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201 W. Colfax Avenue  
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Re: ZAP Feedback on Group Living Recommendations

Andrew,

Thank you for the opportunity to provide this feedback to CPD staff and members of the Group Living Advisory Committee (GLAC) on this complex set of issues. We recognize the breadth of problems identified by the GLAC in its Problem Statement and its work on proposed solutions. We hesitated before submitting this list of concerns and questions regarding the GLAC recommendations, all too aware of the chaos we have been thrown into and the difficulties facing all of us in going about ongoing work while we are hyper focused on the news and our daily lives. For those charged with governance, we know crisis management and figuring out steps to protect all of us is forefront in your work.

However, given that you indicated that CPD has not made any decisions regarding pausing this work on preparing a text amendment, we feel obligated to submit some questions and concerns raised by ZAP members and its Co-Chairs in the event CPD does proceed. We feel answers and discussion of these issues is essential before city leaders, and residents, can make informed decisions about impacts of the anticipated sweeping zoning change.

We also note that while most of these questions focus on the household definition portion of the committee's work – the part of the proposed changes that neighborhoods register on first hearing -- we have heard concerns on residential care but will not be able to address them here except in passing. Further, without a redline version of the proposed text amendments to Chapter 11, neither ZAP nor INC takes an official position in this letter. ZAP appreciates the opportunity to submit this letter and we request that written responses to the following questions and concerns be addressed prior to finalizing any draft text amendment and prior to its being sent to the Denver Planning Board.

As the umbrella entity in Denver for neighborhood representation, our view is that the resident perspective in the formation of possible text amendments to Chapter 11 has been far too limited,<sup>[1]</sup> calling into question whether GLAC has fulfilled its Charter<sup>[2]</sup> obligations to inform and gather feedback from affected residents in all eleven council districts. For a citywide legislative zoning change that will affect every neighborhood to be smartly and equitably done, a broader and more inclusive process with early neighborhood awareness and helpful input should have been followed. Very limited information was not shared with residents (with a couple of exceptions) until late 2019 and early 2020, and this was after the GLAC had settled on its recommendations in mid-summer 2019.

The Denveright process, which overlapped with the GLAC process, provided ample opportunity to broach these complex issues and obtain input, but these potential changes were not

explored in public meetings and surveys.[3]

We have first listed questions and then concerns, but ask that CPD consider all input contained in this letter.

Questions

Health & Safety:

- What regulatory steps (existing and proposed) will be implemented along with this text amendment to ensure the health & safety of Denver residents? Will the city add safety inspections on the larger households under the new proposal?

The city inspects new construction but does not otherwise proactively inspect houses for safety, including large households. Various types of inspections, including Public Health or Neighborhood Inspections Services (Zoning), can and do occur upon receipt of a complaint via the 311 system. This will not change as a part of this project. In response to concerns about household size in general, staff will propose revisions that would lower the number of adults (of any relationship) permitted in homes up to 1,600 square feet and preserve flexibility for larger houses, while addressing external impacts and preventing worst-case-scenarios.

- Has the City completed a fiscal impact statement for covering the additional safety/health inspections that will follow the anticipated changes?

We do not expect these zoning code text amendments to result in a significant increase of inspections from current trends.

- What funding mechanisms will be put in place to do this?

See above.

- If there are no concurrent regulatory additions regarding health and safety, what written analysis did CPD use to reach its determination that existing codes and regulations are sufficient for such a major revision to the Zoning Code?

The proposed changes to the code will allow more unrelated people to live together as a housekeeping unit. The code already allows an unlimited number of related adults to live together. Unrelated people live together as households in communities all over the world, and we were unable to find any evidence that unrelated people living together are any less safe than related people. As noted in Question 9 of the Frequently Asked Questions, regulations and standards specifically related to the safety of dwelling units are contained in the Building and Fire Code (which is updated regularly, most recently in 2019 to include more clarity on safety requirements for larger households), and city agencies will continue to enforce them as they do now.

- Given the likelihood that this broad change will impact the rental market, will a regulation[4] for licensing/registering/inspecting rentals (see e.g., Seattle's Rental Registration & Inspection Ordinance) be adopted concurrently to strengthen protection for renters? We are aware of the recent changes at the state level to provide additional renters' protections. However, this system puts the entire burden on tenants to seek enforcement and to take affirmative steps to exercise their rights and find legal services to assist them.

A Denver City Council member is working with city agency stakeholders to explore what it would take to establish a rental licensing system, but it is unknown if or when that project will advance. We are not aware of any rental licensing system that would be ready for adoption concurrently with the Group Living text amendments.

### Denver's Complaint Based System:

- What alternatives to the current complaint-based system did CPD study, and did GLAC and CPD make any recommendations regarding alternatives?

We reviewed many large U.S. cities and found none that had a year-round system for proactive zoning violation inspections. Many cities have occasionally funded proactive enforcement in a particular area, or for a specific complaint (such as weeds after a lengthy rainfall), but all used complaint-based systems (through 311 or online apps) as their core method for zoning enforcement.

- Was a concurrent regulation for a licensing/registration/inspection of rentals proposed?

Not by CPD.

### Peer City Studies by CPD/GLAC:

- Which peer cities expanded their household definition to the degree proposed by GLAC and saw increased access to, and increased affordability in, housing?

We are aware of only one city, Bend, Oregon, that has made such a change recently. All others we spoke to have had their rules on the books for many years.

- Which cities implemented such a change and saw no effect or found it made housing less affordable and accessible?

We discussed housing requirements with city staff in Seattle, Austin, Portland, Albuquerque and Salt Lake City. All have had these requirements on the books for some time, through many economic cycles. None had collected data on the impact of such a regulation on affordability. All noted, however, that unrelated people commonly live as housekeeping units in those cities and that they were not aware of any issues or community concerns about that.

- Which cities saw an increase in investors buying up housing stock? Did CPD ask this question in conducting its research?

We did not ask this question directly. Investors own houses in all cities; zoning does not preclude this.

- What municipal services, infrastructure and/or regulations were developed to accompany these changes?

Other cities whose regulations we reviewed had not made such changes recently – their rules had been long-standing. Accordingly, we are not aware of accompanying changes to non-zoning regulations or services related specifically to how cities regulate households.

- How were budgets adjusted to accommodate such changes?

See above.

### Catalyst for displacement, outside investors:

- What steps will be in place to prevent scraping and displacement of existing housing stock, a goal set forth in Blueprint?

Blueprint Denver sets forth many recommendations for incentivizing the preservation of existing structures and ensuring that new development is appropriate for its context. While the group living proposed changes would legitimize households of non-related people that already exist, we do not expect them to incentivize the development of larger house structures solely for the purpose of renting to larger groups of people. We've looked at many peer cities that allow more unrelated people to live together, and in several cases have had conversations with planning staff from these locations. No city had made such a change recently (with one

exception, Bend, OR), but our research and discussions with staff suggest that people live together the same way in those locations that they do in any other city. Construction of larger houses in neighborhoods of smaller structures is a well-known phenomenon in many cities, and reflects a market-based desire for more living space expressed by households of all types. Most large cities grapple with its impacts, including displacement and gentrification. As recommended in Blueprint Denver, the city will explore incentivizing preservation of existing housing stock by exploring ADUs/additional units in return for retention of existing houses, energy efficiency and safety improvements of existing homes and other efforts. Neighborhood planning efforts underway now, including the East and East Central Area Plans, will also help minimize the scraping of our existing housing stock with very specific recommendations tailored to unique neighborhood contexts.

In response to input about commercial “rooming-and-boarding” types of uses in neighborhoods, the project team is considering several updates to the proposal. These include language specifying the intent that household uses are not intended to incorporate “rent-by-the-room” configurations or boarding homes, which will continue to be regulated separately and are not permitted in single-unit, two-unit or rowhome zone districts. Additionally, we are exploring a reduction of the amount of unrelated adults permitted to live in a household from what has previously been proposed

- What research/evidence was accessed to underpin GLAC’s recommendation that these zoning changes will add to and strengthen affordable housing stock and avoid price gouging?

These changes are proposed to increase flexibility of housing and legitimize housekeeping units comprised of unrelated people. The zoning code does not directly address “price gouging.”

Parking:

- What research did CPD conduct on parking impacts of this proposed change?

Currently, the zoning code allows one vehicle per licensed driver in a home, plus one additional vehicle for the entire household. Because an unlimited number of people who are related by blood can currently live together, an unlimited number of vehicles could conceivably be associated with a home. Currently and after any code change, vehicle parking on a public street is a public right, and the city has never guaranteed its households a minimum amount of on-street space. This proposal would expand the number of unrelated adults who are permitted to live in a home, legitimizing households that function the same way as a related family, but we do not expect it to dramatically change the way people live together in Denver, nor do we expect the proposal to dramatically change the number of private vehicles maintained by Denver’s households.

- What research verifies that the recommendation to greatly increase the number of people allowed in all household units will not translate into a significant increase in cars and impact parking?

An unlimited number of people are currently allowed to live as a housekeeping unit in Denver, as long as they claim to be related. This change will legitimize housekeeping units of unrelated people, but is not expected to markedly increase the number of people who choose to live together. We are not aware of research on parking impacts. Generally speaking, 21<sup>st</sup> Century

land use planning in Denver and most cities has moved toward mobility planning for people and further away from primarily accommodating cars.

- What procedures to effectively reduce these predictable impacts will be implemented, other than the promise to solve for parking issues later via Parking Area Management Plans?

We are proposing a revision to language in DZC Article 10 regulating the number of vehicles that can be associated with a household. Presently, one vehicle is permitted per licensed driver, plus an additional vehicle for the household. We are exploring a total cap on the number of vehicles.

- What evidence does CPD have that a significant jump in transit buildout, accessibility and use will accompany this change?

We have not suggested that these regulatory changes to the zoning code will impact transit buildout or use in any way.

The number 8:

- Why is the city applying the number 8 to all units throughout the city when the Colorado statutes only address 4 specific protected classes?

This was discussed over the course of multiple GLAC meetings, and ultimately the group and staff agreed that if some protected classes are permitted to live together in groups of 8, there was not a good reason to prohibit others who would choose to do the same.

- Did the GLAC and CPD consider adopting a lower number such as 4 and then requiring a permit and inspection process and other applicable requirements for owners who want to exceed that 4-person occupancy, while the city continues to allow 8 for protected classes?

Many possibilities have been considered. Staff has not recommended this approach, as unlimited adults who are related can already live in a household, and tracking permits for related vs unrelated adults, especially when a dwelling unit is sold or transferred, would create unnecessary complication.

- What would be the cost of such a provision?

Any additional permitting requirement would incur costs to both applicants (permit, building plan review hourly fees, etc.) and to the city (staff time, etc.). It is not possible to assess how many larger households would request a permit, so the increase in costs would only be known once the regulation has been in place for a meaningful period.

Unintended Consequences:

- What analysis of potential positive and negative consequences of the GLAC recommendations was conducted? What written documentation of this analysis exists?

Many possible consequences were considered and discussed. Presentations and meeting summaries from GLAC meetings 3, 4 and 7 are posted on the project website and contain information and analyses related to this question.

- What written provisions have been drafted to be put into place to prevent and/or remedy potential negative consequences?

All changes to the zoning code proposed to date have been detailed in the Open House presentations. In response to community feedback, staff will propose some revisions to household and residential care regulations aimed at addressing some envisioned consequences.

### Good Neighbor Agreements:

- If the proposed code changes grant new “uses by right,” what would applicants be giving up as consideration in a GNA and what leverage would neighbors have to encourage applicants to enter into a GNA or to abide by its terms?

Most Residential Care uses are already permitted in neighborhoods. The pre-application Community Information Meeting requirement proposed by these amendments would provide an opportunity for neighbors and would-be facility operators to discuss site-specific concerns. Good Neighbor Agreements are not required or enforced by the city for a zoning permit. However, as is currently the case, most operators want to have a positive relationship with neighbors and will consider methods, such as GNAs, to formally commit to certain practices or modifications to the use.

### CONCERNS FROM MEMBERS

- Non-profit Housekeeping Unit: We have heard various interpretations of the phrase “non-profit housekeeping unit,” and it is unclear whether CPD will retain language presented in on page 38 of the January 2020[5] presentation regarding the characteristics of a typical non-profit household unit. This needs to be clarified before proceeding.

The language from the presentation given at Advisory Committee Meeting #7 came from a site-specific zoning analysis for a proposed use. We are developing language aimed at strengthening and clarifying these distinctions in the definition of household, and the analysis of future permit requests against that language would be conducted similarly.

- Shortcomings of Complaint Based System: Concerns were expressed about Denver’s ability to adequately handle code violations and enforcement – both under current code and with anticipated changes. Denver currently bases enforcement on a complaint-based system rather than licensing/registration/inspection system. This complaint-based system puts the onus on residents to contact Neighborhood Inspection Services (NIS) to seek enforcement of alleged code violations.
- Underrepresentation by neighborhoods on GLAC: Only 10 neighborhood representatives were appointed to the GLAC. The majority of GLAC appointments represent providers and individuals interested in group living, chosen to provide insight on how the code functions and where these regulations fall short. Gathering information from those who have been working as providers, or have been studying alternative household arrangements, provided CPD with important feedback, but decisions and changes of this magnitude also need to be vetted and created with input from the hundreds of thousands of residents of neighborhoods.
- Catalyst for displacement, outside investors: The 400% increase in the household definition could be a catalyst for developers to scrape household stock in order to build larger homes/units for larger profit which, in turn, could potentially lead to increased displacement.[6] There have been several articles regarding investors and large rental companies purchasing stock in cities that can be turned around and rented out at rates far from affordable.[7] Given CPD’s and GLAC’s desire to increase access to affordability, Blueprint’s goal of preserving what is still affordable in Denver, and Denveright’s findings that >20% of those surveyed named the #1 issue as “people can’t afford to live here,” there is concern that the GLAC recommendation may inadvertently serve as an

opportunity for investors and companies to buy housing stock and/or price gouge. This would reduce the housing stock available for renters attempting to purchase and reside in homes, which is still a primary wealth-building tool for people in this country.

- Regulations to protect health and safety and prevent overcrowding: We understand the Committee and CPD took into account HUD's guidelines on occupancy standards as well as the Fair Housing Act and Colorado's statute regarding licensed group homes, but concerns remain about Denver adopting an occupancy standard based solely on total sq. footage of the unit, with no consideration of the number of bedrooms, bathrooms etc. as well as concerns about adding more unrelated persons based upon additional square footage regardless of the size of the dwelling unit. CPD cites an article titled More and More Families Are Doubling Up in Colorado Homes[8] as support for revising the household definition, yet in addition to reporting on the rising trend of doubling up, that article references the findings of Shift Research Lab and Colorado Futures Center researchers who point out that doubling up can be beneficial but there can be increased risks to children's health and school performance. Problems identified by GLAC, and documentation of harm historically linked to overcrowding/doubling up,[9] underscore that every effort must be made to ensure that whatever regulatory change is implemented, regulations are in place to safeguard health and safety.

- Infrastructure Issues: Our existing roads, alleys, sewer/water systems and trash/recycling systems could potentially be overtaxed by allowing crowding in dwelling units not designed and planned for this occupancy.

- Parking: Since CPD does address parking in some sections of the proposed ordinance changes (for example reducing parking minimums to open up provision of additional services/uses in some residential care categories), concern was expressed that putting on blinders as to an almost-certain increase in need for parking, and waiting to take care of parking issues in Parking Area Management Plans, is shortsighted, will increase administrative costs for DODI and, in the meantime, will burden residents.

- The Number "8": ZAP members present concur that the current definition needs to change, but the leap from 2 to 8 persons could create numerous potential problems and, yes, significantly change neighborhoods throughout Denver. The enormity of the increase in that number by 400% (and upwards of 400%) was noted. There were comments pointing out that City Council has discretion on choosing a number and choosing what occupancy is based on (so long as it complies with the FHA and HUD guidelines and is consistent with BP and the Comp Plan). Other comments noted that CPD's chart shows that surrounding cities average 3.9 per household, but CPD has chosen to double that average number.

- Residential Care Facilities: While there was no time to cover the many issues regarding changes to the residential care portion of Chapter 11, we have heard concerns with placing all uses under one category of residential care facilities and regulating solely based on size. In particular, there are questions regarding changing the code definition of a "small" facility to 9-40 residents. CPD has included a community meeting for providers to inform neighborhoods and establish a relationship with neighbors, but zoning changes will have already been approved via this text amendment, not through a

map amendment process. Facilities of that size (currently as “Residential Care, Large) are already permitted in low-intensity residential zone districts.

- Evaluation of Unintended Consequences: GLAC’s charter required that unintended consequences be examined and published on the website. ¶4 of GLAC Charter[10]. We note that unintended consequences of existing Chapter 11 are identified in each subgroup’s problem statement, but unintended consequences of the proposed changes are not carefully examined and reported on.

In conclusion, those present on Feb. 29th concur that this section of the Code needs fixes to many sections identified by the GLAC, that the current household definition does not reflect how Denverites live, and that accessibility to and affordability of a variety of housing is crucial. The work analyzing problem statements (22 pages) was critical to Denver beginning to address these issues. Whether so many disparate problems can be solved for in one amendment is less clear.

We would appreciate receiving answers to these questions prior to CPD drafting a text amendment.

Thank you for your work and for considering these important issues we are raising.

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Co-Chairs Zoning & Planning Committee

Inter-Neighborhood Cooperation