential mixed with commercial uses.

The entire AIO zone district is an Area of Change in Blueprint Denver. The goal for Areas of Change is "to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips. Areas of Change are parts of the city where most people agree that development or redevelopment would be beneficial."

The proposed text amendment is consistent with the objectives and strategies of Blueprint Denver by allowing for the development of an increased mix of uses and intensity as articulated in the Blueprint Denver concept land uses. The AIO revisions will allow for new development with additional housing as envisioned by the area of change designation.

C. 61st & Peña Station Area Plan – 2014

The 61st & Peña Station Area Plan replaced the 1990 Gateway Concept Plan for the area west of Tower Road between 56th and 64th Avenues. Many goals and recommendations from the 61st & Peña Station Area Plan support the proposed text amendment:

- "To fully capitalize on the location efficiency of the rail station, development near the station area should strive to be built at commercial intensities and residential densities that support transit use. A mix of uses at appropriate densities will help the station area serve as the portal to the Gateway area and benefit from its location between DUS and DIA, two of the biggest activity centers in Denver."
- "Land use types in the station area should generally allow for a mix of uses. Mixed-use areas may have a sizable employment base as well as higher density housing."
- "Land uses in the station area are affected by the proximity to Denver International Airport. Existing zoning regulations limit the type and location of residential uses allowed in the station area. Land use types identified in the station area plan still apply even if these existing zoning regulations change in the future."
- "Studies have shown that residents living near rail stations are 5 to 6 times more likely to commute by rail and employees working near rail stations are 2 to 3 times more likely to commute by rail. Additional research indicates that areas within a quarter-mile of a station that have strong transit ridership typically have a combination of minimum residential densities around 30 units per acre or more and minimum commercial intensities of 50 employees or more per acre."
- "Encourage a diversity of housing sizes and types that will attract a mix of family, single residents, single-family households, and empty nesters. Support a diversity of unit sizes, configurations and price points, and include housing opportunities that are priced to attract people who work in the area, at DIA and at other transit-oriented employment destinations."

All of these recommendations directly support the request for increased residential density in the station area, which would be enabled by this text amendment. Without the text amendment, much of the land located within walking distance of the commuter rail station just to the northeast of the platform would be unavailable for residential development of any kind. With the proposed text amendment to allow multi-unit residential uses, higher density housing will be enabled that can support the vision of the station area, consistent with the adopted plan.

The proposed AIO text amendment will continue the existing prohibition on single and two-unit dwellings, and this is also consistent with the plan. The plan is written to allow for flexibility in residential types, and although it has some language that accommodates single unit dwellings within the area identified on the conceptual land use map as Mixed Use-Residential, it does not have any language that specifically recommends or prescribes them. The stated intent of the Mixed Use-Residential land use category, to provide for "predominantly residential uses with a variety of building forms" can be met with or without single and two-unit residential types. Most of the area affected by this text amendment, between 62nd and 64th Avenues, is designated Mixed Use-Employment. The plan specifically recommends multi-unit, not single-unit, residential in the Mixed-Use Employment area (page

12). Therefore, the AIO's continued prohibition of single and two-unit dwellings is consistent with the 61st & Peña Station Area Plan.

D. Gateway Concept Plan – 1990

The AIO text amendment is consistent with many concepts and recommendations found in the Gateway Concept Plan, which still applies to areas in the AIO outside of the 61st & Peña Station Area Plan.

- "The Gateway area should be a QUIET place to live. Residential development should only be allowed outside and away from airport noise impact areas."
- "Importantly, no residential development will be permitted north of 65th Avenue… This area is generally not appropriate for residential development because it will be open to a broader array of businesses (Including many with high truck usage), and because it may be subject to noise from the new airport."
- "The Gateway Office is very cognizant of the serious problems caused in the past by noise at Stapleton International Airport, where complaints have been heard from people living in Montbello and other areas some distance away. To avoid such problems around the new airport, residential development will not be allowed near the 60 LDN noise contour line that passes just north of the Gateway area."
- "Measuring the possible impacts of noise is a complicated task that depends on noise levels, frequency, duration, time of day and year, and the person being affected. For the reasons noted above, the plan does not allow residential development north of 65th Avenue… The history of older airports often includes creeping encroachment by incompatible residential uses. That must be actively discouraged around the new airport, which has been carefully sited to avoid such problems."

The proposed text amendment is consistent with where the Gateway Concept Plan recommends residential development, because the text amendment would not allow residential north of 65th Avenue. The modest increase of multi-unit residential north to 64th Avenue respects the principles articulated in the plan about keeping incompatible uses from encroaching in areas where residential development could be incompatible with airport operations. Therefore, the proposed text amendment is consistent with this adopted plan.

2. <u>The proposed Text Amendment Furthers the Public Health, Safety and Welfare</u>

This text amendment furthers the public health, safety, and general welfare of Denver residents by implementing the city's plan policies enabling multi-unit residential while protecting the airport, as identified in the City's Adopted Plans.

3. <u>The proposed Text Amendment Results in Regulations that are Uniform Across the District</u>

This text amendment will result in uniform regulations applicable to all new development within land mapped in the AIO zone district.

V. Planning Board Recommendation

Following a public hearing on March 2, 2016, the Denver Planning Board recommended approval of this text amendment by a vote of nine in favor and none against.

VI. CPD Recommendation

Based on the review criteria for a text amendment stated in the Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), CPD staff recommends that City Council approve the proposed Denver Zoning Code Text Amendment #7 to revise the AIO zone district.

VII. Attachments

1. Redlined Draft of Proposed Text Amendment #7
2. Montbello 20/20 letter of support
3. F. Belz letter of support

Denver Zoning Code Text Amendment #7
AIO ZONE DISTRICT REVISIONS
CITY COUNCIL REVIEW REDLINE DRAFT 03/24/2016

This document contains a redlined draft of the proposed text amendment to revise the AIO zone district.

1. Text in red underline is proposed new language.
2. Text in ~~red strikethrough~~ is proposed deleted language.
3. While every effort is made to ensure document quality, cross-referenced section numbers, figure numbers, page numbers, and amendment numbers may appear incorrect since both new and old text appears in a redlined draft. These will be corrected in the final, "clean" version of the text amendment that is filed for adoption by City Council.

Please visit our website at www.DenverGov.org/TextAmendments to:

- Learn more about Text Amendments
- Learn more about the process for this text amendment
- Download a summary of the Draft
- Download this complete redlined draft

Please send any questions or comments to PlanningServices@denvergov.org.

9.5.3.2 Effective Date of Overlay District Standards

The standards and limitations applicable in the DIA ~~Airport~~ Influence Area Overlay Zone District shall apply only to properties rezoned according to this Code after June 25, 2010.

9.5.3.3 Land Use Restrictions

A. Single unit and two unit dwellings are not permitted in the DIA Influence Area Overlay Zone District.

B. Multi-unit dwellings, ~~mixed use dwellings,~~ live/work dwellings, all uses categorized as group living uses in this Code, hospitals, bed and breakfasts, and all educational uses that include residential accommodations are not permitted in the DIA Influence Area Overlay Zone District north of ~~62nd~~ 64th Avenue.

C. Surface parking of vehicles is not permitted as a primary use of land in the DIA Influence Area Overlay Zone District. Garage parking is permitted.

9.5.3.4 Easement and Right-of-Way Required

~~Simultaneously with~~ On or before the date of approval of ~~the rezoning of property~~ an official map amendment or approval of a site development plan for development in the DIA ~~Airport~~ Influence Area Overlay Zone District, the property owner shall be required to grant an avigation easement and right-of-way to DIA for passage of aircraft in a form established by DIA and recorded in the Office of the Denver Clerk and Recorder.

9.5.3.5 Airport Disclosure Notice

See D.R.M.C. Chapter 5, Article IV, for disclosure notice requirements for residential dwelling units.

9.5.3.6 Noise Level Reduction Measures

See the Building Code of the City and County of Denver for noise mitigation construction requirements for multi-unit dwellings and schools.

B. Approval of Required Site Development Plan
When a Site Development Plan is required by Section 12.4.3, no zoning permit for construction shall be issued until a Site Development Plan is approved.

C. Payment of Gateway Regional Systems Development Fee
No zoning permit for an applicable zone lot, except a zoning permit only for a sign or fence and wall, shall be issued until the regional systems development fee established by the Gateway Regional Metropolitan District on land within the Gateway Regional Metropolitan District has been paid for the subject zone lot.

D. Manager of Parks and Recreation Approval of Uses and Development in the OS-A District
No zoning permit for an applicable zone lot shall be issued for any use or development in an OS-A Zone District until the Manager of Parks and Recreation, or designee, has agreed to the approval of the zoning permit in writing.

E. Denver International Airport (DIA) ~~Approval~~ Review of Uses and Development in the DIA Influence Area Overlay District (AIO)
No zoning permit shall be issued for any use, development, or structure in the DIA Influence Area Overlay District until the Manager of Aviation, or designee, has found that the proposed use, development, or structure complies with the DIA Influence Area Overlay District standards in Article 9 of this Code ~~and has agreed to the approval of the zoning permit in writing~~. The Manager of Aviation shall comment within 14 days from the referral of the complete application. Non-response by the Manager of Aviation within the 14-day time period, or any extension agreed to by the Zoning Administrator, shall be deemed a recommendation of approval.

12.4.1.4 Review Process

A. Initiation
The owner[s] of the subject property or the owner's authorized agent may initiate an application for zoning permit review.

B. Pre-Application Meeting
A pre-application meeting is optional before submittal of a zoning permit review application. See Section 12.3.2, Pre-Application Conference/Concept Plan Review.

C. Application and Fees

1. Submittal in Writing
All applications for zoning permit review shall be submitted in writing to Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications
The applicant may submit a zoning permit review application concurrent with the submittal of other applications according to Section 12.3.3.9, Concurrent Applications. In no case, however, shall a building permit be issued until the zoning permit according to this Section is approved, unless the Zoning Administrator allows an exception in writing.

D. Review, Referral and Final Decision
The Zoning Administrator may refer the zoning permit application to other affected or interested agencies and parties for review and comment, as deemed necessary to make a decision on the application. The Zoning Administrator shall make a final decision to approve, approve with conditions, or deny the zoning permit application, taking into consideration relevant agency or other party comments.

such provision explicitly requires zoning permit review with informational notice and approval prior to establishment of the use.

C. Deviations from the Sign Code permitted with a Comprehensive Sign Plan for Large Facilities authorized under Division 10.10, Signs.

12.4.2.3 Prohibitions and Requirements Prior to Zoning Permit Issuance

A. Prohibitions on Activities Prior to Zoning Permit

No development shall occur on property subject to these requirements for zoning permit review until a zoning permit has been approved, unless the Zoning Administrator allows an exception in writing.

B. Payment of Gateway Regional Systems Development Fee

No zoning permit for an applicable zone lot, except a zoning permit only for a sign or fence and wall, shall be issued until the regional systems development fee established by the Gateway Regional Metropolitan District on land within the Gateway Regional Metropolitan District has been paid for the subject zone lot.

C. Denver International Airport (DIA) ~~Approval~~Review of Uses and Development in the DIA Influence Area Overlay District (AIO)

No zoning permit shall be issued for any use, development, or structure in the DIA Influence Area Overlay District until the Manager of Aviation, or designee, has found that the proposed use, development, or structure complies with the DIA Influence Area Overlay District standards in Article 9 of this Code ~~and has agreed to the approval of the zoning permit in writing~~. The Manager of Aviation shall comment within 14 days from the referral of the complete application. Non-response by the Manager of Aviation within the 14-day time period, or any extension agreed to by the Zoning Administrator, shall be deemed a recommendation of approval.

12.4.2.4 Review Process

A. Initiation

The owner[s] of the subject property or the owner's or owners' authorized agent may initiate an application for zoning permit review with informational notice.

B. Pre-Application Meeting

A pre-application meeting is mandatory before submittal of an application for zoning permit review with informational notice. See Section 12.3.2, Pre-Application Meetings.

C. Application and Fees

1. Submittal in Writing

All applications for zoning permit review with informational notice shall be filed in writing with Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications

The applicant may submit a zoning permit review with informational notice application concurrent with other required applications according to Section 12.3.3.9, Concurrent Applications. In no case, however, shall a building permit, as applicable, be issued until the zoning permit is issued according to this Section, unless the Zoning Administrator allows an exception in writing.

D. Informational Notice

1. Written and Posted Notice of Receipt of Application

Written and posted notice of receipt of application shall be provided according to Sections 12.3.4.5.A and 12.3.4.5.B.

1. Site development plans where multiple primary buildings will be sited on the same zone lot in a Residential Zone District, but not including development of a tandem house building form on a single zone lot. For such site development plans, written informational notice shall be given only for receipt of the application.

2. Certain construction and exceptions in the Campus Healthcare (CMP-H and CMP-H2) Zone Districts, as specified in Article 9, Section 9.2.3.2.3, Construction Subject to Review and Final Decision by Planning Board.

E. Review, Referral and Decision by Development Review Committee

1. The DRC shall refer the site development plan application to other affected or interested agencies for review and comment.

   a. For proposed development in the DIA Influence Area Overlay District, the DRC shall refer the site development plan application to the Department of Aviation for review. The DRC shall not approve a site development plan in the DIA Influence Area Overlay District until the Manager of the Department of Aviation, or designee, has found that the proposed development complies with the DIA Influence Area Overlay District standards in Article 9 of this Code ~~and has agreed to the approval of the site development plan in writing.~~ The Manager of Aviation shall comment within 14 days from the referral of the complete application. Non-response by the Manager of Aviation within the 14-day time period, or any extension agreed to by the DRC, shall be deemed a recommendation of approval.

2. If required by Section 12.4.3.3.F, Review and Final Decision by Planning Board, the DRC shall forward the site development plan application, together with the DRC's recommendation, to the Planning Board for the Planning Board's review and final decision on the site development plan application.

3. The DRC shall consider the relevant comments of all interested parties, the actions taken by other agencies on the site development plan, as applicable, the recommendation by the Planning Board, as applicable, and the review criteria stated below, in approving, approving with conditions, or denying a site development plan application.

4. The DRC may attach conditions to the site development plan approval reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties, as authorized by this Code.

F. Review and Final Decision by Planning Board

1. Applicability

The DRC shall forward the following site development plan applications to the Planning Board for the Planning Board's review and final decision:

a. Campus Healthcare Zone Districts

Site development plan applications for certain construction and exceptions in the Campus Healthcare (CMP-H and CMP-H2) Zone Districts, as specified in Article 9, Section 9.2.3.3, Construction Subject to Review and Final Decision by Planning Board.

2. Review and Decision by the Planning Board at Public Hearing

a. The Planning Board shall hold a public hearing to review the site development plan application and make a final decision.

b. The applicant shall provide written and posted public notice of such public hearing according to Section 12.3.4, Public Notice Requirements.

c. The Planning Board shall review the DRC's recommendation, the actions taken by other agencies on the site development plan, as applicable, and the review criteria

Montbello 20/20

Vision ~ Montbello is a premier, relationship driven community that takes pride in its beauty, and values education, safety, diversity and inclusiveness.

February 18, 2016

Mr. Kyle Dalton
Principal City Planner
Community Planning and Development
City and County of Denver
201 W. Colfax Ave., Dept. 205
Denver, CO 80202

RE: Text Amendment #7: Airport Influence Overlay District Revisions
Submitted via email to PlanningServices@denvergov.org

Dear Mr. Kyle Dalton:

The Montbello 20/20 registered neighborhood organization has had the opportunity to review the text amendment that would create more opportunities for multi-unit housing to promote transit-oriented development near the Peña & 61st station, by enabling multi-unit dwelling unit uses between 62nd and 64th Avenues, with reasonable residential protections.

Councilwoman Gilmore attended our registered neighborhood organization meeting on February 4, 2016 and answered questions about this proposed text amendment. Montbello 2020 is in support of this text amendment to allow more opportunities for multi-unit housing up to 64th Avenue at the Pena Station transit oriented development in District 11. Please let me know if you have any additional questions, I may be reached via email at montbello2020rno@gmail.com. Thank you.

Sincerely,

Ann White

Ann White
Co-Chair
Montbello 20/20

SINCE 1904

FULENWIDER

HISTORY LAND PEOPLE VISION

City and County of Denver Planning Board
c/o Kyle A. Dalton, AICP, Senior City Planner
Community Planning & Development
City and County of Denver
201 W. Colfax Ave., Dept. 205
Denver, CO 80202

Dear Planning Board Members,

L. C. Fulenwider, Inc. (LCF) is in full support of the following proposed Text and Map Amendments; Text Amendment #6, Map Amendment 2016I-00010, Map Amendment 2015I-00101 and Text Amendment #7. In partnership with Denver International Airport (DIA), LCF is developing the transit-oriented development ("TOD") at the 61st and Peña Station area on the RTD East Line from Union Station to DIA. Our plan envisions a mixed-use, pedestrian-oriented TOD as the Planning Board approved with the 61st and Peña Station Area Plan. This TOD is unique in that it is the first greenfield TOD in the City and County of Denver (City) and thus today is a blank canvas. LCF has been working closely with DIA, the City and Panasonic to paint this canvas to be the most progressive, innovative and technologically advanced community TOD in the country. These amendments afford us the ability to accomplish this endeavor.

We ask that you approve the proposed Text and Map Amendments.

Sincerely,

Ferd Belz
Senior Vice President
L. C. Fulenwider, Inc.

L.C. Fulenwider, Inc.
1125 Seventeenth Street Suite 2500
Denver, Colorado 80202 (303) 295-3071 Fax (303) 295-1735
www.fulenwider.com