



**TO:** Land Use, Transportation & Infrastructure Committee  
**FROM:** Ella Stueve, Senior City Planner  
**DATE:** October 24, 2019  
**RE:** Official Zoning Map Amendment Application #2019I-00048

### **Staff Report and Recommendation**

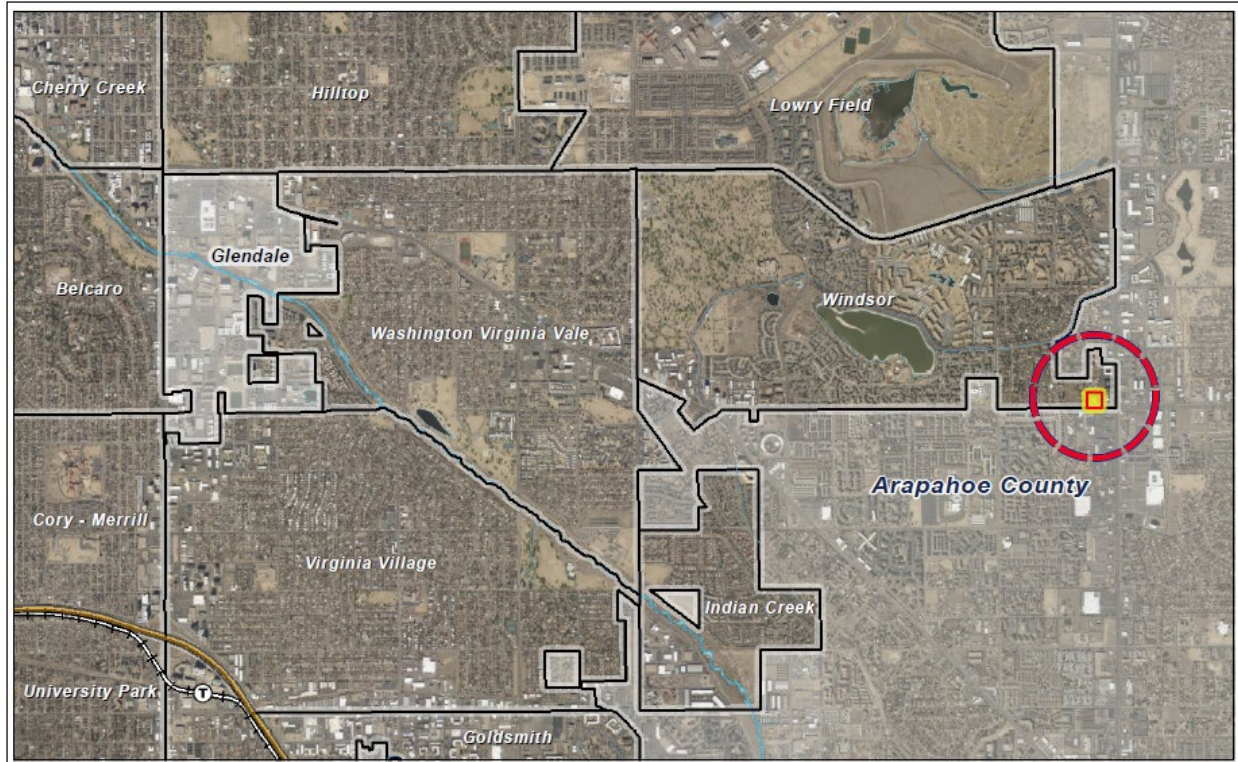
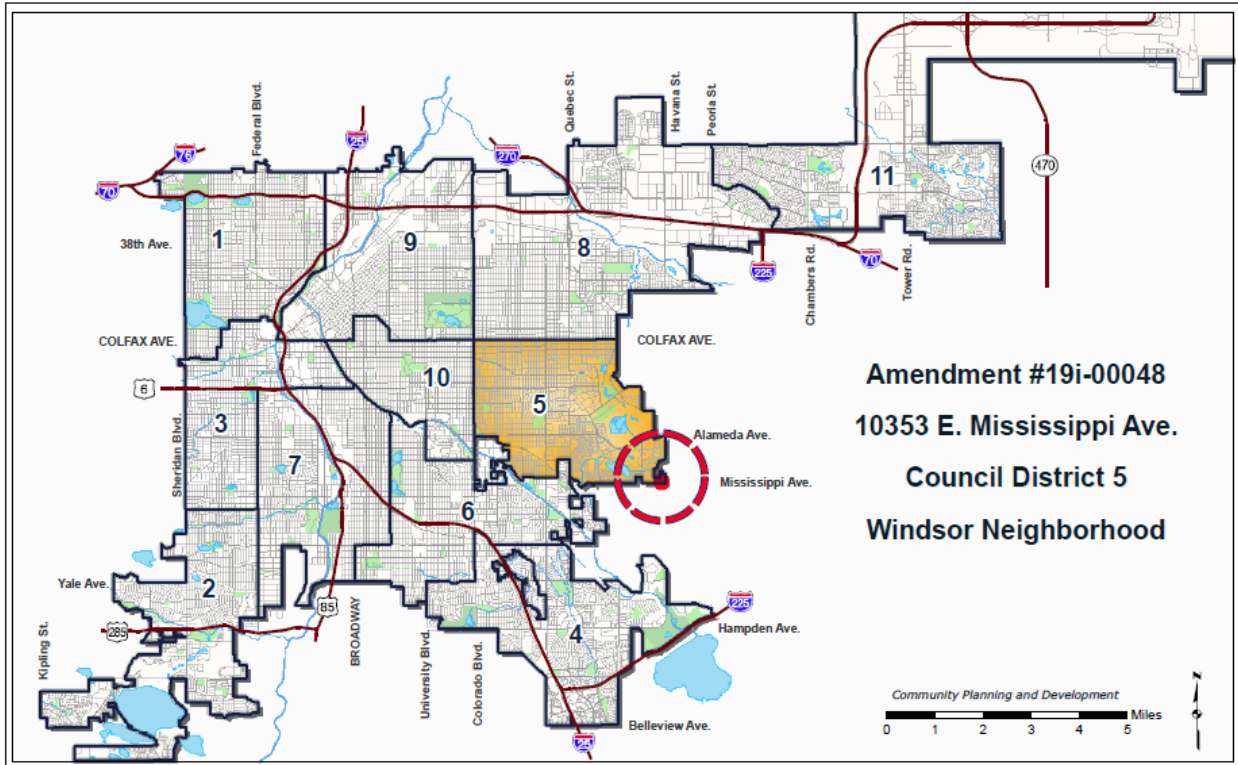
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00048.

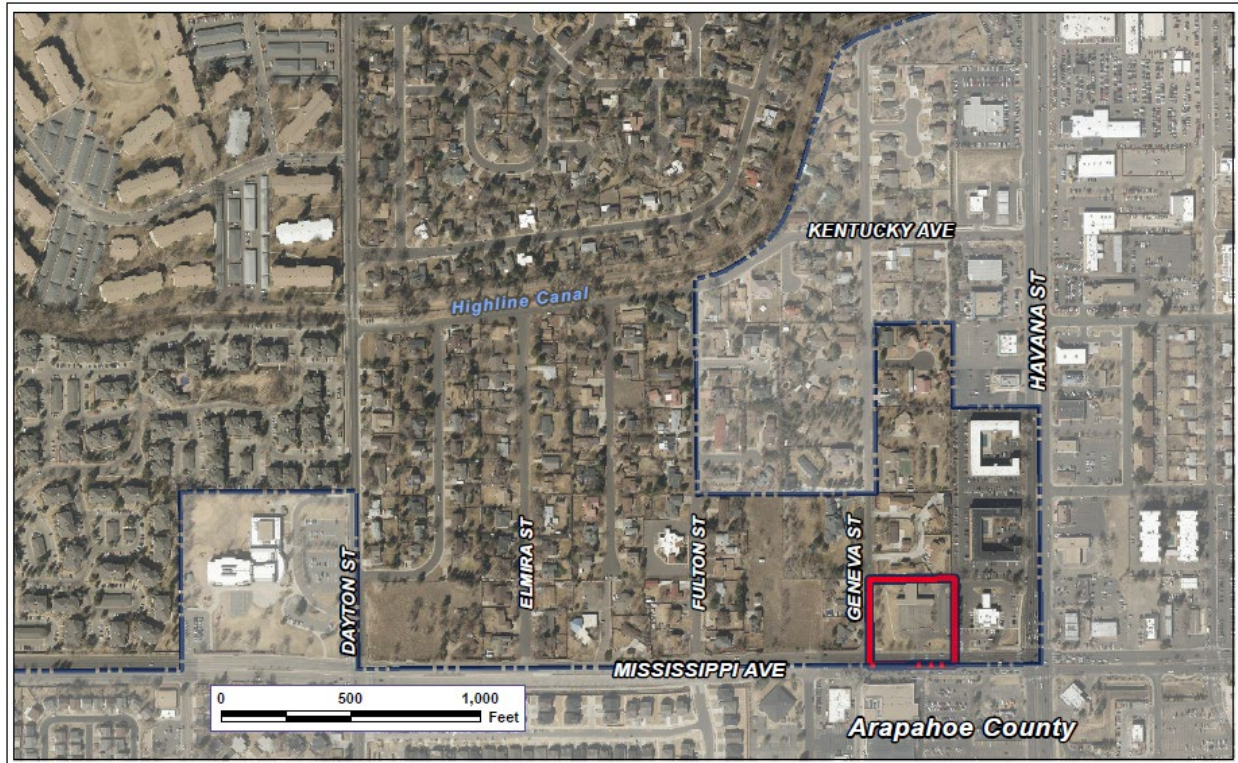
### **Request for Rezoning**

Address: 10353 E Mississippi Avenue  
Neighborhood/Council District: Windsor Neighborhood / Council District 5  
RNOs: Rangeview Neighborhood Association, Inter-Neighborhood Cooperation (INC)  
Area of Property: 80,819 square feet or 1.86 acres  
Current Zoning: B-1 with a condition  
Proposed Zoning: S-MX-3  
Property Owner(s): Bellco Credit Union  
Owner Representative: Gary Hegener

### **Summary of Rezoning Request**

- The proposed rezoning is in the Windsor statistical neighborhood in the southeast corner of Council District 5. It is on the north side of Mississippi Avenue between Geneva Street and Havana Street. The property faces Arapahoe County to the south.
- The subject property, which is owned by Bellco Credit Union, contains a one-story structure built in 1994 with multiple drive-up ATMs.
- The proposed rezoning is intended to facilitate redevelopment of the site. Uses anticipated for the proposed site could include a fuel station, eating and drinking establishments, and other retail uses typically found within a suburban, mixed-use development.
- The S-MX-3 (Suburban, Mixed Use, 3-story) zone district allows a mix of uses and is intended for areas or intersections served primarily by local or collector streets where a building scale of 1 to 3 stories is desired. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 3 of the Denver Zoning Code (DZC).





### Existing Context

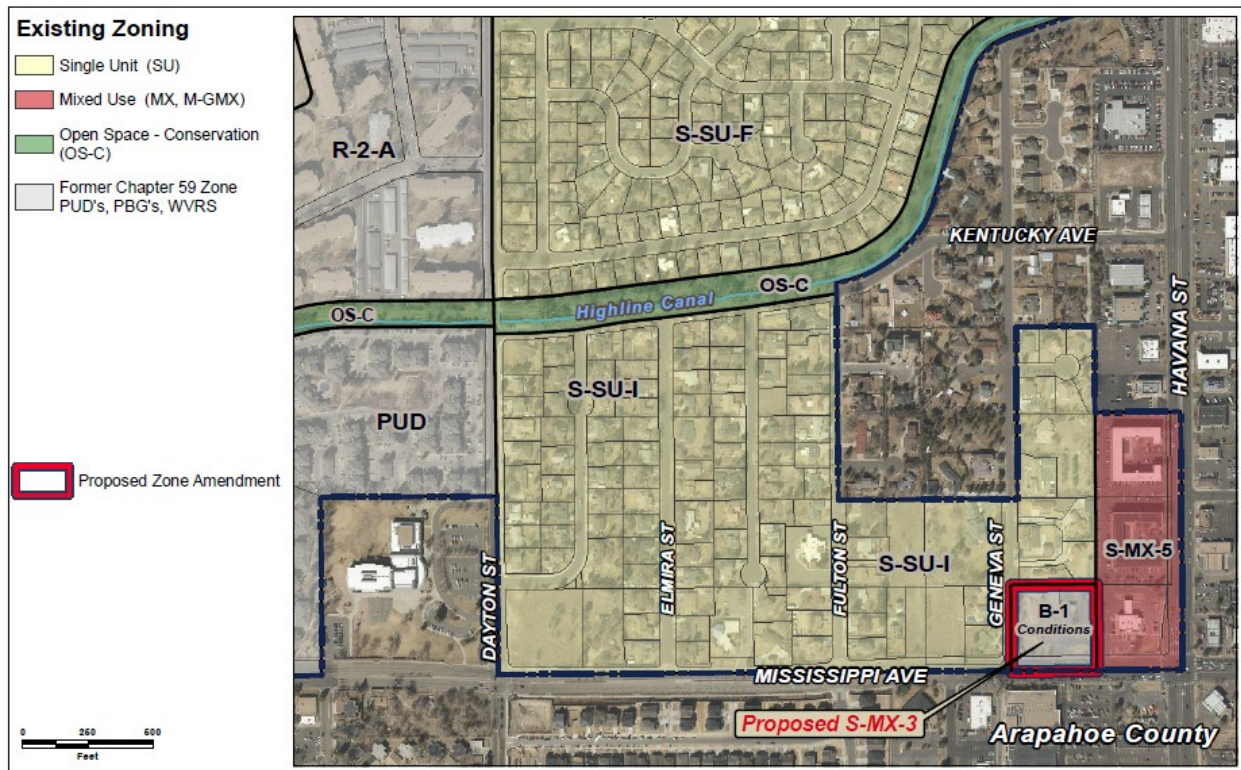
This neighborhood is primarily suburban in character with areas of modified street grids, single-unit residential uses with cul-de-sacs and irregular blocks, commercial uses with larger setback along arterial streets, and primarily one- to two-story buildings with buildings up to four stories along arterial streets. South Havana Street is a half block to the east, and East Alameda Avenue is five blocks north of the site. Ben Bezoff Park is less than a half mile due north, Windsor Lake is less than a mile to the west, and Expo Park in Aurora is less than a mile to the northeast.

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-1 with a Condition	Commercial	1-story Structure	Modified grid street patterns without alleys and either attached, no or detached sidewalks. Pattern of irregular shaped blocks.
North	S-SU-I	Single-unit Residential	1-story Structures	
South	B-4 (Aurora)	Commercial	1-story Structures	

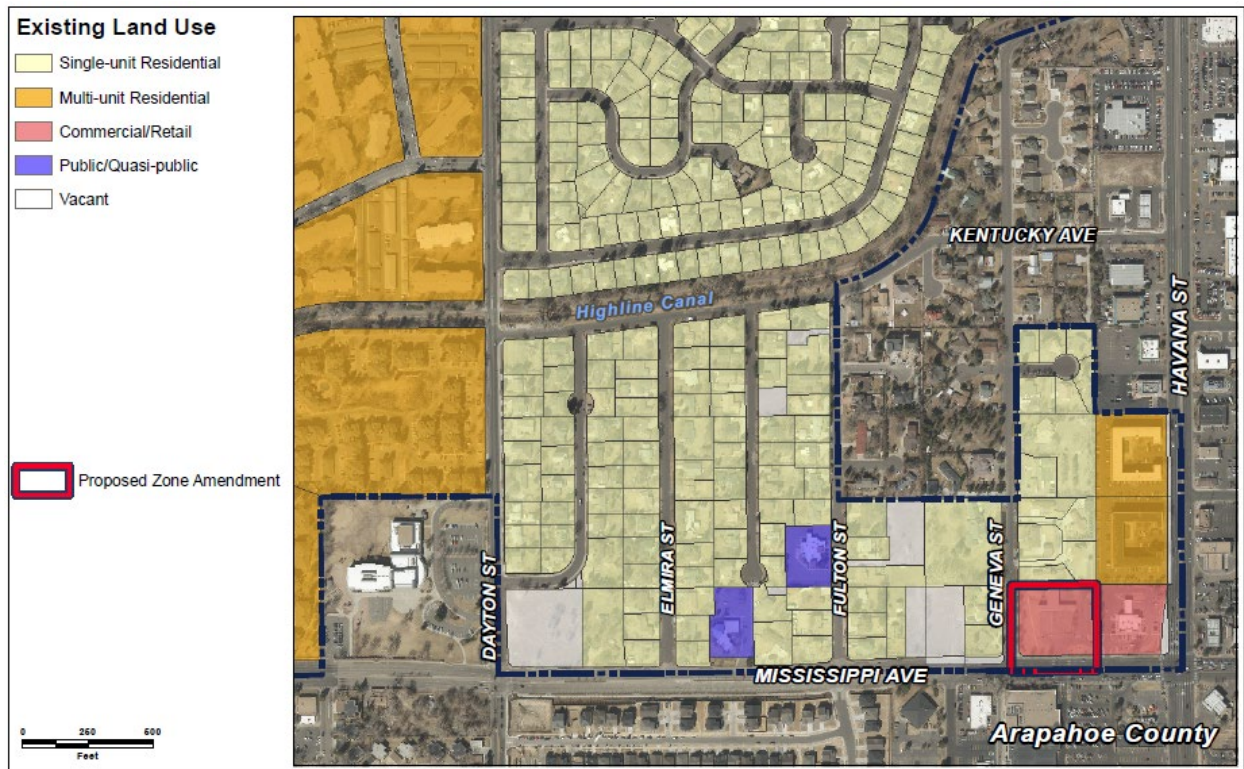
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
West	S-SU-I	Single-unit Residential	1-story Structures	
East	S-MX-5	Commercial/Multi-unit Residential	1-4-story Structures	

### 1. Existing Zoning



The current zoning of the subject property is B-1 with a condition approved in 1994. The condition approved requires the site to only be developed according to a 1993 recorded site plan. The condition and the site plan are included as attachments to this staff report. B-1 is a Former Chapter 59 zone district, a low intensity commercial district often with office land uses that form a transition between more intense commercial and lower intensity residential land uses. The maximum allowable floor area ratio in B-1 is 1:1.

## 2. Existing Land Use Map



## 3. Existing Building Form and Scale

All images from Google Maps Street View.



Subject property facing north from Mississippi Avenue



Residential properties to the north of the subject property facing east from Geneva Street



Residential properties to the west of the subject property facing west from Geneva Street



Commercial buildings to the south of the subject property facing south from Mississippi Avenue



Four-story multi-unit residential buildings east of the subject property facing west from Havana Street

## Proposed Zoning

The requested S-MX-3 zone district has a maximum height in feet of 45' with allowable exceptions. The minimum primary street front setback is 0'. A variety of mixed residential and commercial uses are allowed. For additional details of the requested zone district, see DZC Article 3.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below.

Design Standards	B-1 with a Condition (Existing)	S-MX-3 (Proposed)
Primary Building Forms Allowed	N/A	Drive Thru Services*; Drive Thru Restaurant*; General; Shopfront
Height in Stories/Feet (max)	N/A (FAR 1:1)	3/45'
Primary Build-To Percentages (min)	N/A (See site plan)	50% or 75% or n/a**
Primary Build-To Ranges	N/A (See site plan)	0' to 80', 0'-150', 0' to 10', or n/a**
Minimum Zone Lot Size/Width	N/A	N/A
Primary Setbacks (min)	N/A (See site plan)	0'
Building Coverages	N/A (See site plan)	N/A

\*Building form not allowed within a ¼ mile of a transit station platform

\*\*Standard varies between building forms

## Summary of City Agency Referral Comments

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

**Assessor:** Approved – No Response

**Asset Management:** Approved – No comments.

**Denver Public Schools:** Approved – No Response

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

Denver Department of Public Health and Environment (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, DDPHE 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: DDPHE performed a limited search for information known to DDPHE 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.

**Denver Parks and Recreation:** Approved – No comments.

**Public Works – R.O.W. - City Surveyor:** Legal is approved.

**Development Services - Transportation:** Approved – No response.

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

**Development Services – Project Coordination:** Approved – No response.

**Development Services – Fire Prevention:** Approved – No comments.

**Public Review Process**

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>8/26/2019</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>9/30/2019</b>
Planning Board held a public hearing and was unable to take official action on a recommendation, and so this case is proceeding with no recommendation from Planning Board:	<b>10/16/2019</b>
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:	<b>10/13/2019</b>
Land Use, Transportation and Infrastructure Committee of the City Council:	<b>10/29/2019</b>

Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	<b>TBD</b>
City Council Public Hearing:	<b>TBD</b>

As of the time of this staff report, staff received three comments from the public, which are included as an attachment to this report. Two letters of opposition cite the character of the surrounding area, one from two individual members of the Rangeview Neighborhood Association RNO and one from two neighbors. A third letter was neither in opposition nor support and included specific requests for details of future development. Staff also received a vote in opposition from the Rangeview Neighborhood Association; however, this vote was taken on May 13, 2019. The application for this rezoning was submitted in August of 2019, and therefore the vote was not in response to a specific application.

### Criteria for Review / Staff Evaluation

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

#### DZC Section 12.4.10.7

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

#### DZC Section 12.4.10.8

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

### 1. Consistency with Adopted Plans

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*

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

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, including:

- 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).

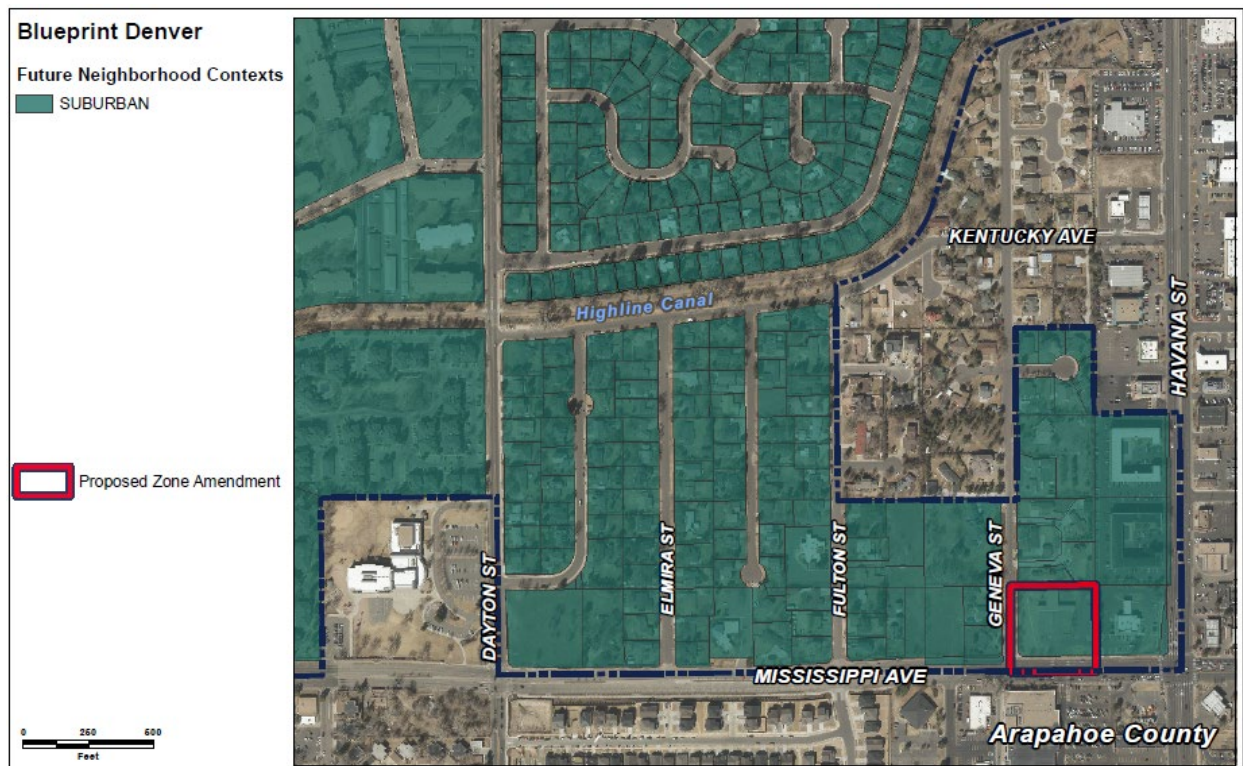
- Environmentally Resilient Goal 8, Strategy A – *Promote infill development where infrastructure and services are already in place* (p.54).
- Environmentally Resilient Goal 8, Strategy B – *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place where current zoning includes a condition that permits only the existing drive-through automated teller machines per the approved site plan. The allowed mix of uses includes services, which would be in close proximity to the residential areas surrounding the subject property. The requested S-MX-3 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***

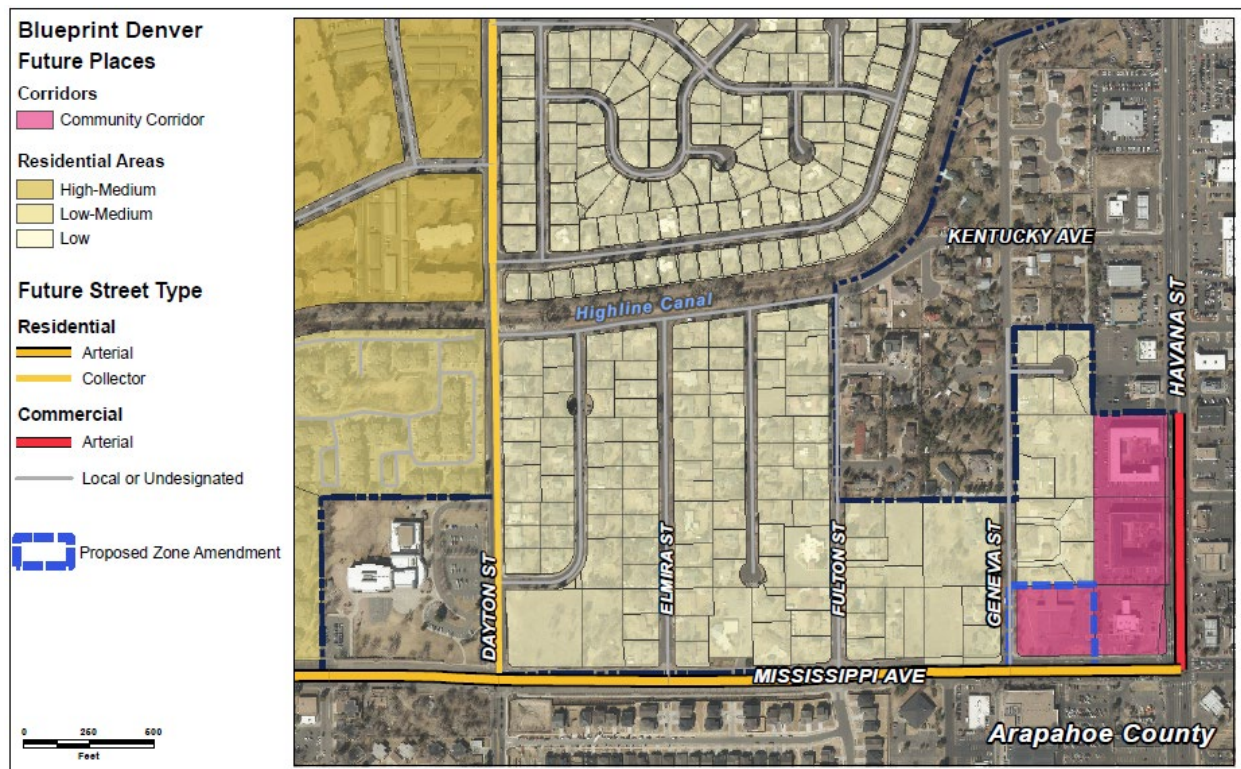
*Blueprint Denver* was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Community Corridor within the Suburban Neighborhood Context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

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



The subject property is within the Suburban neighborhood context. The suburban context “represents the most varied development in Denver’s neighborhoods. Homes in this context are largely single-unit, but can also include higher intensity residential. Commercial development is focused along main corridors and centers bordering residential areas” (p. 189). The proposed S-MX-3 district is within the Suburban Context, which is “characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks” (Section 3.1.1, DZC). The proposed zone district, which allows a mix of uses in buildings up to three stories, is consistent with the Blueprint Denver Future Neighborhood Context plan direction.

### **Blueprint Denver Future Places**



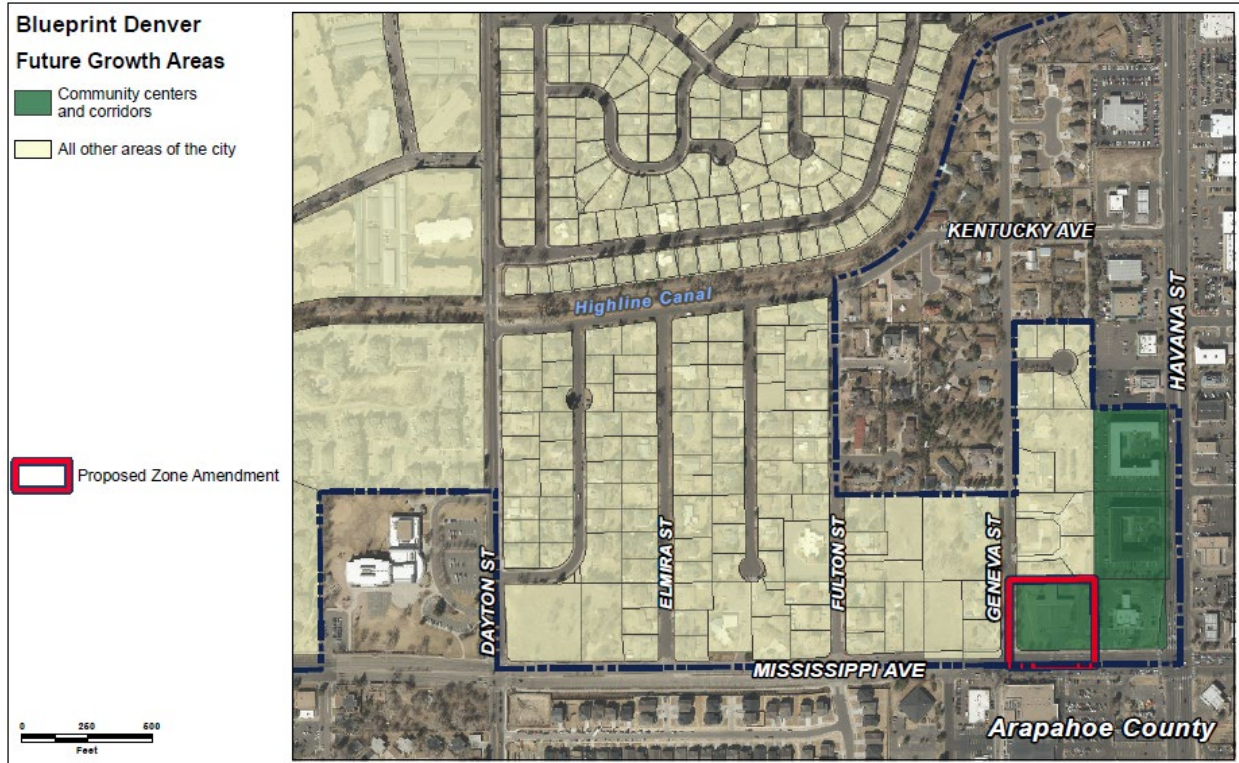
The subject property is mapped as Community Corridor in the Future Places Map. In the Suburban context, areas designated as Community Corridors “typically provide some mix of office, commercial and residential...Buildings have a distinctly linear orientation, [and]... heights are generally up to 5 stories” (p. 196). The proposed zone district, which allows a mix of civic, residential, and commercial uses in buildings up to three stories, is consistent with the Blueprint Denver Future Places plan direction.

### **Street Types**

Street types help inform the appropriate intensity of adjacent development (p. 67). Mississippi Avenue is classified as a Residential Arterial, and Havana Street is a Commercial Arterial. “Arterial streets are designed for the highest amount of through movement and the lowest degree of property access” (p.

154). Residential Arterials have the lowest land use intensity of any type of arterial. Mixed-use arterials are adjacent to a “varied mix of uses” (p. 159), while residential arterials tend to have “primarily residential uses, but may also include...small retail nodes” (p. 160). The proposed S-MX-3 zone district, which “applies to areas or intersections served primarily by local or collector streets” (DZC Section 3.2.4.2.D.), is consistent with the street type plan direction.

### **Growth Strategy**



The Future Growth Areas map, which is a version of the future places map, designates the subject property as community centers and corridors, which are anticipated to account for 20 percent of jobs and 25 percent of new households in the city by 2040. “Focusing growth in centers and corridors helps to provide a variety of housing, jobs and entertainment options within a comfortable distance to all Denverites and is a key element of building complete neighborhoods throughout Denver” (p. 49). The proposed map amendment to S-MX-3 will focus an appropriate intensity of mixed-use growth to a Community Corridor where it has been determined to be most appropriate and therefore is consistent with the Blueprint Denver Future Growth Areas plan direction.

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

The proposed rezoning to S-MX-3 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 through implementation of adopted plans and by facilitating increased density and a mix of uses compared to the current zoning.

### **4. Justifying Circumstance**

Justifying Circumstance is defined under DZC Section 12.4.10.8.A.4 as, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: (c.) That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning." The adoption of the Denver Zoning Code in 2010 and the retention of a Former Chapter 59 zone district on the subject property, including custom zoning adhering the property to a 1994 site plan, is an appropriate justifying circumstance for the proposed rezoning.

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

The Suburban Context is characterized by single-unit, and multi-unit residential, commercial strips and centers, and office parks. Multi-unit building forms are typically separated from single-unit residential and consist of Duplex or Town House and occasional mid- and high-rise Apartment building forms. Commercial buildings are typically separated from residential and consist of Shopfront and General forms. Multi-unit and commercial uses are primarily located along arterial and collector streets. The block patterns in the Suburban Context are irregular and shaped by curvilinear streets and modified grid streets. The requested S-MX-3 is consistent with the neighborhood context description.

The Suburban Mixed Use zone districts are intended to "promote safe, active, pedestrian-scaled, diverse areas... The Mixed Use districts are appropriate along corridors, for larger sites and at major intersections...The Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character and improves the transition between commercial development and adjacent residential neighborhoods" (DZC, Section 3.2.4.1). The S-MX-3 zone district is a Mixed Use zone district intended for areas served by local or collector streets where a building scale of 1-3 stories is desired.

The proposed map amendment is consistent with the mixed-use intent described in the Suburban Neighborhood Context. The proposed development will be limited to a moderate scale, will contain multiple structures on the zone lot and will be separated from single-unit residential. The mixed-use development will complement the character of existing surrounding development. The S-MX-3 zone district is consistent with both the general and specific purpose and intent of the Suburban Context and the S-MX-3 zone district description.

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### **Attachments**

1. Map Attachments
2. Application
3. Currently Adopted Ordinance (1994) and Site Plan (1993)
4. Public Comments