

Minutes of INC Zoning and Planning Committee June 27, 2015 meeting

The INC ZAP (Zoning and Planning Committee) met on June 27, 2015 from 9:30 am to 11:20 am at 1201 Williams meeting room. CPD planners Deirdre Oss and Ryan Winterberg-Lipp attended the meeting.

The Committee discussed the following topics: 1) Stacie Loucks gave an update on issues for the Department of Excise and Licenses; and 2) Deidre Oss of CPD discussed development of a new text amendment and map amendment (the S-MX-A series) for the light-rail stop that will be located at 61st and Pena.

Excise and License current issues

Stacie Loucks, the Director of the Department of Excise and Licenses, discussed current issues that her department is addressing.

She described her department's ongoing implementation of the new Accela computer software, which should improve transparency and information sharing among City departments and make excise and license information more accessible to the public. Accela was designed as a permitting and planning system. Denver has customized it to also cover licensing.

CPD is already using Accela systems, and eventually it will be used by 17 City agencies/departments. In the past city departments often had to share files in paper form because of incompatible computer systems. The excise and license system will make available for public review thousands of documents from 30 years of files on restaurant and liquor licenses.

The City is working on a third and fourth phase of the Accela roll out. In the fourth phase, probably during 2016, the non-confidential information stored on Accela will be "outward facing." Accela includes feature that allow inspectors to retrieve database information from the field and to allow police and inspectors to update records from the field.

In addressing questions from Committee members on miscellaneous issues, Stacie explained:

- For proximity checks for marijuana locations, they check the distance using Google Maps and then measure it manually if the 1,000 feet is a close call.
- The distance for liquor licenses is measured based on direct pedestrian access, not direct point-to-point geographic distance (this is based on court precedents). It is measured from the edge of an adjoining parcel to the door of the business applying for a license.
- The distance between for retail marijuana locations is point-to-point or "as the crow flies."
- Applicants can see the existing locations on maps available on the excise/license website to measure the distance for themselves in advance.
- The department is seeing challenging examples where two applicants are competing with each other for one available location given proximity restrictions.
- For food vendor inspections, the City sets priorities for inspections based on the risk from certain types of food. For example, frozen food requires inspection for temperatures and sale of ice cream is highly regulated to reduce the risk of crimes against children.

- The City is seeing many instances where food truck vendors travel into Denver and do not obtain a license (e.g., for a Bronco game). Each licensed food vehicle should display a transparent sticker on the windshield with a punched date. Individual vendors should wear a lanyard showing their license and a photo. Call 311 to report concerns on this.
- State legislation now authorizes distilleries, and the sale of craft whiskey, craft beer, and craft wine. The sellers have strong guilds.
- The state is creating a state license and forbids hearings at the local level.
- Infinite Monkey Theorem is an example: it acts like a bar but sells Colorado wine with a state license. There are many citizen complaints about it. The City is seeking to have the state provide better advance notice to RNOs about such state licenses.
- The Department of Excise and Licenses allows “temporary modifications” or “temp mods” for bars to temporarily expand their service area. For example, there are many of these requests to allow outdoor liquor sales in a parking lot or patio for opening day of the Rockies. The Department does compliance checks for these events, and now has two inspectors for a day and night shift. The police department vice group sets priorities for locations they check.
- Some bars are using these for a weekly modification through the summer. The City attorney’s office is advising that such weekly or regular modifications can be difficult to deny unless there are violations like sales to a minor.
- On entertainment districts, the department decided to wait to move forward with that until the new City Council is sworn in.
- Neighborhoods are experiencing problems when liquor licenses are transferred where the good neighbor agreement is not carried forward to the new owner. Stacie will check further on that, including how to watch for that issue with a license transfer. Margie Valdez recommends that neighborhoods timely contest a license transfer if the new owner is resisting continuing a good neighbor agreement.
- Stacie noted that partial transfers of ownership are common and can be difficult to track.
- The department is reviewing what is happening with Twisted Cream at 9th and Colorado Boulevard, which is selling liquor infused ice cream.
- On marijuana licenses, Stacie noted there are currently about 1,020 licensed marijuana facilities but some have multiple licenses. There are about 200 store locations in Denver and about 300 grow locations. The department is not seeing a large influx of applications for new stores. There have been about 24 applications in 2015 for new stores and new grows. Instead, it is seeing consolidation of sellers, sales of licenses to other operators. There have been about 500 applications for transfers of location or ownership. The state constitution allows common ownership of more than one location.
- For neighborhood problems with outdoor smoking of marijuana: reports should go to the police.

New text amendment and map amendment (S-MX-A series) developed for 61st and Pena transit station with zone districts planned for use elsewhere in city

Deirdre Oss and Ryan Winterberg-Lipp of CPD discussed planning for a new text amendment and map amendment for the new transit station at 61st and Pena. They presented PowerPoint slides describing the new zoning categories the text amendment would create both for this transit-oriented development and for future use throughout the city.

The City seeks to create a series of new suburban context zone districts (the S-MX-A series) to allow “more urban, pedestrian-oriented character” in suburban context zone districts. The goal is to create zone districts that reinforce strong street edges in commercial corridors. They describe these districts as a blend between suburban and urban, and anticipate that these new zone districts may be used when older areas of Denver like along Colorado Boulevard and Hampden are redeveloped for multi-modal and pedestrian use.

The new text amendment will allow for building heights of: 2, 3, 5, 8, and 12 stories. The districts place a priority on street use for pedestrians, with fewer curb cuts and little parking between buildings and main streets. The “build to” requirement will increase to 60% in 0-20 feet; that will prevent parking between the building and the street.

These amendments are scheduled for a Planning Board hearing on September 16, 2015, with a target date of November 9 for a City Council public hearing.

They answered some specific questions from committee members about these new zone districts. Four developers are currently working on projects near the 61st and Pena station. The affected area covers about 400 acres. Two streets (60th and 61st) will be extended to the station and serve as the main corridors to it. This is about three-quarters of a mile from Tower Road. Panasonic has announced it will build a western U.S. office at that location for use after the station opens in July 2016, which will include some assembly for high tech products and solar panels. There is also a plan for residential development and a hotel there.

Michael Henry asked about other bundles of text amendments. Ryan responded that the city is working now on a second bundle.

Miscellaneous items

Margie Valdez described a June Colorado Supreme Court decision in *Coats v. DISH Network* involving a programmer who used medical marijuana. The court held that a business can fire an employee for using medical marijuana off-duty. Margie will add that decision to the INC cloud library, a password protected database available to RNOs that are INC members. That library also includes case law, statutes, good neighbor agreements, and a policies and procedures manual for use researching excise and license issues.

The upcoming citizens’ academy beginning in October will feature a mock licensing hearing with role playing about what participants do. That academy will have 25 participants and will meet for three hours on Thursdays every other week.

Margie also noted a recent California Labor Commissioner ruling holding that an Uber driver was an employee not an independent contractor. She predicts the California Supreme Court will reverse that on appeal.

She also noted there will be a ballot initiative in November to allow marijuana use in clubs and bars.

Greg Kerwin gave a brief update on a lawsuit planned to challenge the recent rezoning of the Mt. Gilead church parcel in Crestmoor. Larry Ambrose gave a brief update on the lawsuit challenging the rezoning of a block next to Sloan's Lake.

Gertie Grant briefly discussed the history of the zoning of the Country Club towers being developed by Broe, including an agreement to preserve historic Country Club Gardens buildings in exchange for allowing the tall buildings Broe is now building in that area.

One member noted concern with new mixed use developments in Washington Park where CPD is allowing developers an exemption for 25% of the required parking if their building is within one-fourth mile of a transit line including the bus lines on First Avenue and Alameda, which run every 30 minutes.

The meeting ended at 11:20 am. The next ZAP meeting will be on Saturday, July 25, 2015 at the meeting room at 1201 Williams Street, 19th floor.

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