

Project Address: 1520 N. Marion St.
Applicant: Open Door Ministries
Project Log Number: 2018-ZONE-0002352
Case Manager: Steve Elkins
Date: January 10, 2019

DISCUSSION

1. Subject Property - Existing Conditions and Proposed Use

1520 N. Marion St. (“the subject property”) is located on the east side of North Marion Street near the intersection of East Colfax Avenue and Park Avenue, which is in the City Park West statistical neighborhood. North Marion Street is designated as a local street and East Colfax Avenue is designated as an arterial street. The subject property’s zone district is C-MS-5.

The zone lot has approximately 41 feet of street frontage on North Marion Street. The zone lot area is approximately 3,619 SF. According to the Denver County Assessor’s Office, improvements on the property include an approximately 5,709 square-foot, 2 and one half story primary use structure. The structure was originally constructed in 1893 for residential occupancy.

The Applicant is the owner of the subject property. The zoning use permit application for the subject property is to establish a new transitional housing use for adult women (the “Application”). The proposed zoning use requested is a “Residential Care Use, Small” (Transitional Housing). The establishment will serve as the residents’ primary residence, and they will live together as a single housekeeping unit while they transition from homelessness. According to the Applicant’s narrative, a full-time resident supervisor and additional staff will be available at the home 24 hours per day to assist residents with counseling, support, and connection to community-provided services such as job training and work opportunities. Most of the services residents will be connected to will be provided off-site. Residents must remain substance-free for the duration of their stay, which is achieved by breathalyzer and urinalysis monitoring. The average expected tenancy for the typical resident will be 6 months, with some staying only a few weeks and others staying longer (but no longer than 2 years).

The current permitted uses of the property, under a September 20, 2004, zoning use permit are: (1) Office, Non-Dental, Non-Medical; and (2) Residential Special L-13 Religious Training – Congregate Residence. These uses required 11 off-street parking spaces, but the zoning regulations at the time provided a credit of 20 off-street parking spaces, which allowed the permittee to provide no off-street parking spaces on the subject property. In the C-MS-5 zone district, there is no minimum vehicle parking requirement for a Residential Care Use, Small. Therefore, per the use and parking table for the C-MS-5 zone district and this specific use in Section 7.4.4, the proposed Transitional Housing use is not required to provide off-street vehicle parking.

2. Application and Public Notice

The Applicant submitted a complete application for 1520 N. Marion St., on July 2, 2018, to initiate the Zoning Permit with Informational Notice (“ZPIN”) use review process.

The Applicant has agreed to obtain the licenses and certifications required by the State of Colorado and the City and County of Denver, as applicable, should the Application be approved. The Applicant has agreed to comply with all requirements the Denver Zoning Code (DZC), Division 10.4, Parking and Loading, should the Application be approved.

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The Applicant is required to comply with the limitations on external effects as established for uses by right in the zone district in which the use will be located. The subject property has no open zoning violation complaints.

The subject property was posted on July 2, 2018, through July 12, 2018, with a sign describing the proposal and giving directions to the public for submitting comments to the Zoning Administrator. The Application was also emailed on July 2, 2018, to all registered neighborhood organizations (RNO(s) whose boundaries encompass or are within two hundred (200) feet of the subject property and to the District and At-Large City Councilpersons for the subject property. The comment period for the Application was from July 2, 2018, to August 20, 2018. The comment period was extended on August 1, 2018, to August 20, 2018, due to a request from a community member. This request was granted to allow the Community Planning and Development Department (“CPD”) to complete an impacted neighborhood study analysis and to allow the community 10 calendar days to review the study and prepare their comments on this Application.

During the public comment period, CPD received 3 emails and letters of objection from the community. 15 emails and letters of support were received. In addition, 34 unverified petition signatures in support were received.

Generally, objectors cited the following concerns for their opposition:

- Past and current concerns about the Applicant’s attempt to establish other residential care uses in Denver,
- Concerns about an overconcentration of residential care uses in the City Park West statistical neighborhood and greater Capitol Hill neighborhood,
- Concerns that the Application’s proposed building does not meet City Building and Fire Code requirements,
- Concerns that the proposal is in violation of the City’s zoning regulations for the number of bedrooms proposed by the Applicant versus the number of proposed residents, and
- Concerns about the past and current relationship between the Applicant and the neighborhood.

3. Analysis

A. *Applicable Review Criteria*

This Application was processed as a ZPIN. As part of the ZPIN process, the Zoning Administrator is required to review public comment and the review criteria in Section 12.4.2.5, stated below:

- “The zoning permit is consistent with all prior approvals that are regulatory and controlling for the subject property, as applicable. For example, all zoning permits shall be consistent with a previously approved General Development Plan, Regulating Plan, or Site Development Plan.”
- “The zoning permit complies with all applicable regulations in this Code.”
- “The proposal will not substantially or permanently injure the appropriate use of adjacent conforming properties, taking into consideration all proposals for mitigation of such impacts.”

The Zoning Administrator considered all public comments that pertained to the above, specific review criteria for this Application.

- B. *Compliance with Section 12.4.2.5.A. – “The zoning permit is consistent with all prior approvals that are regulatory and controlling for the subject property, as applicable. For example, all zoning permits shall be consistent with a previously approved General Development Plan, Regulating Plan, or Site Development Plan.”*

The approval of this zoning permit is consistent with all prior approvals that are regulatory and controlling for the subject property. No General Development, Regulating Plan, or Site Development Plan applies to the subject property. The proposed use is permitted subject to the ZPIN process and the use limitations of Section 11.2.9.1.E., per the use and parking table in Section 7.4.4.

C. *Compliance with Section 12.4.2.5.B. – “The zoning permit complies with all applicable regulations in this Code.”*

The proposed zoning permit must comply with all applicable regulations in this [Denver Zoning] Code, including compliance with the use definitions of “Group Living,” “Residential Care” and “Transitional Housing” uses in the DZC, Division 11.12, and compliance with specific use limitations for Residential Care Use, Small, in DZC, Section 11.2.9.1.E. In addition, as stated above, the Application must satisfy all the review criteria applicable to a ZPIN review in DZC, Section 12.4.2.5.

1. *Compliance with Section 11.12.2: Applicable Use Definitions and Variance Granted (BOA Case 202-18)*

The DZC permits “Transitional Housing” in all zone districts (with only a few exceptions) as one of only 4 specific types of “Residential Care” uses allowed by zoning in the City and County of Denver.

- “Residential Care” uses are defined in the DZC as: “A specific type of group living use where the residents are provided supervised medical, psychological, or developmental care or treatment on a daily, regular basis.” DZC, §11.12.2.A.5.a. Generally, Residential Care uses are grouped, depending on the number of residents, into either “Small” (8 or fewer) or “Large” (9 or more) Residential Care uses.
- “Transitional Housing”, a more specific type of Residential Care Use, is defined in the DZC as: “A residential structure housing a number of unrelated persons in excess of the number of unrelated persons permitted per dwelling unit in the zone district, where such persons are provided with individual bedrooms, where the primary service offered at the facility is related to transitioning into permanent housing and all services provided are not sufficient to constitute a “special care home” and where occupancy of such housing is primarily made available for more than 30 days and less than 2 years. Transitional housing shall be considered a Small Residential Care use.” DZC, Section 11.12.2.A.5.b.i.
- As referenced in the definition of “Transitional Housing”, a “Special care home” is another specific type of Residential Care use and is defined in the DZC as: “A residential structure housing a number of unrelated persons in excess of the number of unrelated persons permitted per dwelling unit in the zone district in which the dwelling unit is located, where such persons are living as a single housekeeping unit and are receiving more than 12 hours per day of on-premises treatment, supervision, custodial care or special care due to physical condition or illness, mental condition or illness, or behavioral or disciplinary problems. A special care home, depending on its size, shall be considered a Large (9 or more residents) or Small (8 or fewer residents) Residential Care use.”

The Applicant’s proposed Residential Care, Small, use at 1520 N. Marion St. meets the definition of “Transitional Housing,” because the tenancy of residents will be relatively shorter-term (average tenancy is 6 months) than residents of a Special Care Home, and because residents live independently and do not receive more than 12 hours of “care” as provided in a Special Care Home. In fact, residents will be free to come and go as they please, and may choose to receive services provided, such as assistance with addiction recovery or finding a job, but are not mandated to do so.

The definition of “Transitional Housing” includes a limit on the total number of residents by stating that all residents “are provided with individual bedrooms.” This provision has been interpreted by the Zoning Administrator to mean each resident must have their own, individual bedroom and cannot share such bedroom with anyone else (including a resident’s own children or other blood relatives).

As noted above, the subject property contains a single-unit dwelling (a residential structure containing only one dwelling unit). While the Application stated that there will be 20 residents and 11 bedrooms, the Applicant’s narrative stated that there will be 9 bedrooms, and the Applicant’s floor plan shows that there will be 9 bedrooms. For purposes of permit review and this analysis, staff confirmed that the facility at 1520 N. Marion St. will have a total of 9 bedrooms, which would, per the definition of “Transitional Housing,” cap the total number of residents at 9 persons.

The Applicant’s narrative states there may be adult residents with minor children who would need to share an individual bedroom, and altogether there would be more than 9 residents at the home, thus exceeding the number of individual bedrooms (9).

To achieve zoning compliance with a greater-than-permitted number of residents and shared bedrooms, the Applicant sought a variance for a reasonable accommodation under the Fair Housing Act pursuant to DZC, Section 12.4.5.3.B.2.b. On December 18, 2018, the Board of Adjustment for Zoning Appeals (“BOA”) granted a variance (Case Number 202-18), to allow the Applicant to have up to 16 unrelated residents in the proposed facility and to allow residents to share bedrooms. With the approved variance, the Application complies with Article 11’s applicable use definitions.

2. *Compliance with Section 11.2.9.1.E.1 – “Owner and operational limitations -- a. The applicant is the owner or has the written approval of the owner of the property. b. The applicant and the operator have obtained or will obtain upon granting of the permit any licenses or certifications required by the state and/or the city.”*

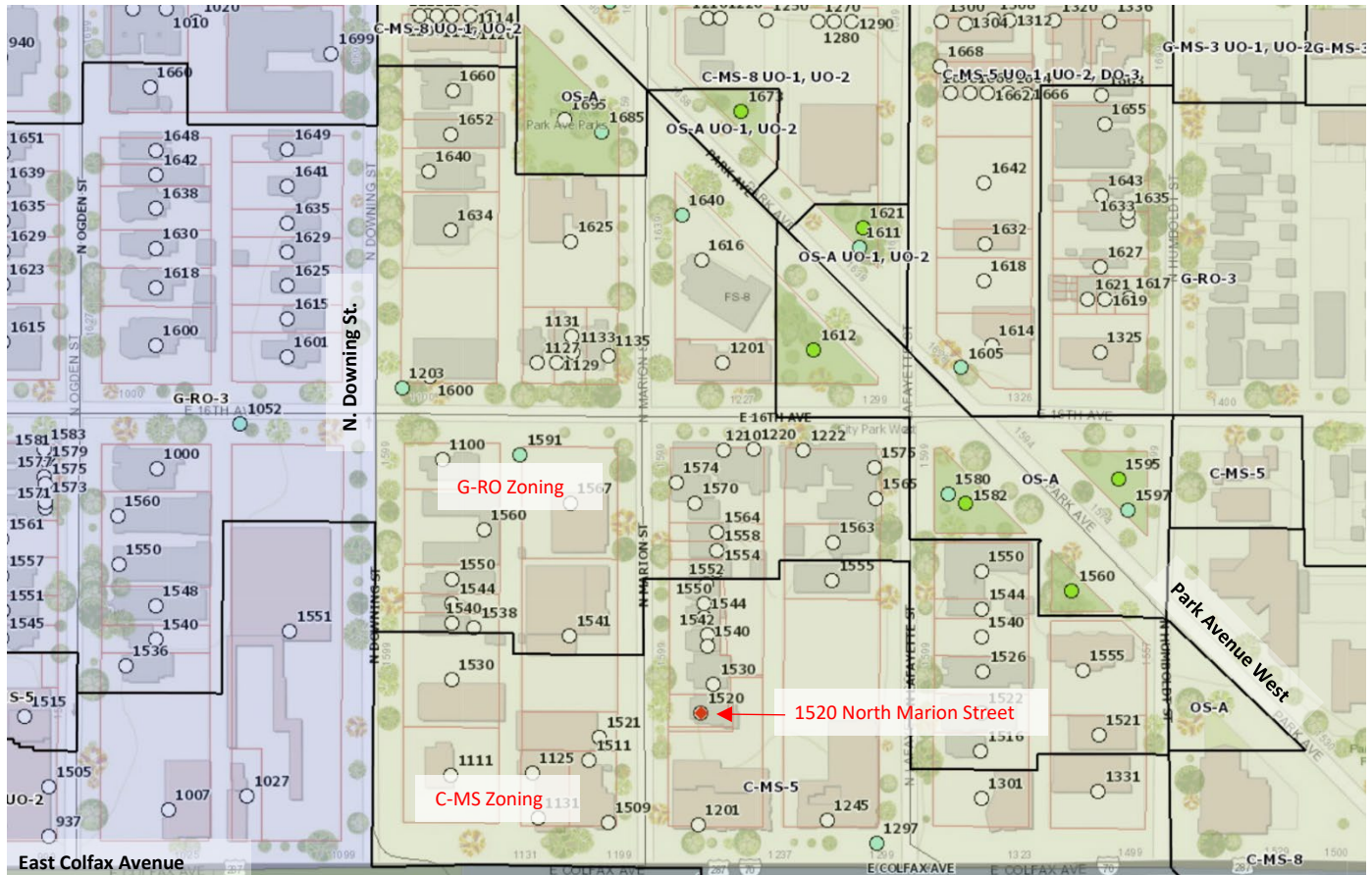
As previously stated, the Applicant is the property owner and therefore has obtained the written approval of the property owner. The Applicant and the operator have or will obtain, upon the granting of the permit, any licenses required by the State of Colorado and the City and County of Denver.

3. *Compliance with Section 11.2.9.1.E.2 – “Building and site limitations – Locating the proposed use in the neighborhood shall not substantially or permanently injure the appropriate use of nearby conforming property, and shall not cause or add to the institutionalization of residential neighborhoods that would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.”*

The objectors stated that the subject property’s block and the City Park West statistical neighborhood and the “Greater Capitol Hill neighborhood” are already “institutionalized” and saturated by existing Residential Care Uses, Small.

In 1970, the City and County of Denver’s Community Renewal Program determined Denver’s statistical neighborhoods, which are typically combinations of Census tracts, and can be found mapped on the City’s website. The objectors did not provide a map of an area they consider to be the “Greater Capitol Hill neighborhood,” and Staff could not find a map at the City of an area identified as the “Greater Capitol Hill neighborhood.” Accordingly, Staff only recognizes the subject property as located in the “City Park West” statistical neighborhood for purposes of reviewing the proposed facility’s compliance with zoning regulations. The “City Park West” neighborhood extends from North Downing Street on the west to North York Street on the east, and from East Colfax Avenue on the south to East 23rd Avenue on the north. Park Avenue bisects the western portion of the City Park West neighborhood (running diagonally from north to south), creating a substantial multi-lane barrier between land uses located on either side (1520 North Marion St. is located west of Park Avenue).

The map below shows the immediate portions of the City Park West neighborhood closest to 1520 North Marion St. (shaded light green); the North Capitol Hill statistical neighborhood is just to the west of City Park West neighborhood's western boundary (shaded in light purple).



As relevant to this inquiry for siting a Residential Care Use, Small, at 1520 N. Marion St., the City Park West statistical neighborhood is predominantly commercial and mixed-use in character closest to the subject property and East Colfax Avenue, one of the city's major business and transportation corridors. The subject property, located just one property north of East Colfax Avenue's predominantly commercial frontage, is zoned C-MS-5. The DZC classifies the C-MS-5 district as a "commercial mixed-use zone district" and not a "residential zone district." (The above map shows zone district boundaries as heavy black lines.)

Consistent with their C-MS-5 zoning, the properties immediately surrounding 1520 North Marion Street are a mix of predominantly non-residential or mixed commercial and residential uses, including: a U.S. Post Office retail facility; several bars and restaurants; professional offices; a church; and 3 other residential care homes all owned and/or operated by the Applicant. There are 3 single-family dwelling uses located on the same 1500 block of North Marion Street as the subject property, outside the C-MS-5 zone district (zoned G-RO-3) and closer to 16th Avenue. Residents of one of those homes (1558 N. Marion St.) and adjoining property and business owners (1201 E. Colfax Ave.) submitted public comments in support of the proposed Residential Care Use, Small.

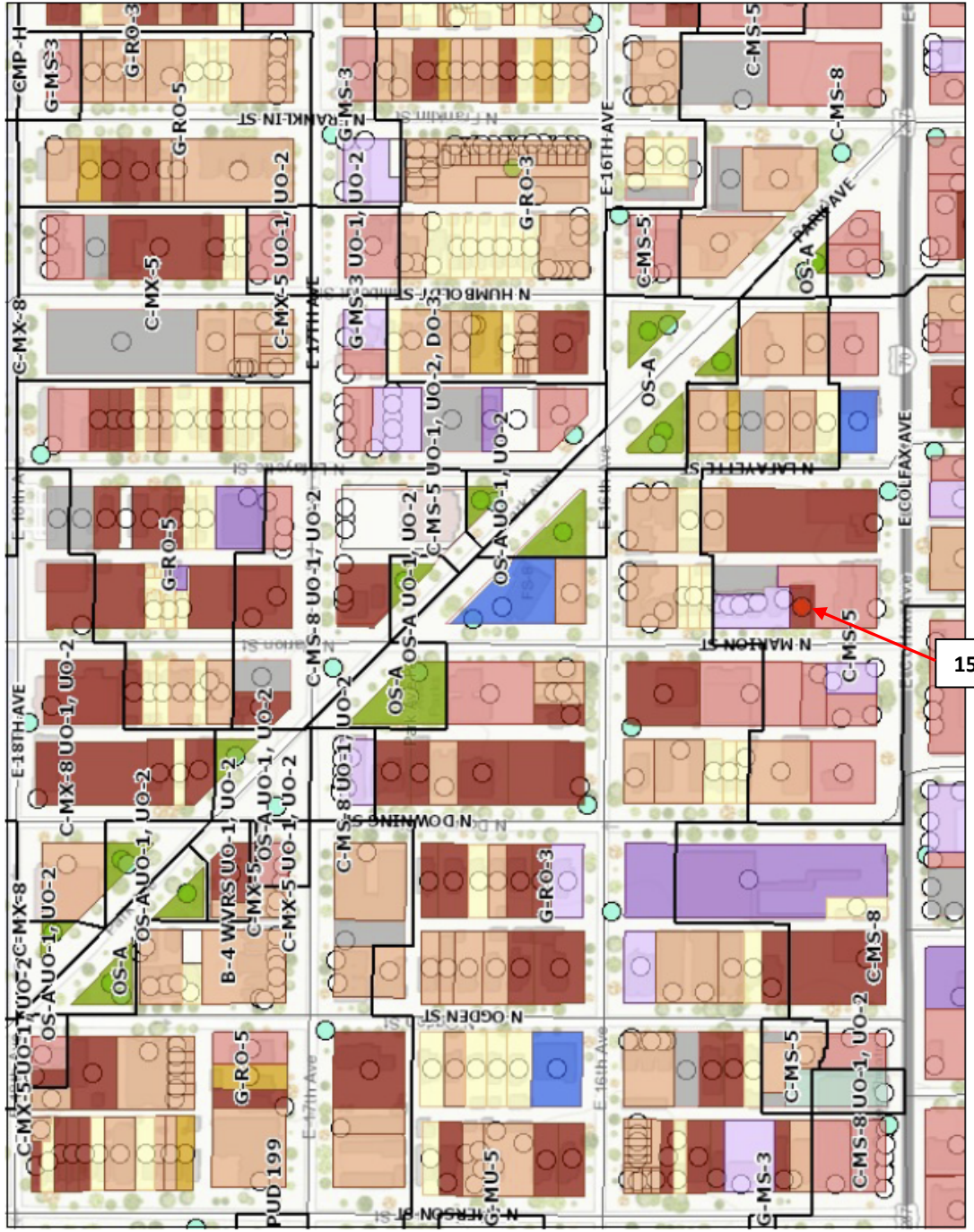
A multi-unit apartment/condo building is located at the end of the 1500 block of North Marion Street is located at its southeast intersection with 16th Avenue.

Directly east and west of the subject property, on the north side of Colfax Avenue between Park Avenue to the east and extending west to Downing Street and beyond, the applicable zone district classification is also "C-MS" on properties abutting East Colfax Avenue, with the same C-MS zoning typically extending partially to mid-way down the block toward 16th Avenue. Allowable building heights range from 3 to 8 stories tall for these properties. The mix of uses in the C-MS zoned areas surrounding the subject property are like those found on the 1500 block of North Marion Street: predominantly commercial retail and office uses, with lesser amounts of institutional/civic uses (post office/churches), and multi-family residential. Abutting the C-MS zoned lands are properties on the 1500 and 1600 blocks in the City Park West neighborhood zoned G-RO-3. The G-RO-3 zone district facilitates a mix of medium-density multi-unit residential and commercial office uses. Along 16th Avenue, in the blocks surrounding 1520 N. Marion St., existing land uses reflect their G-RO zoning and include several stand-alone office buildings and medium-density, multi-unit apartment or condo buildings (between 3 and 5 stories tall typical).

A map showing the variety of land uses surrounding 1520 N. Marion St. is found on the next page for reference. All land uses shown are as reported in the Denver Assessor's database for purposes of the 2016 property tax assessment.



1520 Marion - Surrounding Land Uses (2016)



1520 N. Marion Street

Legend

Zoning - Outlines

Existing Land Use (2016)

- Office
- Commercial/Retail
- Mixed-use
- Industrial
- Public/Quasi-public
- Entertainment/Cultural
- Single-unit Residential
- Multi-unit Residential
- Two-unit Residential
- Park/Open Space
- Agriculture
- Parking
- Trans/Comm Utilities
- ROW/Road
- Vacant
- Other/Unknown
- Active Addresses
- Associated
- Land
- Structure
- Utility
- Streams
- Irrigation Ditches Reconstruct (Gardens)
- Irrigation Ditches
- Streets
- Railroads
- Main
- Yard
- Other

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The relevant review criterion requires finding that establishing this Residential Care Use, Small, within this part of the City Park West neighborhood will “not cause or add to the institutionalization of residential neighborhoods that would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.”

Preventing “institutionalization” of an existing residential neighborhood must mean ensuring a vibrant mix of both household living and group living residential uses, such that persons residing in a care-giving group home or transitional group home (i.e., “special populations”), do not feel in any way marginalized or physically isolated from how the general Denver citizenry (non-“special populations”) live and go about their lives. Accordingly, the analysis is not simply a matter of totaling up the number of residential care homes near where a new one is proposed, and concluding that some arbitrary number of these residential care uses, small, is just “too many” for a neighborhood. Given the actual words of the review criteria and the legislative intent behind the DZC residential care regulations¹, the analysis must be more subjective. The analysis must account for the very different types of neighborhoods in Denver, from the very urban to the very suburban, and focus on how existing (non-special population) residents and proposed new (special population) residents are likely to live, interact, and feel connected to their surroundings. This analysis may lead to very different results across very different neighborhoods in Denver, even in very similar cases, depending on – among other factors – the mix of and intensity of existing and planned land uses, residential and other building types/forms in the area, and the numbers of residents already living in the neighborhood vis-à-vis the number of proposed new residents.

In this case, the addition of one 16-person Small Residential Care/Transitional Housing use at 1520 N. Marion St. will neither substantially or permanently injure the appropriate use of nearby conforming property, nor cause or add to the “institutionalization” of this portion of the City Park West neighborhood, because:

- (1) The immediate surroundings (generally the 1500 and 1600 blocks north of East Colfax Avenue between Downing and Park Avenue West) are already a high-intensity mix of commercial, institutional/civic, medium-density residential, and mixed-use developments, starting with the block-on-block “Main Street” commercial uses all along East Colfax Avenue. On just the subject 1500 block of North Marion Street can be found a U.S. Post Office and its large surface parking lot, several bars/restaurants, a church and related offices, several single-family homes, and 2- and 3-story apartment buildings. In other words, the immediate surrounding areas are already planned, zoned (C-MS and G-RO), and used for a mix of more intensive uses than exclusively residential.

In this type of neighborhood context, there is substantial leeway for all residents – whether living in a large apartment building containing dozens of units or as part of an unrelated, small group of persons living in a single home (like here) – to equally reap the benefits of residing in such a mixed-use urban neighborhood. Those benefits include feeling part of a vibrant and safe neighborhood, and enjoying the obvious proximity to work, transit, play, shopping, and worship.

¹See stated intent of Denver’s Residential Care use regulations in DZC, Section 11.2.9.1. The purpose of these use limitations includes: (1) To support and reinforce the viability and continuation of neighborhoods and communities that provide healthy environments for all their residents; (2) To prevent the “institutionalization” of residential neighborhoods by concentrating Residential Care uses so as to allow all residents, including the special populations, to reap the benefits of residential surroundings; (3) To increase location opportunities for critically needed Residential Care facilities, thereby helping to integrate special populations into the mainstream of society; and (4) To promote the dispersing of facilities and beds for special populations thereby preventing individuals from being forced into neighborhoods with concentrations of treatment facilities and beds and thus perpetuating isolation resulting from institutionalization.

Adding an additional 16 “special population” residents, who will live as an integrated group in one 5,000+ square foot home, where hundreds of “non-special population” residents already live in much larger multi-unit buildings, will not tilt this neighborhood toward “institutionalization” or over-concentration as described above, because neither population will be deprived of these types of benefits. Moreover, in this case, the addition of 16 group home residents to this neighborhood will more successfully achieve the intent of the residential care use regulations to ensure the City’s special populations are fully integrated into Denver’s neighborhoods, without feeling isolated or marginalized, versus denying the group home access to the subject property and surroundings.

- (2) The existence of 3 other Small Residential Care homes next to the subject property does not automatically amount to “institutionalization” of the affected neighborhood. As noted above, there is a much greater density of residents living in the surrounding neighborhood than will ever live in all 4 of the existing and proposed residential care homes combined. The exterior residential character of the subject property, and the 3 other North Marion Street properties occupied by permitted Residential Care uses, remains intact. Moreover, the “institutionalization” of the neighborhood becomes less worrisome when both the prevailing C-MS and G-RO zoning would allow the same or greater number of unrelated persons to live at all 4 properties under a different permitted land use, such as Rooming and Boarding or Assisted Living Facility. Finally, the Applicant purposefully chose this location for a new Small Residential Care group home, with full knowledge of the three adjacent group homes (also owned and operated by the Applicant), believing that doing so will still allow the home’s future residents to reap the benefits of its residential surroundings.

The objectors to this Application stated generally, as well as provided specific examples, that the Applicant has not maintained a good relationship with either the “City Park West” statistical neighborhood or the “greater Capitol Hill” neighborhood. These comments about personal experiences with the Applicant’s zoning applications at *other* properties, as well as the Applicant’s personal relationship with members of the neighborhood, were reviewed but not factored into the final decision because such comments are not relevant to an analysis of the Application under the zoning code’s review criteria.

4. *Compliance with Section 11.2.9.1.E.3 – Upon issuance of a permit for a Small Residential Care use, the applicant and the operator shall only be required to comply with²:*

a. *Division 10.4, Parking and Loading;*

No vehicle parking is required for this use per the use and parking table of Section 7.4.4.

b. *Section 11.2.9.1.C.2, Continuation of Certain Existing Uses - Requirement for ZPIN Review for Floor Area Increases in Existing Structures:*

No floor area increase is proposed. If the existing structure is expanded, the structure shall comply with this Section.

²Note: There is a typographical error in the DZC; this Section’s numbering was not updated in the most recent version of the DZC, it has been updated here to reference the correct Sections.

c. *Section 11.2.9.1.C.3, Continuation of Certain Existing Uses - Requirement for ZPIN Review for Increases in Number of Permitted Residents:*

This proposal is for a Residential Care Use, Small. If the approved use requests an increase in the number of permitted residents, this use shall comply with this Section. This Application has been granted an increase in the number of residents, by request of a reasonable accommodation for DZC compliance with the Federal Housing Act, pursuant to Section 12.4.5.3.B.2.b.

d. *Section 11.2.9.1.D.4, Minimum lot dimensions:*

The subject property does not meet the minimum lot dimensions. The BOA granted a variance for the minimum lot dimensions in BOA Case Numbers 71-18 and 160-18.

e. *Section 11.2.9.1.D.5, Limitations on external effects:*

The proposed use shall comply with Section 11.2.9.1.D.5, "Such use shall comply with the limitations on external effects as established for permitted uses in the district in which it is located."

5. *Compliance with Section 11.2.9.1.E.4 – "No conditions on the number of staff may be placed on the permit for transitional housing except for a condition requiring at least one staff person on-site."*

In compliance with this Section, no conditions have been placed on the permit about minimum staffing. The Applicant's narrative has adequately addressed the staffing needs for the proposed Residential Care Use, Small.

6. *Compliance with Section 11.2.9.1.F. – "Compliance with Denver Building and Fire Code – All Residential Care uses shall comply with applicable provisions of the Denver Building and Fire Code."*

The Applicant shall be required to undergo a certificate of occupancy building permit process to change the occupancy of the existing structure, as shown in the submitted plans, for the Residential Care, Small, Use to congregate living to comply with this Section.

7. *Section 11.2.9.1.G. – "Approvals Personal to Applicant/Operator – The permit for an approved Residential Care use shall automatically expire at such time as the operator specified in the permit no longer operates the Residential Care use at the subject property."*

This ZPIN shall expire when the operator of the permit no longer operates the Residential Care Use, Small, at the subject property. This ZPIN is therefore personal to the Applicant and non-transferable. Any future operator of a Residential Care Use, Small, on the subject property shall be required to complete the ZPIN process prior to beginning operation.

Any other deficiencies with this Application's compliance with all applicable DZC regulations are addressed in this ZPIN's conditions of approval, and by the variances the BOA granted for lot area, lot width, and number of residents/shared bedrooms.

- D. *Compliance with Section 12.4.2.5.C. – "The proposal will not substantially or permanently injure the appropriate use of adjacent conforming properties, taking into consideration all proposals for mitigation of such impacts."*

The Applicant provided multiple letters and unverified petition signatures of support from City residents, other property and business owners in the immediate vicinity of the subject property, and a letter from the leadership of the City Park West Registered Neighborhood Organization (where they said they were speaking for themselves and not their larger neighborhood). The letters of support for the proposed Residential Care Use, Small, at this location evidence no substantial or permanent injury to adjacent conforming properties.

The subject property is zoned C-MS-5, a Mixed Use Commercial Zone District that allows single-unit dwellings, duplexes, multi-unit dwellings, schools, churches, rooming and boarding houses, and residential care uses on both Colfax Avenues and the 1500 block of North Marion Street. Given the residential size and scale of the subject property's building, the general mixed-use and commercial character of surrounding conforming uses, and the Applicant's operational commitments to mitigate potential impacts on the surrounding neighborhood, a Residential Care Use, Small, of the size and type proposed by this Application will not substantially or permanently injure the appropriate use of adjacent conforming properties in the C-MS-5 zone district. Arguably, the proposed Residential Care Use, Small at this location benefits from proximity to the East Colfax Avenue corridor, and nearby transportation and employment opportunities, which are necessary components to successfully transition residents from homelessness to permanent housing and greater stability

SUMMARY OF FINDINGS

According to DZC, Section 12.4.2, Zoning Permit Review with Informational Notice, and Section 11.2.9.1.E, Use Limitations on Residential Care Uses, the Zoning Administrator finds:

1. That the Applicant submitted a complete application on July 7, 2018;
2. That the subject property was properly posted;
3. That registered neighborhood organizations and City Councilpersons were properly notified;
4. That the Applicant is the property owner;
5. That the Applicant shall obtain the licenses and certifications required by the State of Colorado and the City and County of Denver, as applicable, upon approval of the zoning permit;
6. That the Applicant shall comply with all requirements of Division 10.4, Parking and Loading, upon issuance of a zoning permit (0 off-street vehicle parking spaces required);
7. That the Applicant will comply with all requirements of Section 11.2.9.1.C.3, Continuation of Certain Existing Uses-Requirement for ZPIN Review for increases in number of permitted residents, as applicable; and
8. That the proposed small residential care use shall comply with the limitations on external effects as established for uses by right in the district in which it is located.
9. That the Applicant has received variances from the BOA for its lot dimension deficiencies pursuant to Section 11.2.9.1.D.4, and to grant a reasonable accommodation under the Fair Housing Act pursuant to DZC, Section 12.4.5.3.B.2.b, to allow the Applicant to exceed the maximum allowable number of residents and to allow a maximum of 16 unrelated residents in 9 bedrooms, and which bedrooms may be shared by more than one resident.

FINAL DECISION-APPROVED WITH CONDITIONS

Based on the forgoing findings and community input, the Applicant has met all DZC requirements for a small residential care use and the application therefore is approved with the following conditions intended to mitigate the potential for off-site impacts on surrounding, conforming land uses:

1. The facility grounds shall be properly maintained and kept free of weeds, debris, and trash.
2. This use shall house no more than 16 unrelated residents, who may share the individual bedrooms. In addition to the 16 unrelated residents, one or more employees of the use's permitted operator (Open Door Ministries) may reside at the property.
3. If the Applicant wishes to expand the number of residents at the proposed Residential Care Use, Small, a new ZPIN will be required with an application, narrative, and plans that show the corresponding number of individual bedrooms to the requested number of unrelated residents as well as receive any required variance for such expansion of the allowed number of residents.
4. The Applicant shall comply with the provisions set forth in Section 11.2.9, Limitations for Small Residential Care Use, of the DZC, including, but not limited, to: Section 11.2.9.1.F: "All Residential Care uses shall comply with applicable provisions of the Denver Building and Fire Code;" and Section 11.2.9.1.G, "The permit for an approved Residential Care use shall automatically expire at such time as the operator specified in the permit no longer operates the Residential Care at the subject property."
5. To comply with Section 11.2.9.1.F, a building permit for change of occupancy is required to change the occupancy of the existing primary use structure (1520 N. Marion St.) from Office, Non-Dental, Non-Medical and Residential Special L-13 Religious Training – Congregate Residence to group (congregate) living. The change of occupancy will trigger compliance with applicable City and County of Denver Building and Fire Code standards.
6. Section 12.4.2.6.A.1 states, "Except as otherwise allowed in subsection C. below, all approved zoning permits authorizing construction (including authorization for a change in occupancy) shall expire after 180 days after the date of issuance if a building permit has not been issued within the 180-day time period and is not thereafter cancelled." In accordance with this Section, the Applicant shall submit all necessary applications and plans to the City and County of Denver Building Department. If any subsequently issued building permit is cancelled or the Applicant fails to receive either a temporary certificate of occupancy (TCO) or certificate of occupancy (CO) within 180 days of the issuance of this ZPIN, this ZPIN shall be null and void.
7. The Applicant shall obtain and maintain in good standing in all other applicable state and local approvals and licenses.



Steve Elkins
Associate City Planner
For the Zoning Administrator

1/10/19
Date