

TO: Denver City Council
FROM: Theresa Lucero, Senior City Planner
DATE: March 28, 2019
RE: Official Zoning Map Amendment Application #2018I-00129

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for application #2018I-00129.

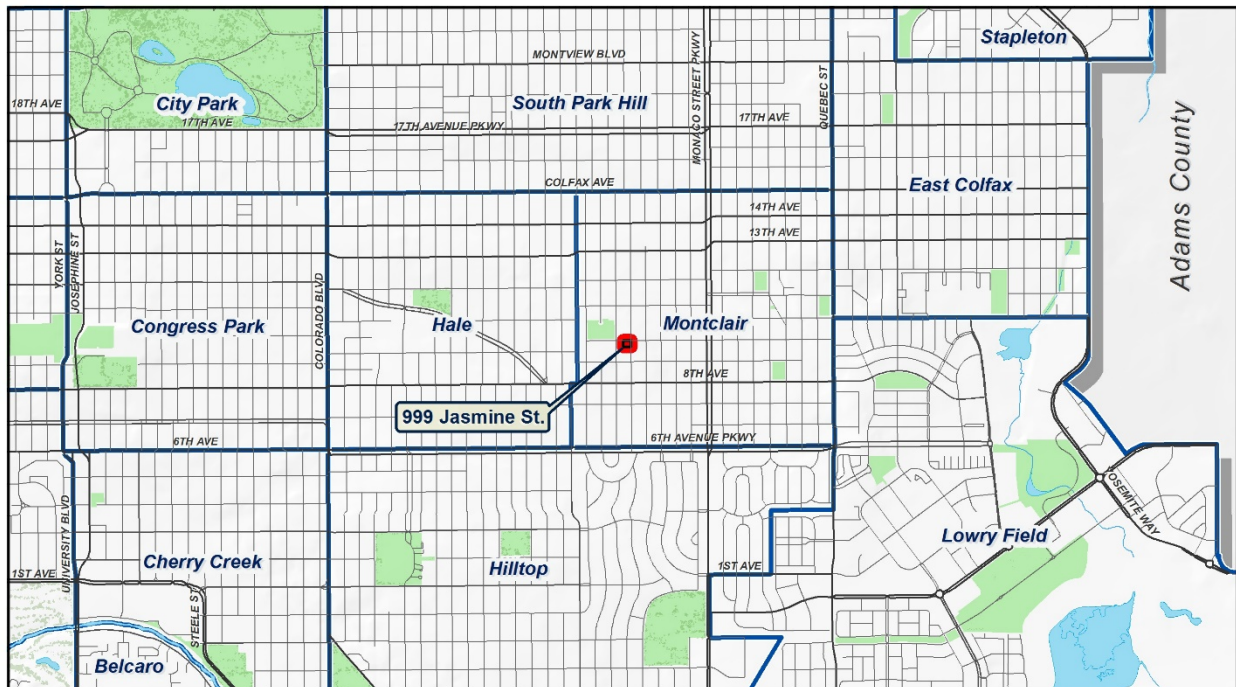
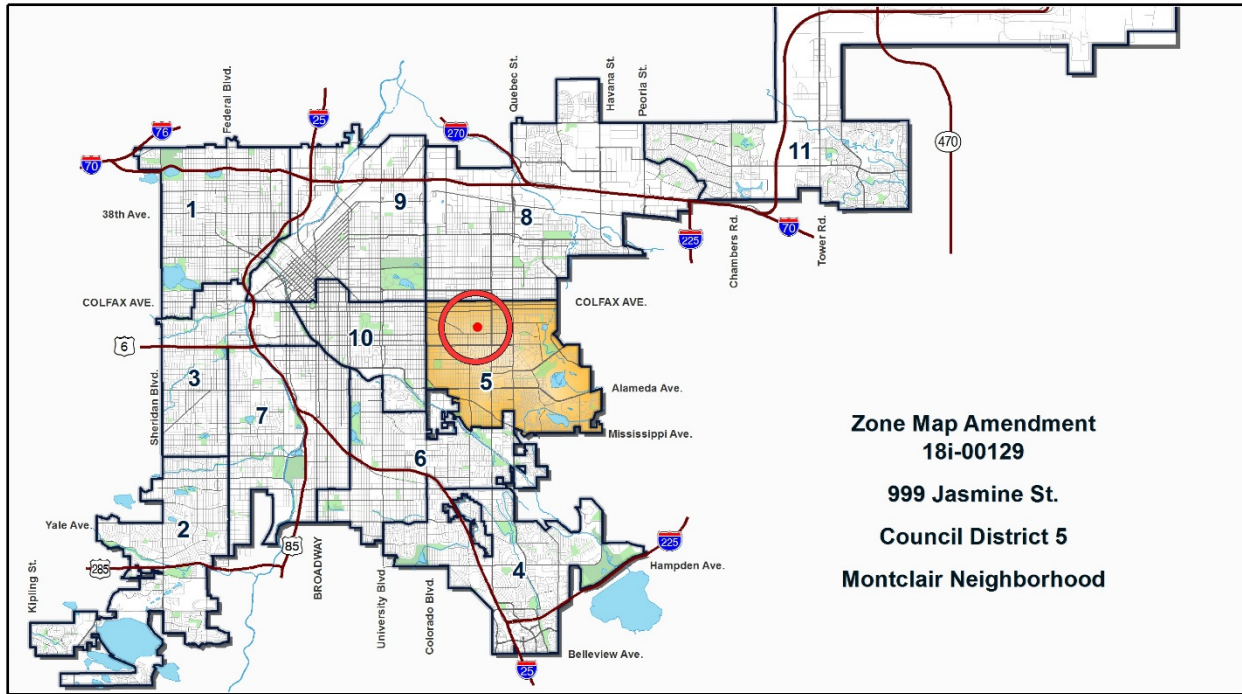
Request for Rezoning

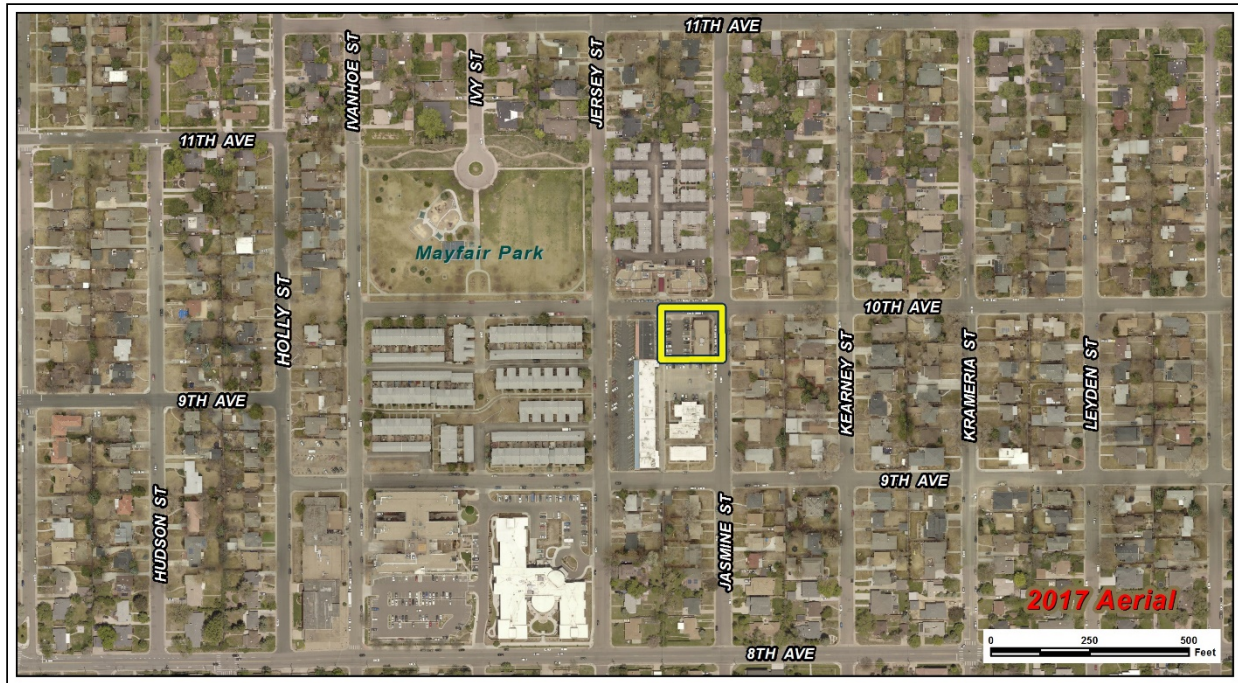
Address:	999 Jasmine Street
Neighborhood/Council District:	Montclair Neighborhood / City Council District 5
RNOs:	Historic Montclair Community Association, Inc.; Jasmine Place Townhomes; Mayfair Neighbors, Inc.; Inter-Neighborhood Cooperation
Area of Property:	11,700 SF, 0.27 Acres
Current Zoning:	PUD #223
Proposed Zoning:	E-MX-3A
Applicant/Owner:	Paul Wilkinson

Summary of Rezoning Request

- The subject property contains a three-story office structure built in 1982. The property is located on the southwest corner of East 10th Avenue and north Jasmine Street. The requested map amendment is being sought to remove the PUD zone district. The property owner recently purchased the property and is having trouble obtaining a permit to use the property because the parking of the building does not match the approved PUD district plan. The office land use of property will not change and no new construction on the property is planned.
- The **E-MX-3A**, Urban **E**dge, **M**ixed- Use, **3**-story (45 feet maximum building height), zone district is intended for use in the Urban Edge Neighborhood Context which is characterized by a mix of urban and suburban characteristics with primarily single and two-unit residential land uses, and small-scale multi-unit residential and commercial areas embedded in residential areas. The "**A**" signifies that more specific design standards apply; in this case, the Drive Thru Services building form requires a greater level of design and is more limited in use. Commercial building forms allowed are Shopfront and General building forms, with Drive Thru Services and Drive Thru Restaurant building forms allowed when located at least 1/4 mile from the outer boundary of a rail transit station platform. Commercial structures in this neighborhood context generally contain a single land use. Further details of the zone district can be found in Article 4 of the Denver Zoning Code.

General Location





1. Existing Context

The subject property is on the southwest corner of East 10th Avenue and Jasmine Street. In the general vicinity are:

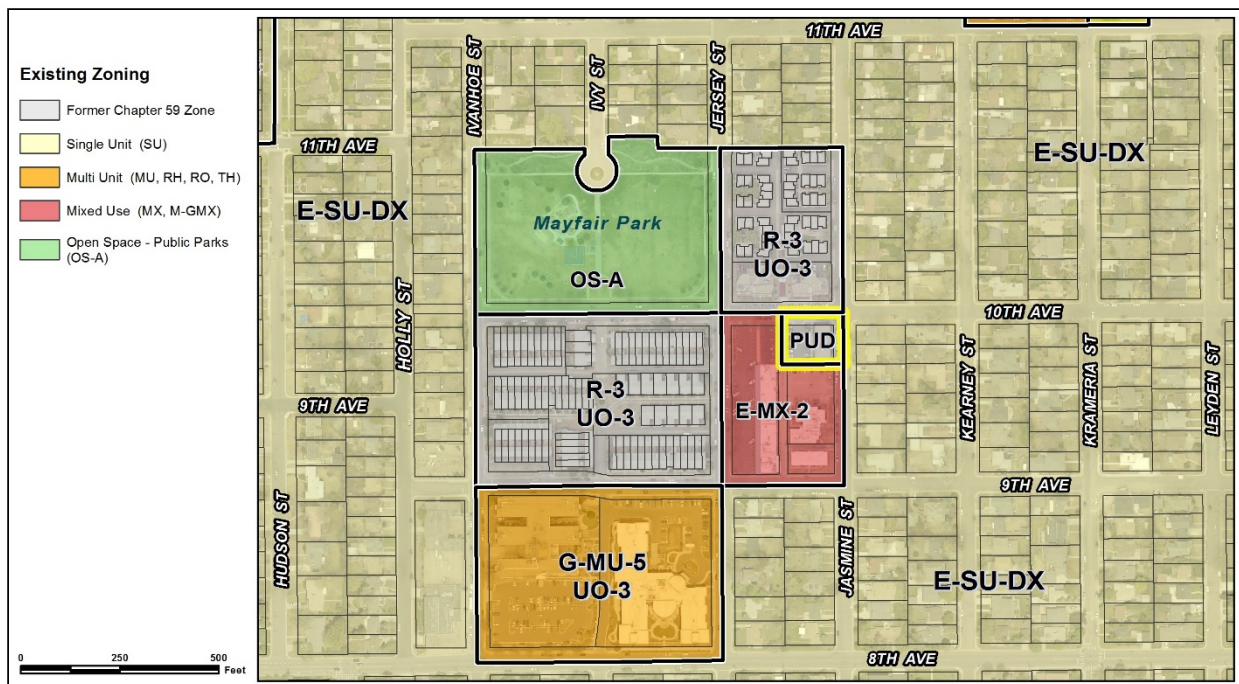
- East Colfax Avenue, 5 blocks north,
- East 8th Avenue, 2 blocks south,
- Monaco Parkway, 5 blocks east,
- East Hale Parkway, 7 blocks southwest,
- Mayfair Park, 1 block west, and
- Palmer Elementary School, 6 blocks west.

The subject property is surrounded by single-unit and multi-unit residential uses, commercial and office uses. Area building heights range from one-story single-family residences to 6-story multi-unit residential buildings.

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	PUD #223	Office	3-story Structure	Grid street patterns with no alleys and attached sidewalks. Regular pattern of rectilinear shaped blocks.
North	R-3, UO-3	Multi-unit Residential	6-story Structures	
South	E-MX-2	Office and Multi-unit Residential	1-2-story Structures	
West	E-MX-2	Commercial	1-story Structures	
East	E-SU-Dx	Single-unit Residential	1-story Structures	

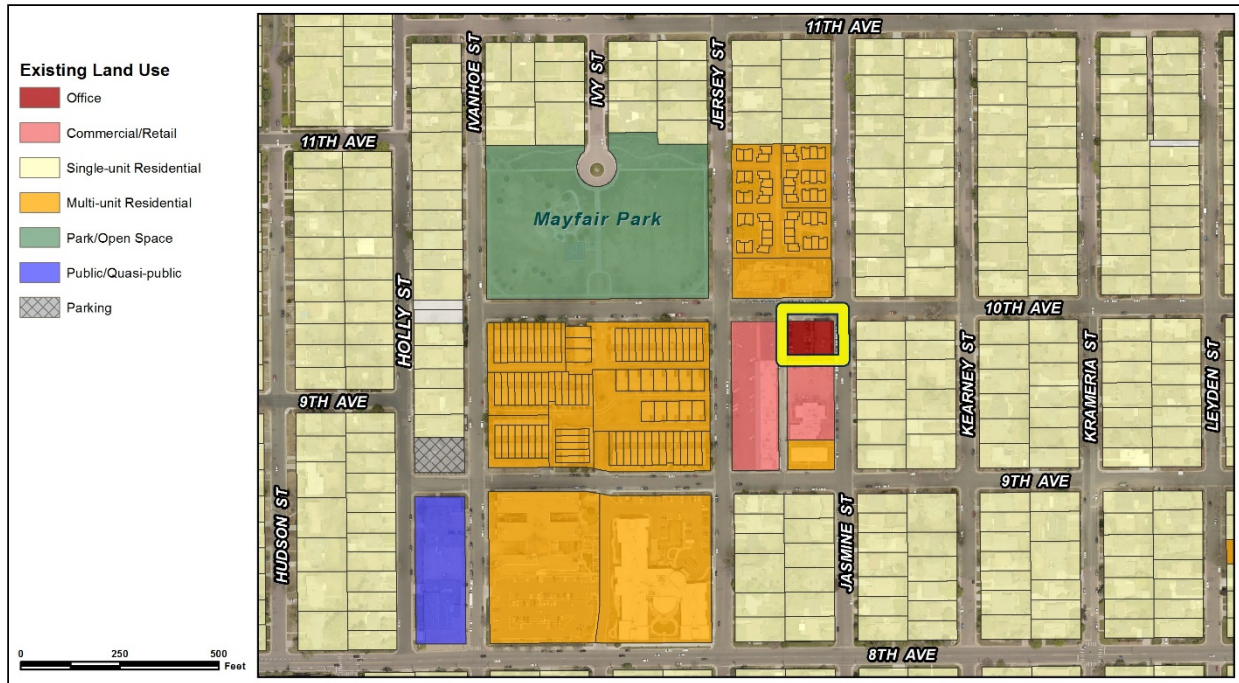
2. Existing Zoning



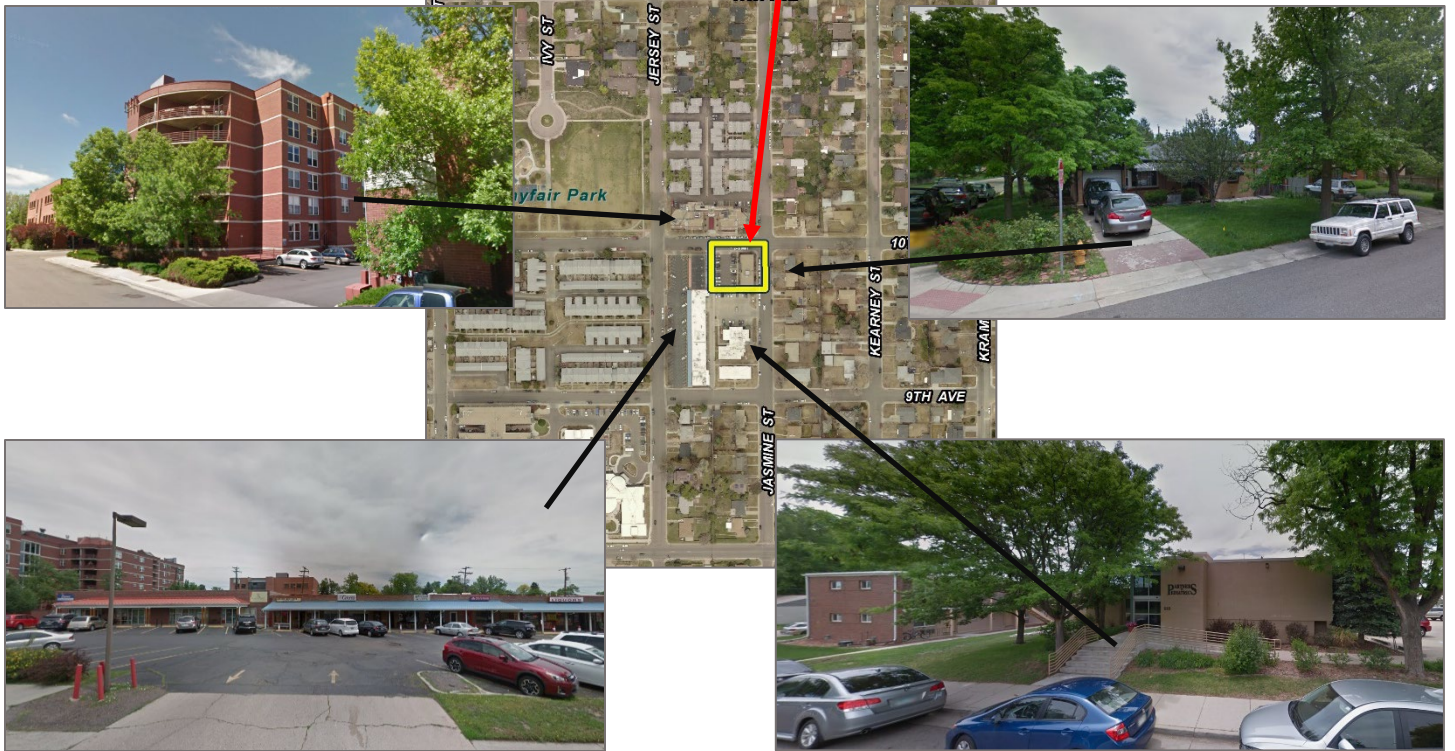
The current PUD zoning was approved in 1987. Prior to approval of the PUD the zone district was B-2, a neighborhood business district with a 1:1 floor area ratio. The PUD was submitted to

add a medical or dental analytical research laboratory to the allowed commercial land uses in response to the subject property location within 1 1/2 miles of the former University of Colorado Health Sciences Center. At the time of the approval of the PUD no additions or outside alterations of the existing structure were proposed. The maximum allowed height in the PUD is 38 feet, or 3 stories, and the allowed floor area ratio is .96:1.

3. Existing Land Use



4. Existing Building Form and Scale



Summary of City Agency Referral Comments

This rezoning has been reviewed concurrently within the context of the Denver Zoning Code and other applicable City Codes as utilized by the referral agencies listed below.

Assessor: No comments received.

Asset Management: Approved – No Comments.

Denver Public Schools: No comments received.

Development Services – Project Coordination: Approve Rezoning Only - Will require additional information at Site Plan Review.

Development Services –Transportation: No comments received.

Development Services – Wastewater: Approved – see the comments below. DS Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

Development Services – Fire Prevention: No comments received.

Parks & Recreation: No comments received.

Public Health and Environment: Approved – see comments below. Notes. DEH concurs with the proposed rezoning and is not aware of potential environmental concerns that should be considered for the rezoning.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

Denver's Noise Ordinance (Chapter 36--Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to

3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

Scope & Limitations: DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Public Works – City Surveyor: Approved-No comments.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and Registered Neighborhood Organizations:	9/20/18
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 and Registered Neighborhood Organizations:	01/21/19
Planning Board public hearing and unanimous (9-0) vote to recommend approval:	02/06/19
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:	02/05/19
Land Use, Transportation and Infrastructure Committee of the City Council:	02/19/19
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and Registered Neighborhood Organizations:	03/10/19
City Council Public Hearing:	04/01/19

Registered Neighborhood Organizations

To date, staff has received no comment letters from Registered Neighborhood Organizations.

Other Public Comment

To date staff has received one public comment letter opposing the rezoning citing potential parking problems if more residents or businesses are added to the subject property. See the attached comment letter.

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 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 criteria for review of this rezoning application include conformance with adopted regulations, and with the Comprehensive Plan and applicable supplements. Applicable documents are:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*

Denver Comprehensive Plan 2000

The proposal is consistent with and positively addresses many Denver Comprehensive Plan strategies, including:

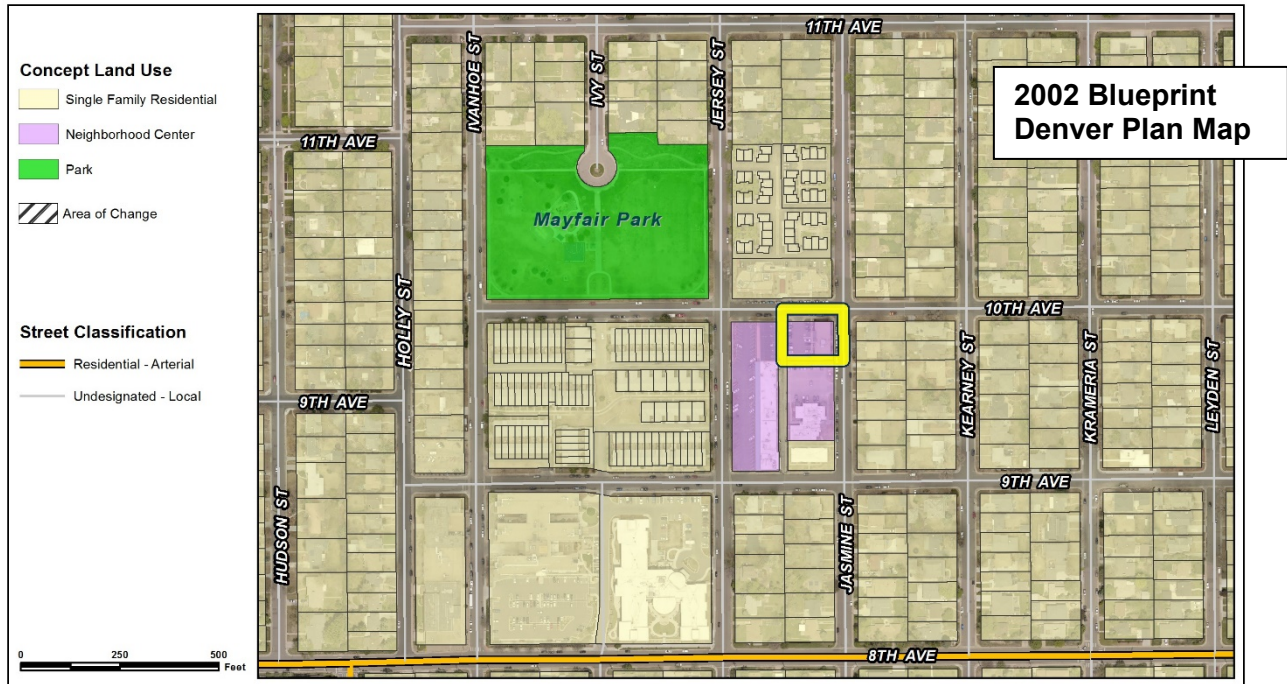
- Environmental Sustainability Strategy 2-E to “*Conserve raw materials by promoting efforts to adapt existing buildings for new uses, rather than destroying them*” (p. 39).
- Land Use Objective 3 to “*Preserve and enhance the individuality, diversity and livability of Denver’s neighborhoods and expand the vitality of Denver’s business centers*” (p. 59).
- Land Use Strategy 3-B to “*Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses*” (p. 60).
- Legacies Strategy 2-A “*Establish development standards to encourage positive change and diversity while protecting Denver’s traditional character*” (p. 98).
- Legacies Strategy 3-A to “*Identify areas in which increased density and new uses are desirable and can be accommodated*” (p. 99).

The proposed map amendment will enable the reuse of an existing building that is in character with the surrounding neighborhood. With the reuse, the new land use will be the same and there will be no changes to the outside of the existing building. Adding a new office use adds to

the diversity and vitality of the existing adjacent commercial area. The rezoning is consistent with the Comprehensive Plan policies that encourage development that is consistent with the character of the neighborhood but offers increased diversity. The E-MX-3A zone district will allow low-scale commercial development that is in character with the surrounding development.

Blueprint Denver

Blueprint Denver, the City's Land Use and Transportation Plan identifies the subject property as being within an Area of Stability with a land use recommendation of Neighborhood Center.



Future Land Use

The Neighborhood Center land use concept is described in Blueprint Denver as a “*small shopping, service or entertainment center serving the everyday needs of one or more neighborhoods. A mix of land uses includes convenience shopping, personal services and restaurants. A neighborhood center may also contain offices that serve nearby residents*” (p. 43). The existing land uses immediately surrounding the subject property are single- and multi-unit residential land uses with office, park and church uses. The proposed E-MX-3A zone district is similar to the adjacent E-MX-2 district and allows a wide variety of land uses including residential, civic and commercial uses that can serve nearby residents. The E-MX-3A zone district will ensure that the scale of the structure and the allowed land uses will remain compatible with the existing neighborhood.

Area of Change / Area of Stability

As noted, the subject site is in an Area of Stability. These are areas where “*preserving and revitalizing neighborhood character is the prevailing concern...Limiting overall development in the Areas of Stability helps achieve many growth management goals, while preserving the valued quality of life that is characteristic of Denver's neighborhoods*” (p. 23-25). The zoning

standards within the E-MX-3A zone district will allow reinvestment in the property, they will limit new development to a compatible scale with the surrounding properties (which range in height from one to six stories), and they will allow land uses like those existing uses in the neighborhood.

Former Chapter 59 Zoning Code and Planned Unit Developments

According to Blueprint Denver, “Concerns with PUDs are that their widespread proliferation has increased the complexity of regulating land use, and the conditions they place on development sometimes perform poorly and inflexibly once the PUD has been adopted. This issue can be addressed if the city acts on the authority to repeal obsolete PUD zoning and change it to a more appropriate district.” The rezoning would eliminate a custom, Former Chapter 59 Zone District and bring the site into the Denver Zoning Code, which is consistent with the Blueprint Denver policy that Former Chapter 59 zoning, and particularly custom zoning, is out of step with the Blueprint Denver vision (p. 72, 82).

Street Classifications

The subject property is on north Jasmine Street, an Undesignated Local Street. These street types “*are tailored more to providing local access*” (p. 51). The E-MX-3A zone district standards are geared toward lower-scaled, less intense land uses within neighborhoods. This is consistent with the street types surrounding the subject property.

- 2. Uniformity of District Regulations and Restrictions:** Rezoning the site to E-MX-3A will further the uniform application of district regulations in the City. The same regulations will apply to the subject site as to all other areas zoned E-MX-3A in the city.
- 3. Public Health, Safety and General Welfare:** The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily by allowing the re-use of the existing structure that is in character with the neighborhood in scale and intensity, and by supporting reinvestment in the existing neighborhood.
- 4. Justifying Circumstances**

The applicable justifying circumstance is that there has been a change to such a degree that the proposed rezoning is in the public interest. Per the Denver Zoning Code “*since the date of 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.*” The applicant cites the retention of a Former Chapter 59 zoning. Rezoning out of a Former Chapter 59 PUD is an appropriate changed circumstance. In addition, there are recent changed circumstances in the area with Mayfair Flats Apartments containing 160 dwelling units constructed in 2013 at 8th Avenue and Jersey Street, and on the East Colfax Avenue corridor 5 blocks to the north, 86,897 square feet of new commercial structures constructed since 2003.
- 5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements**

The fifth review criterion in the Denver Zoning Code is that the proposed official map amendment must be consistent with the descriptions of the applicable neighborhood

context, and with the stated purpose and intent of the proposed zone district. Overall, the proposed map amendment is consistent with the Urban Edge Neighborhood Context. The Denver Zoning Code describes the Urban Edge Neighborhood Context which is characterized by a mix of urban and suburban characteristics with primarily single and two-unit residential land uses, and small-scale multi-unit residential and commercial areas embedded in residential areas. Commercial building forms allowed are Shopfront and General building forms, with Drive Thru Services and Drive Thru Restaurant building forms allowed when located at least 1/4 mile from the outer boundary of a rail transit station platform. Commercial structures in this context generally contain a single land use. The block patterns in the Urban Edge Context are regular and shaped by a grid street pattern.

The Urban Edge mixed use zone districts are intended to *“promote safe, active, and pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city’s neighborhoods. There is a diverse menu of Mixed Use zone districts in the Urban Edge Neighborhood Context to recognize the diverse pattern of mixed use places in these neighborhoods.”* The E-MX-3A zone district is a mixed use zone district intended to support a consistent pattern of buildings placed at the street to offer an active street front.

The proposed map amendment is consistent with the mixed use characteristics described in the Urban Edge Neighborhood Context. The E-MX-3A zone district will limit the property to the existing 3-story height, that transitions to the adjacent single-unit residential. The E-MX-3A zone district is consistent with both the general and specific purpose and intent of the Urban Edge Context and the E-MX-3A zone district description.

Staff Report Attachments:

1. Comment Letter (1)

Separate Attachments:

1. Application
2. Legal Description

From: [IDA MARSHALL](#)
To: [Lucero, Theresa - CPD Sr City Planner](#)
Subject: [EXTERNAL] Fwd: Rezoning 999 Jasmine St.
Date: Thursday, January 31, 2019 9:49:55 AM

----- Original Message -----

From: IDA MARSHALL <imars402@comcast.net>
To: Theresa.Lucerp@denvergov.org
Date: January 28, 2019 at 1:53 PM
Subject: Rezoning 999 Jasmine St.

Dear Ms. Lucero. . .

I am writing to comment on the proposed rezoning of 999 Jasmine St.

I am strongly against adding a mixed use addition to that property because of the lack of parking space. That lot is completely full every day and many nights when the cooking school in the lower level has classes. If residents or businesses were added, people would have to park on the street. I live in the Jasmine Park East Condos that is directly across the street from 999 Jasmine. Visitors to our residents and delivery or service vehicles would not find parking if there were any more vehicles from the rezoned and expanded building.

In addition, the actual construction of a building there would be extremely undesirable, intrusive and disrupting.

I urge that this proposed rezoning not be allowed.

Ida F. Marshall

32 year resident of JPEC