



**TO:** Denver Planning Board  
**FROM:** Francisca Penafiel, Principal City Planner  
**DATE:** July 31, 2024  
**RE:** Official Zoning Map Amendment Application #2022I-00264

### **Staff Report and Recommendation**

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2022I-00264.

### **Request for Rezoning**

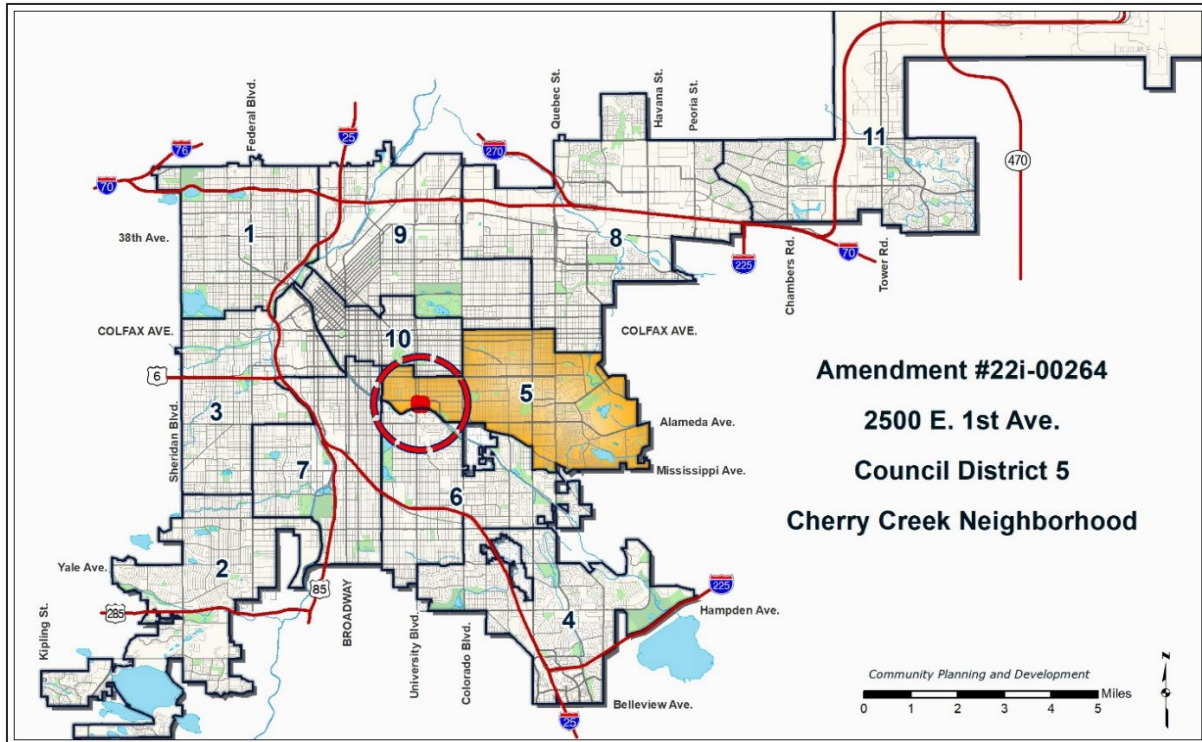
Address: 2500 East 1<sup>st</sup> Avenue  
Neighborhood/Council District and CM: Cherry Creek / Council District 10, Councilwoman Sawyer  
RNOs: Capitol Hill United Neighborhoods (CHUN), Cherry Creek North Neighborhood Association, Country Club Historic District, Cherry Creek North Business Improvement District, Washington Park East Neighborhood Association, Inter-Neighborhood Cooperation, Strong Denver  
Area of Property: About 560,181 square feet or 12.86 acres  
Current Zoning: B-3  
Proposed Zoning: PUD-G 36  
Property Owner(s): The Temple Hoyne Buell Foundation  
Owner Representative: Cherry Creek West Development Company, LLC – Jenny Jacobs

### **Summary of Rezoning Request**

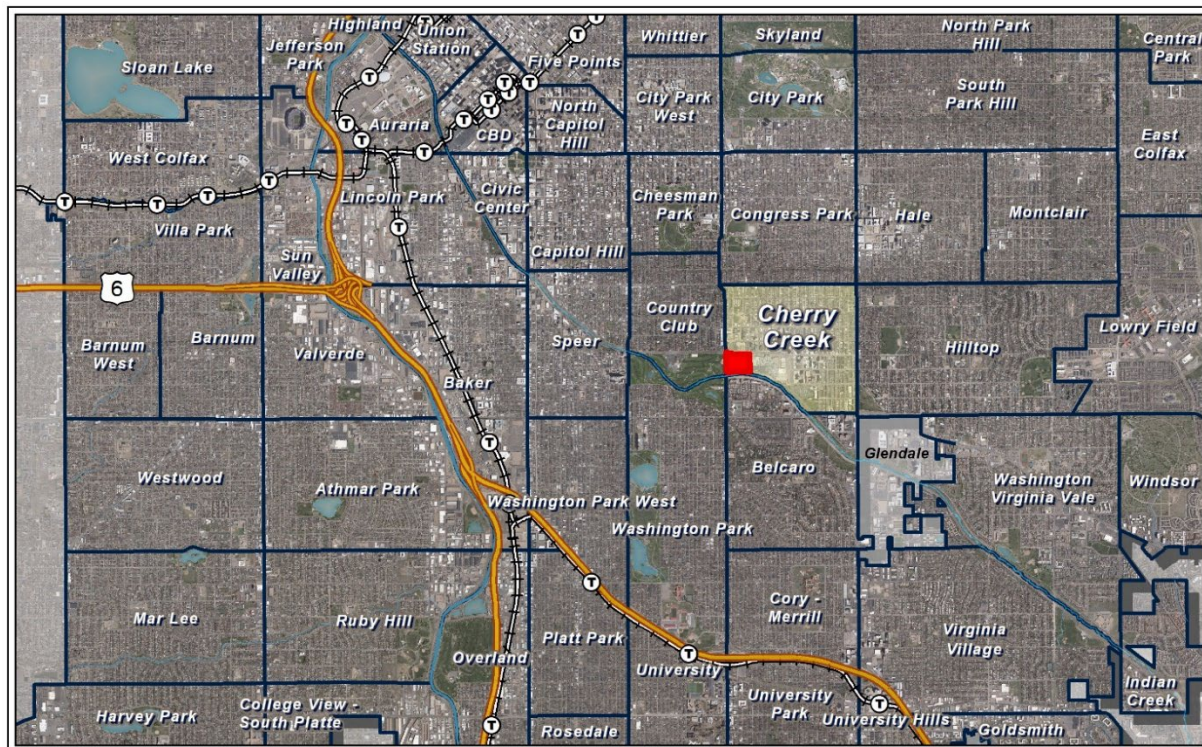
- The subject site is located in the Cherry Creek neighborhood, to the west of the Cherry Creek Shopping Center, bounded by East 1<sup>st</sup> Avenue to the north, University Boulevard to the west, East Cherry Creek North Drive to the south and the private street extension of Clayton Lane to the east.
- The site currently consists of three one-story commercial buildings and their associated surface parking.
- The applicant is requesting a change in the zoning classification to redevelop the property as mixed-use development that will incorporate green spaces that connect the Cherry Creek Trail to Cherry Creek North.
- The site is subject to a recently approved Large Development Framework that includes a concept plan describing the proposed land uses, and open space and circulation networks. This rezoning will facilitate development of the concept.
- The existing zoning on the land is B-3, a Former Chapter 59 zoning Shopping Center District “intended to provide the retailing of most commodities and the furnishing of certain personal services, satisfying all household and personal needs of the residents of surrounding residential communities.”

- The subject site is currently part of a larger zone lot subject to a Planned Building Group. The applicant is concurrently working on a zone lot amendment to divide the subject property from the larger zone lot.
- Concurrent with the rezoning, the applicant intends to execute a development agreement (DA) to address infrastructure, design standards, economic development and opportunities, provision of affordable housing and other key topics consistent with adopted plan objectives and the approved Large Development Framework (see 'Development Agreement' below for more information).
- Due to the sites unique siting and configuration a, **Planned Unit Development – General (PUD-G) 36**, based on the C-CCN-12 (Urban **C**enter-**C**herry **C**reek **N**orth-**12**) is requested. The intent of the proposed PUD is to allow for mixed use redevelopment while requiring the creation of streets and mid-block connections, open space, and an enhanced pedestrian realm. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below).

### City Location



### Neighborhood Location



## Existing Context

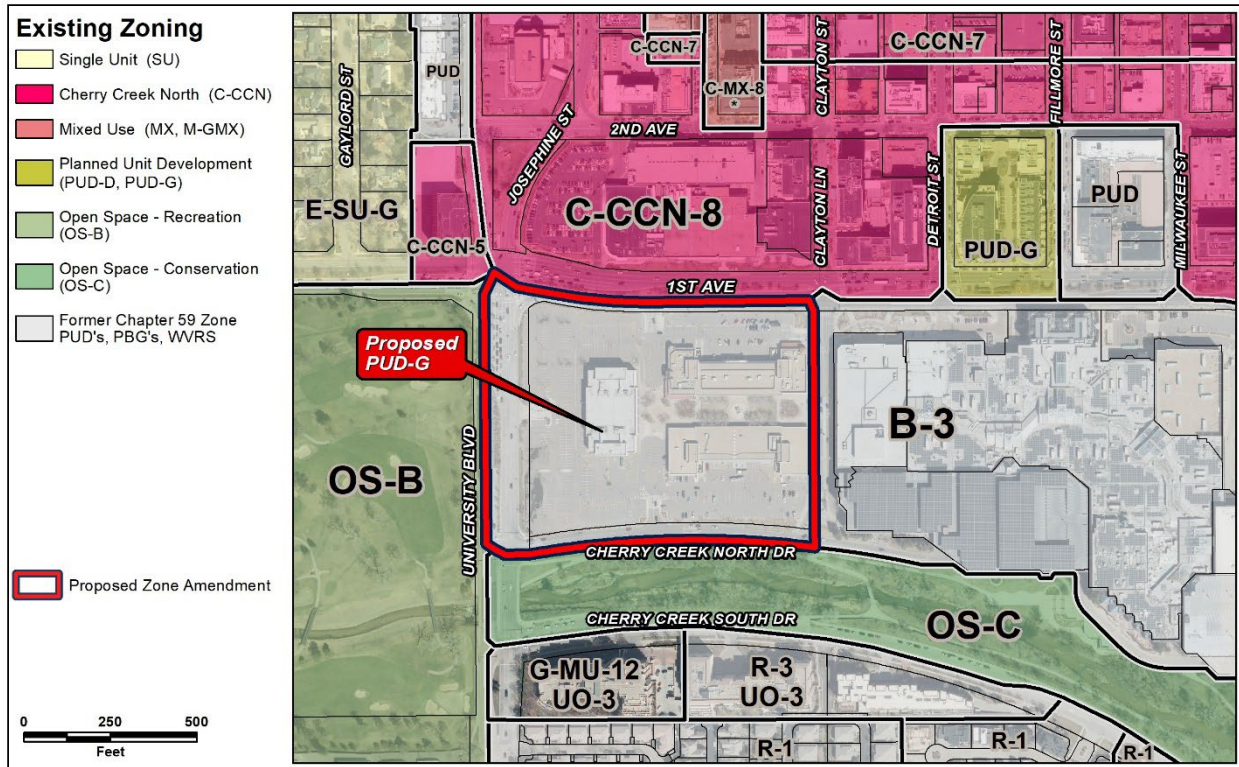


The subject property is located in the Cherry Creek neighborhood, between East 1<sup>st</sup> Avenue, University Boulevard and Cherry Creek North Drive. The area is primarily composed of commercial/retail and office buildings along 1<sup>st</sup> Avenue including the Cherry Creek Shopping Center and multi-unit residential located to the south of Cherry Creek. The subject site is directly east of Denver Country Club and north of the popular Cherry Creek trail corridor. The site is currently served by the 3L, 3 and 83 RTD buses along East 1<sup>st</sup> Avenue and 3 and 24 lines on University Boulevard.

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	B-3	Commercial – Shopping Center	Three 1-2 story commercial buildings with associated surface parking	Generally regular grid of streets to the north of the site in Cherry Creek North. The grid is interrupted by the Cherry Creek Shopping Center to the east, the golf course to the west and by the Cherry Creek trail corridor to the south. Block sizes and shapes are inconsistent and irregular. Pedestrian-oriented building frontages predominate on East 1 <sup>st</sup> Avenue.
North	C-CCN-8	Mixed use, office, commercial/retail	1-story grocery store with associated surface parking, 2-story retail and office buildings	
South	OS-C, G-MU-12 UO-3	Open space, Multi-unit Residential	Cherry Creek trail corridor and 8-story residential buildings south of the trail	
East	B-3	Commercial - Shopping Center	2-3 story shopping center with surface and underground parking	
West	OS-B	Golf Course	Denver Country Club golf course with country club house and associated building	

### 1. Existing Zoning



The current zoning of the subject site is B-3, a Former Chapter 59 zone district. The B-3 district is "normally located on major arterial or collector streets at or near the intersection with another major arterial or collector street so that it has good vehicular accessibility." The district allows moderate-intensity commercial and residential uses.

### 2. View Plane

The subject site is subject to 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 restricted to a maximum height of roughly 183 feet on the east side of the site, and up to 198 feet in the most western part of the site. The proposed PUD-G 36 district restricts the height to a maximum of 168 feet or 13 stories throughout the site.

### 3. Parkway

The western edge of the subject site fronts on University Boulevard, which is one of Denver's Designated Parkways. The parkway design standards require 20-foot setbacks along this section of University Boulevard.

#### **4. Planned Building Group (PBG)**

The site is currently part of the “Cherry Creek B-3 District,” which is a PBG that encompasses the site and the adjacent land to the east where the Cherry Creek Shopping Center is currently located. The existing PBG and Former Chapter 59 zone district does not support development of Cherry Creek West as a high-density, mixed-use neighborhood. Therefore, concurrent with the site rezoning, the site would be separated from the existing PBG through the PBG Amendment process. This is necessary to create separate zone lots for the Cherry Creek Shopping Center and Cherry Creek West, respectively, and to allow the proposed rezoning. The Cherry Creek Shopping Center will remain within the PBG and is not proposed for rezoning.

#### **5. Large Development Review**

In 2021, the city determined that the Large Development Review (LDR) process outlined in Section 12.4.12 of the Denver Zoning Code (DZC) applies to redevelopment of the subject site.

Factors that determined the LDR process would be required included:

- Gross land area of the project.
- Need for a coordinated master framework.
- Need for an Infrastructure Master Plan (IMP).
- Rezoning.
- Transit Oriented Development.
- Transportation and Mobility.
- Affordable housing

The process resulted in a signed Large Development Framework (LDF) in early 2023 which documents the initial proposal, community feedback, coordinated assessment of the development, and establishment of broad project requirements.

Concurrent with the rezoning application, the applicant and the city have developed an Infrastructure Master Plan (IMP) to determine necessary infrastructure, environmental, and open space requirements.

#### **6. Urban Design Standards & Guidelines**

City staff are drafting a concurrent amendment to the Design Standards and Guidelines (DSGs) for Cherry Creek North that would extend their application to the subject site. The document sets forth intent statements, design standards, and design guidelines that provide the basis for review of proposed development on private properties and improvements to the associated network of streets and paths. The DSGs also include specific design guidance for subareas within Cherry Creek North.

The proposed amendment to the Cherry Creek North DSG will be expand the number of subareas from two to three. The new subarea will contain specific design standards and guidelines for the Cherry Creek West area (the subject site). It will also clarify where existing elements of the DSGs do not apply to Cherry Creek West.

Overall, the revisions seek to contribute to a public perception of all three DSG subareas as distinct, yet integrated parts of a unified place. It strives to achieve a recognizable consistency in urban experience among the three, knitting Cherry Creek West into the fabric of Cherry Creek North's shopping district and mixed-use developments. In combination, these set the groundwork for an actionable and important contribution to the city and the district's thriving public realm and architectural tapestry. The new DSG subarea recognizes Cherry Creek West's unique of mobility network, scale of redevelopment, and the presence of publicly accessible open space and large-scale underground garages.

The amended design standards and guidelines will be adopted as rules and regulations using The Department of Community Planning and Development's Rule-making authority set forth in Denver Revised Municipal Code (DRMC) Section 12-18. This summary of the proposed design standards and guidelines amendment is intended to support Planning Board consideration of the proposed map amendment. Planning Board will not make a formal recommendation regarding approval of the design standards and guidelines.

Key design standards and guidelines revisions under consideration include:

- **References to other applicable standards:** Clarifies how Denver Parks and Recreation, Office of the City Forester, and Department of Transportation and Infrastructure (DOTI) ordinances, standards, rules, and regulations apply to Cherry Creek West's different types of outdoor space, including public streets, private streets, publicly accessible open space, and other open spaces.
- **Building Mass and Scale:** Extends DSGs to address relationships between major masses within larger buildings and relationships to open space; adds encouraged techniques for skyline variation, articulation, fenestration composition, and ground floor design; prioritizes mass reduction for improved pedestrian experience.
- **Transparency and Reflectivity;** extends transparency standards to frontages along open space, mid-block connections and open space thoroughfares; potentially revises transmittance factor for reduced reflectivity in response to newly available materials; prohibits fully covering ground floor windows with window decals.
- **Active Alleys:** Removes promotion of active alleys to align with DOTI policy more closely.
- **Pedestrian Comfort:** Limits parking location; concentrates service access and areas, on-site loading and utility elements; promotes mid-block pedestrian crossings into Cherry Creek West across 1<sup>st</sup> Avenue and Cherry Creek North Drive; adds landscape DSGs and building material standards along mid-block crossings and open space thoroughfares; encourages entrances along mid-block connections and open space thoroughfares.
- **Trees:** Mitigates impacts of underground garages, awnings, and signs on street trees and other trees.
- **Recognizable visual consistency and performance of streetscape across Subareas:** References Cherry Creek North Business Improvement District standards as a guiding document for streetscape elements; promotes design that will allow Cherry Creek North and Cherry Creek West to read as "integrated parts of a unified place," recognizing CCW will also read to the public as a distinct subarea; requires same pedestrian lights along both sides of 1<sup>st</sup> Avenue.; adds qualitative standards for site grading.



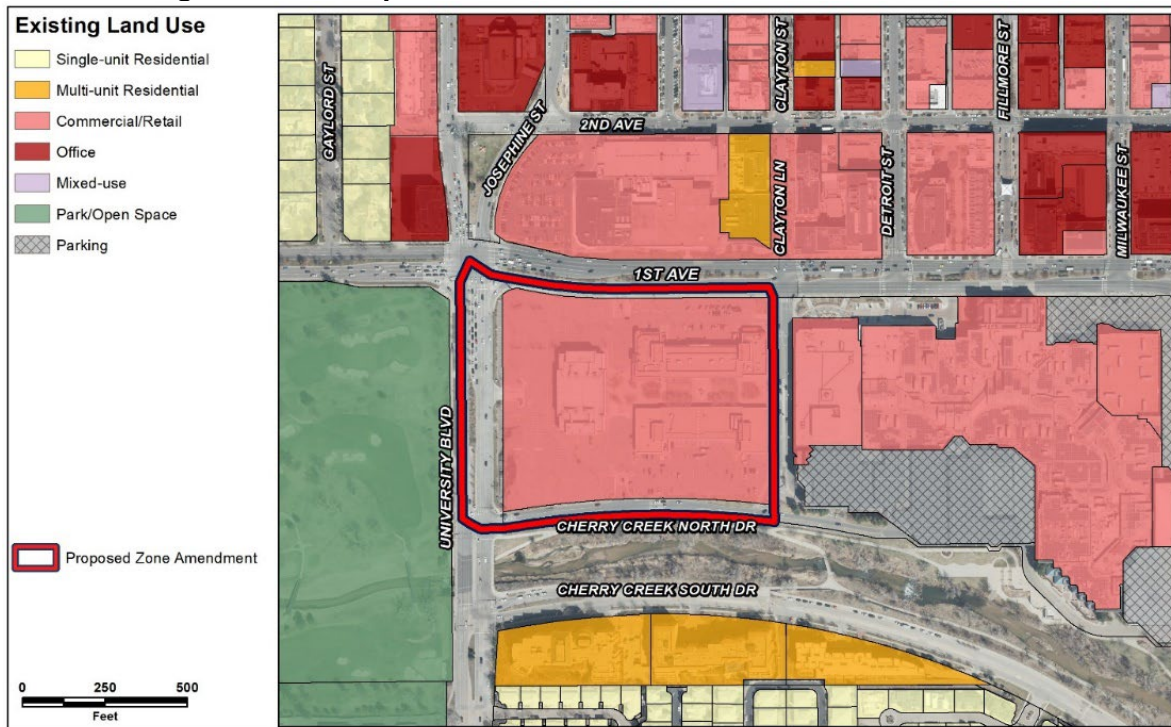
- **Compatible café seating uses in publicly accessible open space:** sets minimum walkway passage width and maximum café seating area
- **Lighting, Artwork, and bicycle/scooter parking:** adds materials standards; requires pedestrian/artwork lighting across the public realm, encourages bike corrals.

## 7. Development Agreement

Concurrent with the rezoning, the applicant has been working closely with the Department of Housing Stability (HOST), Neighborhood Equity & Stabilization (NEST), and local stakeholders to finalize a development agreement to address infrastructure, economic development and opportunities and the provision of affordable housing. Some of these commitments include:

- 12% of all residential units on the Property will be restricted for rental to tenants making less than 60% Area Median Income for a term of 99 years (per agreement with HOST).
- Three community partnership agreements to provide:
  - At least 8,000 square feet of affordable retail space at 10% below average lease rates.
  - A third-party consultant assessment of childcare needs related to the project, to be completed prior to construction of the project.
  - Targeted hiring to ensure that NEST residents have priority access to all open positions on the project (both construction jobs and permanent jobs).
- Agreement to establish design standards and guidelines for the development of the property and project (See Urban Design Standards and Guidelines above).

## 8. Existing Land Use Map



### 9. Existing Building Form and Scale (Source: Google Maps)



Aerial view of the subject property, looking northeast.



View of the subject site, looking southeast from the corner of University Boulevard and East 1<sup>st</sup> Avenue.



View of the subject site, looking southwest from the corner of East 1<sup>st</sup> Avenue and Clayton Lane.



View of the subject site, looking northeast from the corner of University Blvd. and Cherry Creek N. Dr.



View of the Cherry Creek trail, looking southwest from Cherry Creek North Drive.



View of the Cherry Creek Shopping Center, looking northeast from Cherry Creek North Drive.



View of the Country Club golf course, looking northwest from University Boulevard.



View of the property to the north of Cherry Creek West, looking northeast from East 1<sup>st</sup> Avenue.



View of the Cherry Creek Shopping Center, looking southeast from East 1<sup>st</sup> Avenue.

### **Proposed PUD-G 36**

The applicant has requested a Planned Unit Development (PUD) zone district per Denver Zoning Code Section 9.6.1. The proposed PUD-G 36 is based on the C-CCN-12 zone district. The purpose of a Planned Unit Development (PUD) district is to provide an alternative to conventional land use regulations, combining use, density, site plan and building form considerations into a single process, and submitting procedural protections for the more prescriptive requirements in the Code. A “PUD district is intended to respond to unique and extraordinary circumstances, where more restrictive or flexible zoning than what is achievable through a standard zone district is desirable and multiple variances, waivers and conditions can be avoided.” The intent of the proposed PUD is to facilitate redevelopment of the underutilized site with mixed residential, commercial, office uses and open space amenities that are compatible with and contribute to the vibrancy of the surrounding neighborhood. Specifically, the PUD is intended to:

- Facilitate compatible development through appropriate building form and design standards that are not available or required under a traditional form-based zone district in the Denver Zoning Code in an effort to respond to and respect the context, scale, and mix of uses of the neighborhood.
- Allow mixed-use development that contributes to the vibrancy of the surrounding neighborhood and that facilitates appropriate transitions between uses on the subject site and existing residential uses to the south.
- Create more substantial public realm and open space areas to enhance pedestrian activity and connectivity for the community.
- Ensure quality, human-scaled building design that respects the character of the neighborhood.
- Activate and expand an underutilized site identified as a Community Corridor in Blueprint Denver with an innovative, sustainable, and equitable development that will offer affordable housing and a robust retail ecosystem.

The elements of the PUD that diverge from the base Denver Zoning Code C-CCN-12 zone district include:

- Increased building height allowance of 13 stories and 168 feet.
- Reduced transparency requirements on private streets for residential-only buildings.
- Reduced active use requirement on private streets.
- Allowance for household living on the ground floor on private streets.
- Requirement for at least two internal streets, which may be privately-owned.
- Requirement for at least four mid-block connections that act as alleys and additional pedestrian connections within the site.
- Application of a mass reduction standard above 45 feet on all streets, consistent with a similar mass reduction standard in the zoning for Cherry Creek North.
- Requirement for 10% publicly accessible open space on the site with pedestrian connections to Cherry Creek North.
- Introduction of residential setback requirements along all streets to ensure a proper transition between the sidewalk and ground-floor residential units.

The applicant has been working closely with the city to ensure the proposed rezoning meets the PUD criteria to provide significant public benefit not achievable through application of a standard zone district, which includes negotiation of a development agreement as described above.

## 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:** Approve Rezoning Only - Will require additional information at Site Plan Review

The Denver Department of Public Health and Environment, Environmental Quality Division (EQD) does not guarantee approval of any proposed development project at this Site by providing a response to this Official Map Amendment Referral Agency Review Request. Future development is subject to existing land use controls and other environmental requirements in accordance with applicable local, state, and federal environmental regulations and statutes. EQD recommends the Property Owner conduct an environmental site assessment to determine the potential presence, nature, and extent of possible contamination on the site and to identify specific cleanup needs associated with future development. EQD may have additional information about localized potential environmental concerns at the site. However, providing such information about a specific site is beyond the scope of these zoning application comments.

**Denver Parks and Recreation:** Approved – Approved – See Comments Below.  
The 20ft University Parkway Setback still needs to apply to the zone lot.

**Transportation & Infrastructure - City Surveyor:** Approved – No Comments.

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

Please note this approval is for rezoning only, and even prior to site plan review, Development Services will require additional coordination to finalize the accompanying UDSG standards that support the proposed PUD. The accompanying amendment to the Cherry Creek North UDSGs to add a subarea 3 corresponding to the subject property is extremely important to extending key aspects of urban design that result in the strong urban fabric familiar in the Cherry Creek neighborhood. Development Services' will continue to work with Planning Services in crafting the amended UDSGs new Subarea 3 to ensure they support the PUD's regulatory structure to define a pedestrian friendly design including but not limited to focus on appropriate mass and scale, a strong 1st Avenue frontage related to the required build-to, and appropriate language to support sunlight access and healthy tree growth throughout the development. Development Services also recognizes concerns expressed by the Cherry Creek Design Advisory Board and asks that the work on the UDSGs by Staff and with the applicant include formal in-person touchpoints to review DAB comments with the DAB and discussion of how they are being addressed in the UDSGs. Further, DS is currently reviewing concurrent submittals to amend existing PBG

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site plans and a zone lot amendment to create the lot for the rezoning in addition to the development agreement in progress.

**Development Services – Fire Prevention:** Approve Rezoning Only - Will require additional information at Site Plan Review

**Development Services - Transportation:** Approved – No Response

**Development Services – Wastewater:** Approved – No Response

**Public Review Process**

	<b>Date</b>
CPD informational notice of receipt of the rezoning application sent to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>05/31/2024</b>
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.	<b>07/23/2024</b>
<p>At the recommendation of Staff, the Applicant requested a modification to the application after it was published on May 31<sup>st</sup>. Staff has prepared a motion for the Planning Board, recommending approval with the additional condition that the application be modified before it gets moved to Land Use, Transportation and Infrastructure Committee. The requested changes are mostly done for clarity and consistency purposes and are listed below:</p> <p>p.5: Language on “Why Deviation is Necessary” on transparency was updated            p.12: Building Form Intent was reformatted (no change in content)            p.13: Building Form table was reformatted, and residential/non residential setbacks are in same line            p.15: Use table was added for clarity and consistency.            p.15: Required minimum parking. Applicant requested PUD-G 36 to comply with the C-MX-12 minimum parking requirements instead of C-CCN-12.            p.17: References to Design Standards and Guidelines are removed for consistency.            p.18: References to Design Standards and Guidelines are removed for consistency.            p.18: Location of Required Vehicle Parking was updated for clarity.            p.19: Arts, Recreation and Entertainment Services, Outdoor was updated to be allowed with the requirement of a zoning permit with limitations.            p.20: Parking, Surface was updated for clarity.            p.22: Updated specifically how mass reduction will be measured.            p.23, 24: deletes the word “alley” from drawings for clarity            p.25: Adds a rule of interpretation noting that figures are illustrative only.</p>	<b>07/31/2024</b>
Planning Board public hearing	<b>08/07/2024</b>
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting will be sent to all affected members of City Council and registered neighborhood organizations, at least ten (10) working days before the meeting.	<b>07/30/2024</b> (tentative)
Land Use, Transportation and Infrastructure Committee of the City Council.	<b>08/13/2024</b> (tentative)
Property will be legally posted for a period of 21 days and CPD notice of the City Council public hearing will be sent to all affected members of City Council and registered neighborhood organizations.	<b>09/02/2024</b> (tentative)
City Council Public Hearing.	<b>09/23/2024</b> (tentative)



- **Public Outreach and Input**

- **Registered Neighborhood Organizations (RNOs)**

As of the date of this report, staff received:

- 1 letter of opposition from the Alamo Placita Neighborhood Association (APNA) registered neighborhood association about this proposed rezoning. The letter expresses concerns with increased traffic in the area.
- Staff also received 1 comment letter from the Cherry Creek Steering Committee (CCSC) which is a Colorado unincorporated nonprofit organization representing and comprised of the Registered Neighborhood Organizations of Cherry Creek North Neighborhood Association, Cherry Creek East Association, Country Club Historic Neighborhood Association, Hilltop Neighborhood Association (collectively, the “Area RNOs”), Capitol Hill United Neighbors and various other residential stakeholders to the south of the Cherry Creek and those residents north of 6th Avenue. The letter notes concern with the development proposal the applicant has shared with the community and a proposed Development and Community Benefit Agreement that was never finalized. The letter request modifications to the PUD, Infrastructure Master Plan, Development Agreement and Transit Management plan to address their concerns and memorialize the required changes to the development.

- **General Public Comments**

As of the date of this report, staff has received the following public comments:

- 19 individual letters of support from community members.
- 9 letters of opposition from residents of the neighborhood expressing concerns with the allowed height for the site and the lack of transitions to the south, the potential loss of views, increased traffic and parking concerns.
- 1 comment letters from a community member noting existing safety concerns with the southbound intersection at University Boulevard and Cherry Creek South Drive.

## Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7, 12.4.10.8 and 12.4.10.9 as follows:

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare
4. Justifying Circumstances
5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements
6. Additional Review Criteria for Rezoning to PUD District
  - a. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of this Code;
  - b. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
  - c. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;
  - d. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and
  - e. The PUD District and the PUD District Plan establish permitted building forms that are compatible with the adjacent building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design).

### 1. Consistency with Adopted Plans

The following adopted plans apply to this property:

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

#### ***Denver Comprehensive Plan 2040***

The proposed rezoning would allow for mixed-use development, including enabling additional housing units close to services and amenities, some of which would be restricted to residents earning less than the Area Median Income (see Development Agreement above). 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 zoning 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, 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).*

The proposed rezoning allows for a mixed-use infill development consistent with the following strategies in the Environmentally Resilient vision element:

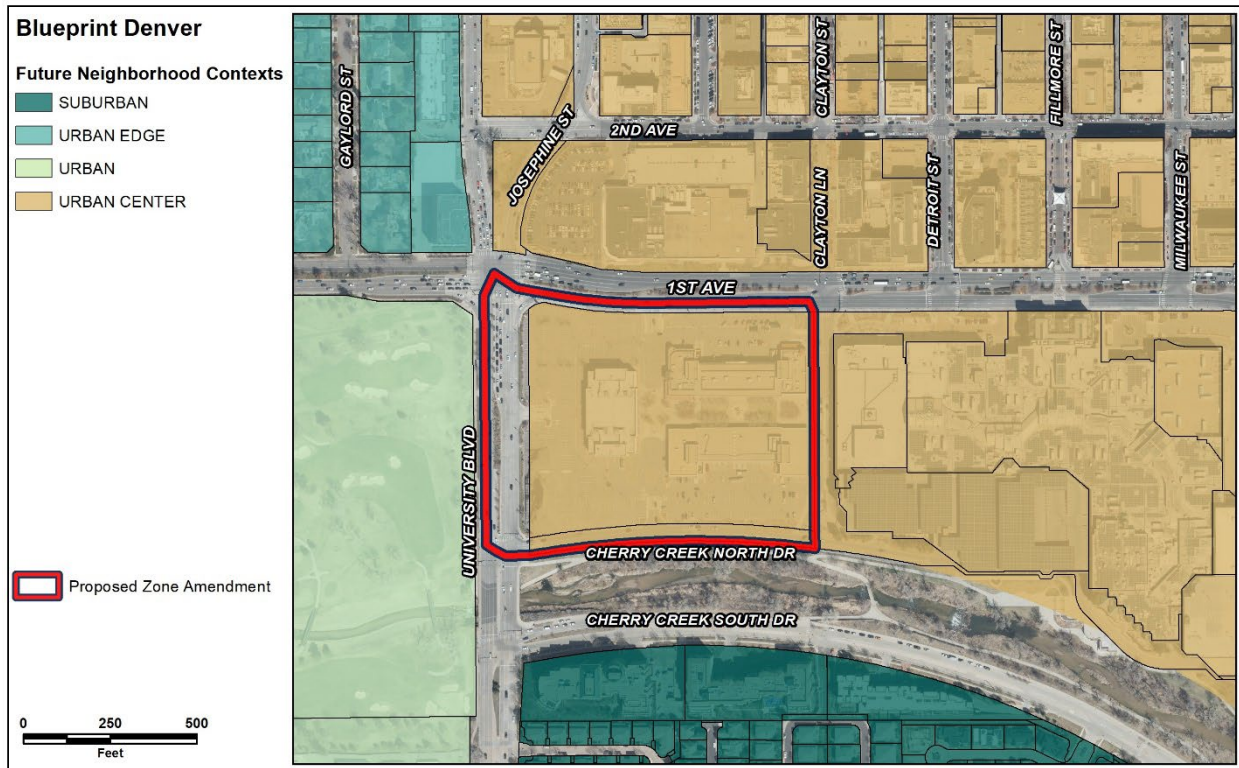
- *Environmentally Resilient Goal 8, Strategy A - Promote infill development where infrastructure and services are already in place (p. 54).*
- *Environmentally Resilient Goal 8, Strategy B - Encourage mixed-use communities where residents can live, work and play in their own neighborhoods (p. 54).*
- *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**

*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.

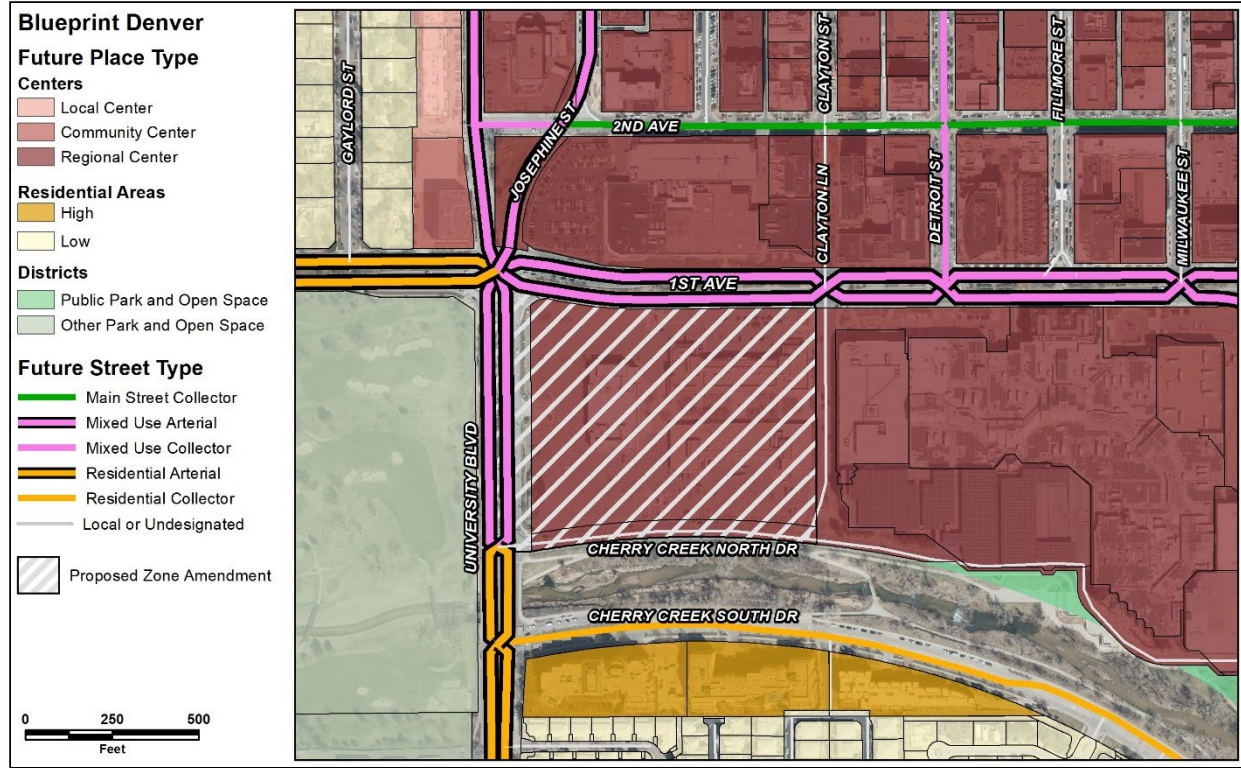
### **Blueprint Denver Future Neighborhood Context**



*Blueprint Denver* future neighborhood contexts are used to help understand differences in land use and built form and mobility options between neighborhoods. The subject property is within the Urban Center Context. *Blueprint Denver* describes the land use and built form of the Urban Center Context as follows: “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 intent of the proposed PUD’s base zone district of C-CCN-12 is to “encourage interesting and attractive architectural design solutions for new developments and promote pedestrian and shopping activities, particularly at Street Level” and “promote an enhanced pedestrian-oriented environment through features such as larger primary street setbacks, open space incentives, and building forms that allow light and views between buildings... the C-CCN zone districts are intended for specific application in the Cherry Creek North mixed use shopping district area” (DZC 7.2.5.1). Since the proposed district is based on a C-CCN zone district and allows a mix of uses and a building form 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).

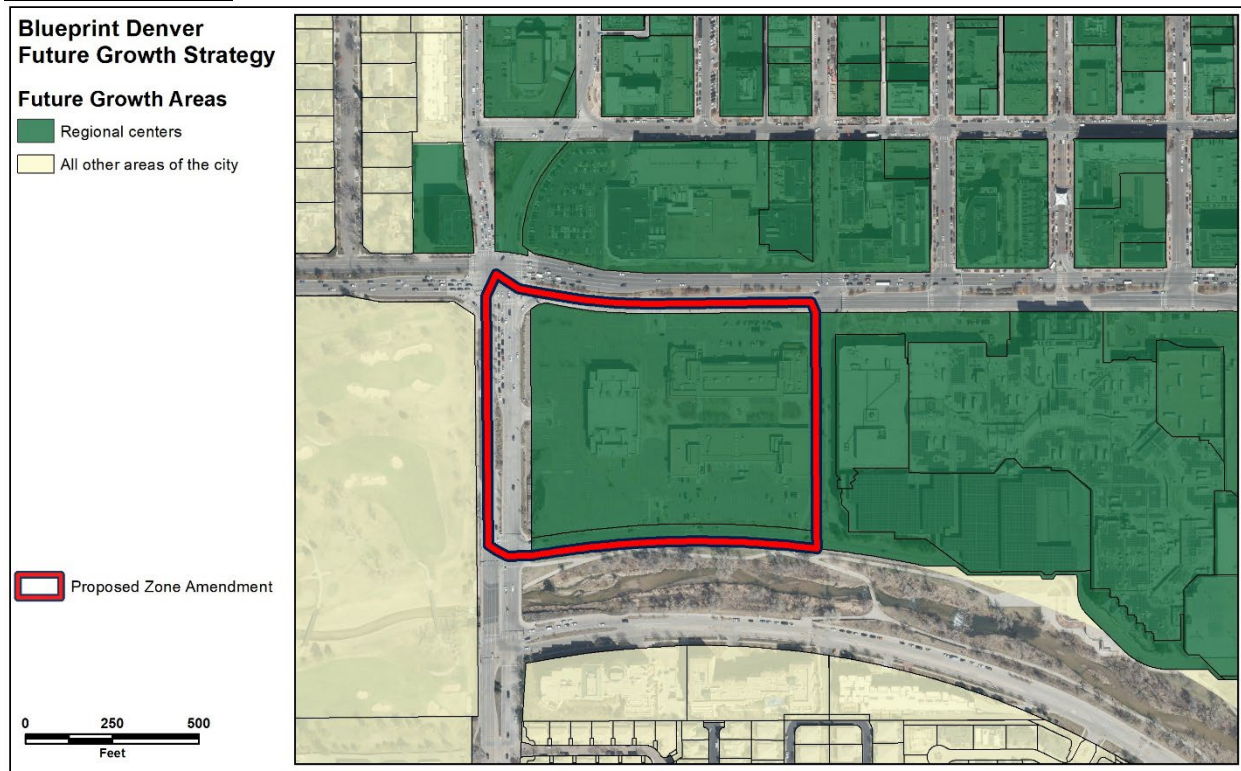
The proposed PUD uses tailored design standards to allow for compatibly integrated office, commercial and residential uses. While building heights are “generally up to 12 stories” (p. 256) in the Regional Center place type, the PUD allows 13 stories as part of the negotiated agreement to provide affordable housing, consistent with incentive heights allowed in standard DZC zone districts. The PUD does not include provisions that would allow for additional incentive height above 13 stories. The proposed zone district allows for a variety of commercial and residential uses in a pedestrian-oriented pattern with an active street level. Therefore, PUD-G 36 is appropriate and consistent with the future place plan direction.

**Blueprint Denver Future Street Types**

Blueprint Denver classifies East 1<sup>st</sup> Avenue and University Boulevard as mixed-use arterial. Arterial streets “are designed for the highest amount of through movement and the lowest degree of property access” (p. 154). 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 PUD zone district allows a broad range of residential, office, and commercial land uses and allows the intense land uses anticipated for this street type along East 1<sup>st</sup> Avenue and University Boulevard. Therefore, the proposed PUD zone district is consistent with the Blueprint Denver street types.

**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 PUD-G 36 is consistent with the “Regional Centers” 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 allowed by existing zoning.

## **Blueprint Denver Strategies**

*Blueprint Denver* also includes policies and strategies to guide implementation of the plan.

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).*
  - *Strategy C - Allow increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas.*
  
- *Land Use and Built Form – General Policy 3 – Ensure the Denver Zoning Code continues to respond to the needs of the city, while remaining modern and flexible*
  - *Strategy A – Rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code (p. 73)*
  
- *Land Use and Built Form – General Policy 9 – Promote coordinated development on large infill sites to ensure new development integrates with its surroundings and provides appropriate community benefits.*
  - *Strategy – Implement regulatory tools to set clear and predictable requirements for large redevelopments to provide benefits to the community such as affordable housing and open space (p. 78)*
  
- *Land Use and Built Form - Housing Policy 6: Increase the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities.*
  - *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).*
  
- *Land Use and Built Form – Economics Policy 2, Improve equitable access to employment areas throughout the city to ensure all residents can connect to employment opportunities.*
  - *Strategy B - Promote and incentivize the development of affordable and family-friendly housing, as well as a full range of job opportunities, in and near regional centers, community centers and community corridors (p. 90).*
  
- *Land Use and Built Form – Economics Policy 6 - Ensure Denver and its neighborhoods have a vibrant and authentic retail and hospitality marketplace meeting the full range of experiences and goods demanded by residents and visitors.*
  - *Strategy C- Promote Denver as a destination for healthy living and economic opportunity.*

- *Strategy D - Build on Denver’s national and regional entertainment options to continue to blend the arts, entertainment, shopping and hospitality into unique Denver experiences (p.93).*
- *Land Use and Built Form – Design Quality and Preservation Policy 3, Create exceptional design outcomes in key centers and corridors.*
  - *Strategy F - Implement additional zoning tools to create appropriate transitions between places, especially for areas where centers and corridors are close to residential places. This may include standards related to height, massing and uses.*
  - *Strategy G – Study and implement zoning code changes to create buildings with greater massing variability especially in more intense areas like the urban center context (e.g. Cherry Creek North and River North (p. 102)).*
- *Land Use and Built Form – Design Quality and Preservation Policy 4 - Ensure an active and pedestrian-friendly environment that provides a true mixed-use character in centers and corridors.*
  - *Strategy A - Require strong street-level active use standards for local centers and corridors. This may include a prohibition on residential units for a portion of the street level building (p.103).*

The proposed PUD is consistent with the recommendations of *Blueprint Denver* because it sets clear and predictable requirements for a large redevelopment to provide benefits to the community, such as affordable housing and open space in a regional center. It also rezones properties from Former Chapter 59 zoning into the DZC.

### **Custom Zoning**

*Blueprint Denver* provides the following direction on how to limit the use of custom zoning, including PUDs: “Limit the use of site-specific, customized zoning tools—such as Planned Unit Developments (PUDs) and waivers/conditions—to unique and extraordinary circumstances. The zoning code offers a wide variety of zone districts that cover the diverse contexts and places of Denver. Custom zoning tools are most effective when a standard zone district does not exist to implement the adopted plans for an area” (p. 73). More detail on the challenges of custom zoning is provided on page 73 of the plan.

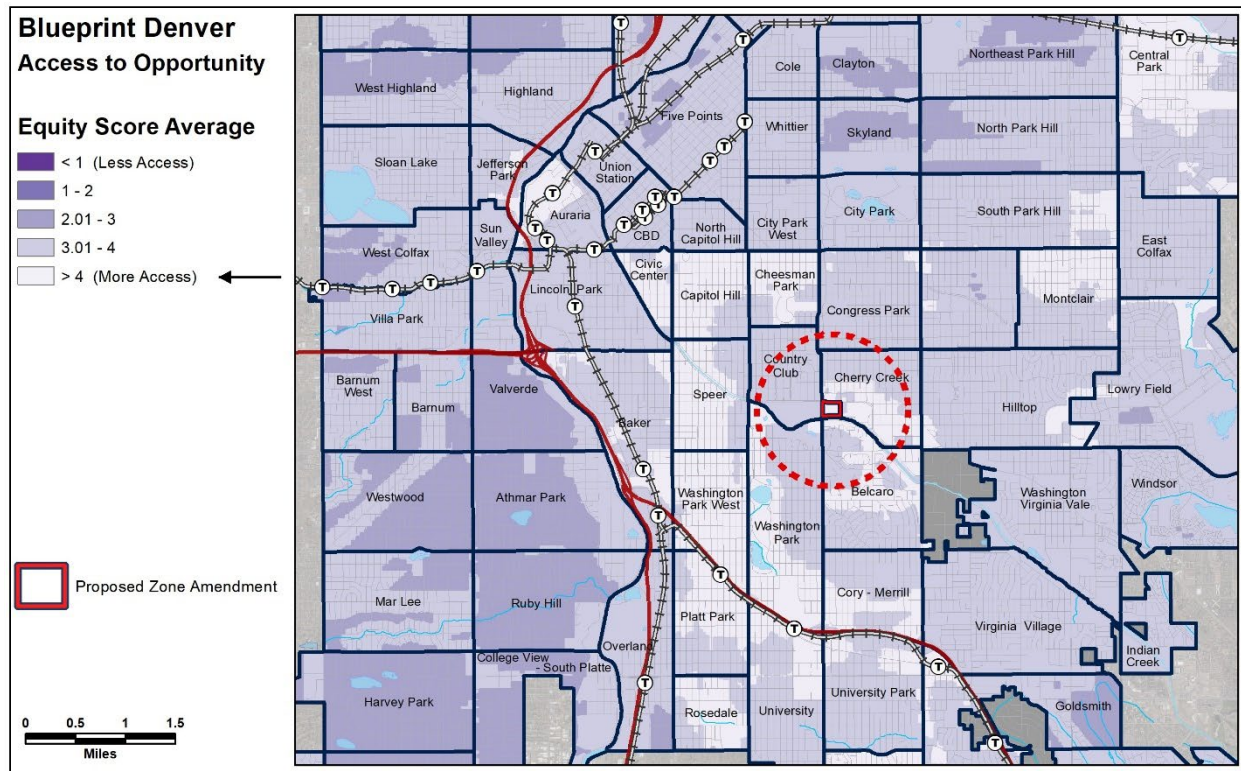
Due to the specific challenges and unique opportunities of the proposed development, as well as the unique siting and configuration of the proposed redevelopment, there is no standard zone district that can address this site’s unique and extraordinary circumstances. Therefore, the use of a PUD is consistent with the recommendations of *Blueprint Denver*.



### **Blueprint Denver Equity Concepts**

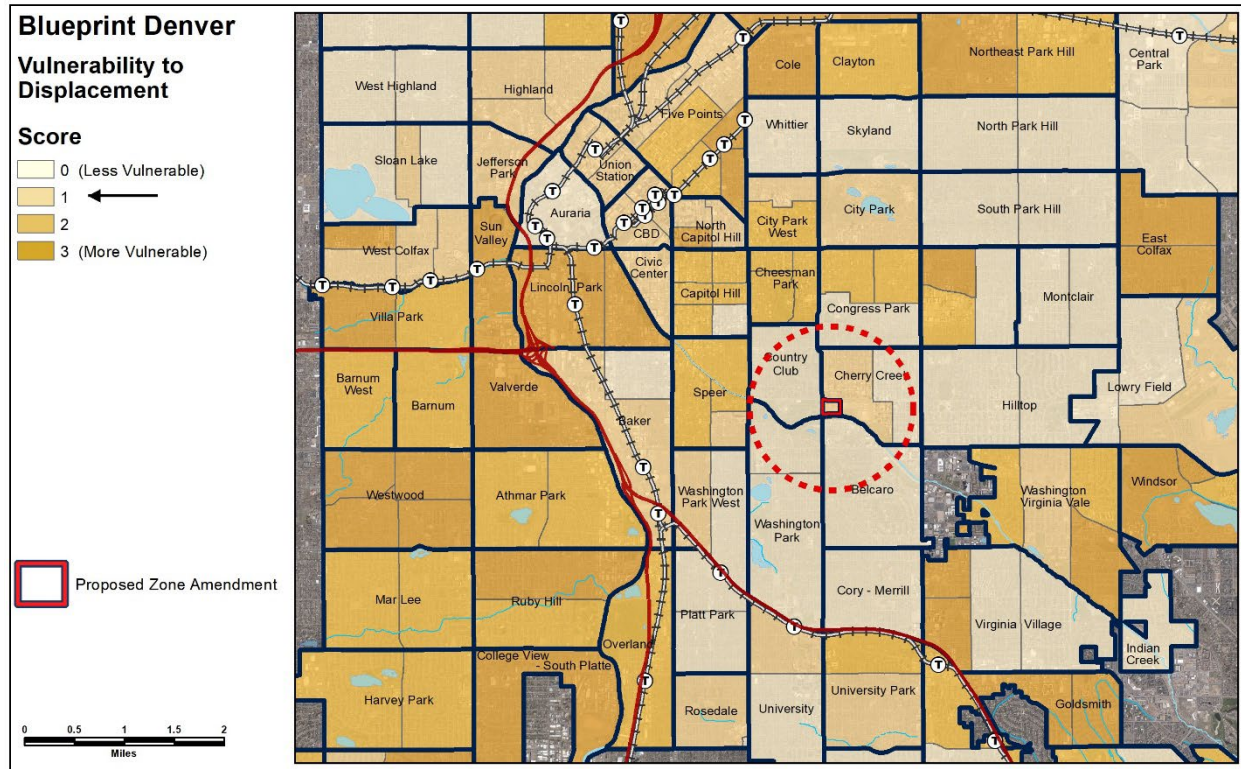
*Blueprint Denver* contains three equity concepts to help guide change to benefit everyone. Each equity concept has associated measurements that helps inform implementation actions through large rezonings along with other implementation actions. Given the size of this rezoning, an equity analysis was completed to help align project outcomes with equity considerations. Equity considerations informed developed of the proposed PUD zone district and associated development agreement to ensure that future development would lead to positive equity scores as the site is built-out.

#### **I. Access to Opportunity**



The subject property scored very high on access to opportunity, the basis for this measurement being the equity index developed by Denver’s Department of Public Health and Environment. It measures indicators such as access to park, full-service grocery stores, and health care, as well as childhood obesity, life expectancy, access to high-capacity transit, and access to centers and corridors where residents are most likely to access jobs, basic goods and services, entertainment, and shopping. Given high access to opportunity, this site is an ideal location for additional housing and associated jobs, and services. Additionally, the affordable housing component of the negotiated development agreement ensures that a more economically diverse population will be able to afford to live in this area with excellent access to opportunity.

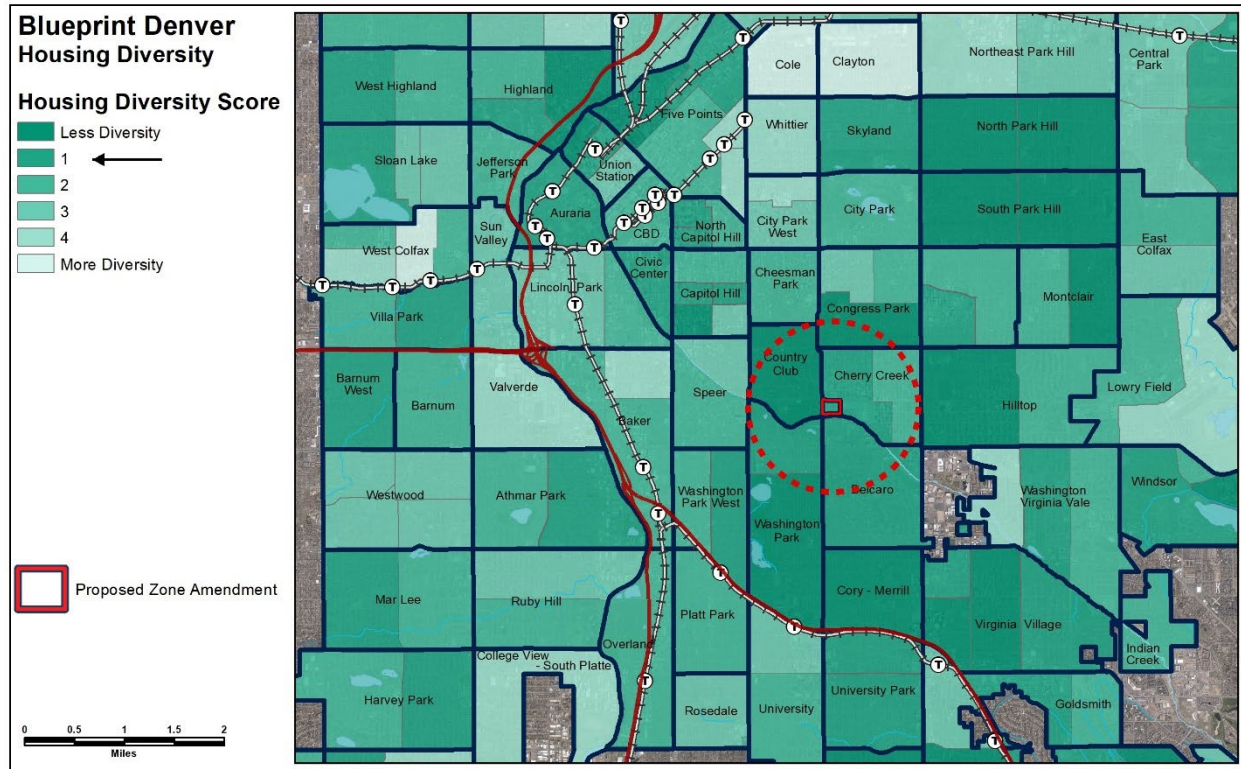
## II. Vulnerability to Involuntary Displacement



The subject property is in an area that has low vulnerability to involuntary displacement. The basis for measuring vulnerability to involuntary displacement is through the vulnerability to displacement index developed by Denver’s Economic Development and Opportunity office. This combines data from median household income, percentage of people who rent housing, and the percentage of the population with less than a college degree. The subject area scored as vulnerable to displacement in one category. In areas with vulnerability to involuntary displacement, it is important to increase pathways to affordable housing options so that residents of all income levels can continue to live in these neighborhoods.

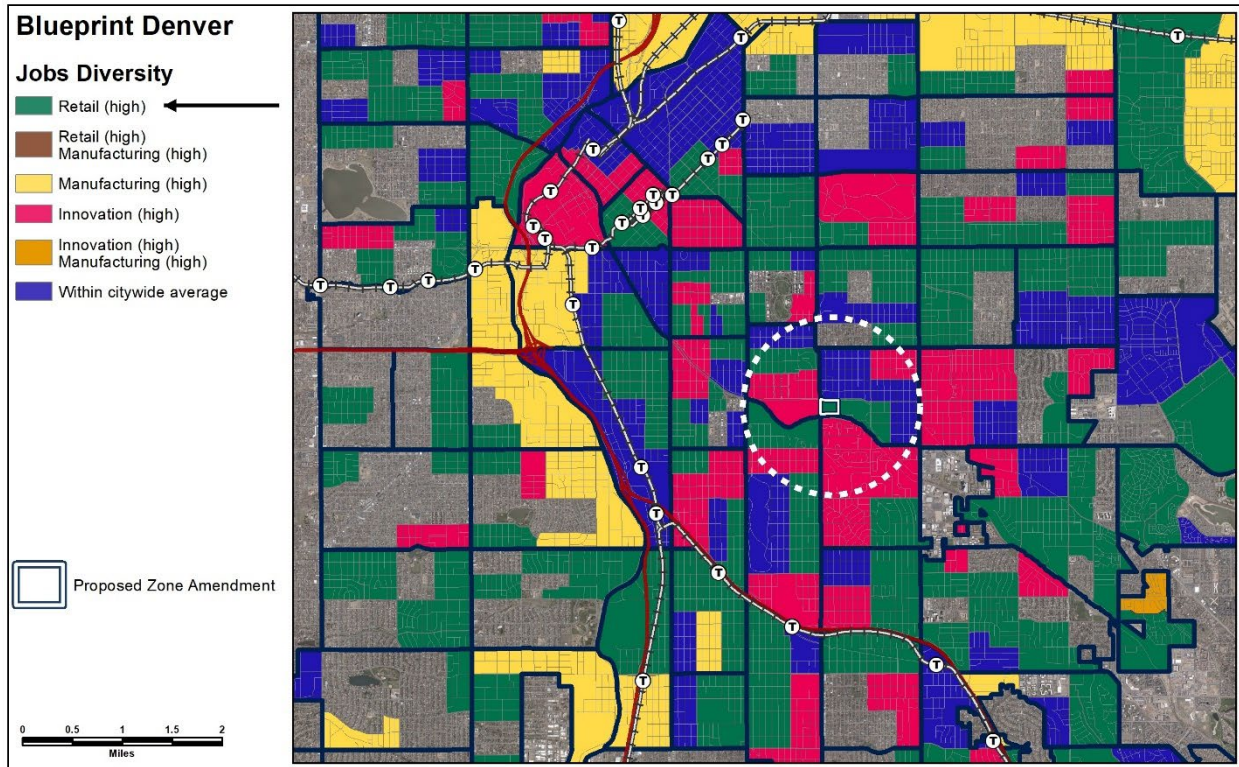
The development agreement requires 12% of all housing units as income restricted units, ranging in size from studios to three bedrooms.

### III. Housing Diversity



The subject property scored very low on housing diversity, a measure of five indicators including the percent of missing middle housing (housing with 2-19 units), home size diversity, ownership vs. rental properties, housing costs, and amount of income-restricted affordable units. This score reflects the lack missing middle housing and of affordable units in the area. As such, the project team considered some of those metrics when negotiating the affordable housing component of the development agreement to ensure income-restricted affordable units of different sizes throughout the project.

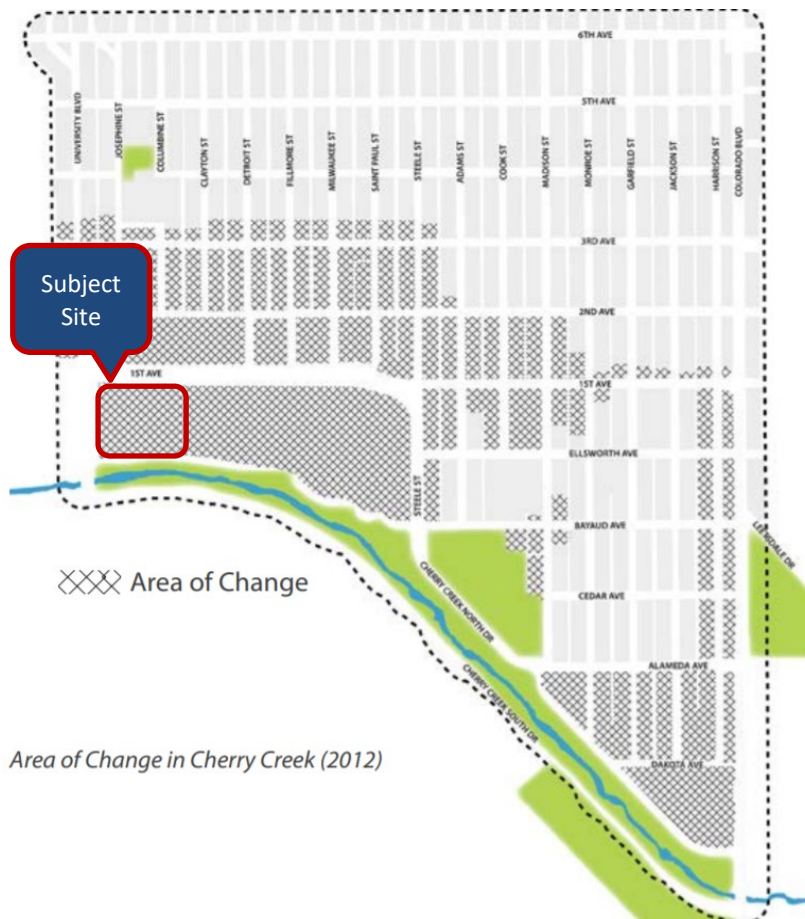
#### IV. Jobs Diversity



The jobs diversity metric looks at two key indicators: jobs density and jobs diversity. The subject property has a higher percentage of retail jobs compared to the city-as-a-whole. While it is natural for some areas of the city to contain a more prevalent job type, job diversity provides options for a population with varied education levels and skills. The proposed rezoning will allow for a broader diversity of jobs and the accompanying development agreement outlines certain expectations for uses and associated jobs.

### ***Cherry Creek Area Plan (2012)***

The Cherry Creek Area Plan (CCAP) was adopted by City Council in 2012 and applies to the subject property. As the plan was adopted prior to the *Blueprint Denver* update, the CCAP builds off of the previous growth management paradigm of “Areas of Change” and “Areas of Stability”, providing guidance on where growth should occur in Cherry Creek. 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 Cherry Creek Shopping District sub-area.

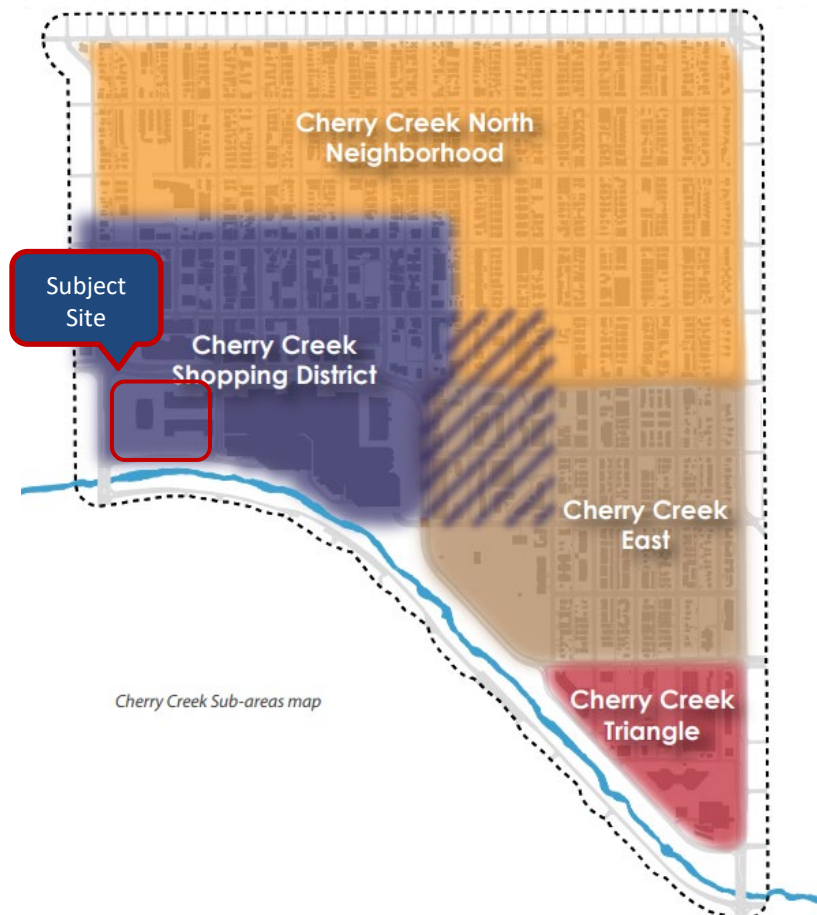


The CCAP classifies the subject site as an Area of Change. Although, the Area of Change/Stability concepts have been replaced with a more nuanced approach in the current *Blueprint Denver*, the recommendations are still relevant in terms of the communities’ desire to target growth and change expressed in an adopted plan. The Cherry Creek Area Plan notes that, “overall these areas [Areas of Change] 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 Areas of Change continue to mature in positive ways” (p. 29).

The requested rezoning enables reinvestment and development in the subject property as expressed in the plan.

The rezoning request is also consistent with the Land Use and Urban Design recommendation B.3.A: “Concentrate higher intensity mixed-use buildings along multi-modal streets, major intersections, and major public open space – Cherry Creek’s high intensity nodes are appropriate for increased development intensity allowing for concentration of active uses utilizing appropriate locational criteria. These locational criteria include: Major intersections (1<sup>st</sup> and Stele, 1<sup>st</sup> and University)” (p.32).

The proposed PUD-G 36 allows for a mix of uses that aligns with the Economic and Development Opportunities recommendations in section D.1.A and D.1.B in the Plan: “More housing... the greatest potential for new residential is as a part of mixed-use development in the Shopping District... Where appropriate, this housing will include retail, office or hotel uses to further the mixed-use character of the area (p.46).

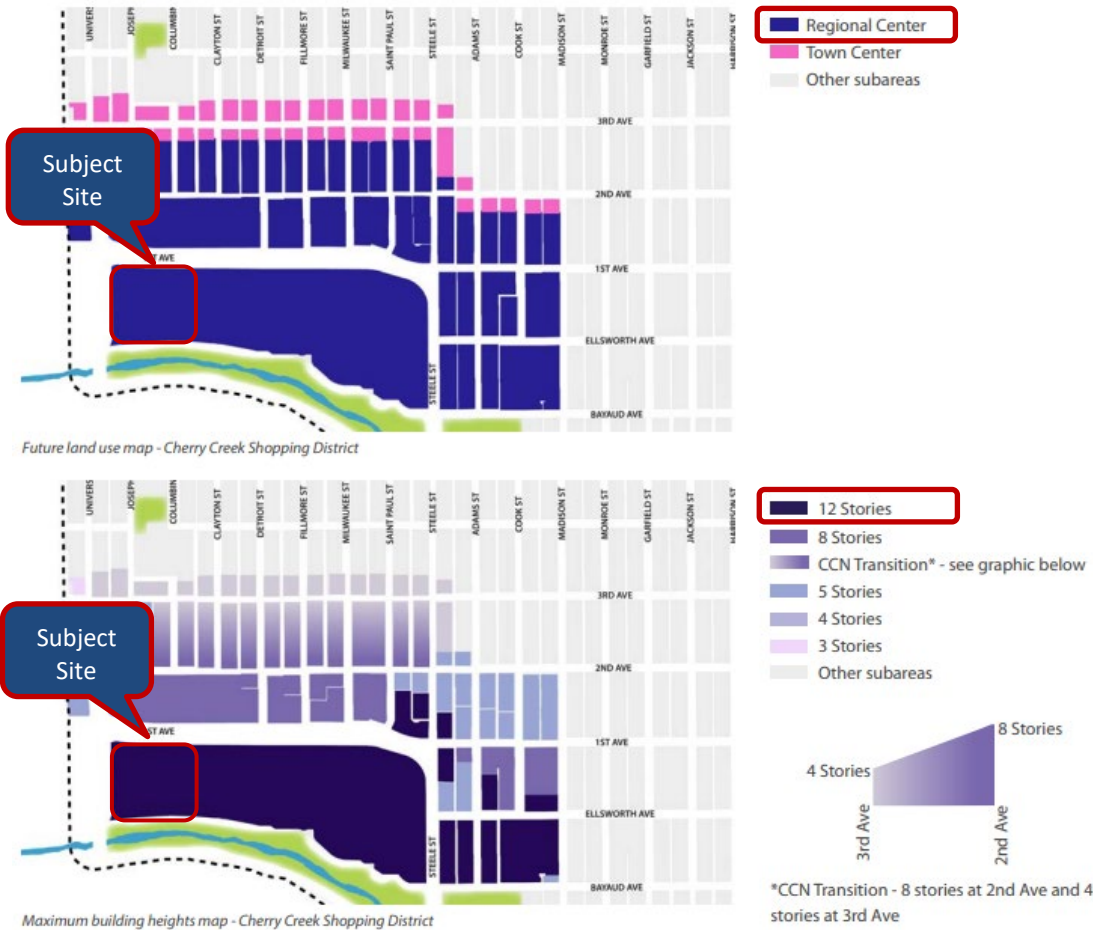


Recommendation D.2.B of the Cherry Creek Area Plan specifically lists the west end of the Cherry Creek Shopping Center as one of the area’s development opportunities (p.48).

The plan also includes area specific recommendations. Some of the recommendations for the Shopping District are:

- *“The Cherry Creek Shopping District remains an area of change. Its central location, existing mixture of high-end retail, economic development opportunities, walkable streets and access to regional multi-modal connections create an ideal location for encouraging additional residential and employment growth” (p.58).*
- *“More residential, hotel and office development in Shopping District and other nearby Areas of Change, such as Cherry Creek Triangle” (p. 59).*
- *“The long-term vision for the Shopping Center...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).*

The future land use map for the Cherry Creek Shopping District designates the subject property as “Regional Center”, with a maximum building height of 12 stories. The request to rezone to PUD-G 36 with a maximum height of 13 stories is appropriate and consistent with the Cherry Creek Area Plan recommendations considering negotiated affordable housing requirements included in the proposed development agreement.



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

The proposed PUD will result in the uniform application of zone district building form, use and design regulations across the site. The PUD is based on the C-CCN-12 zone district, with customization to address the unique location and features of the site.

**3. Public Health, Safety and General Welfare**

The proposed map amendment to PUD-G 36 furthers the public health, safety, and general welfare through implementation of the city’s adopted land use plan. Additionally, it furthers public health, safety, and general welfare by establishing site design requirements that align new development with the existing fabric while minimizing adverse impacts to the surrounding neighborhood. The proposed rezoning will enable a greater number and more economically diverse range of Denverites to live in close proximity to the amenities that already exist in the neighborhood.

**4. Justifying Circumstance**

The application identifies 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 a 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 Denver Zoning Code was adopted in 2010 the subject property retained its Former Chapter 59 zoning. Therefore, this is an appropriate justifying circumstances for the proposed rezoning.

Additionally, the city has adopted *Blueprint Denver* and the *Cherry Creek Area Plan*, that call for a larger concentration of residents and businesses along key Community Corridors with a heightened focus on high-quality pedestrian experiences. The proposed rezoning to a PUD zone district promotes the adopted policy guidance for the area.

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

The proposed PUD-G 36 is based on the Urban Center neighborhood context. 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.” (DZC Section 7.1.1)

PUD-G 36 is consistent with the Urban Center neighborhood context because it uses the C-CCN-12 zone district as a base. The C-CCN district zoning standards are “specifically tailored Urban Center zone districts that promote development compatible with the character of the Cherry Creek North mixed use shopping district. The C-CCN zone districts encourage interesting and attractive architectural design solutions for new developments and promote pedestrian and shopping activities, particularly at Street Level... The C-CCN zone districts promote an enhanced pedestrian-oriented environment through features such as larger primary street setbacks, open space incentives, and building forms that allow light and views between buildings... the C-CCN zone districts are intended for specific application in the Cherry Creek North mixed use shopping district area.” (DZC Section 7.2.5)

“C-CCN-12 applies in the Cherry Creek North mixed use shopping district to areas or intersections served primarily by major arterial streets where a building scale of 1 to 12 stories is desired.” (DZC Section 7.2.5.2.F)

The PUD is consistent with the Neighborhoods Context Description, Zone District Purpose and Intent Statements as it facilitates a mix of residential and commercial uses in forms that are appropriate in the Urban Center neighborhood context and consistent with the plan guidance for this area.

**6. Additional Review Criteria for Rezoning to a PUD District (12.4.10.9)**

**a. *The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of this Code.***

- Denver Zoning Code Section 9.6.1.1 states that the general purpose of a PUD District is to provide an alternative to conventional land use regulations, combining use, density, site plan and building form considerations into a single process, and substituting procedural protections. A PUD is intended to respond to unique and extraordinary circumstances, where more flexible zoning than what is achievable through a standard zone district is desirable and multiple variances, waivers, and conditions can be avoided.

PUD-G 36 is consistent with the intent and purpose of PUD districts because the subject site has special characteristics related to the scale of the development project and demands a more customized zoning approach to achieve a successful, phased development.

There is not an appropriate Urban Center Neighborhood Context zone district to apply to this site that will achieve a similar outcome. The C-CCN-12 zone district is the closest analogue but is designed for smaller sites with a traditional street grid and would not address some of the future and existing building form characteristics of the site, including building massing, household living at the ground level, transparency requirements and active uses on the ground floor, particularly along privately-owned street frontages.

To address the unique circumstances, the proposed PUD district uses the C-CCN-12 zone district with customized provisions that allow redevelopment and design in character with the neighborhood.

- DZC Section 9.6.1.1.C states that a PUD District is not intended as either a vehicle to develop a site inconsistent with the applicable neighborhood context and character, or solely as a vehicle to enhance a proposed development's economic feasibility.

PUD-G 36 is consistent with the Urban Center neighborhood context and character as noted above. The PUD is intended as a mechanism to ensure that development is consistent with adopted plans, not as a vehicle to enhance the proposed development's economic feasibility.

- According to DZC Section 9.6.1.1.D., in return for the flexibility in site design a PUD District should provide significant public benefit not achievable through application of a standard zone district, including but not limited to diversification in the use of land; innovation in development; more efficient use of land and energy; exemplary pedestrian connections, amenities, and considerations; and development patterns compatible in character and design with nearby areas and with the goals and objectives of the Comprehensive Plan.

The PUD District and associated development agreement provides significant public benefit not achievable through application of a standard zone district, including:

- The proposed rezoning will be accompanied by a development agreement to provide affordable housing, affordable retail space, targeted hiring, an assessment of childcare needs and adoption of design standards and guidelines. See Development Agreement above for more information The

proposed rezoning will also bring this site out of Former Chapter 59 and into the Denver Zoning Code, meeting key plan guidance to apply modern zoning standards on the site.

**b. *The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6***

The PUD District complies with all standards and criteria stated in Division 9.6.

**c. *The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions.***

The PUD District is necessary because there is no standard zone district available that applies appropriate standards to this unique location and development. An unreasonable number of variances or waivers and conditions would be required to achieve the tailored approach in the PUD.

**d. *The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property.***

The PUD District establishes permitted uses in accordance with C-CCN-12 zone district, with a small number of additional allowed uses, including outdoor retail, mobile retail food establishments (food trucks) and outdoor arts, recreation and entertainment services. The zone districts allow a mix of residential, office, and retail uses, consistent with the Urban Center context.

**e. *The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design.)***

The PUD provides tailored building form standards to directly address appropriate transitions to neighboring properties and areas, including:

- Applying a mass reduction standard above 45 feet on all streets.
- Requiring 10% publicly accessible open space on the site with pedestrian connections to Cherry Creek North and the Cherry Creek Trail Corridor.
- Introducing residential setback requirements along all streets to ensure a proper transition between the sidewalk and ground-floor residential units.
- Allowing for a maximum height of 168 feet or 13 stories. The PUD does not allow additional incentive height because affordable housing requirements are included in the concurrent development agreement (in other areas of the city 12 story zone districts allow incentive height of 16 stories with the provision of enhanced on-site affordable housing).

The PUD establishes permitted building forms that are compatible with adjacent existing building forms through appropriate transitions and design requirements.

## **Attachments**

1. Rezoning application
2. PUD-G 36
3. Public comments