

**TO:** Denver City Council Land Use, Transportation, and Infrastructure Committee  
**FROM:** Courtney Livingston, Senior City Planner  
**DATE:** July 26, 2018  
**RE:** Official Zoning Map Amendment Application #2017I-00151

## Staff Report and Recommendation

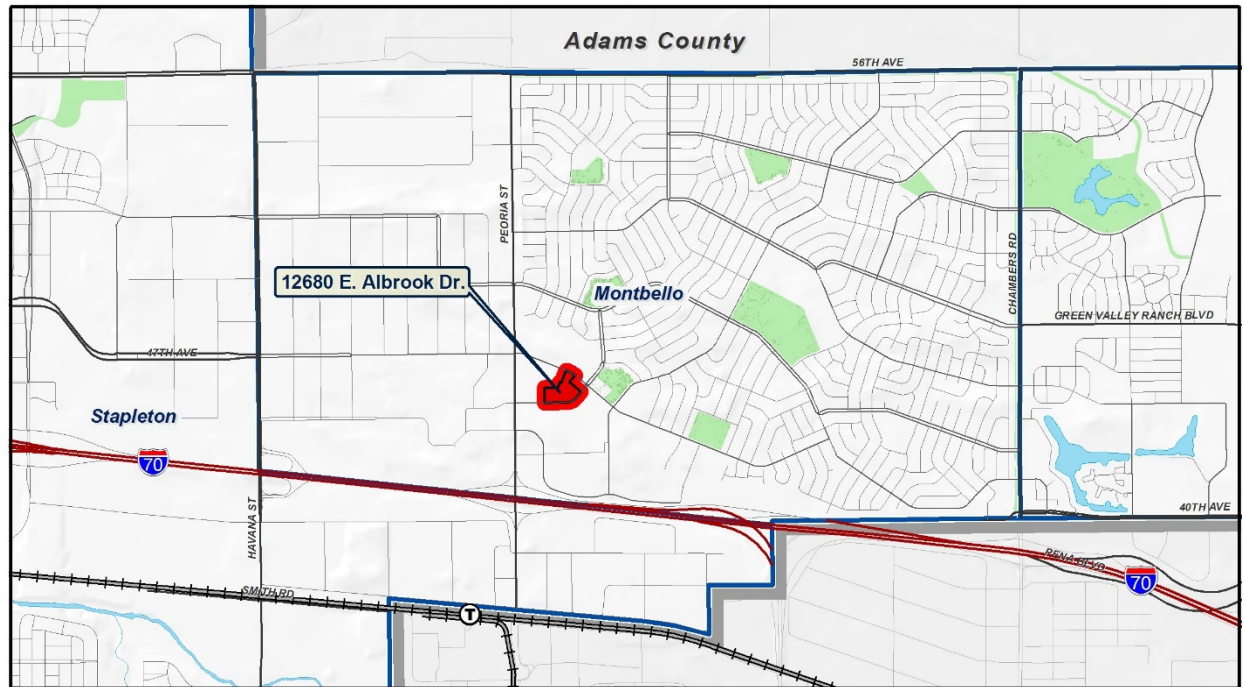
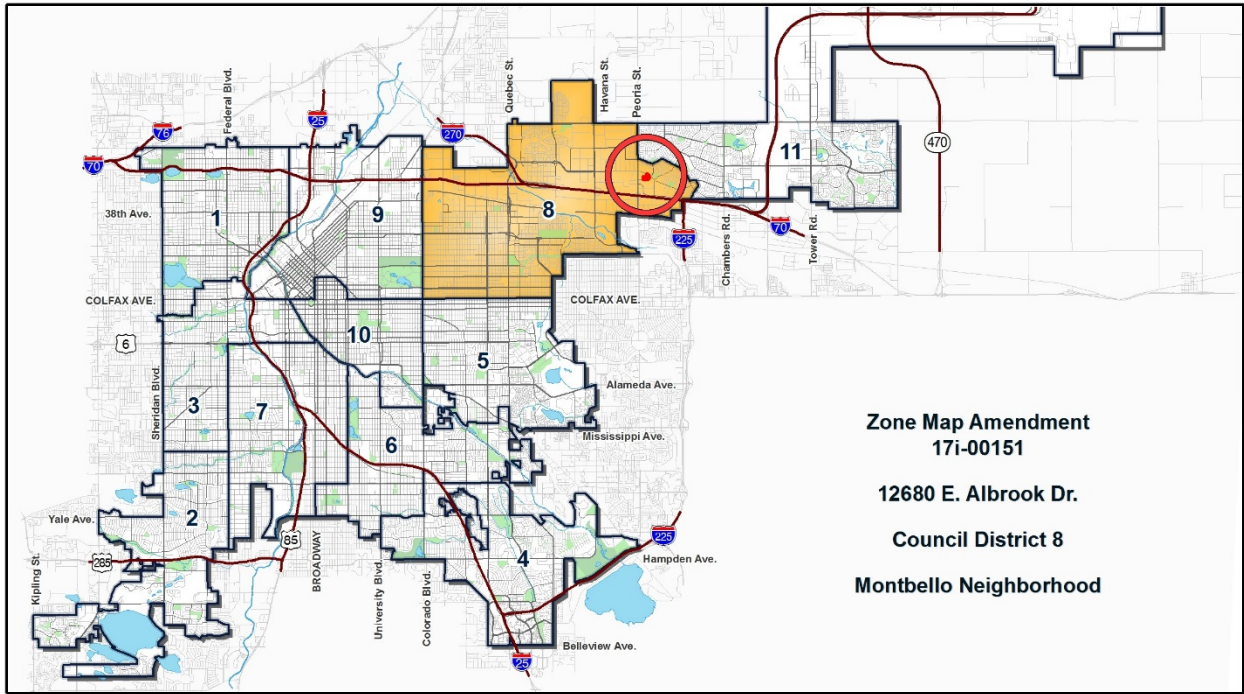
Based on the criteria for review in the Denver Zoning Code, Staff recommends that the Land Use, Transportation, and Infrastructure Committee move Application #2017I-00151 forward for consideration by the full City Council.

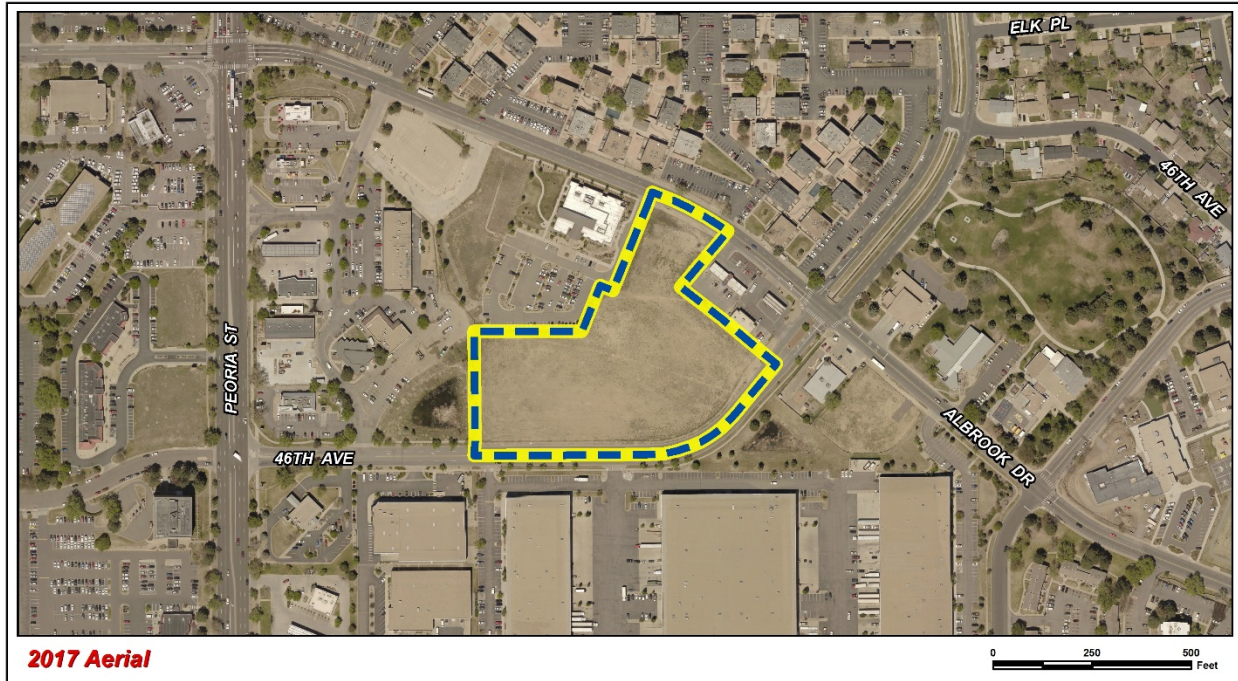
## Request for Rezoning

Address:	12680 E. Albrook Dr.
Neighborhood/Council District:	Montbello / Council District 8
RNOs:	Montbello 20/20, Opportunity Corridor Coalition of United Residents, Northern Corridor Coalition, Montbello Neighborhood Improvement Association, Denver Neighborhood Association, Inc., Inter-Neighborhood Cooperation
Area of Property:	5.52 acres (240,566 square feet)
Current Zoning:	S-MX-12
Proposed Zoning:	OS-A
Property Owner(s):	City and County of Denver
Owner Representative:	Mark Tabor, Parks and Recreation

## Summary of Rezoning Request

- The property is in the Montbello statistical neighborhood, east of Peoria Street. It is comprised of one undeveloped parcel.
- The City and County of Denver owns the property and it is currently under construction for a public park, with plans for a future environmental education center when funds become available.
- The City (via Parks and Recreation Department) acquired the property from the Trust for Public Land in December 2014 with the intention of a future public park and environmental education center owned by the City but developed and operated by Environmental Learning for Kids (ELK) under a lease executed simultaneously with the purchase.
- The **OS-A (Open Space Public Parks)** zone district is intended for parks owned, operated, or leased by the City and managed by the Department of Parks and Recreation. Further details of the zone district can be found in Article 9 of the Denver Zoning Code (DZC).





### Existing Context

The property is located north of 46<sup>th</sup> Ave., east of Peoria Street in the Montbello statistical neighborhood. The area to the south is industrial. The area to the north is characterized as multi-unit residential along Albrook Dr. and a variety of residential and civic uses (Denver Fire Station and Public Library). Directly surrounding the subject property is multi-unit residential, institutional (Denver Health) to the west, and commercial/retail to the east. The site is served by RTD bus service routes 42 and 45 along Albrook Dr. Currently, there is no access to the site because it is under construction. Future access will be shared with the abutting Denver Health property to the west from Albrook Dr.

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

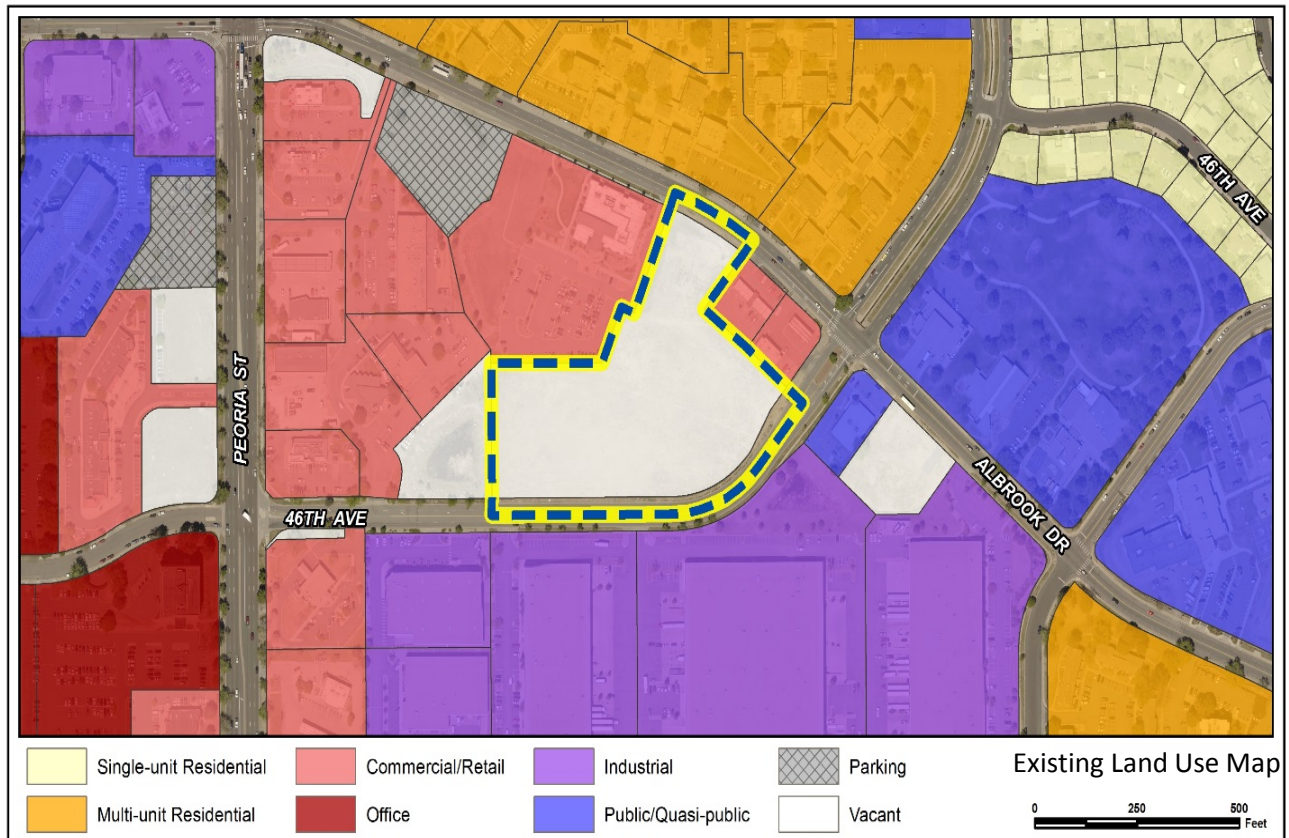
	Existing Zoning	Existing Land Uses	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	S-MX-12	Undeveloped	None	Irregular street grid with large blocks. Surrounding block shapes are inconsistent. Vehicle parking around buildings in surface lots.  Connections within blocks provided by interior drives accessed from the street.
North	R-3 UO-3	Multi-unit residential	2 story brick multi-unit building	
South	B-4 w/ waivers UO-1, UO-2	Warehouse	3 story industrial warehouse	
East	S-MX-12 UO-1, UO-2, OS-A	Commercial retail	1 story brick commercial-style buildings	
West	S-MX-12, B-4 w/ waivers UO-1, UO-2, B-8 UO-1, UO-2	clinic, detention pond, commercial /retail	1 story brick commercial-style buildings	

## Zoning Map



### 1. Existing Zoning

The existing zoning on the subject property is S-MX-12, which stands for Suburban Mixed Use 12 stories. The S-MX-12 zone district is intended to promote safe, active, pedestrian scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city's neighborhoods. S-MX-12 applies to areas served primarily by major arterial streets where a building scale of 1 to 12 stories is desired. DZC Section 3.3.3.3 sets forth the Primary Building Form standards for the S-MX-12 zone district. For additional details on the zone district, please see DZC Article 3.



## 2. Existing Land Use Map

As illustrated above, existing land uses in the area bounded by Albrook Dr. to the north, 46<sup>th</sup> Ave. to the south and Peoria St. to the west are primarily commercial/retail with a few vacant properties and auxiliary parking. The abutting vacant property to the west of the subject parcel is a privately-owned extended detention basin serving flows from the industrial properties to the south. The vacant property at the southeast corner of Peoria St. and Albrook Dr. is a private water quality pond serving stormwater runoff from the surrounding commercial properties. The property shown as parking was the former RTD Montbello park-n-ride, closed in early 2016. The two vacant properties to the west across Peoria St. are undeveloped commercial/retail pad sites. The vacant site on Albrook Dr. east of 46<sup>th</sup> Ave. is currently undeveloped, however there is a recently approved site plan with a limited custom manufacturing, assembly and fabrication use proposed.

### 3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the images below.



Aerial view of subject site and surrounding properties (source: Google Maps)



View of site from Albrook Dr. looking south



View of site from 46<sup>th</sup> Ave. looking north



Multi-unit residential north of site



Industrial properties south of site



Commercial properties east of site. View is looking west from intersection of Albrook Dr. and 46<sup>th</sup> Ave. (source: Google Maps)



Stormwater detention basin abutting the southwest portion subject site. View from 46<sup>th</sup> Ave.



Clinic to the west of subject site. View from Albrook Dr. looking west.



Commercial development to the west of site looking northeast from Peoria St. (source: Google Maps)

### 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 Comments.

**Asset Management:** Approved- No Comments.

**Denver Public Schools:** Approved - No Comments.

**Public Health and Environment:** Approved – See Comments.

DDPHE is not aware of environmental concerns on the property and concurs with the rezoning request.

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.
- If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.
- The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.
- 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.

**GIS:** Approved – No Comments.

**Public Works - ROW – City Surveyor:** Approved – No Comments.

**Development Services – Transportation:** Approved – No Comments.

**Development Services – Wastewater:** Approved – No Comments.

**Development Services – Project Coordination:** Approved; See Comments–

There is already a completed Site Development Plan for this property. This was done under the existing zone district regulations. The project was phased with the "park" work being done first and the building to follow when funds were available.

**Development Services – Fire Prevention:** Approved – No Comments

**Office of Economic Development:** Approved – No Comments

**City Attorney's Office:** Approved – No Comments

## Public Review Process

The public process for the proposed rezoning is summarized below:

CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	5/9/2017
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, property owners and registered neighborhood organizations:	6/25/2018
Planning Board public hearing, voted unanimously (8:0) to recommend approval	7/11/2018
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:	7/16/2018
Land Use, Transportation and Infrastructure Committee of the City Council:	7/31/2018
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:	TBD
City Council Public Hearing (tentative):	9/10/2018

- **Registered Neighborhood Organizations (RNOs)**
  - The RNOs identified on page 1 of this report were notified of this application.
  - As of the date of this staff report, no RNO comments have been received.
- **Planning Board**  
 Planning Board voted unanimously to recommend approval of the proposed rezoning to OS-A.
- **Other Public Comment**  
 As of the date of this staff report, no public comments have been received.

## 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 apply to this property:

- *Denver Comprehensive Plan (2000)*
- *Parks Game Plan (2003)*
- *Blueprint Denver (2002)*
- *Montbello/Green Valley Ranch Neighborhood Plan (1991)*

### **Denver Comprehensive Plan (2000)**

This request is consistent with several *Denver Comprehensive Plan* strategies. Relevant strategies from the *Denver Comprehensive Plan* include:

- Environmental Sustainability Strategy 2-G – “Preserve and restore, wherever possible, natural habitat for wildlife and plants native to the region” (p. 40).
- Environmental Sustainability Strategy 4-C – “Respect, conserve and expand wildlife habitat, watersheds, open space and other natural resources” (p. 41).
- Denver’s Legacies Strategy 9-B – “Integrate sufficient open space and recreational amenities into large-scale development plans” (p. 102).
- Environmental Stewardship Strategy 12-B – “Continue to encourage residents’ sense of stewardship for their parks through environmental education and volunteer maintenance programs, with special emphasis on youth” (p. 104).
- Recreation Strategy 13-B – “Coordinate with DPS and community-based organizations to expand recreation opportunities and after-school programs throughout the city” (p. 104).

The proposed OS-A zone district will ensure continued use for parks, open space, recreation, and related supporting uses.

### **Denver Parks and Recreation Game Plan (2003)**

*Game Plan* is the strategic master plan for Denver Parks and Recreation and (like *Blueprint Denver*) is an adopted supplement to the Denver Comprehensive Plan. The request to rezone the property to the OS-A district is consistent with the *Game Plan’s* vision, policies and strategies, including:

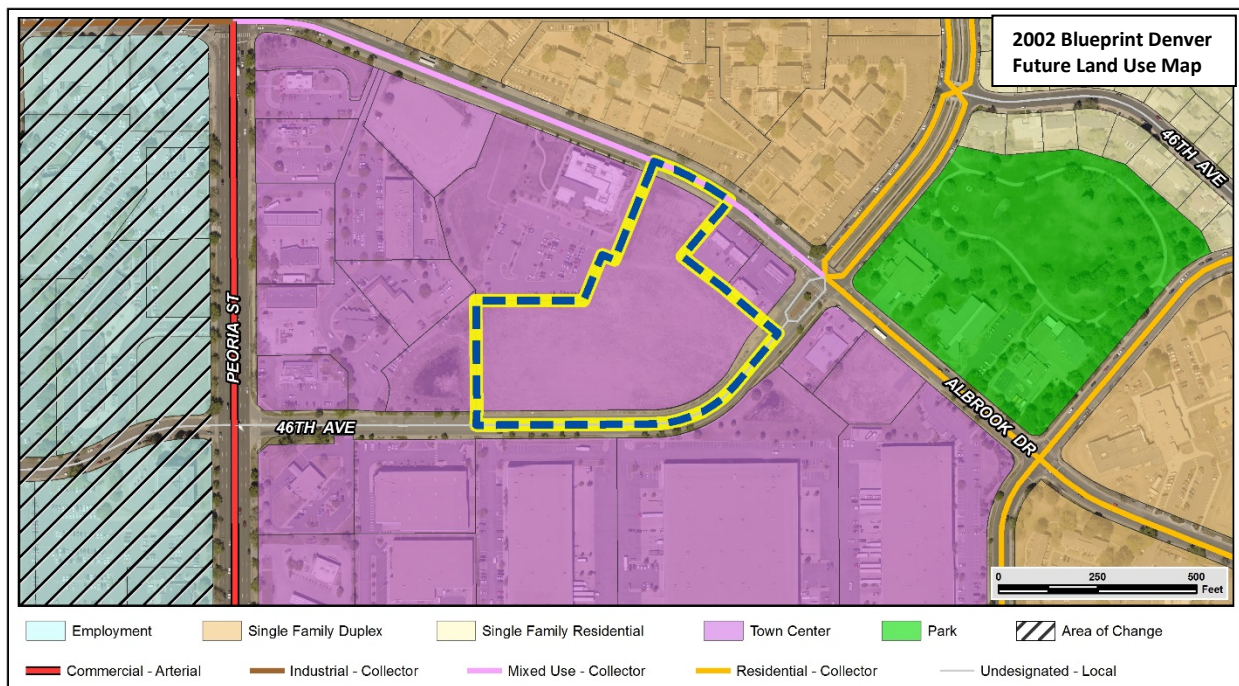
- “Safe, accessible and flexible open spaces located within ½ mile of every home” (p. 32). *The Game Plan* describes a number of amenities that could be in the city’s open spaces, which include passive recreation, learning landscapes, and natural open space with opportunities for wildlife.
- “Encourage a variety of public spaces so residents have choices” (p. 36).

- “Strengthen partnerships with nonprofits working to increase types and availability of open space” (p. 42).
- “Reach more people and create efficiencies through innovative partnerships with other recreation providers” (p. 48).
- “Increase Denver Parks and Recreation’s ability to provide more programs ‘outside the walls’ by strengthening existing programs, such as community recreation, outdoor recreation, special needs and service-based learning. Expanding recreation programs to park-based education, cultural and social programs” (p. 48).
- “Engage the public, increase stewardship and volunteerism, build partnerships that encourage advocacy and additional financial resources and respond to diverse community needs” (p. 104).

By rezoning the property to OS-A, there will be increased flexibility to support the nonprofit partnership with Environmental Learning for Kids (ELK), ELK’s education and community center, and the open space use on city owned property. The rezoning to OS-A is also consistent with the *Game Plan*.

### Blueprint Denver (2002)

According to the 2002 Plan Map adopted in *Blueprint Denver*, this site has a concept land use of Town Center and is located in an Area of Stability.



### Future Land Use

*Blueprint Denver* describes Town Centers as “similar to neighborhood centers but meet a larger variety of shopping, entertainment, service and employment needs and are large enough to serve several neighborhoods...Urban design features such as plazas, landscaping, small parks and civic features contribute to making these places focal points of community activity” (pg. 43). The subject property is part of the larger area all designated as a town center. The proposed map amendment supports the

*Blueprint Denver* Town Center concept land use designation by integrating a park with community center activity into the larger town center.

### **Area of Stability**

As noted above, the 2002 Plan Map from *Blueprint Denver* designates the subject site and immediately surrounding area as an “Area of Stability.” In general, “the goal for Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment” (p. 120). In some cases, it may be appropriate to change the zoning in an Area of Stability to create a better match between existing land uses and the zoning (p. 124).

The proposed map amendment creates a better match between zoning and the existing city-owned park/open space land use. It is consistent with *Blueprint Denver’s* Area of Stability recommendations.

### **Street Classifications**

Albrook Dr. is identified in *Blueprint Denver* as a Mixed Use – Collector street. Collectors are designed to provide a greater balance between mobility and land access within residential, commercial, and industrial areas. The makeup of a collector street largely depends on the density, size and type of nearby buildings. Posted speed limits on collector streets generally range from 25 to 35 miles per hour. (p. 51).

E. 46th Avenue is identified in *Blueprint Denver* as an Undesignated-Local street. *Blueprint Denver* states “the design features of local streets are influenced less by traffic volumes and are tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51). The educational and community center and open space park allowed by OS-A can be suitable along such streets, so the proposed rezoning is consistent with the *Blueprint Denver* street classification.

### **Small Area Plan: Montbello/Green Valley Ranch Neighborhood Plan (1991)**

In 1991, Denver City Council adopted the *Montbello/Green Valley Ranch Neighborhood Plan*, which applies to the property. The plan provides limited guidance for the requested map amendment, but does contain policies supporting community services, parks and open space. The future land use map encourages rezoning the area to the B-4 zone district from the Former Chapter 59 zoning code. Recommendation LZM-1 states, “prohibit vehicle sales, adult businesses, billboards and uses inappropriate at this major entry point to the residential neighborhood. Encourage neighborhood serving retail shops and attractive landscaping along Albrook Dr. street frontage” (p. 8). The *Montbello/Green Valley Ranch Neighborhood Plan* does not specifically preclude park uses as part of a vibrant commercial area thus the proposed rezoning is consistent with the plan.

## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to OS-A 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 of the city by furthering adopted plans and making the subject property consistent with the purpose of the OS-A zone district. OS-A zoning on the subject property will provide flexibility and better enable maintenance and enhancements for of the open space park and associated uses.

#### **4. Justifying Circumstances**

The rezoning is justified under DZC Section 12.4.10.8.A.4.a, “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 a change may include: Change or changing conditions in a particular area or in the city generally.” In December 2014, the property changed ownership as City acquired the property from The Trust for Public Land. This change necessitated a rezoning to OS-A as the OS-A zone district requested is explicitly intended for open space and parks owned, operated, or leased by the City. Moreover, the construction of the Montbello Open Space Park is currently underway as the site development plan was approved under the S-MX-12 zone district.

Additionally, the demographics of the Montbello neighborhood have changed and continue to change, with an increasing youth population necessitating the need for additional parks. According to the most recent US Census data, the youth population of Montbello has increase by 18% between 2011 to 2016 as compared to the youth population of Denver overall increasing by 8% over that same period. The office of Childhood Affairs notes in their *2017 Status of Denver’s Children* report that between 36-42% of children ages 2-17 are overweight or obese, an overall increase since 2014’s report. Additional park land is required to combat the increase childhood obesity rates in Montbello.

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

##### Neighborhood Context Description

The requested zone district is within the Open Space Context, which consists of all forms of public and private parks and open spaces. The context accommodates sites ranging from very active to completely passive, and from those embedded in a neighborhood to sites that are large enough to stand alone. Active sites may include high use areas such as athletic fields, while passive areas focus on resource protection, trails, and walking. The proposed rezoning is consistent with the neighborhood context and description.

##### Zone District Purpose and Intent

The OS-A zone district is intended to “protect and preserve public parks owned, operated or leased by the City and managed by the City’s Department of Parks and Recreation for park purposes” (DZC 9.3.1, 9.3.2). The requested rezoning is consistent with the zone district purpose and intent because it will align the zoning with the city’s ownership of the property and its use as a public park.

#### **Attachments**

1. Application