



TO: Denver City Council
FROM: Francisca Peñafiel, Associate City Planner
DATE: October 28, 2021
RE: Official Zoning Map Amendment Application #2020I-00200

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2020I-00200.

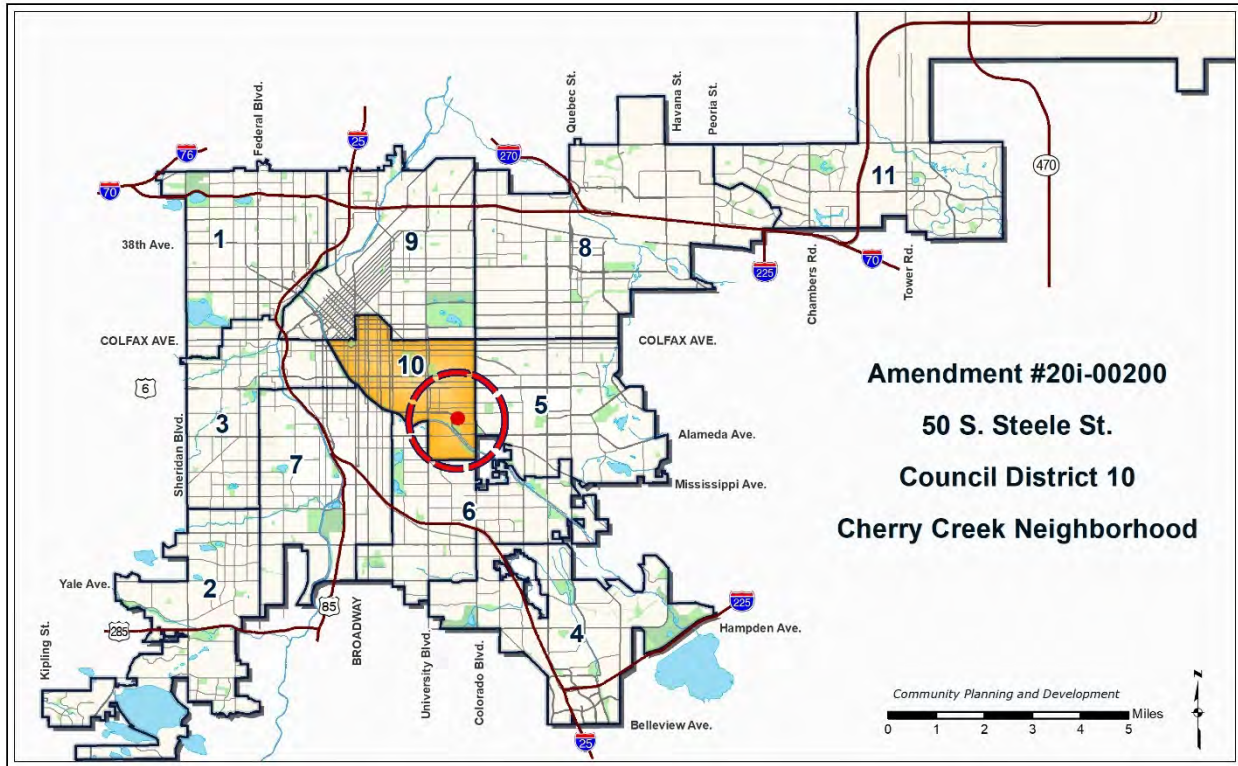
Request for Rezoning

Address:	50 South Steele Street
Neighborhood/Council District:	Cherry Creek / Council District 10, Chris Hinds
RNOs:	Inter-Neighborhood Cooperation (INC), Green Cherry Creek, Cherry Creek East Association, District 10 Neighborhood Coalition, Inc, Denver for All,
Area of Property:	62,625 square feet or 1.4 acres
Current Zoning:	C-MX-8
Proposed Zoning:	C-MX-12
Property Owner(s):	Steele Street Holding, LLC
Owner Representative:	Broe Real Estate – Marc Savela

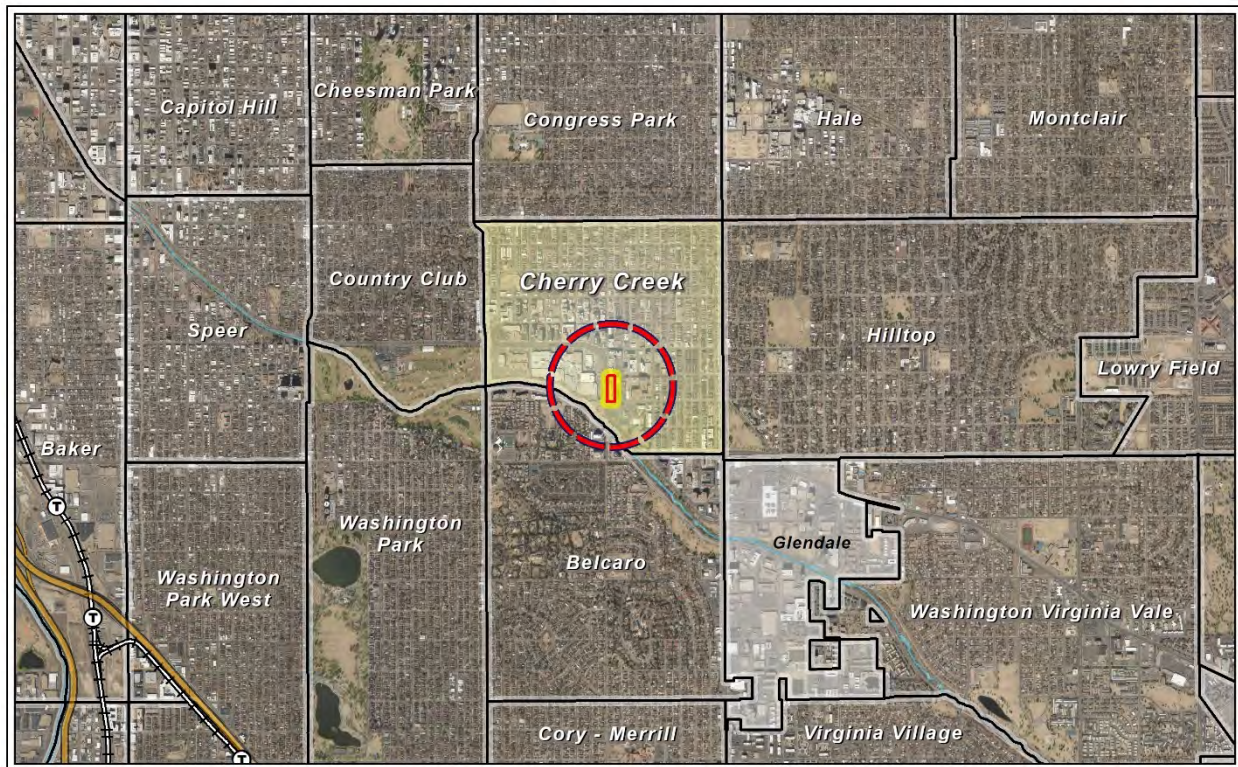
Summary of Rezoning Request

- The proposed rezoning is in the Cherry Creek statistical neighborhood along South Steele Street, between Ellsworth Avenue and Bayaud Avenue.
- The 1.4-acre subject property contains a 10-story office structure built in 1973 with a garden level and approximately 1,000 sf parking (1 level at grade parking and 2 levels of below grade parking).
- The applicant is requesting to rezone the property to facilitate mixed use redevelopment of the site, and their tentative plan is to build a mixed-use building with ground floor retail and residential units above.
- The proposed zone district C-MX-12, can be summarized as follows (see map below illustrating proposed zone district):
 - The C-MX-12 zone district stands for Urban **C**enter, **M**ixed Use, with a maximum height of **12** stories. The C-MX zone districts are mixed-use zone districts that allow a wide range of residential and commercial uses with minimum build-to and increased transparency requirements intended to promote active pedestrian areas on public streets. The C-MX-12 zone district allows up to 12 stories and 150 feet in building height.
 - Further details of the requested zone district can be found in the proposed zone district section of the staff report (below), and in Article 7 of the Denver Zoning Code (DZC).

Existing Context



Neighborhood Location - Cherry Creek Neighborhood



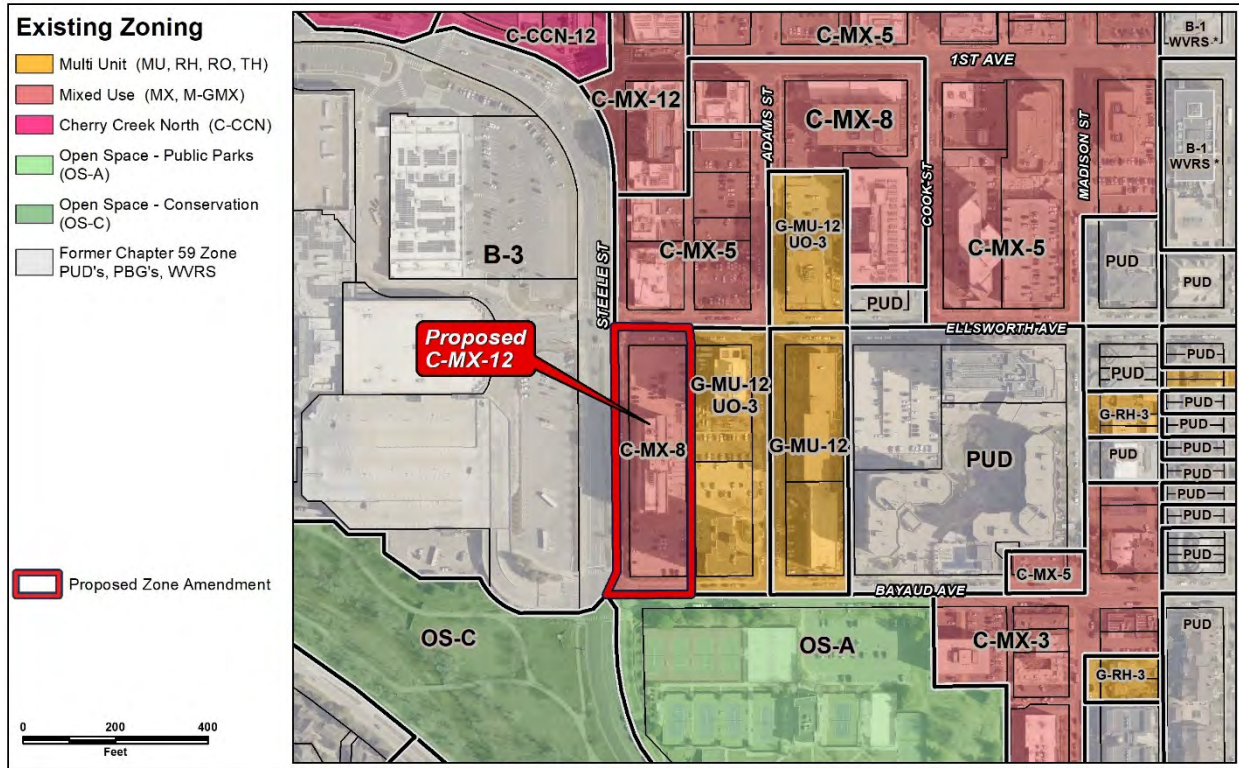


The subject property is located in the Cherry Creek neighborhood, between Ellsworth Avenue and Bayaud Avenue, along South Steele Street. The area is primarily composed of multi-unit residential and office buildings, with some commercial/retail along 1st Avenue and the Cherry Creek Shopping Center across the street on Steele Street. The subject site is directly north of Pulaski Park. Additionally, the popular Cherry Creek Trail is within a block of the site. Steel Street and Colorado Boulevard provide high-capacity RTD transit services to the immediate area. The applicant is requesting the C-MX-12 zone district which is consistent with neighborhood patten of mixed-use high-density developments.

The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	C-MX-8	Mixed Use	10-story office building with a garden level and approximately 1,000 sf parking (1 level at grade parking and 2 levels of below grade parking).	Generally regular grid of streets interrupted to the west the Cherry Creek Shopping Center and south by Cherry Creek Drive. Block sizes and shapes are generally consistent and rectangular. Pedestrian-oriented building frontages predominate.
North	C-MX-5	Mixed Use	2-story office building with surface parking on the back and minimal setbacks	
South	OS-A	Open Space Public Parks	Public park with small 2-story recreation center building	
East	G-MU-12 UO-3	Multi-Unit Residential	14-story structure with surface parking	
West	B-3	Former Ch. 59 Shopping Center	2-story shopping center with surface and underground parking	

1. Existing Zoning

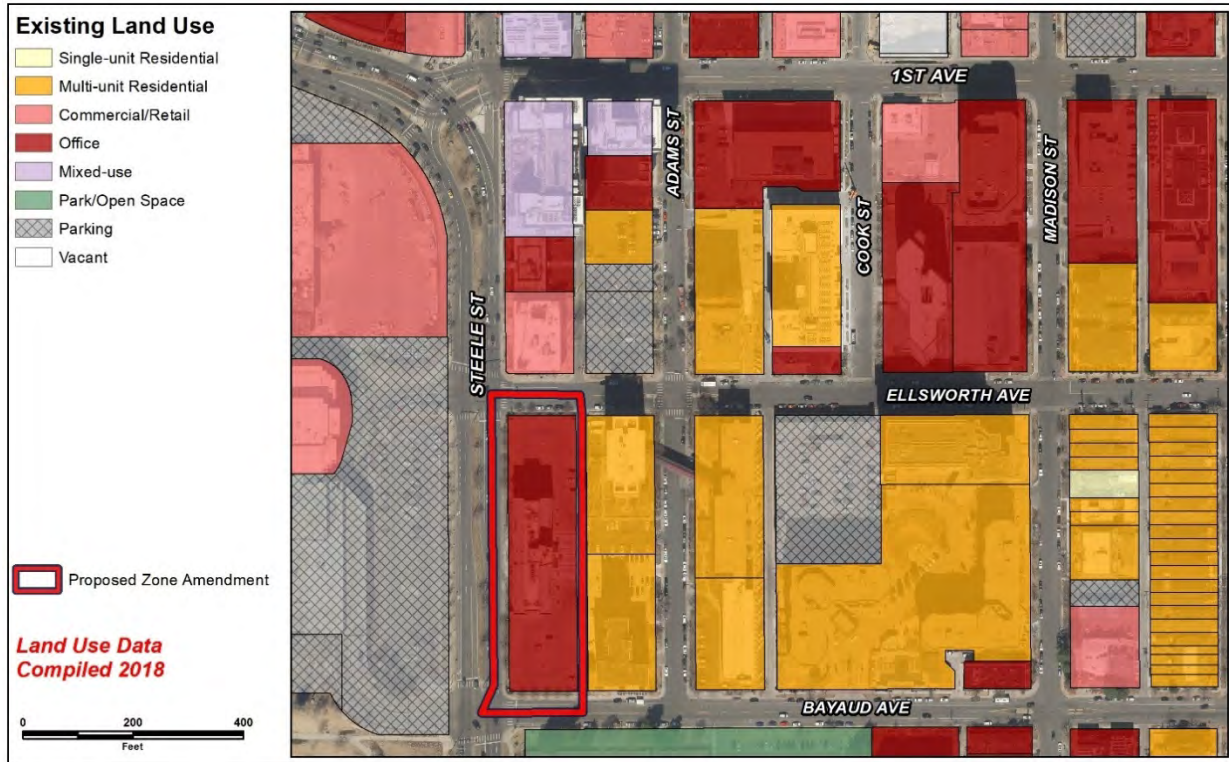


The existing zoning on the subject property is C-MX-8, which is a commercial mixed-use district allowing up to 8 stories and 110 feet in height. C-MX-8 allows primary structures in the Town House, General and Shopfront building forms. A broad range of commercial, residential, and civic uses are allowed.

2. View Plane

The subject site is within the *Cranmer Park View Plane*. The intent of this view plane is to preserve the view of the Rocky Mountains (west of the subject site) from Cranmer Park (east of the subject site). No part of any structure within the view plane may exceed an elevation of 5,434 feet above mean sea level. Therefore, the subject site is subject to a maximum height restriction of roughly 158 feet. However, the proposed zone district of C-MX-12 has a lower maximum height of 110 feet for primary structures.

3. Existing Land Use Map



4. Existing Building Form and Scale (All images are from Google Street View)



Site – from South Steele Street, facing east



Site – from Ellsworth Avenue, facing north



South – from Bayaud Avenue



West – from Steele Street



North - from Ellsworth Avenue



East - other side of the alley

Proposed Zoning

The requested C-MX-12 zone district is “intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge” (Section 7.2.2.1). The district allows a variety of residential, civic, commercial, and industrial uses. The maximum height is 12 stories or 150 feet with allowable encroachments. The minimum Primary Street setback is 0’, except for the Town House building form which has a 10’ minimum Primary Street setback. Surface parking is not allowed between the building and the Primary and Side Streets. Multi-unit dwellings require 0.75 parking spaces per unit. For additional details regarding building form standards in the C-MX-12 zone districts, see DZC Section 7.3.3.4.

The allowed primary building forms and key design standards in the existing and proposed zone districts are summarized below

Design Standards	C-MX-8, (Existing)	C-MX-12 (Proposed)
Primary Building Forms Allowed	Town House; General; Shopfront	Town House; General; Shopfront
Height in Stories / Feet (max)	8/110’	12/150’
Primary Street Build-To Percentages (min)	70% to 75%*	70% to 75%*
Primary Street Build-To Ranges	0’ to 15’*	0’ to 15’*
Minimum Zone Lot Size/Width	N/A	N/A
Primary Street Setbacks (min)	0’ to 10’*	0’ to 10’*
Building Coverage	N/A	N/A

Proposed Affordable Housing Agreement

Concurrent with the rezoning, the applicant has entered into a voluntary affordable housing agreement with HOST. The terms of the agreement are that 12.5% of all residential units will be dedicated as Income Restricted Units for 99 years. Of those Income Restricted Units, 100% shall serve households earning up to 80% AMI. The Income Restricted Units will include unit sizes (e.g., studio, one-bedroom, two-bedroom or three-bedroom) in approximate proportion to the unit sizes of all residential units constructed on the Subject Property. The applicant has further committed that at least 25% of all IRUs will have two or more bedrooms, effectively setting a floor.

Summary of City Agency Referral Comments

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

Assessor: Approved – No Response

Asset Management: Approved – No Comments

Denver Public Schools: Approved – No Response

Department of Public Health and Environment: Approved – No Comments

Denver Parks and Recreation: Approved – No Comments

Department of Transportation and Infrastructure – R.O.W. - City Surveyor: Approved – No Comments

Development Services – Transportation: Approved – No Response

Development Services – Wastewater: Approved – No Response

Development Services – Project Coordination: Approve – No Response

Development Services – Fire Prevention: Approved – No Comments

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	06/24/21
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	08/31/21
Planning Board Public Hearing:	09/15/21
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	09/07/21
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	09/21/21
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	10/11/21
City Council Public Hearing:	11/01/21

Public Outreach and Input

- **Registered Neighborhood Organizations (RNOs)**

Cherry Creek East Association (CCEA) held a public zoom meeting where they committed to an electronic survey. All meeting attendees and community members were invited to take the survey using e-mail, FB CCE Group, Nextdoor CCE group, District 10 FB page, physical postings, HOAs, etc. totaling approx. 950 persons. Multiple postings and emails were sent as reminders. The survey results were shared with CPD (attached) and District 10 Councilmember Hinds and are in the public record.

Staff received a position statement from CCEA where they explain that the majority of Cherry Creek East constituents voted in opposition to the proposed rezoning of 50 S Steele Street from 8 to CMX 12 stories. In their letter, CCEA cites its role as an RNO to communicate to Planning Board and City Council how its constituents feel, the CCEA Board voted unanimously to recommend that Council oppose the rezoning. However, the letter goes on to note that the RNO and the developer agreed that it is in the best interest of both parties to have a signed agreement covering the development and its construction. The letter describes the applicants' willingness to enter into the agreement despite the unfavorable CCE vote as "a sign of good faith towards the community."

The Memorandum of Understanding (or good neighbor agreement) addresses issues like:

- Process Provisions including parking, traffic impact and traffic demand management studies
- Exterior design, access and safety provisions including sidewalks, landscaping, lighting and setbacks
- Programming provisions including residential unit sizing, street level activation, on-site parking and storage, outdoor amenity locations, community meeting space and security and staffing.

Separately, the applicant is also working towards a separate agreement with Kavod (a low-income community for senior citizens adjacent to the subject site) to address some of the specific concerns that Kavod has (draft agreement attached). In this agreement the applicant will allow Kavod to park 20 employees at no cost prior to redevelopment and agreed to discuss ongoing post developments (with no commitment on spots at this time).

For additional details on CCEA Survey results, the Good Neighbor Agreement Drafts with CCEA and Kavod, please refer to the attachments to this staff report.

- **Other Public Comment**

Staff received one letter of opposition from the public, that references the CCEA survey. And how the redevelopment of 50 South Steele could impact neighboring views.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

DZC Section 12.4.10.7

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

DZC Section 12.4.10.8

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

1. Consistency with Adopted Plans

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *Cherry Creek Area Plan (2012)*

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density, while also enabling additional housing units close to services and amenities, some of which would be restricted to residents earning less than the Area Median Income. It is therefore consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Accessible and Inclusive Goal 1 – *Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities (p. 28).*
- Equitable, Affordable and Inclusive Goal 1, Strategy A – *Increase development of housing units close to transit and mixed-use developments (p. 28).*
- Equitable, Affordable and Inclusive Goal 2, Strategy A – *Create a greater mix of housing options in every neighborhood for all individuals and families (p. 28).*
- Equitable, Affordable and Inclusive Goal 3, Strategy B – *Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit (p. 28).*

The proposed rezoning would enable mixed-use infill development at a location where services and infrastructure are already in place. The proposed C-MX-12 zoning designation would allow for a broader variety of uses including housing, retail, and services and is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy A – *Build a network of well connected, vibrant mixed-use centers and corridors* (p. 34).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).
- Strong and Authentic Neighborhoods Goal 2, Strategy D – *Use urban design to contribute to economic viability, public health, safety, environmental well-being, neighborhood culture and quality of life* (p. 34).

As Denver continues to grow and becomes denser, it is imperative that we shift how we plan around our mobility system. Therefore, the proposed rezoning allowing for a mix of uses near high-capacity transit is consistent with strategies in the Connected, Safe and Accessible Places vision element:

- Connected, Safe and Accessible Places Goal 8 – *Strengthen multimodal connections in mixed-use centers and focus growth near transit* (p. 42).
- Connected, Safe and Accessible Places Goal 8, Strategy B – *Promote transit-oriented development and encourage higher density development, including affordable housing, near transit to support ridership* (p. 42).

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies in the Environmentally Resilient vision element:

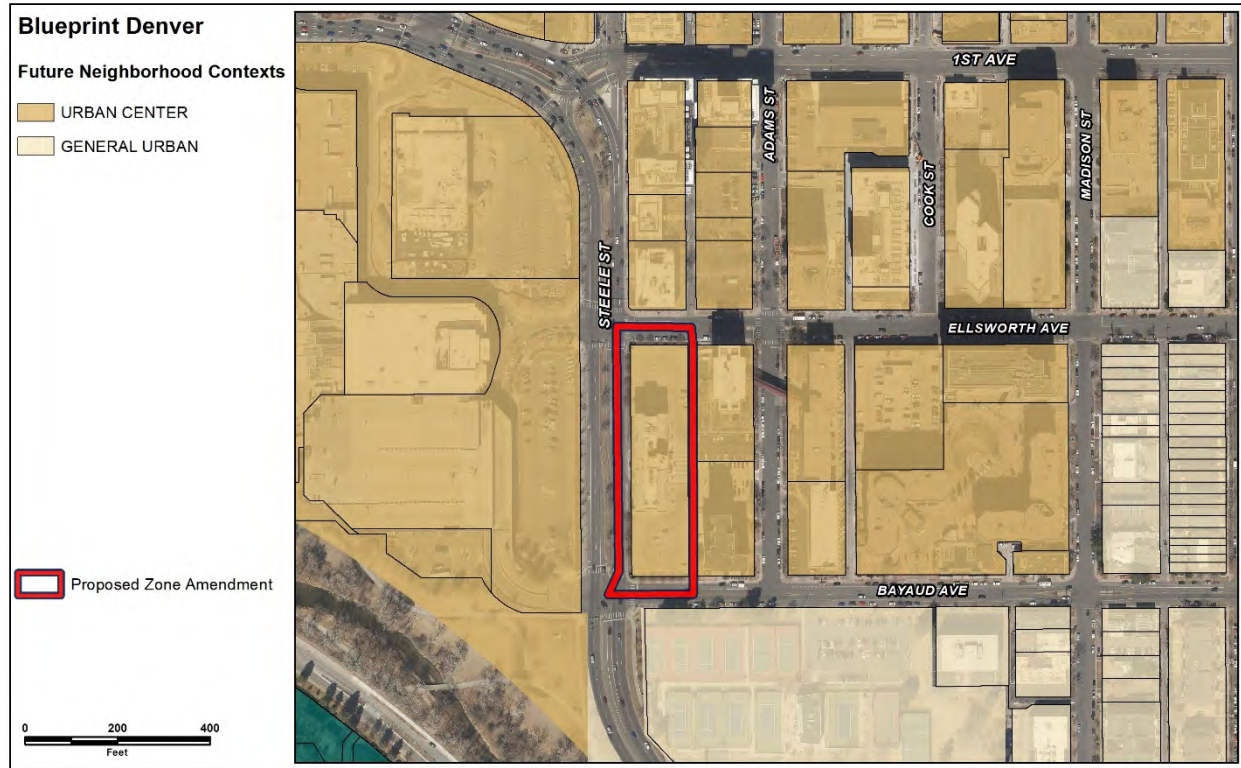
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B - *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).
- Environmentally Resilient Goal 8, Strategy C – *Focus growth by transit stations and along high and medium-capacity transit corridors* (p. 54).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested zone district broadens the variety of uses allowing residents to live, work and play in the area. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

Blueprint Denver (2019)

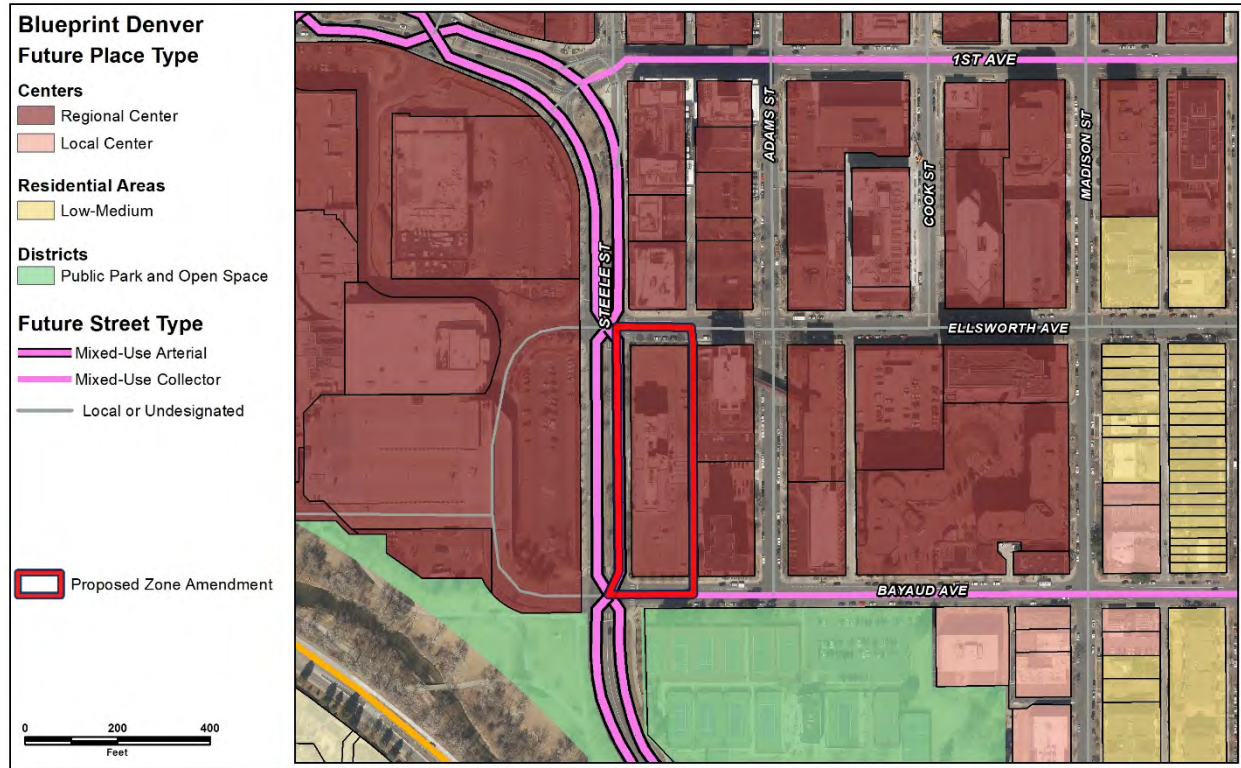
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Regional Center future place within the Urban Center Context and provides guidance from the future growth strategy for the city.

Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is within the Urban Center Context. *Blueprint* states, "This context contains high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity" (p. 252). The proposed C-MX-12 zone district is part of the Urban Center context and is "intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge" and "the Mixed-Use districts are focused on creating mixed, diverse neighborhoods" (DZC 7.2.2.1). Since the proposed district allows a mix of uses and allowable building forms that contribute to street activation, the proposed rezoning to an Urban Center context is appropriate and consistent with the plan.

Blueprint Denver Future Places



Blueprint Denver describes a Regional Center in the Urban Center context as “providing a mix of office, commercial and residential uses. A wide customer draw both of local residents and from other parts of the city” (p. 256). Buildings are typically larger in scale and orient to the street with a strong degree of urbanism and continuous street frontages. Additionally, “heights can be generally up to 12 stories in the taller areas and should transition gradually within the center’s footprint to the surrounding residential areas” (p. 256).

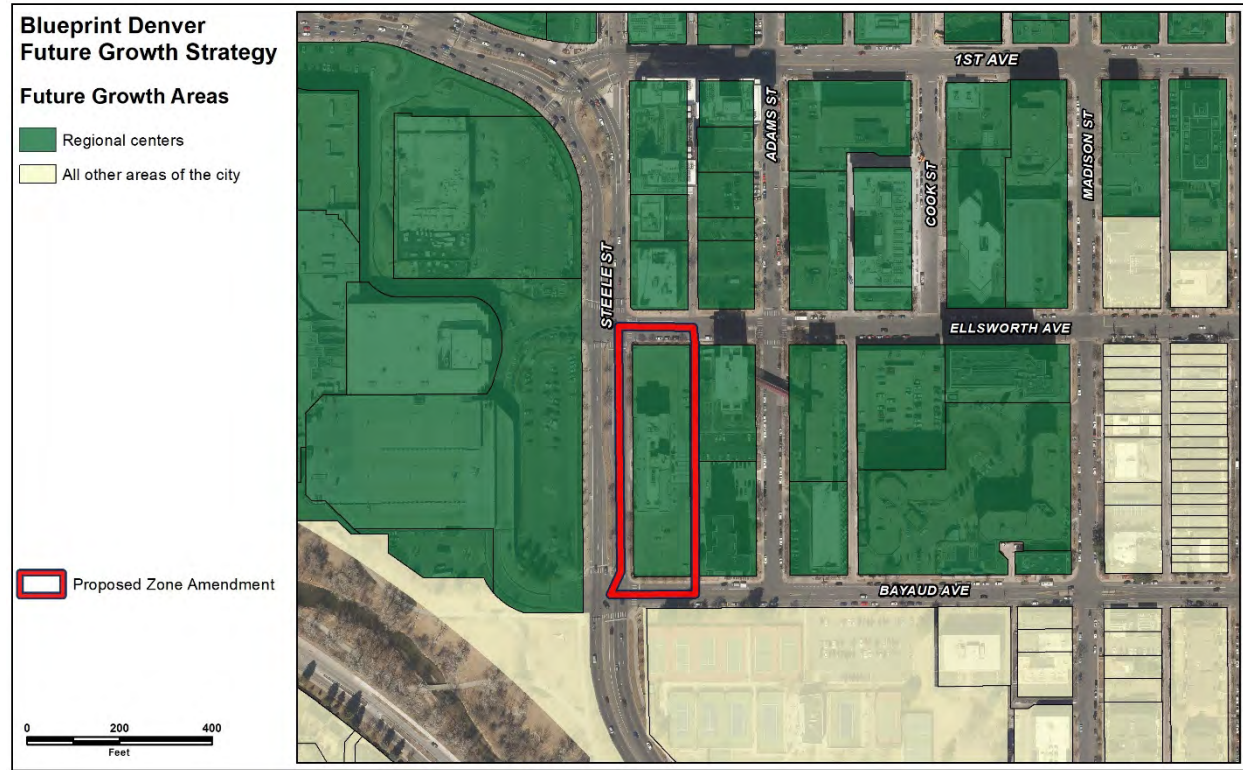
The proposed C-MX-12 zone district allows for a variety of commercial and residential uses in a pedestrian-oriented pattern with an active street level. Therefore, the requested C-MX-12 is appropriate and consistent with the future place plan direction.

Street Types

Blueprint Denver classifies Steele Street as mixed-use arterial. Arterial streets “are designed for the highest amount of through movement and the lowest degree of property access” (p. 154) and according to the plan, this street type supports a “varied mix of uses including retail, office, residential and restaurants. Buildings are pedestrian-oriented, typically multi-story, usually with high building coverage with a shallow front setback” (p. 159).

The proposed C-MX-12 zone district is intended for areas served primarily by arterial streets (DZC Section 7.2.2.2.C). The subject property is served by South Steele Street, a mixed-use arterial. Staff believes the requested zone district is appropriate considering the street type designations.

Growth Strategy



Blueprint Denver’s growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is located within the “Regional centers” growth area, these areas are anticipated to see around 30% of new housing growth and 50% of new employment growth by 2040 (p. 51). The proposed map amendment to C-MX-12 is consistent with the “Community centers and corridors” growth area in that it will allow a broad range of job opportunities and housing types and direct more intense and appropriate growth to this area than the existing zoning allows.

Additional Applicable Strategies

The proposed rezoning is also consistent with the following strategies from *Blueprint Denver*:

- Land Use and Built Form – General Policy 2 – *Incentivize or require efficient development of land, especially in transit-rich areas* (p. 72).
- Land Use and Built Form – Housing Policy 6, Strategy A - *Incentivize affordable housing through zoning, especially in regional centers, community centers and community corridors adjacent to transit. This could include a process—informed by community input—to create citywide height bonuses in the zoning code, where additional height is allowed in exchange for income restricted units. Incentives for affordable housing are particularly important for areas that score high in Vulnerability to Displacement and score low in Housing Diversity* (p. 85).
- Land Use and Built Form – Housing Policy 8 – *Capture 80 percent of new housing growth in regional centers, community centers and corridors, high-intensity residential areas, greenfield residential areas, innovation flex districts and university campus districts* (p. 86).

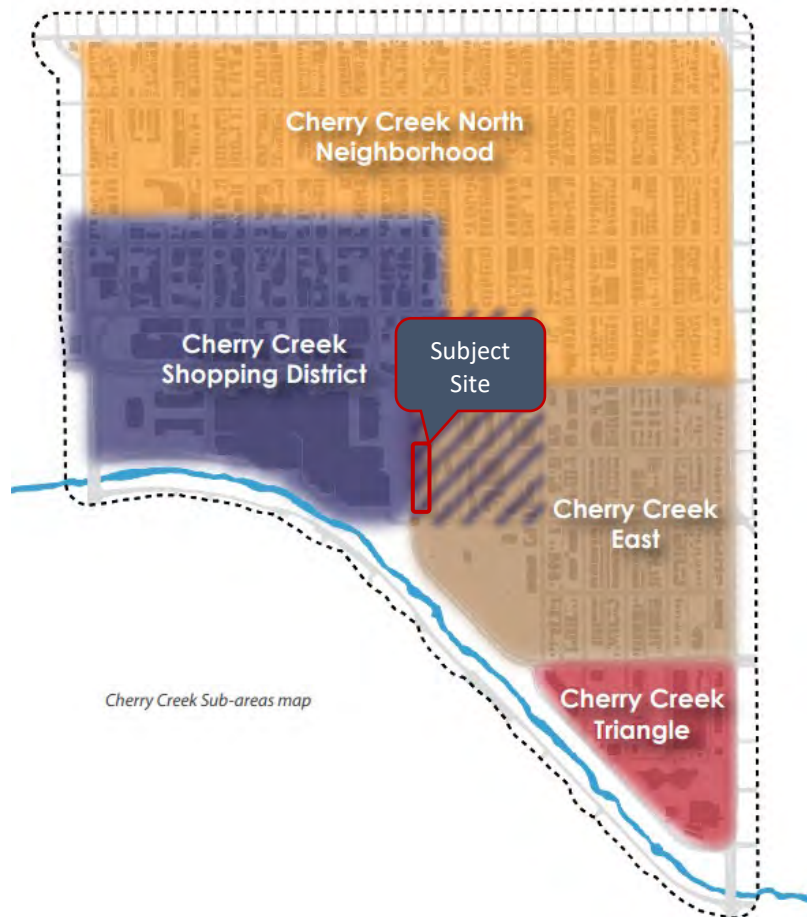
Cherry Creek Area Plan (2012)

The Cherry Creek Area Plan (CCAP) was adopted by City Council in 2012 and applies to the subject property. The Plan organizes the neighborhood into sub-areas and provides recommendations for each of these smaller neighborhood areas. The subject property is located in the overlap of the Cherry Creek East and Cherry Creek Shopping District sub-areas.



The overarching framework recommendations guide growth to targeted areas of Cherry Creek. Cherry Creek Area Plan notes that, “overall these areas benefit from new development, reinvestment and more intense use” (p. 29). Moreover, the plan recommends that the city “modify land use policy, zoning regulations and design guidelines to encourage appropriate reinvestment to assure that these areas continue to mature in positive ways” (p. 29).

The requested rezoning to C-MX-12 is such a change in zoning regulations that would enable reinvestment and development in the subject property as expressed in the plan.



Subarea Strategies:

- Cherry Creek Shopping District - the region's most vibrant upscale retail and mixed-use district.
- Cherry Creek East - a highly desirable moderate density residential neighborhood that also includes a high-density office and residential district on its western edge.

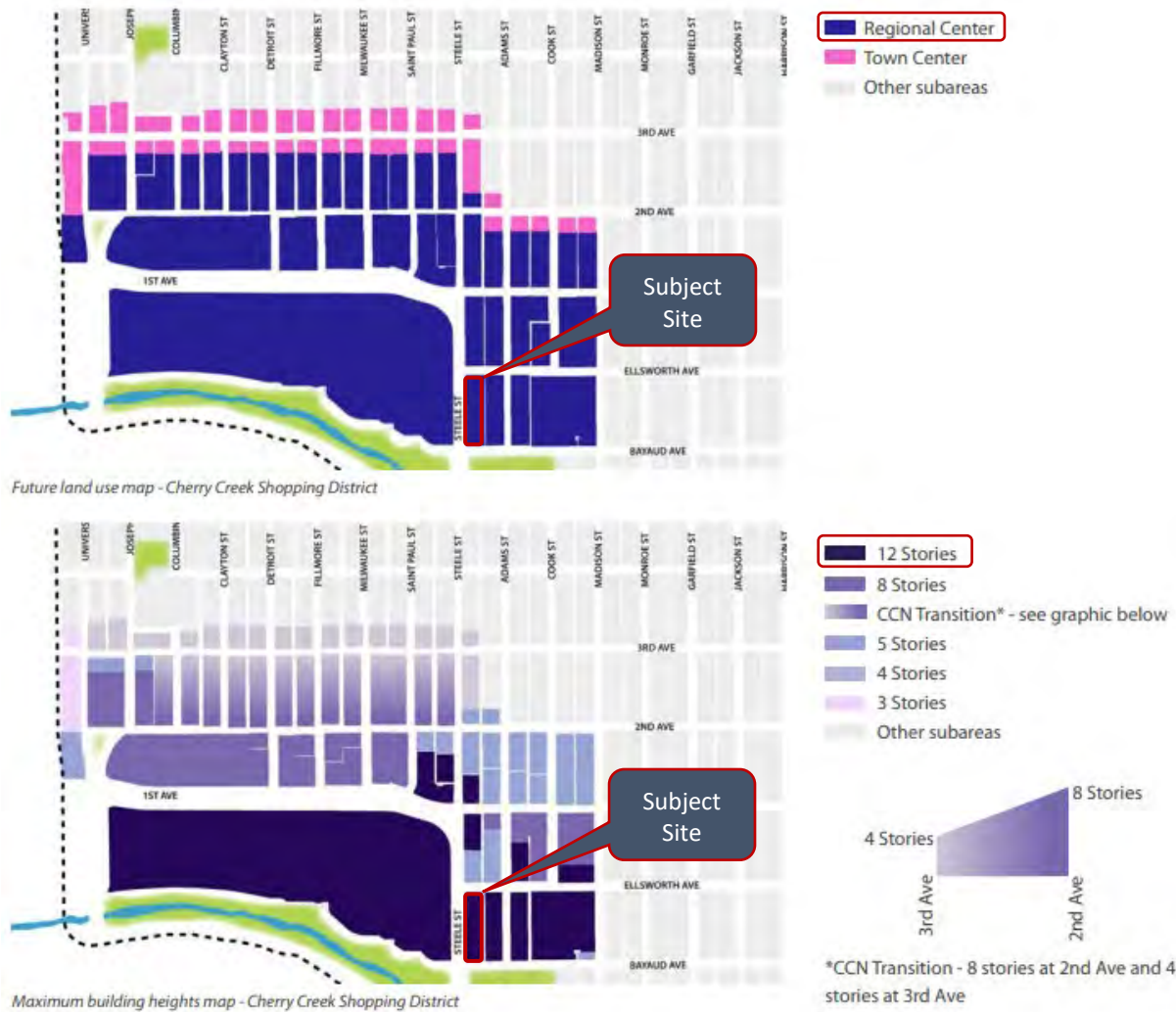
Some of the plan recommendations for both areas:

“More residential, hotel and office development in Shopping District and other nearby areas, such as Cherry Creek Triangle” (p. 59)

“The long-term vision for the Shopping Center as stated in the 2000 Neighborhood plan and further refined in this plan includes greater density at the east and west ends, as well as a greater mix of uses that may include higher intensity mixed-use office, hotel and residential along with ground floor retail” (p. 60)

“Continue to develop vacant and underutilized parcels with mid—and high—rise mixed-use buildings that complement Cherry Creek East and the Shopping District on. Quality development is encouraged through the existing zoning and design standards and guidelines” (p.60)

Also, looking at the future land use map for the Cherry Creek Shopping District, the plan designates the subject property as Regional center, with a maximum building height of 12 stories. Therefore, the requested C-MX-12 is appropriate and consistent with the Cherry Creek Area Plan recommendations.



2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-12 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare through the implementation of Denver Comprehensive Plan 2040, Blueprint Denver and the Cherry Creek Area Plan. The proposed rezoning would also facilitate increased housing density near services and amenities along Steele Street and foster the creation of a mixed-use, urban area within walking distance to RTD bus line. An increase in density and broadened mix of uses can also provide better health outcomes through increased physical activity and lessen the need for driving as services and amenities can occur within walkable and bikeable distances.

4. Justifying Circumstances

The application identifies several changed or changing conditions as the justifying circumstance under DZC Section 12.4.10.8.A.4, *“Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: (a.) Changed or changing conditions in a particular area, or in the city generally; or, (b.) a City adopted plan; or, (c.) that the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning”*.

Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest, specifically due to the adoption of the Blueprint Denver in 2019 and the Cherry Creek Area Plan in 2012, both of which came after the last rezoning of the property in 2010.

Both Blueprint Denver and the Cherry Creek Area Plan were developed with extensive public input and the proposed rezoning would ensure those Plan’s recommendations are adhered to and that the public receives the full benefit of their work.

5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

As described in the Denver Zoning Code, the General Character of the Urban Center (C-) district will include “multi-unit residential and mixed-use commercial strips and commercial centers.” It is also described as follows: “Multi-unit residential uses are typically in multi-story mixed use building forms. Commercial buildings are typically Shopfront and General forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial, and local streets. Commercial uses are primarily located along main and mixed-use arterial streets.”

The C-MX zone districts are “intended to promote safe, active and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the street edge” (DZC Section 7.2.2.1.A). As these districts are also intended to enhance the ease of walking and transit, C-MX-12 is consistent and appropriate given the purpose of the district and the location in which it has been requested.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-12 district “applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 12 stories is desired” (DZC Section 7.2.2.2.D). The site is served primarily by South Steele Street classified as a mixed-use arterial. Thus, the street classifications and desired building heights in this area are consistent with the zone district intent statement.

Attachments

1. Rezoning application
2. Affordable Housing Agreement
3. CCEA Survey Report and Results
4. Good neighbor Agreement Draft (CCEA and Kavod)
5. Comment letters from the public



COMMUNITY PLANNING & DEVELOPMENT
REZONING GUIDE
Rezoning Application Page 1 of 4

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***	
Property Owner Name	Steele Street Holdings, LLC	Representative Name	Broe Real Estate - Marc Savela
Address	252 Clayton St. #400	Address	252 Clayton St. #400
City, State, Zip	Denver, CO 80206	City, State, Zip	Denver, CO 80206
Telephone	303.398.4575	Telephone	303.398.4575
Email	rcorsentino@broerealestate.com	Email	msavela@broerealestate.com
*All standard zone map amendment applications must be initiated by owners (or authorized representatives) of at least 51% of the total area of the zone lots subject to the rezoning. See page 4.		**Property owner shall provide a written letter authorizing the representative to act on his/her behalf. ***If contact for fee payment is other than above, please provide contact name and contact information on an attachment.	
SUBJECT PROPERTY INFORMATION			
Location (address):	50 S. Steele Street Denver, CO 80209		
Assessor's Parcel Numbers:	05125-09-009-000		
Area in Acres or Square Feet:	62,625		
Current Zone District(s):	CMX - 8		
PROPOSAL			
Proposed Zone District:	CMX - 12		
PRE-APPLICATION INFORMATION			
In addition to the required pre-application meeting with Planning Services, did you have a concept or a pre-application meeting with Development Services?	<input type="checkbox"/> Yes - State the contact name & meeting date _____ <input checked="" type="checkbox"/> No - Describe why not (in outreach attachment, see bottom of p. 3)		
Did you contact the City Council District Office regarding this application?	<input checked="" type="checkbox"/> Yes - if yes, state date and method <u>5.11.21 - CM Hinds</u> <input type="checkbox"/> No - if no, describe why not (in outreach attachment, see bottom of p. 3)		



REZONING REVIEW CRITERIA (ACKNOWLEDGE EACH SECTION)	
<p>General Review Criteria DZC Sec. 12.4.10.7.A</p> <p>Check box to affirm and include sections in the review criteria narrative attachment</p>	<p><input checked="" type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan.</p> <p>Please provide a review criteria narrative attachment describing how the requested zone district is consistent with the policies and recommendations found in each of the adopted plans below. Each plan should have its own subsection.</p> <p>1. Denver Comprehensive Plan 2040</p> <p>In this section of the attachment, describe how the proposed map amendment is consistent with <i>Denver Comprehensive Plan 2040</i>'s a) equity goals, b) climate goals, and c) any other applicable goals/strategies.</p> <p>2. Blueprint Denver</p> <p>In this section of the attachment, describe how the proposed map amendment is consistent with: a) the neighborhood context, b) the future place type, c) the growth strategy, d) adjacent street types, e) plan policies and strategies, and f) equity concepts contained in <i>Blueprint Denver</i>.</p> <p>3. Neighborhood/ Small Area Plan and Other Plans (List all from pre-application meeting, if applicable):</p> <p><u>Cherry Creek Area Plan</u></p>
<p>General Review Criteria: DZC Sec. 12.4.10.7. B & C</p> <p>Check boxes to the right to affirm and include a section in the review criteria for Public Health, Safety and General Welfare narrative attachment.</p>	<p><input checked="" type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p> <p>In the review criteria narrative attachment, please provide an additional section describing how the requested rezoning furthers the public health, safety and general welfare of the City.</p>
<p>Review Criteria for Non-Legislative Rezoning: DZC Sec. 12.4.10.8</p> <p>For Justifying Circumstances, check box and include a section in the review criteria narrative attachment.</p> <p>For Neighborhood Context, Purpose and Intent, check box and include a section in the review criteria narrative attachment.</p>	<p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error;</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact;</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints of development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;</p> <p><input checked="" type="checkbox"/> Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:</p> <p style="padding-left: 20px;">a. Changed or changing conditions in a particular area, or in the city generally; or,</p> <p style="padding-left: 20px;">b. A City adopted plan; or</p> <p style="padding-left: 20px;">c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (overlay Zone Districts) of this Code.</p> <p>In the review criteria narrative attachment, please provide an additional section describing the selected justifying circumstance. If the changing conditions circumstance is selected, describe changes since the site was last zoned. Contact your pre-application case manager if you have questions.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>In the review criteria narrative attachment, please provide a separate section describing how the rezoning aligns with a) the proposed district neighborhood context description, b) the general purpose statement, and c) the specific intent statement found in the Denver Zoning Code.</p>



REZONING GUIDE

Rezoning Application Page 3 of 4

REQUIRED ATTACHMENTS

Please check boxes below to affirm the following **required** attachments are submitted with this rezoning application:

- Legal Description of subject property(s).** Submit as a **separate Microsoft Word document**. View guidelines at: <https://www.denvergov.org/content/denvergov/en/transportation-infrastructure/programs-services/right-of-way-survey/guidelines-for-land-descriptions.html>
- Proof of ownership document** for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed, or (c) Title policy or commitment dated no earlier than 60 days prior to application date. If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.
- Review Criteria Narratives.** See page 2 for details.

ADDITIONAL ATTACHMENTS (IF APPLICABLE)

Additional information may be needed and/or required. Please check boxes below identifying additional attachments provided with this application.

- Written narrative explaining reason for the request** (optional)
- Outreach documentation attachment(s).** Please describe any community outreach to City Council district office(s), Registered Neighborhood Organizations (RNOs) and surrounding neighbors. If outreach was via email- please include email chain. If the outreach was conducted by telephone or meeting, please include contact date(s), names and a description of feedback received. If you have not reached out to the City Council district office, please explain why not. (optional - encouraged)
- Letters of Support.** If surrounding neighbors or community members have provided letters in support of the rezoning request, please include them with the application as an attachment (optional).
- Written Authorization to Represent Property Owner(s)** (if applicable)
- Individual Authorization to Sign on Behalf of a Corporate Entity** (e.g. if the deed of the subject property lists a corporate entity such as an LLC as the owner, this is document is required.)
- Other Attachments.** Please describe below.



REZONING GUIDE

PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION

We, the undersigned represent that we are the owner(s) of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.


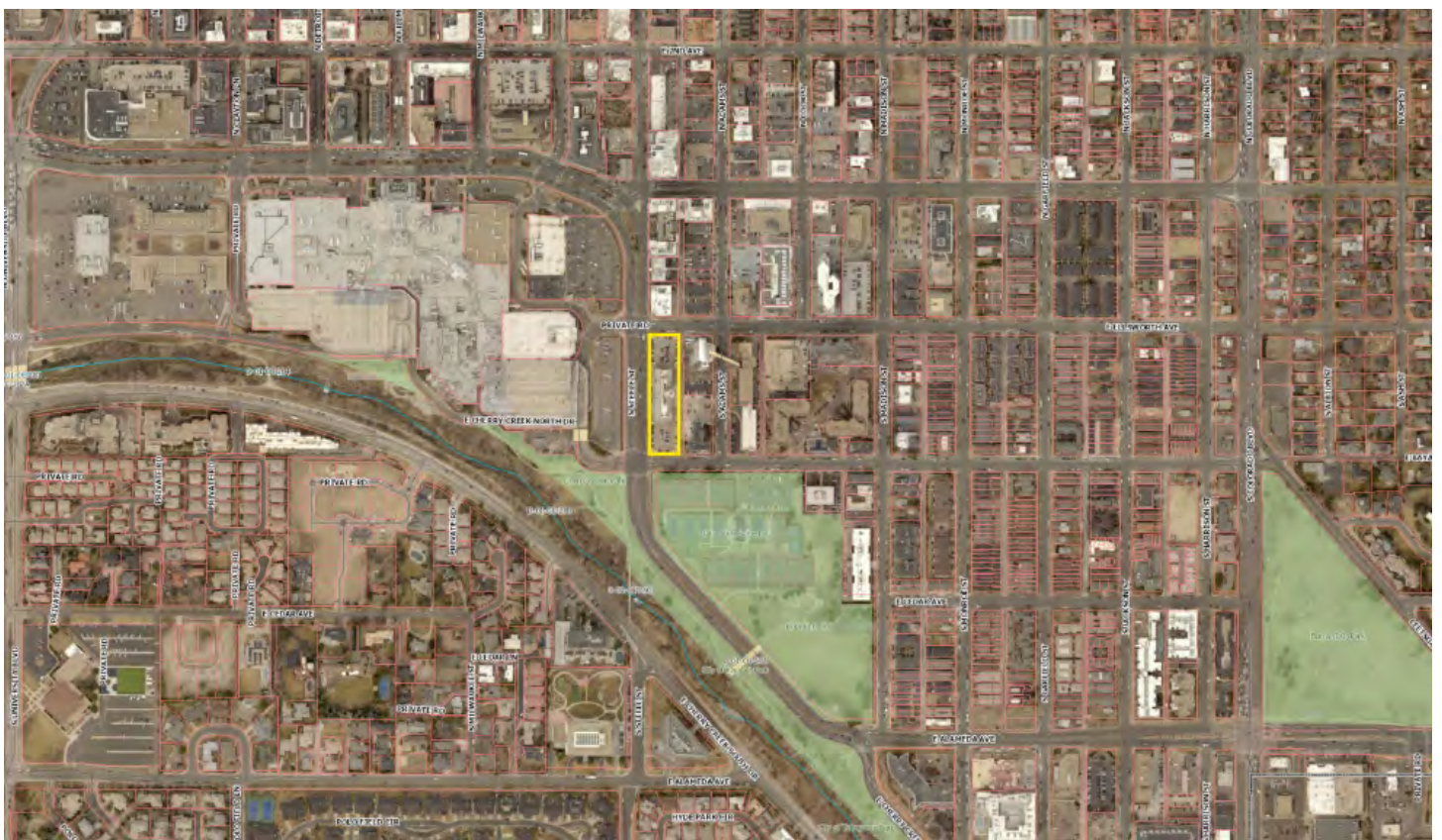
Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
EXAMPLE John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/12/20	(A)	YES
Steele Street Holdings, LTD	252 Clayton St #400 Denver, CO 80206	100%	 <small>Digitally signed by [Name], DN: cn=[Name], o=[Organization]</small>		D	

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BACKGROUND

Broe Real Estate Group, an affiliate of the Denver-based Broe Group, seeks to rezone 50 S. Steele Street from C-MX-8 to C-MX-12 as envisioned in the Cherry Creek Area Plan (2012) and Denver’s Comprehensive Plan and Blueprint Denver (2019). To maximize the project’s long-term value to the community, neighborhood outreach to neighborhood associations and surrounding property owners commenced in 2019-2020 and after a brief pandemic-related hiatus, work with the community started back up in early 2021 and will continue throughout the rezoning application process. The community outreach and dialogue continue to shape the project’s development concept and details. Enhancements to the surrounding streetscape and pedestrian network are just a few notable examples of stakeholder-driven feedback to strengthen the development’s impact the fabric of the neighborhood. Additionally, the project is working with the City’s Office of Housing Stability (HOST) to consider including a voluntary affordable housing agreement before the project goes before Planning Board and City Council.



PROPOSED MAP AMENDMENT SUMMARY

The proposed Map Amendment seeks to rezone 50 S. Steele Street from C-MX-8 to C-MX-12.

As per Section 12.4.10.7 of the Denver Zoning Code, which authorizes Denver City Council to approve an official map amendment if the proposed rezoning meets certain criteria, Broe Real Estate Group is applying for this rezoning based upon consistency with those criteria as listed below:

1. Consistency with Adopted Plans

“The proposed official map amendment is consistent with the City’s adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the City’s plan.”

2. Uniformity of District Regulations and Restrictions

“The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.”

3. Public Health, Safety, and Welfare

“The proposed official map amendment furthers the public health, safety and general welfare of the City.”

Additionally, as per Section 12.4.10.8 of the Denver Zoning Code, the City Council may approve an official map amendment if the City Council finds the application meets additional review criteria. Broe Real Estate Group is applying for this rezoning based upon consistency with the additional review listed below:

A. Justifying Circumstances

1. The existing zoning of the land was the result of an error;
2. The existing zoning of the land was based on a mistake of fact;
3. The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land;
- 4. Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:**
 - a) Changed or changing conditions in a particular area, or in the city generally; or,
 - b) A City adopted plan;** or,
 - c) That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.
5. It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations

B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.

For the reasons set forth in Exhibit A, the proposed rezoning is consistent with all the review criteria, which the remainder of the application will explain in detail.

EXHIBIT A: REVIEW CRITERIA

12.4.10.7 General Review Criteria Applicable to All Zone Map Amendments

Consistency with Adopted Plans and Proposed Plans

The proposed map amendment is consistent with the City's adopted and proposed plans, which are listed and outlined below:

- 1. Denver Comprehensive Plan 2040**
- 2. Blueprint Denver (2019)**
- 3. Cherry Creek Area Plan (2012)**

1. Denver Comprehensive Plan 2040

The proposed rezoning of the site from C-MX-8 to C-MX-12 is consistent with the Denver Comprehensive Plan 2040.

The *italicized text* signals an excerpt from the Plan. The language that follows is used to detail how the proposed map amendment is consistent with the goals of the Plan.

Key goals and strategies of the Comprehensive Plan 2040 include:

- *"Increase development of housing units close to transit and mixed-use developments." Denver Comprehensive Plan 2040, page 28*
- *"Create a greater mix of housing options in every neighborhood for all individuals and families." Denver Comprehensive Plan 2040, page 28*
- *"Build a network of well connected, vibrant, mixed-use centers and corridors." Denver Comprehensive Plan 2040, page 34*
- *"Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities." Denver Comprehensive Plan 2040, page 34*
- *"Use urban design to contribute to economic viability, public health, safety, environmental well-being, neighborhood culture, and quality of life." Denver Comprehensive Plan 2040, page 34*
- *Urban Center: "A high mix of uses throughout the area, with multi-unit residential typically in multi-story, mixed-use building forms." Denver Comprehensive Plan 2040, page 37*
- *"Ensure a broad range of jobs to align with the skills and interests of local residents." Denver Comprehensive Plan 2040, page 46*
- *"Promote infill development where infrastructure and services are already in place." Denver Comprehensive Plan 2040, page 54*
- *"Encourage mixed-use communities where residents can live, work and play in their own neighborhoods." Denver Comprehensive Plan 2040, page 54*
- *"Demonstrate the benefits of compact, mixed-use development for the region." Denver Comprehensive Plan 2040, page 64*
- *"Direct significant growth to regional centers and community centers and corridors with strong transit connections." Denver Comprehensive Plan 2040, page 64*

Denver's Comprehensive Plan 2040 lends significant support for the proposed rezoning which would allow residents to live, work and play in their own neighborhoods through the creation of a mixed-use community. In general, the 2040 plan calls for an increase in growth and quality mixed-use development in regional centers, which the proposed rezoning would allow.

Map Amendment: 50 S. Steele Street

As the Cherry Creek neighborhood already has strong infrastructure and services in place, the Plan supports quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities. In all, the Denver Comprehensive Plan 2040 provides strong support for increased density and mixed-use development on this site through the C-MX-12 zoning which has been proposed.

2. Blueprint Denver (2019)

The proposed rezoning of the site is consistent with Blueprint Denver (2019).

The *italicized text* signals an excerpt from Blueprint. The language that follows is used to detail how the proposed map amendment is consistent with the goals of Blueprint.

Overarching Plan Goals

- *Focus higher intensity growth in walkable mixed-use centers and along transit priority streets.*
- *Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities.*
- *Develop safe, high-quality mobility options that prioritize walking, rolling, biking and transit and connect people of all ages and abilities to their daily needs.*
- *Support a welcoming business environment and the growth of employment centers around the city to promote work and educational opportunities for all residents.*
- *Foster great urban design and the creation of authentic places that thoughtfully integrate streets, public spaces and private property.” Blueprint Denver, pages 22-23.*
- *Increase the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities.*
- *Capture 80 percent of new housing growth in regional centers, community centers and corridors, high-intensity residential areas, greenfield residential areas, innovation flex districts and university campus districts. Blueprint Denver, pages 85-85*

The overarching plan goals laid out in Blueprint Denver are firmly in line with the proposed C-MX-12 zoning, particularly by focusing higher intensity growth in a key Urban Center - the walkable Cherry Creek neighborhood - along a transit priority street that serves a significant existing mixed-use development. The proposed rezoning would ensure Denver residents of all ages and abilities in this neighborhood have access to basic services and a variety of amenities. Overall, the proposed rezoning falls firmly within the overarching goals of Blueprint Denver.

Neighborhood Context

The proposed rezoning site is in the “Urban Center” neighborhood context.

- *“Urban center neighborhoods are dense and vibrant areas that support residents and visitors. This context contains high intensity residential and significant employment areas. Development typically contains a high mix of uses, with good street activation and connectivity. Residents living in this context are well served by high-capacity transit and have access to ample amenities and entertainment options.” Blueprint Denver, page 251.*
- *“Urban center areas are easily navigated and accessible due to predictable street grids, well-connected sidewalk networks, and strong connections to rail service and the transit priority street network. These areas offer good walkability and access to amenities. Parking is predominately managed on-street, with off-street demand met with parking garages.” Blueprint Denver, page 251.*

Map Amendment: 50 S. Steele Street

- *“This context contains high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity.” Blueprint Denver, page 252.*
- *“A high mix of uses throughout the urban center context. Even the residential areas are highly mixed use, often with high-intensity multi-unit residential in mixed-use buildings.” Blueprint Denver, page 252.*
- *“The urban center neighborhoods are the most intense areas of the city outside of downtown.” Blueprint Denver, page 255.*

As Blueprint Denver clearly states, Urban Center neighborhoods are the most intense areas of the city outside of downtown, where Denver’s tallest buildings are found. Given this context, C-MX-12 zoning is appropriate for this site to support the plan’s charge for urban center neighborhoods to contain a substantial mix of uses and high intensity residential and significant employment areas. The Plan repeatedly calls for a high mix of uses in urban centers and C-MX-12 zoning would allow for Blueprint’s recommendations to be realized. It is clear that the Urban Center context fully supports a rezoning to C-MX-12.

Future Places/Growth Strategy

The site’s future place designation is a “Regional Center,” which is designated on the Growth Strategy map as a place designated to receive 50% of the new jobs and 30% of the new households in Denver by 2040.

- *“The core of the approach is guiding growth to vibrant, mixed-use regional centers, including downtown Denver.” Blueprint Denver, page 48*
- *“Use zoning and land use regulations to encourage higher-density, mixed-use development in transit-rich areas including: Regional centers and community centers.” Blueprint Denver, page 72.*
- *“In regional centers, urban center community centers and urban center community corridors, study and implement requirements or incentives for density. An example of a tool to implement this could include establishing minimum building heights.” Blueprint Denver, page 72.*
- *“New housing will occur throughout Denver, with a particular emphasis on regional centers, community centers and corridors, and downtown and urban center high and high-medium intensity residential areas.” Blueprint Denver, page 86.*
- *“Encourage and preserve opportunity for office development within regional centers by allowing high density employment. Study and implement requirements and/or incentives for high density development in regional centers including vacant and underutilized land in downtown.” Blueprint Denver, page 90.*
- *“The scale of a place will help to the intensity of uses. For example, regional centers are large in scale and offer the greatest intensity.” Blueprint Denver, page 133.*
- *“Contains a high mix of uses— providing a dynamic environment of living, dining, entertainment and shopping, while incorporating a diverse set of employment options. Wide customer draw with a 24/7 live, work and play environment attractive to locals and visitors. Larger scale mixed-use buildings are common. Structures should respond in form and mass to the streets and public spaces around them. High degree of urbanism with continuous building frontages to define the public realm. Heights are generally the tallest in the context and transition gradually within the center to the surrounding residential areas.” Blueprint Denver, page 256.*

The future places and growth strategy designations from Blueprint Denver strongly support the proposed rezoning to C-MX-12. As part of a designated Regional Center, the Plan repeatedly calls for higher-density, mixed-use development on this site, including both commercial and residential uses.

In fact, Blueprint even calls for incentives to entice added density in Regional Centers, something which is not needed in this situation as the proposed rezoning would provide that added density to the site.

Regional



Contains a high mix of uses— providing a dynamic environment of living, dining, entertainment and shopping, while incorporating a diverse set of employment options. Wide customer draw with a 24/7 live, work and play environment attractive to locals and visitors. Larger scale mixed-use buildings are common. Structures should respond in form and mass to the streets and public spaces around them. High degree of urbanism with continuous building frontages to define the public realm. Heights are generally the tallest in the context and transition gradually within the center to the surrounding residential areas.

Regional Center



From a growth strategy perspective, this area of Denver is designated to take on a portion of 50% of the new jobs and 30% of the new households in Denver by 2040. Achieving these substantial goals will require the appropriate rezoning of sites – including this site – in certain areas as designated by the Plan. C-MX-12 zoning would allow for the potential increases in the future amount of jobs and households on this site.

Additionally, the Regional Center designated is specifically noted in the Plan as being large in scale with the capability to offer the greatest intensity. While the proposed rezoning is appropriate given the existing building scale and zoning of adjacent properties, Blueprint also demonstrates that twelve story scale and the resulting intensity is generally appropriate for this site.

The future place and growth strategy designations are extremely clear in their support for both the mix of uses and the scale which a C-MX-12 zoning would provide the community and City.

Equity and affordable housing

The project is planning to work with HOST on a voluntary affordable housing agreement, which will address numerous sections of Blueprint Denver in terms of expanding housing diversity, furthering the City's goals around equity and inclusivity.

Street Types

The proposed rezoning site is located on a "Mixed-Use Arterial" street type.

- *"Arterial streets are designed for the highest amount of through movement and the lowest degree of property access." Blueprint Denver, page 154*
- *"The stand alone arterial, collector and local system does not acknowledge how the surrounding character might affect the street's design or operation. For example, an arterial street in a residential part of the city functions differently from an arterial street that is surrounding by pedestrian-oriented retail." Blueprint Denver, page 154*
- *"Varied mix of uses including retail, office, residential and restaurants. Buildings are pedestrian-oriented, typically multi-story, usually with high building coverage with a shallow front setback. A street wall is present, but may vary." Blueprint Denver, page 159.*

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C-MX-12 zoning is consistent with the Mixed-Use-Arterial street type which the site sits upon as it is specifically noted for its capability to support a varied mixed of uses contemplated in such rezonings. The rezoning would allow for the pedestrian-friendly, typically multi-story buildings generally found on this street type.

The proposed rezoning site is also located along a Transit Priority Street with a Future Modal Priority of “High capacity transit corridor”, as noted on page 179 of Blueprint Denver. The site’s location along a transit priority street fits with other Plan goals for locating higher intensity zoning and land uses on or located near transit priority streets.

3. Cherry Creek Area Plan (2012)

The proposed rezoning of the site is firmly consistent with the Plan.

- *“Continued introduction of office space, retail, and residential units will enhance the mixed-use nature of the neighborhood and reinforce the plan vision. As in most mixed-use districts throughout the country, the desire to maintain the character of Cherry Creek must be balanced with the thoughtful redevelopment of underutilized properties.” Cherry Creek Area Plan, page 27.*
- *“Acknowledge that to remain prosperous, Cherry Creek must continue to grow and change. In order for this growth to occur in a way that reinforces the quality of life for Cherry Creek residents, the bulk of this growth should occur in these areas rather than stable neighborhoods.” Cherry Creek Area Plan, page 29.*
- *“Areas of Change which are not adjacent to the higher intensity locational criteria are appropriate for mid-rise buildings to accommodate continued growth. General locations include the Shopping District and 1st Avenue (east of Steele), and some existing mixed use areas within Cherry Creek North Residential and Cherry Creek East.” Cherry Creek Area Plan, page 32.*
- *“Encourage mid-rise buildings to promote reinvestment and to help transition development intensity and buffer stable residential areas from higher intensity locations.” Cherry Creek Area Plan, page 32.*
- *“Orient taller mid-rise buildings along multi-modal corridors, existing or planned high intensity nodes, and adjacent to public open space not identified for higher intensity.” Cherry Creek Area Plan, page 32.*
- *“Continued reinvestment. The Cherry Creek Area has seen significant redevelopment over the past decade. This continued development and evolution has reinforced Cherry Creek’s unique identity in the region as a regional retail center and exciting mixed-use community. The next generation of development within Cherry Creek must enhance the established prosperity, attractiveness and desirability of the area for residents, businesses, shoppers, and visitors.” Cherry Creek Area Plan, page 44.*
- *“Importance of residential development. Cherry Creek’s continued success depends on attracting more people to the area and having more people live within walking distance of the business and retail destinations. These factors contribute greatly to sustaining the area’s economic and community vitality. Improving the design quality while expanding the diversity of housing types assures that the area will attract a range of households and families thereby enhancing the attractiveness of the area to people of all ages.” Cherry Creek Area Plan, page 44.*
- *“D.1.B MORE HOUSING. Residential uses contribute significantly to the vitality of the area. While Cherry Creek North and East continue to experience infill development, the greatest potential for new residential is as a part of mixed-use development in the Shopping District and on vacant parcels in the Cherry Creek Triangle. All of this housing will continue to reinforce the range of housing types already found in the Cherry Creek Area—single family, duplexes, row houses, and condo and apartment towers. Where appropriate, this housing will include retail, office or hotel uses to further the mixed-use character of the area. The area has proven to be very attractive to residential development, so plan recommendations focus on enhancing amenities and removing public policy impediments.” Cherry Creek Area Plan, page 46.*
- *“Steele St. between 1st and Bayaud serves as the front door to Cherry Creek East.” Cherry Creek Area Plan, page 57.*

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- “Continue to support a mix of uses in the Regional Center (see Future Land Use Map on page 63) including office, retail, commercial, multifamily residential and hotels. Support compact development patterns and an enhanced public realm including landscaping, wayfinding signage, pedestrian lighting, public art and inviting building entries.” Cherry Creek Area Plan, page 58.
- “Maximum building heights in the Shopping District should range from 4 to 12 stories, per the Maximum Building Heights Map (page 63).” Cherry Creek Area Plan, page 58.
- “Build on success. Continue to develop vacant and underutilized parcels with mid—and high—rise mixed-use buildings that complement Cherry Creek East and the Shopping District on. Quality development is encouraged through the existing zoning and design standards and guidelines. The design quality of development at 1st and Steele is particularly important.” Cherry Creek Area Plan, page 61.
- “Improve pedestrian friendly character of Steele Street. As redevelopment occurs, new buildings should enhance the streetscape and promote improved pedestrian amenities.” Cherry Creek Area Plan, page 61.
- “Regional Center. Continue to support a mix of uses including office, retail, commercial, multifamily residential and hotels. Support compact development patterns and an enhanced public realm including landscaping, wayfinding signage, pedestrian lighting, public art and inviting building entries.” Cherry Creek Area Plan, page 72.

As a designated Area of Change in the Cherry Creek Area Plan (2012), the site is given a specific consideration for continued growth and change per the Plan recommendations on on page 29:

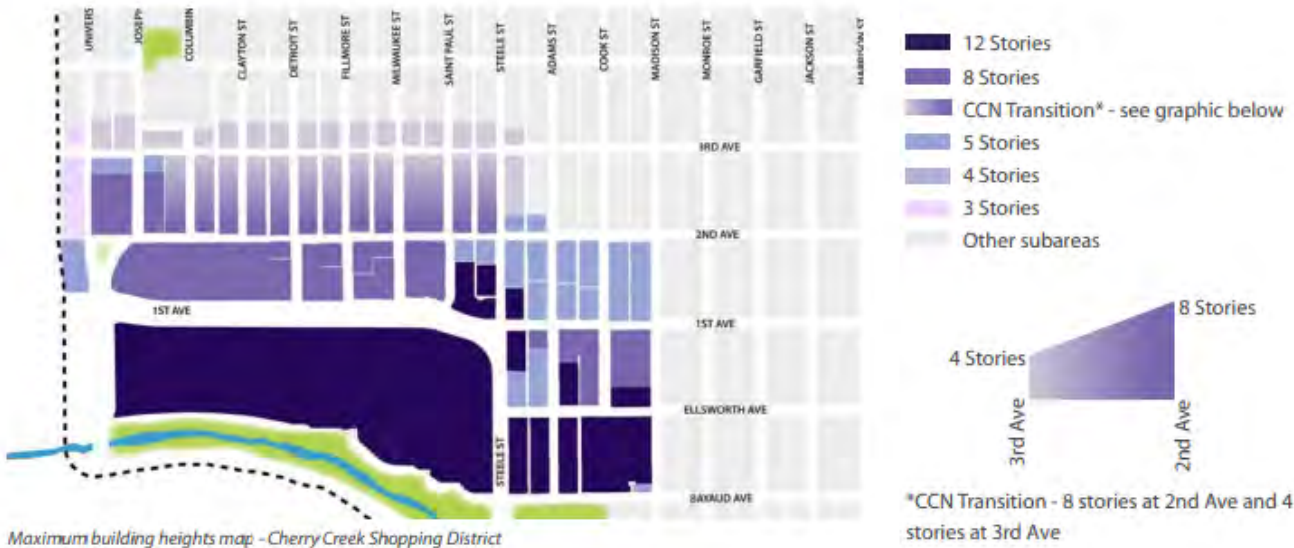
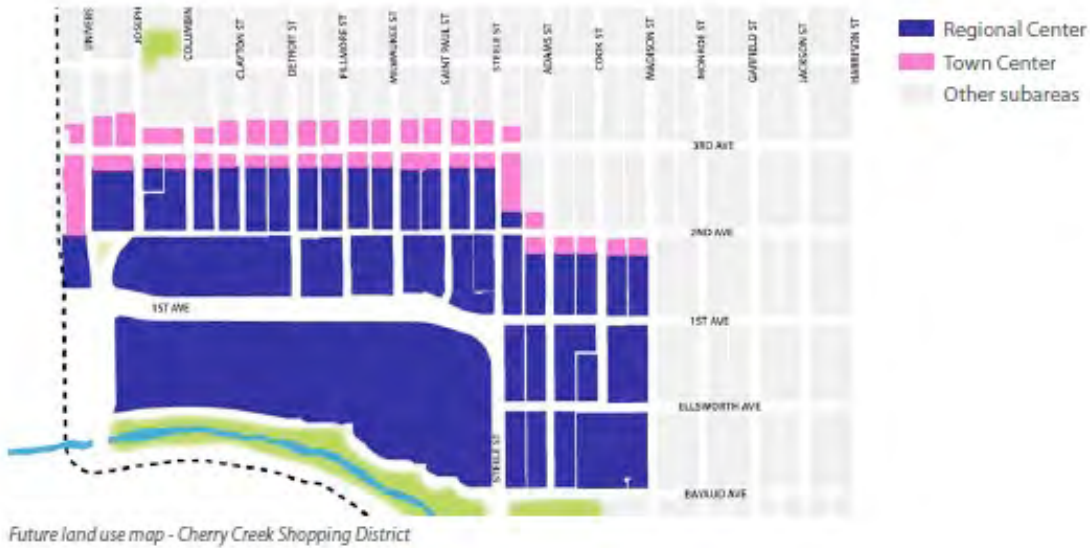


“Cherry Creek will continue to grow over the next 20 years. This growth has the potential to benefit existing businesses, property owners and residents through greater diversity of housing types, increased business revenues, higher property values, additional public and private investment and a greater diversity of shops, restaurants and cultural amenities. The Areas of Change in Cherry Creek have the greatest potential to accommodate this growth, both in terms of market demand and available land.”

Map Amendment: 50 S. Steele Street

- “Acknowledge that to remain prosperous, Cherry Creek must continue to grow and change. In order for this growth to occur in a way that reinforces the quality of life for Cherry Creek residents, the bulk of this growth should occur in these areas rather than stable neighborhoods.”
- “Modify land use policy, zoning regulations and design guidelines to encourage appropriate reinvestment to assure that Areas of Change continue to mature in positive ways.”

The Height and Future Land Use Concept maps within the Cherry Creek Area Plan identify the property at 50 S. Steele as a Regional Center with building heights up to 12-stories, per page 63.



In summary, the Cherry Creek Area Plan calls for the Cherry Creek area—and this site specifically—to continue to grow and evolve, encouraging higher intensity land uses that necessitate rezoning and embracing new residential and mixed-use development in regional centers.

The site is given height guidance for up to 12-stories, which correlates with the existing zoning and planning for all other properties between Steele, Ellsworth, Madison and Bayaud. All of these other properties have zoning that allows 12-

Map Amendment: 50 S. Steele Street

stories. Given the Plan's focus on higher-intensity development occurring along the perimeter and further from the lower-scale areas of Cherry Creek East, having this equitable designation for the site is consistent.

Other

Existing Context

The proposed rezoning is consistent with the existing built and planned context of the area.

The surrounding character of the site includes a number of 12-story structures with Steele Creek, Kavod Senior Life, High Country House, The Seasons, Mountain Shadows and more as shown below. Each of these sites have zoning (current Denver Zoning Code or Former Chapter 59) of 12 or more stories.



Community Outreach

The applicant team has conducted extensive community, registered neighborhood organization (RNO) and adjacent property owner/stakeholder outreach regarding the rezoning of 50 S. Steele for the predominance of 2019 and into May of 2020 when the applicant decided to pause the application process due to the pandemic of COVID-19. Following a pandemic-related hiatus from May of 2020 until the end of the 2020, outreach re-commenced in January 2021 regarding the 50 S. Steele rezoning application.

Following conversations in January and February 2021 about the re-activation of the rezoning effort, meetings with the Cherry Creek East Association (CCEA) and its committees/board have taken place in March, April and May leading up to the submittal of the rezoning application. Outreach to other local stakeholders, including Kavod Senior Life, adjacent property owners and others will continue throughout the process. Broe Real Estate Group is committed to working cooperatively with all stakeholders.

Uniformity of District Regulations and Restrictions

The proposed rezoning will result in uniformity of district regulations and restrictions in accordance with Section 12.4.10.7(B) of the Zoning Code.

Map Amendment: 50 S. Steele Street

Public Health, Safety and General Welfare

The proposed official map amendment is an implementation of Denver Comprehensive Plan 2040, Blueprint Denver and the Cherry Creek Area Plan and therefore furthers the public health, safety and general welfare of the City by helping to realize the type of growth and development our community planning processes have called for and envision for this site and area.

Additionally, the type of development the proposed rezoning would support is consistent with the site's designation as a Regional Center and increase the Denver resident's ability to live in close proximity to jobs, services and recreation, thus minimizing automobile trips, carbon emissions and encouraging other mobility options, providing overall health benefits to the City.

Lastly, the proposed inclusion of a voluntary affordable housing agreement with HOST, along with the rezoning application, advances the public health, safety and welfare of our City as a whole.

12.4.10.8 Additional Review Criteria for Non-Legislative Rezoning

A. Justifying Circumstance

Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest, specifically due to the adoption of the Blueprint Denver in 2019 and the Cherry Creek Area Plan in 2012, both of which came after the last rezoning of the property in 2010.

As detailed at length above, both Blueprint Denver and the Cherry Creek Area Plan call for zoning up to twelve stories on the site. To best conform with these plans, a C-MX-12 zoning for the property would not only be appropriate, but best serve the public interest. Both Blueprint Denver and the Cherry Creek Area Plan were developed with extensive public input and the proposed rezoning would ensure those Plan's recommendations are adhered to and that the public receives the full benefit of their work.

B. Consistency with Applicable Neighborhood Context and with Stated Purpose and Intent of Proposed Zone District

The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose, and intent of the proposed Zone District.

The C-MX-12 Zone District is part of the Urban Center Neighborhood Context. Section 7.2.2 of the Denver Zoning Code describes the Urban Center Neighborhood Mixed-Use Districts as follows:

General Purpose

A. The Mixed Use zone districts are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge.

B. The Mixed Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods.

C. The Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.

Map Amendment: 50 S. Steele Street

D. Compared to the Main Street districts, the Mixed Use districts are focused on creating mixed, diverse neighborhoods. Where Main Street districts are applied to key corridors and retail streets within a neighborhood, the Mixed Use districts are intended for broader application at the neighborhood scale.

E. In the Urban Center Neighborhood Context, the Mixed Use zone districts require the same level of pedestrian enhancements as the Main Street zone districts. In the Urban Center Neighborhood Context, the primary difference between the Mixed Use zone districts and the Main Street zone districts is Main Street districts mandate shopfront buildings at the street edge.

F. Mixed use buildings have a shallow front setback range. The build-to requirements are high.

The site is designated in City plans for mixed use development, which would be allowed by the proposed Zone District.

Building Height

D. Mixed Use – 12 (C-MX-12) C-MX-12 applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 12 stories is desired.

The proposed Zone District will allow for buildings of up to 12-stories on a major arterial street designated as a transit priority street.

EXHIBIT B: LEGAL DESCRIPTIONS

Lots 1 to 20 Inclusive, Block 20,
Burlington Capitol Hill Addition,
City and County of Denver
State of Colorado



ONE REPORT

To: BROE REAL ESTATE GROUP

Date Ordered: 06-04-2021

Attn: BEN LOWE

Order Number 882774

Fax:

Phone: 719-271-2871

Address: 50 S STEELE ST DENVER, CO 80209

County: DENVER

LEGAL DESCRIPTION

LOTS 1 TO 20, BLOCK 20, BURLINGTON CAPITOL HILL ADDITION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

OWNERSHIP & ENCUMBRANCES

Certification Date: 06-02-2021

OWNERSHIP: STEELE STREET HOLDINGS, LTD., A COLORADO LIMITED PARTNERSHIP

<u>Doc Type</u>	<u>Doc Fee</u>	<u>Date</u>	<u>Reference#</u>
QUIT CLAIM DEED	NA	01-12-1996	5514

ENCUMBRANCES AND OTHER DOCUMENTS

<u>Item</u>	<u>Payable To</u>	<u>Amount</u>	<u>Date</u>	<u>Reference#</u>
ASSIGNMENT OF REN	LIFE INSURANCE COMPANY SOUTHWE		09-19-14	114199
DEED OF TRUST	LIFE INSURANCE COMPANY SOUTHWE	\$12,000,000.00	09-19-14	114198
DEED OF TRUST AME	CPL 50 SOUTH STEELE STREET LLC		04-01-10	35152
DEED OF TRUST	TRT LENDING SUBSIDIARY II LLC	\$11,000,000.00	08-01-01	126519

Cust Ref#

By: SHANON BLANKENSHIP

Land Title

Property Resource Specialist

Email: sblankenship@ltgc.com

Phone: 303-850-4103

Fax:

This ONE REPORT is based on a limited search of the county real property records and is intended for informational purposes only. The ONE REPORT does not constitute any form of warranty or guarantee of title or title insurance, and should not be used by the recipient of the ONE REPORT as the basis for making any legal, investment or business decisions. The recipient of the ONE REPORT should consult legal, tax and other advisors before making any such decisions. The liability of Land Title Guarantee Company is strictly limited to (1) the recipient of the ONE REPORT, and no other person, and (2) the amount paid for the ONE REPORT.



Prepared For:
BROE REAL ESTATE GROUP
BEN LOWE

Reference: 50 S STEELE ST DENVER, CO 80209

Attached are the additional documents you requested:

<u>Doc Type</u>	<u>Recorded</u>	<u>Reception#/BookPage</u>
UNIFORM COMMERCIAL CODE MODIFI	04-15-19	44419
UNIFORM COMMERCIAL CODE	08-01-01	126520
UNIFORM COMMERCIAL CODE MODIFI	03-18-11	30623
UNIFORM COMMERCIAL CODE MODIFI	03-15-06	41563

SHANON BLANKENSHIP
Land Title
Property Resource Specialist
Email: sblankenship@ltgc.com
Phone: 303-850-4103
Fax:

ADD .DOCS 882774

EXHIBIT D: AUTHORIZATION DOCUMENTS

See authorization documents on the following pages.

**STEELE STREET HOLDINGS, LLC,
a Colorado limited liability company**

**Written Consent of the Sole Member
In Lieu of Special Meeting**

December 10th, 2019

The undersigned, being the sole member (the "Member") of Steele Street Holdings, LLC, a Colorado limited liability company (the "Company"), in lieu of holding a special meeting, hereby adopts the following preambles and resolutions by written consent (this "Consent"), pursuant to the Colorado Limited Liability Company Act, as amended (the "Act"), and the Operating Agreement of the Company (the "Operating Agreement");

WHEREAS, the Company desires to cause the rezoning of certain real property owned by the Company and located in the City and County of Denver, Colorado (the "Rezoning");

WHEREAS, in connection with the Rezoning, the Company will be required to execute and deliver certain instruments, agreements, and documents deemed necessary or advisable in connection therewith (collectively, the "Rezoning Documents"); and

WHEREAS, the undersigned has determined that it is in the best interests of the Company to complete the Rezoning and execute and deliver any Rezoning Documents.

NOW, THEREFORE, BE IT RESOLVED, that the Rezoning and the execution and delivery of the Rezoning Documents are determined to be in the best interests of the Company and are hereby confirmed, approved and ratified;

FURTHER RESOLVED, that the Company does hereby approve and adopt in all respects the form, terms, and provisions of the Rezoning Documents, in substantially the forms previously reviewed by the Company;

FURTHER RESOLVED, that Douglas N. Wells ("Wells"), acting alone in his capacity as a manager of the Company, is hereby authorized and directed to take such actions as may be necessary or appropriate to cause the Company to complete the Rezoning and execute and deliver the Rezoning Documents, together with such changes as Wells deems necessary or desirable, the execution of such documents or the taking of such actions by Wells to be conclusive evidence that such changes or actions were authorized by these resolutions; and

FURTHER RESOLVED, that all actions taken by the managers (including Wells), officers and other authorized agents of the Company prior to the date hereof in connection with the matters contemplated herein are hereby ratified, confirmed and approved in all respects.

The action taken by this Consent shall have the same force and effect as if taken by the undersigned at a special meeting of the Member, duly called and constituted pursuant to the Operating Agreement and the Act.

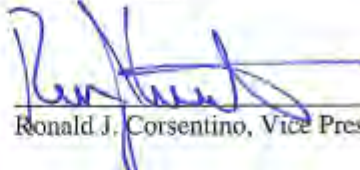
[Signature page follows]

The undersigned, being the sole Member of Steele Street Holdings, LLC hereby consents to, approves, and adopts the foregoing preambles and resolutions to be effective as of the day and year first above written.

MEMBER:

THE BROE COMPANIES, INC.,
a Colorado corporation

By:



Ronald J. Corsentino, Vice President

Steele Street Holdings, LTD
A Colorado Limited Partnership

252 Clayton Street
Denver, Colorado 80206
303.398.4575
BroeRealEstate.com

December 20, 2019

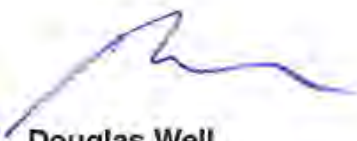
Broe Real Estate Group
Attn: Marc Savela
252 Clayton Street
Denver, CO 80206

Re: 50 S. Steele Street Rezoning

Dear Marc,

This letter serves as written authorization for Broe Real Estate Group and its representatives to represent Steel Street Holding regarding the Official Map Amendment application for our property located at 50 S Steele, Denver, CO 80206. Thank you for your attention to this matter, please contact me with any questions or concerns.

Sincerely,



Douglas Well
Manager

Steele Street Holdings, LTD

252 Clayton Street, Denver, Colorado 80206

EXHIBIT E: ASSESSOR'S PARCEL NUMBERS

05125-09-009-000

PREPARED BY AND AFTER
RECORDING PLEASE RETURN TO:
Department of Housing Stability
201 W. Colfax Ave., Dept. 615
Denver, CO 80202
Attention: _____

AGREEMENT TO BUILD AFFORDABLE UNITS

THIS AGREEMENT TO BUILD AFFORDABLE UNITS (“Agreement”) is made and entered, and effective as of the date set forth below on the City’s signature page by STEELE STREET HOLDINGS, LLC, a Colorado limited liability company (“Owner”), and the City and County of Denver, a municipal corporation organized pursuant to the Constitution of the State of Colorado with a mailing address of Department of Housing Stability, 201 W. Colfax Avenue, Department 615, Denver, CO 80202 (“City”).

RECITALS:

A. Owner is the owner of certain property located at 50 South Steele Street and more particularly described on **Exhibit A** hereto (the “Subject Property”).

B. In connection with the proposed rezoning of the Subject Property contemplated by Application No. 20201-00200 with the City (the “Rezoning”) and in satisfaction of linkage fee requirements set forth in Chapter 27 of the Denver Revised Municipal Code (“DRMC”), the Owner has agreed to construct certain affordable housing on the Subject Property, as described herein.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. Owner agrees that 12.5% of all residential units constructed on the Subject Property will, for a period of ninety-nine (99) years from the date of this Agreement, be income-restricted for rent units (“IRUs”). The IRUs will be restricted to households earning 80% or less of Area Median Income. At least 25% of all IRUs will have two (2) or more bedrooms.

2. Owner agrees to construct and market the IRUs concurrently with or prior to any market rate dwelling units on the Subject Property; provided, however, that the foregoing will not prohibit or limit Owner from entering into leases for market-rate residential dwelling units so long as its construction and marketing efforts are consistent with this Section 2.

3. Owner will offer, or cause to offer, the IRUs for rent in accordance with the requirements of the Rules and Regulations promulgated under the City's Affordable Housing Permanent Funds Ordinance adopted pursuant to Article V, Chapter 27 of the DRMC, as in effect as of the date of this Agreement. IRUs may be eligible for reduced parking requirements in accordance with any applicable provisions of the Denver Zoning Code. Subject to Owner's compliance with this Agreement and the proposed development's consistency with the City's adopted plans and policies, the Department of Housing Stability will, in good faith, consider Owner's requests for support of, including without limitation submitting letters of support for, Owner's efforts with respect to applications for bonds, tax credits, property tax exemptions and other financial and entitlement matters with respect to the development of the IRUs; provided, however, this consideration by the City is not an obligation to provide support.

4. The parties agree that prior to and as a condition of the issuance of the first building permit on the Subject Property for any building that contains IRUs, Owner will record, at Owner's election, a Covenant in the form attached to this Agreement as **Exhibit B**, which will run with the land and encumber the building on the Subject Property for the Affordable Period in order to ensure that the applicable rent price limitations, as applicable, occupancy limitations and administrative requirements for the IRUs are met; provided, however, that in the case of for rent IRUs, in no event shall such covenant designate which individual units will be marketed and leased as IRUs so long as the overall rent limitations, occupancy limitations and administrative requirements for the IRUs, as set forth in this Agreement, are met.

5. Any exceptions to assessment and payment of linkage fees provided as a result of this Agreement shall apply only to residential development within the Subject Property. Assessment of linkage fees shall apply to all non-residential development as if this Agreement did not exist. Without limiting the foregoing, the City acknowledges that Owner is relying upon on the terms and conditions of this Agreement, including without limitation the overall rent limitations, occupancy limitations and administrative requirements for the IRUs, as set forth in this Agreement, in connection with its contemplated development and financing of the Subject Property, and as such, the City and Owner agree that this Agreement qualifies as an exemption under DRMC Sec. 27-154(a). In furtherance of the foregoing, the Department of Housing Stability may, but is not obligated to, support a continued exemption of properties currently subject to DRMC Sec. 27-154(a) in any successor ordinance or other legislation.

6. The parties acknowledge that if any subsidy is received from, and directly funded solely by, the City, additional affordability requirements may be imposed in addition to those set forth herein.

7. The City shall record this Agreement upon execution in the real property records for the City and County of Denver. The parties agree to execute such additional documents, subject to the reasonable approval of the Owner and the City, as may be necessary or required to effectuate the intent and purpose of this Agreement.

8. This Agreement shall encumber the Subject Property for the Affordable Period and except as provided below shall not be amended, modified or released without the express written consent of the City and Owner. The Executive Director of the City's Department of Housing

Stability, or the Executive Director's designee, is authorized to execute a release of this Agreement on behalf of the City. In the event Owner wishes to redevelop any buildings in which IRUs are located prior to the expiration of the Affordable Period, then the City and Owner may in good faith renegotiate this Agreement; provided, however, in no event is the City obligated to amend this Agreement.

9. The approval of the Rezoning of the Subject Property is a condition precedent to Owner's obligations under this Agreement. Should the Denver City Council fail to approve the rezoning within three hundred sixty-five (365) days after the date of this Agreement, or should the approved Rezoning Application ultimately be overturned on appeal at any time (as evidenced by a final, non-appealable judicial order), then this Agreement is automatically void without further action of the City or the Owner and shall no longer burden title to the Subject Property. If this Agreement has been voided pursuant to this Section 9 and, prior thereto, the Covenants under Section 4 above have been recorded against the Subject Property, then the City shall execute and record such instruments as may be reasonably requested by Owner in order to terminate and release such Covenants from title to the Subject Property.

10. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

11. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers, and records related to Owner's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Owner shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Owner to make disclosures in violation of state or federal privacy laws. Owner shall at all times comply with D.R.M.C. 20-276.

12. Owner consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

13. In the event that no residential units are constructed on the Subject Property, the Owner shall have no obligation to provide IRUs. For purposes of this Agreement, the term


“residential dwelling unit” shall mean a “Dwelling Unit” as such term is defined in Section 11.12.2.1.B.1 of the Denver Zoning Code as of the date of this Agreement.

[Remainder of this page intentionally left blank. Signature page follows.]

[Computer-generated City signature page will be located here]

OWNER:

STEELE STREET HOLDINGS, LLC

By: 
Name: Douglas N. Wells
Title: Manager

STATE OF COLORADO)
)ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 27 day of October 2021 by Douglas N. Wells, as Manager of Steele Street Holdings, LLC, a Colorado limited liability company.

Notary Signature:  _____

JESSICA RUSSELL
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194007617
MY COMMISSION EXPIRES 02/22/2023

From: [Bill Tanner](#)
To: [Penafiel Vial, Maria F. - CPD City Planner Associate](#)
Cc: [Chris Ward](#); [sean_maley](#); [DeAnna Mayes](#); [Hinds, Chris - CC Member District 10 Denver City Council](#); [Clark, Haley - CC YA2245 City Council Aide](#)
Subject: [EXTERNAL] 50 S Steele Rezoning, Council Packet: MoU between Broe Real Estate Group and CCEA [Cherry Creek East Association]
Date: Monday, October 25, 2021 7:13:26 PM
Attachments: [CCEA 50 S Steele St report for Council 9.28.21.docx](#)
[FINAL signed MoU 50 S Steele 10.24.21 cw broe.pdf](#)

As you know, in a recent survey [copy attached for your convenience], the majority of CCE [Cherry Creek East] constituents voted in opposition to the proposed rezoning of 50 S Steele Street from 8 to CMX 12 stories. Since the role of an RNO is to communicate to Planning and Council how its constituents feel and not to superimpose its own judgement over those feelings, last week, the CCEA Board voted unanimously to recommend that Council oppose the rezoning.

However, both CCEA and Broe agreed that it is in the best interest of both parties to have a signed agreement covering the development and its construction. It is very much to Broe's credit and a sign of good faith towards the community that they agreed to sign an agreement in the absence of a favorable CCEA Board vote. As an additional sign of interest in working with the community, I understand that Broe is also working towards a separate agreement with Kavod [an adjacent to 50 S Steele low income community for older persons] to address some of the specific concerns that Kavod has. May I suggest that you reach out to Kavod or Broe to secure a copy of that agreement for the Council packet?

Fran, would you please ensure that 1.) this note, 2.) the survey summary [attached & sent earlier] and 3.) the attached MoU agreement, are all included in the packet shared with Council for November 1st, 2021 hearing?

Fran, I wish to thank you personally for all the work you put into this and other CCEA projects, your very professional behavior and your availability for unbiased, objective discussions of CPD procedures and considerations in rezoning recommendations.

Bill Tanner
billtannerconsulting@gmail.com
214-662-0157



CCEA RNO Survey Report: 50 S Steele St. Rezoning

What this survey report covers.

50 S Steele St. Rezoning: Broe Real Estate Services agreed to sign a neighborhood agreement with the Cherry Creek East association [CCEA] contingent upon the neighborhood agreeing to a rezoning of 50 S Steele from C-MX-8 to C-MX-12.

The survey text allowed CCE constituents to understand the rezoning context and agreement before deciding whether to support the rezoning or not. The complete text provided to respondents is attached to this report.

Who and how many took the confidential CCE community survey, when.

Engagement with the survey to date is excellent for this community. About 275 persons started the survey over a 2-week period ending 9.27.21. Responses were received from every occupied CCE block. Survey outreach included multiple mailings to CCEA members, non-members, social and neighborhood watch lists, multiple postings on social media, outreach to other local groups, physical distribution and word of mouth.

In addition, 110 residents of Kavod, an assisted living facility adjacent to and across the Adams St. from 50 S Steele took a one-page abbreviated version of the online survey. The results of that survey, analyzed separately, are consistent with this general community survey (87% opposed) and are reported just following the summary at the end of this survey.

This survey represents the broader CCE community, not just CCEA paid members. Just under ½ (47%) are CCEA members, 41% are not CCEA members and 12% were unsure if they are members.

Both property owners, renters and employees were represented: 2/3 (68%) own property; ¼ (27%) lease or rent residential or commercial property in CCE and the remainder do not live or own property in CCE but are employed in CCE (5%).

Respondents represented both residents of adjacent buildings [40%] such as Kavod, High Country House, Mountain Shadows, etc. and the broader CCE community.¹

Respondents were well informed about the rezoning prior to taking the survey. Over ¾ (77%) visited the 50 S Steele St site. Over ¾ (76%) read some or part of the neighborhood agreement and over 1/4 [27%] attended the developer's presentation to the CCE community. An image of the current building and proposed new buildings, a compilation of key facts about the proposal, highlights of the proposed neighborhood agreement were included in the survey pre-amble. Links to the complete developer's presentation and full text of the proposed agreement were included in the survey pre-amble.

¹ While this extended report reflects 25 Kavod residents with electronic device access, many residents of Kavod, a major CCE affordable housing facility for older residents often do not have access to computers and may speak primarily a foreign language so a one-page print survey in their native language was jointly developed by CCEA and Kavod management. A summary of that abridged report appears as an attachment to this survey report. Kavod is located directly to the east of 50 S Steele St.

CCEA RNO Survey Report: 50 S Steele St. Rezoning

Results: What respondents said about the rezoning.

A majority of respondents indicated that the CCEA Board should not support the rezoning as described in the survey, developer’s presentation and neighborhood agreement. The table below shows how respondents answered the question:

“Contingent on the above Neighborhood agreement being signed, how do you feel about the CCEA Board recommending to City Planning and City Council that the 50 S Steele St rezoning from CMX-8 stories to CMX-12 stories be approved”

Response Checked	All Respondents [Base: 247 ²]	Respondents Living Within 1-2 Blocks of 50 S Steele [High Country House, Kavod, Mtn Shadows, Seasons, Griffis, Other w/in 200 ft] [Base: 94]	Respondents Living In Properties Directly Adjacent To 50 S Steele [High Country House, Kavod, Mtn Shadows] [Base: 67]	People Employed in CCE who do not live in CCE [Base:9]
“The CCEA Board should recommend in <i>favor</i> the rezoning of 50 S Steel St from CMX 8 to CMX 12 stories”	28%	13%	12%	0%
“The CCEA Board should recommend <i>against</i> the rezoning of 50 S Steel St from CMX 8 Stories to CMX 12 Stories”	64%	84%	87³%	89%
“I am <i>not sure</i> if the CCEA Board should recommend for or against the rezoning of 50 S Steele St from CMX 8 stories to CMX 12 stories”	8%	3%	1%	11%
Total	100%	100%	100%	100%

- **CCE is not an “elitist NIMBY” community.** Although the majority opposed this development, the majority in CCE has voted in favor of other recent up-zonings including 5 Cook St. and properties at 1st and Colorado and 1st and Bayaud. Despite the massive scale and impact that this development will have this small community, over 1/3 [35%] either favored the development or were undecided.
- However, **at this point we have no neighborhood agreement and the supportive responses were contingent on having one. That is, without an agreement, the % in favor will be substantially lower.**

² Since respondents drop out of surveys for a variety of reasons [e.g., intended to complete survey later but forgot, other interruption, did not qualify, etc.], a few respondents who answered the pro/con rezoning question did not complete the adjacent building question. This is typical for surveys and still represents a completion rate well above expectations [based on SurveyMonkey estimates.]

³ This 87% is the same as the % of Kavod residents who voiced opposition in the attached standalone survey.

CCEA RNO Survey Report: 50 S Steele St. Rezoning

Why respondents voted as they did.

The responses to these questions are completely open – ended. That is respondents answered in their own words and were not cued as to how best to respond. In the examples below no words are changed or added, however sentences irrelevant to the topic are removed. Sample responses are included below. A complete list of comments is available on request.

Reasons given by the majority for opposing the rezoning from C-MX-8 to 12 stories

The great majority who voted in opposition to the rezoning talked about **public health, safety and general welfare** in terms of increased traffic, pollution, hazards to Kavod residents and other issues. A substantial increase in traffic without any ameliorative devices [bump outs, stop signs, traffic lights, active speed limit monitors, etc.] does pose a substantial hazard to older residents, particularly those from the adjacent Kavod Senior Living. There are ~1900 seniors⁴ in CC plus over 400 Kavod residents. Lost street parking is a hazard for older residents and many retirees of the community with limited mobility/ poor health and those in need of onsite medical care and visitation support. The sidewalks around the current 50 S Steele St facility are narrow, blocked on one side by tall walls, iced in winter and abut busy streets. Quotes from respondents:

- **“In particular, Kavod Senior Life, the adjacent property to the east, houses 420 whose average age is 78 and that require crucial caregiving services.** If these caregivers, delivery drivers and service providers cannot get to their clients (and these are many that have special equipment or cannot use public transportation), the residents at Kavod will suffer.”
- **“Lack of safety due to congestion of increased cherry creek residents. Traffic, parking and sidewalk safety are already compromised as it is.** There is too much construction and noise that is affecting the quality of life of the 420 older adults (age 65-100) who live in the low-income subsidized housing next door. It is already unsafe enough for us to walk around our own neighborhood.”
- **“Safety, Traffic, Noise & Air** (Unhealthy noise over 91 decibels since 2/12/2021-per dBMeterPro ‘App’; Unhealthy air 8/9/21 154 out of 500 (PM2.5) per BreezoMeter Global index Map ‘App’) “
- **“There will be insufficient parking for Kavod residents, visitors, delivery vehicles and employees. Less safe, more traffic (pollution!)”**
- **“This area is already too congested with residents, structures and traffic. This rezoning would greatly increase this congestion, further endangering the safety and health of existing residents.”**
- **“Limited parking for Kavod residents and staff Safety concerns”**
- **“There will be insufficient parking for Kavod residents, visitors, delivery vehicles and employees.”**
- **“Limited parking for Kavod residents and staff Safety concerns”**
- **“Added car and commercial traffic will impact the current walkability and parking availability of CCEA neighborhood as this is only one if several redevelopment projects in consideration.”**
- **“They are not good neighbors (50 Steele) to begin with. They are constantly making noise early morning and late at night. They are constantly blocking the alley during the day time. They have NO concept as to what it is to be a good neighbor.”**
- **“The corner of Bayaud and Steele is already an incredibly dangerous intersection for pedestrian and vehicle traffic.** Adding additional residential traffic around that intersection without further developing the safety measures like underground or overhead pedestrian walkways would be negligent on the part of the city and should be addressed before any additional housing is crammed into an already overflowing neighborhood.”

⁴ <https://denvermetrodata.org/neighborhood/cherry-creek>. Senior = 65+

CCEA RNO Survey Report: 50 S Steele St. Rezoning

- “Loss of views (new 12-story buildings are as tall as old 16-story); **increased traffic; noise (7 days/wk) and closing of lanes and sidewalks on all 3 affected streets during construction; on-street parking impact; light, noise (roof-top entertainment areas?) and dog-poop pollution when rented;** increased water and sewer usage; too many units and these are in addition to 250+ at 3400 E Bayaud.”
- **“Safety of community** - parking, no green space, very dense living population, traffic & road safety concerns.”
- “We are concerned over the **traffic for the proposed building entrance and exit being shifted from Steele Street to Bayaud and Ellsworth. The increased traffic volume on these two streets poses a major safety issue for Cherry Creek East for Drivers, Walkers, and Cyclists.**”

There are many mentions from the majority of loss of views, loss of sunlight and other negative lifestyle impacts

- **“I rent a beautiful apartment with a gorgeous view across the alley from 50 Steel. You will ruin it! I will have to move. Who in their right mind would choose to endure the incredible noise of construction culminating in the complete destruction of view and way of life. So I will be moving while you tear down and ruin 77 S Adams for all who live here.”**
- **“The proposed higher structure will destroy my precious mountain views and unjustly reduce my enjoyment of living in the Cherry Creek East community.”**
- **“You are taking 100s of tenants’ views of the mountains and sunsets away that they specifically pay for in their rent”**
- **“You are obstructing views of 100 seniors”**

Reason given by the minority for favoring the rezoning from 8 to 12 stories with the negotiated agreement

Some of the favorable responses by the minority reflect the belief that the City will approve the rezoning without regard to constituent or RNO agreement and so the best solution is the rezoning plus the agreement.

- **“I am a realist. The development will likely be approved by Council since Denver is in a housing crisis and also needs the affordable units and the development aligns with the CCAP. If CCEA approves the rezoning subject to an agreement, the agreement will ameliorate the impact of the development which is the best deal that CCEA is likely to get under the circumstances.”**
- **“The project is going to move forward with or without board approval.”**
- **“The zoning will likely be approved with or without CCEA support. Having GNA is a benefit.”**
- **“BRES is entitled to build an 8 story bldg without agreeing to a good neighbor agreement and therefore doing only what’s required by the city. They can also get approval for 12 stories from the city and still do the minimum in terms of being responsive to the Development Committee. With a GNA, they would be more responsive to requests such as lighting, sidewalks, mass reduction.”**

Other minority responses reflect the reasons CPD approved allowing the rezoning to go forward to Council e.g., fits area plans and the underlying needs of Denver e.g., need for more affordable housing.

- **“Proposal is in compliance with relevant adopted City of Denver land use planning documents and thus reflects prior review and acceptance of requested development proposal.”**
- **“Works well with surrounding area. Fits into the zoning.”**
- **“This location is designated for high rise buildings in the city plans.”**

CCEA RNO Survey Report: 50 S Steele St. Rezoning

- “This high-rise development will be next to similarly tall buildings so it seems appropriate. Follows the area plan.”
- “50 S Steele St Rezoning is consistent with the Cherry Creek Area Plan and the Denver Comprehensive 2040 plan. This new development will help bolster the long-term goals of Cherry Creek in general bringing more people to the community to support the local businesses, restaurants and public amenities.”
- “CCE needs to do its part to help address Denver density needs and low housing. “

A few cited perceived positives of the plan and of Broe

- “This is a well thought out plan”
- “Broe is a reputable and local developer who builds quality and sustainable projects. The existing building, and in particular the vehicular access, is old and terrible.”
- “I believe this is a beautiful area to live and I would love to see more people have the opportunity to enjoy this space. Furthermore, the mixed use would mean there are more business to walk to from our current location, dramatically improving our quality of life.”
- “More residential and commercial properties in the area is good.”
- “It enhances the Cherry Creek skyline, better and updates architecture. Introduction of better livable common and public spaces like restaurants and boutiques.”

Summary

- The majority of CCE respondents [5/8, 62%] and the great majority of respondents living or working adjacent to 50 S Steele [8/10, 84%] indicated that the CCEA Board should *not* support the rezoning of 50 S Steele St from C-MX-8 Stories to C-MX-12 stories.
 - Reasons for opposition included public health, safety and general welfare issues many of which are related to the substantial senior population in CCE and to Kavod in particular.

Potential Solutions that Council should consider

- If Council overrules its constituents, it should also consider how best to ameliorate the impact of the massive development on those constituents. If constituents are completely alienated, it is logical to expect them to oppose additional development. Ameliorative measures might include encouraging Broe to accept the neighborhood agreement which reflects terms Broe developed and would agree to. Measures might also include traffic calming and management measures (such as permanent speed measuring boxes, bump outs, stop signs, flashing crosswalks, etc.), enhanced street lighting, acceleration of the rapid bus transit plan along Steele St., residential parking permits, Kavod parking, a study of the impact on Kavod, reduction in the number of lost views, and other measures to improve public health, safety and general welfare of seniors in the area.
- Even if Council aligns with its constituents, it should consider how to ameliorate the impact of a massive 8 story building near busy intersections, Kavod and near an otherwise quiet residential area.

CCEA RNO Survey Report: 50 S Steele St. Rezoning

Kavod Senior Life Survey Summary: Stand-Alone One Page Survey

Kavod senior life is a non-profit, non-sectarian organization providing housing and services to older adults⁵. Kavod is located on Adams St. just east of and adjacent to the 50 S Steele site and within 200 feet of that site. Rents are well below Denver averages and many are subsidized. One Hundred and ten [110] senior residents of Kavod Senior Life took a simplified one-sheet paper survey. The simplified one-sheet version was used since many do not have access to electronic devices, some required translation since their native language is not English and to reduce costs and manual processing time required.

The one-sheet, two-sided survey first confirmed that respondents resided at Kavod. Only those answering in the affirmative are included in this summary. On the back page of the two-sided survey was a simplified version of the pre-ambule to the CCE neighborhood questionnaire. On the front were questions confirming residency, asking whether or not the CCEA board should support the rezoning, or not. Checkboxes and one open-ended question asking why those “voting” against the development did so complete the survey.

Kavod Stand-Alone Survey Results

Contingent on the Neighborhood Agreement presented on the back of this survey, should the CCEA Board recommend to City Planning and City Council that the 50 S Steele St rezoning from CMX-8 stories to CMX-12 stories be approved? (CMX means commercial mixed use i.e., apartments and potentially businesses) Response Checked	Kavod Residents [Base: 110]
“Yes, the CCEA Board should vote in favor the rezoning of 50 S Steel St from 8 to 12 stories”	5%
“No, The CCEA Board should recommend <u>against</u> the rezoning of 50 S Steel St from 8 Stories to 12 Stories”	87%
“I am not sure if the CCEA Board should recommend for or against the rezoning of 50 S Steele St from CMX 8 stories to CMX 12 stories”	8%
Total	100%

Of those in opposition or uncertain, most mentioned public health, safety and general welfare reasons including:

- **82% were concerned about the loss of street parking** since Kavod currently has inadequate onsite parking for staff, family, critical healthcare support services and other visitors, etc.
- **82% were concerned about increased traffic** since many are elderly and/or handicapped.
- **78% were concerned about safety.**
- **About half [49%] expanded on these concerns or expressed concern** about other issues such the loss of sunlight or views, increased noise and pollution. Loss of sunlight and views may seem trivial to some but those matter to older people fighting depression.

Summary:

The Kavod stand alone survey results are directionally consistent with the broader CCE survey. If Council should approve the rezoning or not, it is strongly recommended that amelioration of the impact of the development be a requirement. Ameliorative steps might include traffic calming devices, wider and well lit sidewalks, setbacks, etc.

⁵ <https://www.kavodseniorlife.org/>

CCEA RNO Survey Report: 50 S Steele St. Rezoning

Background information provided to respondents within the CCEA Community survey preamble

In this short 8-minute survey, you will be asked for your opinions about a proposal to rezone 50 S Steele St. which occupies half a block and faces Steele St on the east and the alley between Steele and Adams St on the west. The property extends between Ellsworth Ave on the north and Bayaud Ave on the south. The rezoning is requested by BRES [Broe Real Estate Group] who have been working with CCEA since January, 2019 and are seeking to develop the property as a long-term, 'legacy' project. BRES has requested a rezoning from CMX-8 to CMX-12 [C=Urban Center, MX=Mixed Use, 8/12=Stories]. CMX allows a mix of residential and commercial uses in one building. Current zoning allows for one 8-story building with no maximum unit cap, limitations or enhancements. Under the proposed rezoning and GNA agreement, the rezoning would allow for 12-stories with a 25% mass reduction and many other provisions below. BRES estimates the project will include 450-550 apartment units.

- An 8-story building currently sits in the middle of the property with two parking lots on the North and South. If the building is rezoned/developed, parking will be under the buildings and the streetscape will be set back and opened up.
- Under current zoning, BRES has the right to build an 8-story building with no maximum unit count, enhanced design/building form standards, or other community benefits. So, the choice CCE should consider is between a 12-story set of buildings with a community agreement or an 8-story building which could legally proceed without an agreement.
- If an 8 story building were built, it could be constructed without any "mass reduction," however, BRES has agreed to reduce the mass of the 12 story building by 25%.
- Based on a series of meetings and dialogue regarding the rezoning since 2019, BRES has offered to sign a legally binding Good Neighbor Agreement between CCEA and BRES, summarized below.
- The property, on CCE's western edge, is adjacent to 12-story zoning along its entire boundary and has been planned for 12-story height since the 2012 Cherry Creek Area Plan [See map P [73, https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/planning/Plans/Cherry_Creek_Area_Plan.pdf](https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/planning/Plans/Cherry_Creek_Area_Plan.pdf) and 2019 Blueprint Denver.
- You will be asked whether CCEA should support the rezoning if the BRES signs the Good Neighbor Agreement summarized below.
- CCEA, as a Registered Neighborhood Organization (RNO), is given input on the proposed rezoning through this survey, public meetings and CCEA Board action, all of which are integrated into a City of Denver form which discloses whether our RNO does or does not support rezoning.

BRES is seeking CCEA support when they present to Planning Board on 9.15.21 and to City Council on 11.1.21. Thus, your opinions about the rezoning are important to the CCEA Board, since we will take them into consideration prior to deciding whether or not to provide support.

- It is ultimately up to BRES to make a case for the rezoning. CCEA does not have the authority to approve or disapprove the rezoning. City Council, guided by Adopted Plans and other City policies, will make the decision on this application.



CCEA RNO Survey Report: 50 S Steele St. Rezoning

- In addition to this 12 story, 450-550 development, there are now 2 other re-zonings proposed in CCE. 1.) 3400 E Bayaud [12 stories, 220 units] 2.) 5 Cook [7 Stories, ~36 units]

CCEA has not signed an agreement. Until we have heard your opinions in this survey, an agreement will not be signed. Based on conversations with CCEA members and the community, BRES has agreed to the following:

- Agreement runs with land. The agreement will run with the property. If sold, the agreement binds new owners.
- Mass reduction: Building mass will be reduced by 25% minimum vs. a single 12 story building.
- Residential Unit Sizing – The average unit size will be in excess of 900 gross sq. ft. per unit, with a limitation of 20% studio units. Current zoning has no unit size standards.
- Building Setback – BRES is committed to providing 5-ft building setbacks along Ellsworth, Bayaud and Steele.
- Detached sidewalks – BRES will construct detached sidewalks, minimum 6-ft in width and make improvements.
- Heated sidewalk – Heated sidewalks will be used on the Ellsworth St frontage.
- Landscape treatment, pedestrian lighting and community gateways – BRES will provide improved landscaping, pedestrian lighting, as well as gateway landscape features at Steele and Bayaud + Ellsworth
- Traffic/ parking study: BRES will prepare a parking, traffic impact and/or traffic demand management studies.
- On-site Parking and storage – BRES will provide on-site parking that exceeds code and/or TDM minimum by 5% (if allowed by City), or as recommended in the parking study, whichever is greater. BRES will provide bike storage.
- Street level activation – Depending on market demand, BRES will provide at least one open to the public retail and/or commercial amenity (tavern, coffee shop, health club, bike shop, etc.) on the ground floor.
- Outdoor Amenity Locations – BRES will plan the location of exterior resident amenity spaces to limit the impact of noise and disturbances to adjacent neighbors
- Pet waste bags and disposal stations will be provided.
- Community meeting space – BRES will provide one.
- CCEA Overlay: If approved at construction time, will apply; if not approved, will not apply.

Please read full agreement at <https://www.cherrycreekeast.org/development/>

**Memorandum of Understanding For 50 S. Steele Street
Steele Street Holdings, LTD C/O Broe Real Estate Services and Cherry Creek East Association
October 21, 2021**

Whereas: Steele Street Holdings, LTD c/o Broe Real Estate Services (collectively, "BRES") desires to rezone approximately 1.44__acres which is located at 50 S. Steele Street from C-MX-8 to C-MX-12. A survey of the property is attached hereto as EXHIBIT A

Whereas: The Cherry Creek East Association ("CCEA") is the registered neighborhood association whose boundary area includes the 50 S. Steele Street Property.

Now Therefore: For good and valuable consideration the receipt and sufficiency of which is hereby acknowledged CCEA and BRES hereby enter into this Memorandum of Understanding [MOU] and agree as follows:

As conditions precedent to this MOU becoming binding on both parties and their successors and assigns:

1. While the CCEA Board will vote in alignment with its constituents according to the survey of those constituents regarding the application, in recognition of the commitments made by BRES and the community benefits included herein, CCEA Board members will not take further action in opposition to the rezoning including initiating and/or signing a petition, writing letters of opposition or speaking against the rezoning at the Council hearing.

If the CCEA does not undertake these steps, both parties hereby agree and acknowledge that CCEA will have materially performed a significant contractual obligation and may reasonable rely upon BRES , so long as CCEA satisfies all its other obligations hereunder, and the zoning contemplated herein is duly approved by the City and County of Denver, BRES will be bound to perform its contractual obligations as delineated below, if the property is redeveloped:

2. Many of the improvement and/or commitments contemplated by BRES herein, require review and approval by the City and County of Denver, during the SPD/site plan process, or otherwise, City Approval shall be a condition precedent to BRES performing any of these commitments.

The Parties hereby agree as follows to the following terms and conditions:

Process Provisions

1. **Community meetings and information** – BRES will continue its close work and correspondence with CCEA and the neighborhood. BRES will provide updates to the CCEA and its development committee on a bimonthly basis and hold community meeting(s) when information is available regarding the project, including but not limited to advance timing of key project milestones such as the (a) site development plan, and (b) construction planning. BRES will provide advance notice for scheduling and information sharing/communication with CCEA. CCEA will also inform BRES of other neighborhood meetings where information from BRES on the project is requested or could be presented. BRES will review the initial site development plan with CCEA prior to an official submittal to the City and disclose any zoning variances

requested. If CCEA does not agree with variances it reserves the right to object with both BRES and the City.

2. **Parking, Traffic Impact and Traffic Demand Management Studies** – BRES commits to preparing a Parking, Traffic Impact, and/or Traffic Demand Management Study (or studies) as part of the site development plan process and shall use commercially reasonable efforts to limit the impacts of the project's development on adjacent infrastructure. BRES is committed making commercially reasonable efforts to utilize parking strategies and technologies (as may be recommended by the studies) to limit the impact of the of the development on the existing on street parking.
3. **Construction Planning and Communication** – BRES commits to working with CCEA and the adjacent neighbors regarding construction coordination. Before construction and once general contractors are in place to build certain projects, BRES will provide a plan to CCEA that discusses project schedule, site logistics, access, offsite parking plan for site workers and hours of operation/contact information. Any material modifications to the general plan and schedule will be communicated with CCEA. A 24/7 hotline number will be provided so that residents can call to report problems or issues during construction.
4. **Community partner** – BRES commits to making commercially reasonable efforts to be a positive community partner to CCEA and the neighborhood. Our interests are aligned with the neighborhood when it comes to transportation, mobility, and other area-wide improvements. BRES will be a close working partner to CCEA and the community when it comes to partnerships with the City & County of Denver and seeking potential City funded area-wide improvements that benefit the community. These area-wide improvements could include, but are not limited to alley improvements, pedestrian crossings of adjacent streets, improved access from the neighborhood to Pulaski Park and/or the Cherry Creek Greenway to the south, implementation of "resident only" on street parking areas within Cherry Creek East, installation of "traffic calming" tools on Bayaud and/or Ellsworth, and maintenance/beautification of the Steele median.
5. **Binding upon successors** – Both parties agree that this Agreement may be recorded and shall bind not only the signatories hereto but also their successors and assigns including but not limited to any future owner of the Property and that the obligations shall "Run with the Land."
6. **Default** – If either party Defaults on their obligations there shall be a written notice from the non defaulting party giving an opportunity to cure within 30 days. Failure to cure shall be deemed an event of Default and the parties may pursue all of the rights and remedies available to them including but not limited to specific performance.
7. **Choice of Law** – The Parties agree that Colorado Law shall be applied and that Denver Colorado is the appropriate venue in the event of a legal dispute.
8. **Attorney's Fees** – In the event of a dispute which requires attorneys to resolve the prevailing party shall be entitled to reasonable attorney's fees, expenses and court costs.

Project: Exterior Design, Access, and Safety Provisions:

1. **Square footage/Floor area reductions** – BRES shall provide a 25% minimum mass reduction “open to the sky” from the allowable building envelope of the C-MX-12 zoning for the site. The required reduction of space may be accomplished through design techniques including, mass reductions, height reductions, setbacks, on-site open space or other techniques. Unless it proves to be unfeasible from a design perspective (i.e. structural and/or other constraints), considering the project will not be submitted for concept and design review until the site development plan (SDP) stage, and/or BRES identifies another design concept that is consistent with this agreement and the feedback received from the neighborhood, the current “Three courtyard design” with alternating east/west and north/south connected structures shall be pursued as the preferred design alternative.
2. **Building Setback and Façade Articulation** – BRES is committed to providing 5-ft building setbacks in areas of new construction along Steele, Ellsworth, and Bayaud, provided that the setback may result at an elevation approximately 3-4 feet above grade as a result above grade planters, patios, and/or steps. BRES is also committed to providing design enhancement at the second/third story datum of the building to enhance the pedestrian and neighborhood scale of the building. The design enhancement may include façade articulation, balconies, and/or material changes to prevent the “straight up from the street” glass and steel tower/downtown aesthetic, and may extend into the 5-ft setback above the second/third story datum. Alternatively, open space areas of 7% of the zone lot (open to the sky, minimum 10’ x 15’, and 20% landscape) may be explored in lieu of the 5-ft setbacks described above.
3. **Project access: Steele Street** – BRES will utilize commercially reasonable efforts to provide a design/construction solution to eliminate and/or limit impacts between pedestrian and vehicular traffic and on-site garage access. This may be accomplished by relocating the existing garage access from Steele Street to adjacent perimeter streets and/or alley and better vehicular access and egress design in the site development plan. A dedicated rideshare and/or passenger pickup/drop off location will be established that reasonably minimizes the impact on traffic flow along Steele, Ellsworth, and/or Bayaud. Final approval of access locations is subject to City of Denver review and approval of the site development plan.
4. **Detached sidewalks** – BRES will construct detached sidewalks, minimum 6-ft in width, to enhance the pedestrian experience adjacent to the property. Sidewalks will be unobstructed by planters or other objects so that there is a clean line of sight from one end of the block to the other. This will ensure easy passage by pedestrians, wheelchairs, and scooters, etc.
5. **Heated sidewalks** – Heated sidewalks will be provided on the Ellsworth sidewalk adjacent to the property.
6. **Enhanced landscaping, pedestrian lighting and community gateways** – BRES at its sole cost and expense will continue to work with CCEA to provide enhanced landscape treatment for the project, including pedestrian lighting consistent with neighborhood standards, as well as locations and the ability to include gateway landscape and/or features, as desired by the neighborhood, at the intersections of Steele Street with Bayaud and Ellsworth. At least two alternative designs will be proposed and shared with the CCEA development committee for review and comment. Since BRES is committing to pay for the above neighborhood consistent landscaping, lighting and other features, BRES will have final design approval of any permanent monumentation on the project and the proposed locations will be subject to review, comment, and approval by the City of Denver during the site development plan process.

7. **Building Lighting and Signage** – BRES shall utilize commercially reasonable efforts to limit the impacts of building lighting and signage to the adjacent properties and neighborhood. This may be accomplished by techniques including but not limited to photovoltaic sensors, timers, downcast, dimmers, and/or other design methods.

Programming Provisions:

1. **Residential Unit Sizing** – The average unit size (including its pro-rata share of building common areas) for the project shall be in excess of 900 gross square feet per unit. Studio units less than 600 gross square feet (including their pro-rata share of building common areas) shall not exceed 20% of the total unit count. The project is intended to provide multiple unit types and sizes to appeal to a diverse cross section of Denver residents.
2. **Street level activation** – BRES will design the street and/or alley level of the project to allow for an enhanced pedestrian experience and level of safety, as well as provide ground level active uses with the intention of complimenting the adjacent neighborhood and community. Residential units/uses that include unit access and/or exterior patios/gathering areas and commercial/retail/amenities with direct street access are potential active uses.
3. **Retail and/or community amenity** – BRES will provide at least one retail and/or commercial amenity (tavern, coffee shop, health club, fitness, bike shop/repair, market, art gallery, etc.) on the ground floor that is open and accessible to the public with a minimum of 3,000 gross sq. ft. This minimum gross sq ft area can include multiple establishments and/or amenities and shared lobby/common area for use by multiple establishments.
4. **Pet waste bags and disposal stations** – BRES will provide pet waste bags and disposal stations at appropriate spacing adjacent to the project.
5. **On-site Parking and Storage** – BRES will provide on-site parking that exceeds the code and/or TDM minimum by 5% (if allowed by City of Denver), or as recommended in the parking study, whichever is greater. All parking within the project shall be screened from view by the adjacent public right of way. BRES will provide appropriate spaces for bike storage and maintenance within the project. Bike storage shall not be allowed on exterior balconies.
6. **Outdoor Amenity Locations** – BRES will thoughtfully plan the location of exterior resident amenity spaces and utilize commercially reasonable efforts to limit the impacts of noise and additional disturbances to adjacent neighbors
7. **Community meeting space** – BRES will provide a community meeting space within the project for periodic use by Cherry Creek East/CCEA neighborhood for purposes of board meetings, committee meetings, or community meetings.


8. **Security and Staffing** – The community shall be staffed with a 24-hr concierge and other appropriate security measures.

Executed and effective as of the latest date set forth below:



Douglas N. Wells (Oct 24, 2021 10:28 MDT)
Broe Real Estate Services
On behalf of Steele Street Holdings, LLC

Date: Oct 24, 2021



Cherry Creek East Association
Christopher Ward, President

Date: Oct 24, 2021

PARKING AGREEMENT

THIS PARKING AGREEMENT (this “**Agreement**”) is made as of this ____ day of _____, 2021 (the “**Effective Date**”), by STEELE STREET HOLDINGS, LLC, a Colorado limited liability company (“**Grantor**”) and Allied Housing East LP, a _____ limited partnership (“**Grantee**”).

Recitals

A. Grantor owns the real property located at 50 South Steele Street, Denver, CO 80209 as described on Exhibit A (the “**Property**”), where, among other things, Grantor operates a parking garage consisting of approximately 350 spaces (the “**Garage**”).

B. Grantee owns the real property located at 22 S Adams St, Denver, CO 80209, which is located less than two blocks from the Garage to the east, where Grantee operates a senior living center (the “**Senior Living Center**”).

C. Grantor has submitted Application No. 20i-00200 to the City and county of Denver, Colorado (“**City**”), which proposes to rezone the Property from C-MX-8 to C-MX-12 (the “**Rezoning**”), in connection with Grantor’s plans for the potential redevelopment of the Property.

D. In connection with the Rezoning, Grantor has agreed to grant a license to Grantee to allow employees of the Senior Living Center and other permittees expressly permitted pursuant to this Agreement (collectively, “**Permittees**”), to use certain parking spaces within the Garage on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant.** Subject to the terms of this Agreement, Grantor hereby grants unto Grantee, for the benefit of Grantee and its Permittees, (a) a non-exclusive license to use 20 vehicular parking spaces within the Garage, together with any parking spaces permitted on a temporary basis pursuant to Section 4, in the locations as may be designated by Grantor from time to time, subject to Section 5 (“**Designated Parking Spaces**”), and (b) a non-exclusive license for pedestrian and vehicular ingress and egress over and across cross all driveways, accessways, parking areas, sidewalks and exterior walkways now or hereafter located on the Property as may be reasonably necessary to access the Designated Parking Spaces (collectively, the “**License**”).

2. **Term.** The term of this Agreement, and the License granted hereunder (the “**Term**”), will commence on the date of final, non-appealable approval of the Rezoning, and will continue unless and until the earlier to occur of the following events: (a) approval by the City of a Site Development Plan for the Property, provided, however, that upon written request from Grantee, Grantor may agree, in writing, to extend the Term past the date of such approval on the same terms and conditions as set forth in this Agreement, except that such extended Term may be terminated by Grantor, in its sole and absolute discretion, at any time by delivering written notice

to Grantee at least five days prior to such termination date; or (b) five years from the Effective Date. Prior to the expiration of the Term, Grantee may deliver to Grantor written notice requesting that Grantor consider accommodating additional parking to serve the Senior Living Center in connection with Grantor's redevelopment of the Property, whereupon Grantor and Grantee will work negotiate reasonably regarding the terms, including without limitation payment, of such arrangement; provided, however, that Grantor will have no obligation to provide such continued parking spaces following expiration of the Term.

3. Use and Reservation by Grantor; Rules of Use by Grantee. Grantor hereby reserves for itself and its successors in interest the rights (a) to use, and to let others use, the Garage for any and all purposes that do not unreasonably interfere with the use of the License by Grantee and its Permittees pursuant to the terms of this Agreement, (b) to relocate the location of the Designated Parking Spaces within the Garage by delivering to Grantee written notice at least 24 hours prior the effectiveness of such relocation, and (c) to implement rules and regulations for the use of the Garage (provided, however, that such rules and regulations as they relate to the use of the Garage by Grantee and its Permittees may not differ in any material and adverse manner from the rules and regulations imposed for the use of the Garage by the general public). Neither Grantee nor any of its Permittees will be permitted to leave any vehicle to remain in the Garage for more than 24 consecutive hours. Any automobile remaining in the Garage beyond such period is subject to removal by Grantor at the sole expense of Grantee. Grantor has no obligation to patrol, guard or protect any vehicles parked in the Garage and will not be deemed to have custody and/or care of Grantee's or its Permittees' vehicles. Any and all damage, loss or injury to persons or vehicles with respect to the use of the Garage will be at the sole risk of Grantee.

4. Temporary Event Parking. At any time during the Term, Grantee may deliver to Grantor written notice of events and activities at the Senior Living Center, together with a request to accommodate additional parking in connection with the same. Grantor will have three business days to review such request and respond to Grantee with written notice of any additional Designated Parking Spaces within the Garage that Grantee and its Permittees may use in connection with such event; provided, however, that Grantor will have no obligation to provide additional Designated Parking Spaces and if Grantor does not respond to such notice within the foregoing three business day period, Grantor will be deemed to have denied such request. Notwithstanding anything to the contrary in this Agreement, in no event will Grantee permit or allow any residents or guests of the Senior Living Center to access or park in the Garage, except as may be expressly permitted pursuant to this Section 4.

5. Taxes and Assessments. Grantor will pay or cause to be paid all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to the Property; provided, however, that upon request by Grantor, Grantee will cooperate with Grantor in obtaining any tax relief, benefits or credits available to Grantor as a result of this Agreement.

6. Indemnity. To the fullest extent permitted by applicable law, Grantee will indemnify, defend and hold harmless the Grantor and its officers, directors, members, agents and employees (collectively, "**Indemnified Parties**") from and against any and all claims (including, without limitation, mechanic's lien claims), actions, causes of action, liability, losses, damages, costs or expenses, including reasonable attorneys' fees, incurred by any Indemnified Parties arising out of this Agreement or the use of the License by Grantee and its Permittees; provided, however,

that such indemnity will not include or require Grantee to pay for any indirect, special, consequential or punitive damages.

7. No Liens. Grantee will not cause or permit any mechanic's or materialmen's liens or any other liens to attach to the Property as a result of the exercise by Grantee or any of its Permittees of the rights or obligations granted under this Agreement. If any such lien is recorded, then Grantee will cause, at its sole expense, the lien to be released within 30 days after the same is recorded. If the lien is not so released then Grantor, at its option, may obtain the release, in which case Grantee will reimburse Grantor for the full cost of such release, including without limitation attorneys' fees and costs.

8. Default; Remedies. Grantee will be responsible and liable hereunder for the defaults, violations or breaches of this Agreement of its Permittees, or any person or entity claiming by, through or under a Permittee. If Grantee defaults on any obligation under this Agreement, and such default remains uncured for ten days following delivery of notice from Grantor to Grantee (or, if such default cannot reasonably be cured within a ten-day period, an appropriate cure is not commenced and diligently pursued within such ten-day period), then Grantor may terminate this Agreement.

9. Notices. All notices, demands or other communications required or permitted to be given hereunder will be in writing and any and all such items will be deemed to have been duly delivered: (i) upon personal delivery; (ii) three (3) business days after mailing by United States mail, certified, return receipt requested, postage prepaid; (iii) one (1) business day after deposit with FedEx or a similar overnight courier service; (iv) upon transmitting (if not later than 5:00 p.m. local time) by e-mail if not later than 5:00 p.m. local time; or (v) one business day after transmitting (if later than 5:00 p.m. local time) by e-mail to the following addresses:

If to Grantor: STEELE STREET HOLDINGS, LLC
 252 S. Clayton Street
 Denver, Colorado 80206
 Attn: Marc Savela
 Email: msavela@broerealestate.com

If to Grantee: Allied Housing East LP

 Email: _____

10. Attorneys' Fees. If any party commences any action or proceeding against the other party in order to enforce the provisions of this Agreement or to recover damages as a result of the alleged breach of any of the provisions of this Agreement, the substantially prevailing party will be entitled to recover all reasonable costs in connection therewith, including reasonable attorneys' fees.

11. Non-Assignability. Grantee's rights and obligations pursuant to this Agreement are personal to Grantee. Any attempt by Grantee to transfer, assign, sublet, encumber or mortgage this Agreement without the prior written consent of Grantor will be null and void.

12. Modification; No Waiver. This Agreement and the exhibits attached hereto may be modified, amended or terminated only by mutual agreement in writing signed by Grantor and Grantee. Failure by any party to this Agreement to enforce any provision of this Agreement will not constitute a waiver of such provision, and no waiver by any party to this Agreement of any provision of this Agreement on one occasion will constitute a waiver of any other provision or of the same provision on another occasion.

13. Severability. If any term, covenant, condition or provision of this Agreement is, at any time or to any extent, declared invalid or unenforceable, the remainder of this Agreement will not be affected thereby, it being the intent of Grantor and Grantee that this Agreement and each provision hereof will be enforceable and enforced to the fullest extent permitted by law.

14. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

GRANTOR:

STEELE STREET HOLDINGS, LLC,
a Colorado limited liability company

By: _____
Douglas N. Wells, Manager

GRANTEE:

Allied Housing East LP
a _____ limited partnership

By: _____
Name: _____
Title: _____

EXHIBIT A
Property

Lots 1 to 20 Inclusive, Block 20,
Burlington Capitol Hill Addition,
City and County of Denver
State of Colorado

**CITY AND COUNTY OF DENVER, COLORADO
REGISTERED NEIGHBORHOOD ORGANIZATION
POSITION STATEMENT**

Following a vote of the Registered Neighborhood Organization, please complete this form and email to rezoning@denvergov.org. You may save the form in *.pdf format if needed for future reference. Questions may be directed to planning staff at rezoning@denvergov.org or by telephone at 720-865-2974.

Application Number	2020I-00144
Location	5 Cook St , Denver
Registered Neighborhood Organization Name	Cherry Creek East Association [CCEA]
Registered Contact Name	Bill Tanner [Dev. Committee Head], Chris Ward [President CCEA]
Contact Address	64 S Jackso St, Denver, Co. 80209
Contact E-Mail Address	billtannerconsulting@gmail.com
Date Submitted	9.15.2021

As required by DRMC § 12-96, a meeting of the above-referenced Registered Neighborhood Organization

was held on , with members in attendance.

With a total of members voting,

voted to support (or to not oppose) the application;

voted to oppose the application; and

voted to abstain on the issue.

It is therefore resolved, with a total of members voting in aggregate:

The position of the above-referenced Registered Neighborhood Organization is that Denver City Council

.

Comments: * A public zoom meeting was held at which time we committed to an electronic survey. All meeting attendees and community members were invited to take the survey using e-mail, FB CCE Group, Nextdoor CCE group, District 10 FB page, physical postings, HOAs, etc. totaling approx. 950 persons minimum. Multiple postings and emails were sent as reminders.

The survey results were shared with City Planning and D10 Council person and are in the public record. They are also available on request from the Registered Contacts named above.

Planning Board Comments



Submission date: 15 September 2021, 9:51AM
Receipt number: 46
Related form version: 2

Your information

Name lone Hartley
Address or neighborhood 111 S Monroe St Unit B301 Denver, CO 80209
ZIP code 80209
Email ionehartley@gmail.com

Agenda item you are commenting on

Rezoning

Rezoning

Address of rezoning 50 S Steele Street
Case number 20201-00200

Draft plan

Plan area or neighborhood

Proposed text amendment

Project name

Historic district application

Name of proposed historic district

Comprehensive Sign Plan

Address of comprehensive sign plan

Case number

DURA Renewal Plan

Address of renewal project

Name of project

Other

Name of project you would like to comment on

Submit your comments

Would you like to express support or opposition to the project?

Strong opposition

Your comment:

Yesterday our RNO(Cherry Creek East) Development head (Bill Tanner) sent a copy of an interim survey report that reflects the viewpoints of over 130 neighbors. A majority of those surveyed oppose the rezoning of 50 S Steel St to 12 stories. Please read this report carefully and consider the views of our constituents. Our RNO is willing to work with a negotiator. Development without considering the views and outcomes to a neighborhood are wrong. Please consider this. Thank you. lone Hartley

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

Planning Board Comments



Submission date: 15 September 2021, 10:25AM
Receipt number: 47
Related form version: 2

Your information

Name	Bill Tanner
Address or neighborhood	64 S Jackson St, --
ZIP code	80209
Email	billtannerconsulting@gmail.com

Agenda item you are commenting on

Rezoning

Rezoning

Address of rezoning	50 S Steele
Case number	

Draft plan

Plan area or neighborhood

Proposed text amendment

Project name

Historic district application

Name of proposed historic district

Comprehensive Sign Plan

Address of comprehensive sign plan

Case number

DURA Renewal Plan

Address of renewal project

Name of project

Other

Name of project you would like to comment on

Submit your comments

Would you like to express support or opposition to the project?

Moderate opposition

Your comment:

Unfortunately, I am unable to attend the Zoning Board meeting. As elected head of the CCEA Development committee, want to let you know that an ongoing poll of the community shows the majority [54%] oppose the rezoning from C-MX-8 to C-MX-12. The poll represents a diverse cross section of residents including many living within 200 ft of the site. I hope that the community and the developer can work out a plan that benefits both and the City of Denver. A complete report on the results of the poll will be forthcoming. I do think that the Planning Board ought to consider constituent input.

If you have an additional document or image that you would like to add to your comment, you may upload it below. Files may not be larger than 5MB. [CCEA 50 S Steele St Interim report for CPD 9.14.21 bt.docx](#)

Planning Board Comments



Submission date: 15 September 2021, 10:32AM
Receipt number: 48
Related form version: 2

Your information

Name	WILLIAM D TANNER
Address or neighborhood	64 S JACKSON ST
ZIP code	80209
Email	billtannerconsulting@gmail.com

Agenda item you are commenting on

Rezoning

Rezoning

Address of rezoning	50 S Steele
Case number	

Draft plan

Plan area or neighborhood

Proposed text amendment

Project name

Historic district application

Name of proposed historic district

Comprehensive Sign Plan

Address of comprehensive sign plan

Case number

DURA Renewal Plan

Address of renewal project

Name of project

Other

Name of project you would like to comment on

Submit your comments

Would you like to express support or opposition to the project?

Moderate opposition

Your comment:

With a zoning overlay planned or the area [CCE], it is inappropriate for approval to be given to a rezoning until the overlay has been considered by Council.

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