



**TO:** Denver City Council  
**FROM:** Scott Robinson, Senior City Planner  
**DATE:** November 14, 2019  
**RE:** Official Zoning Map Amendment Application #2018I-00112

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2018I-00112.

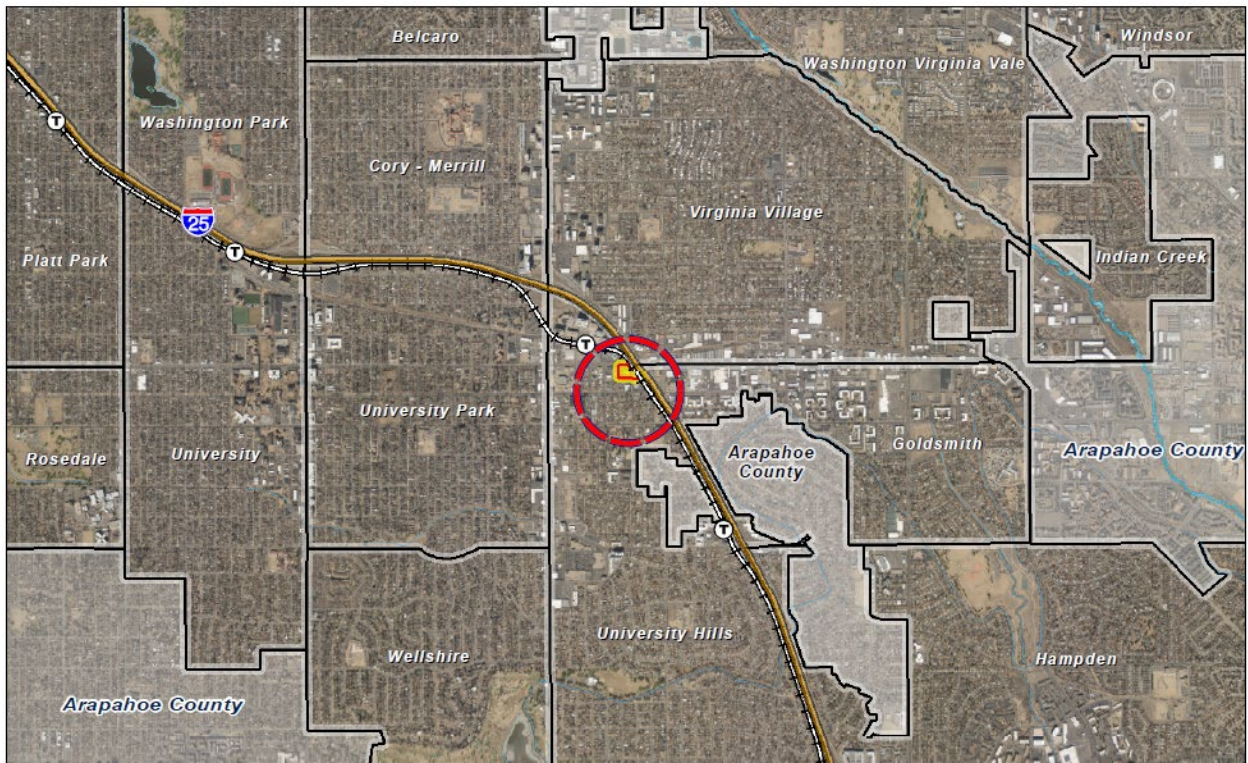
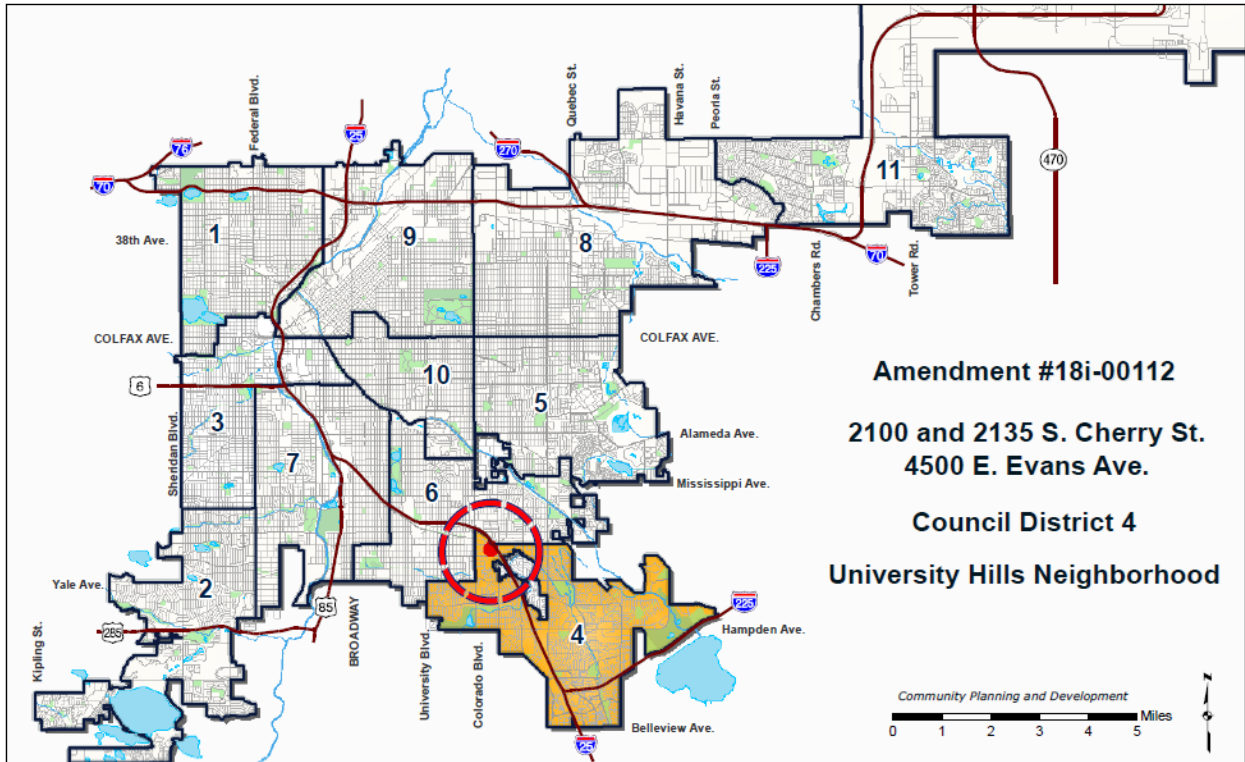
### Request for Rezoning

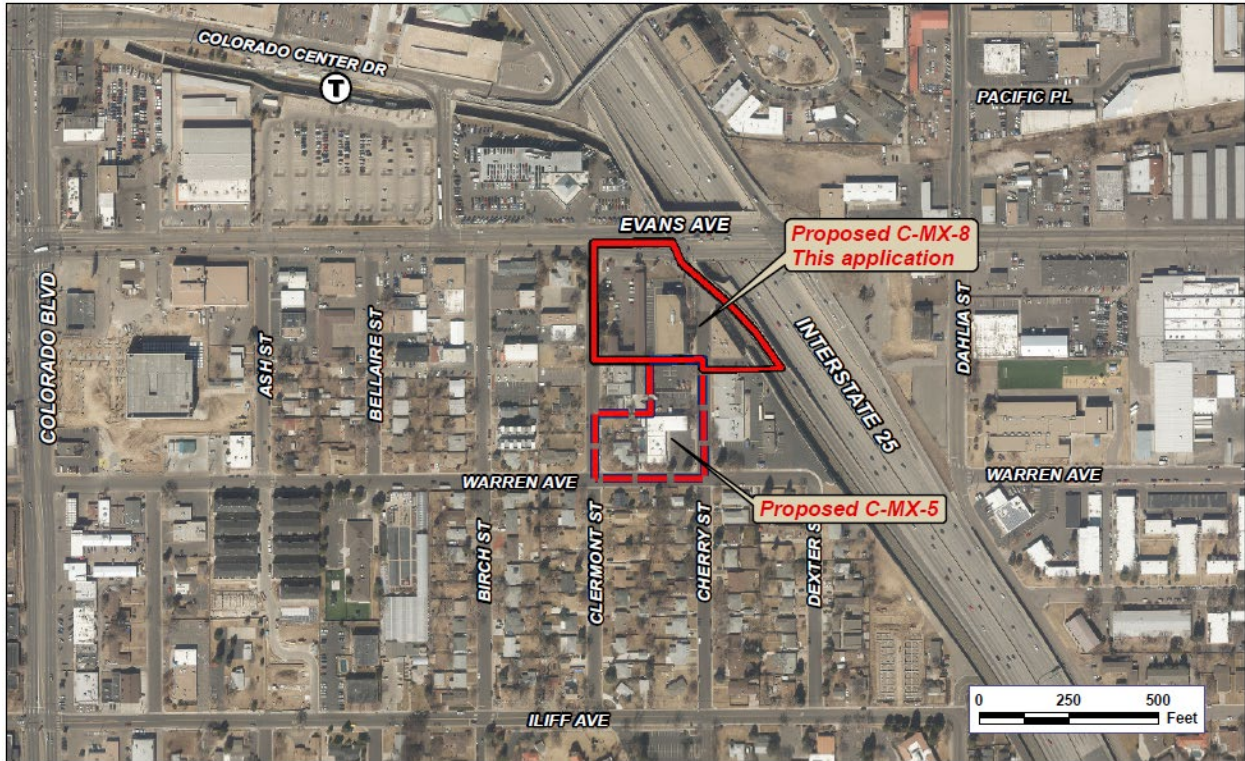
Address:	2100 & 2135 S. Cherry St. (portion) and 4500 Evans Ave.
Neighborhood/Council District:	University Hills / Council District 4
RNOs:	University Hills North Community, Southside Unified, Virginia Village/Ellis Community Association, Inter-Neighborhood Cooperation (INC)
Area of Property:	1.73 acres
Current Zoning:	C-MX-5
Proposed Zoning:	C-MX-8
Property Owner(s):	CREA-Flywheel Evans Landco LLC
Owner Representative:	Darren Domaracki, Kimley-Horn

### Summary of Rezoning Request

- The subject property is in the University Hills neighborhood near the RTD Colorado Station, just south of Evans Ave. and just west of Interstate 25.
- There are currently two office buildings and a motel on the site.
- The applicant is requesting the rezoning to redevelop the site.
- The C-MX-8 (Urban Center, Mixed Use, 8 story) zone district allows a wide range of commercial, civic/institutional, and residential primary uses in the General, Shopfront, and Town House building forms. Drive Thru building forms would not be allowed at the subject location because it is less than ¼-mile from the Colorado Station transit station. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 7 of the Denver Zoning Code (DZC).

## Existing Context





The subject property is located in the University Hills Neighborhood, along Evans Avenue between Clermont Street and Interstate 25. The property straddles Cherry Street, which dead ends at the north side of the property and does not connect to Evans Avenue. Map Amendment application 19I-00024, requesting a rezoning from G-MU-3 and PUD 277 to C-MX-5 is immediately south of the subject property. The Colorado Station transit station is about 1,000 feet to the northwest, and there is RTD bus service on Evans Avenue. The city recently purchased land two blocks to the west on the south side of Warren Avenue for a new park that has not been constructed yet. The property is part of a corridor of commercial development along Evans Avenue that transitions to predominantly medium- and low-density residential uses south of Warren Avenue.

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

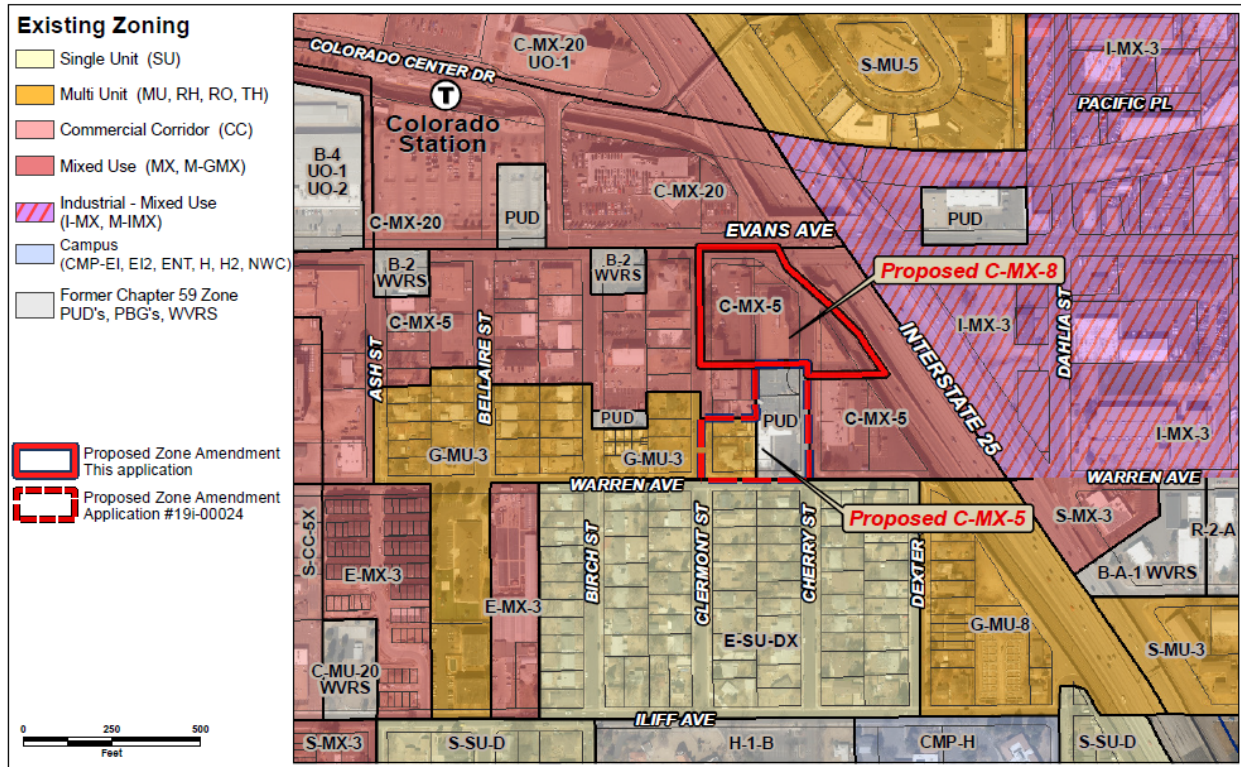
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	C-MX-5	Office, motel	2-story motel and two 2- and 3-story office buildings	Generally regular grid of streets interrupted to the north by Evans Ave. and to the east by I-25. Block sizes and shapes are consistent and rectangular. Vehicle parking in front of buildings (no alley access).
North	C-MX-20	Car dealership	1-story car dealership with large surface parking lot	
South	C-MX-5, PUD 277	Office, church/institutional	2-story office buildings and 1-story church	
East	I-MX-3	Interstate 25, commercial	Interstate 25, 1-story commercial buildings	
West	C-MX-5	Office, residential	1 and 2-story office buildings and 1-story house	

## 1. GDP

The subject property is part of the Colorado Station General Development Plan (GDP), approved in 2008. The property is in Development Area 2 of the Secondary GDP Area, which is intended as “primary land use is office due to proximity to major travel corridors.” The GDP anticipates building heights of one to six stories and ground-floor retail uses. However, the GDP also states “this GDP is a framework plan only and does not specifically allocate building height, mix of uses or density of the development. Changes to these items will not require any amendment, minor or major, to this GDP.”

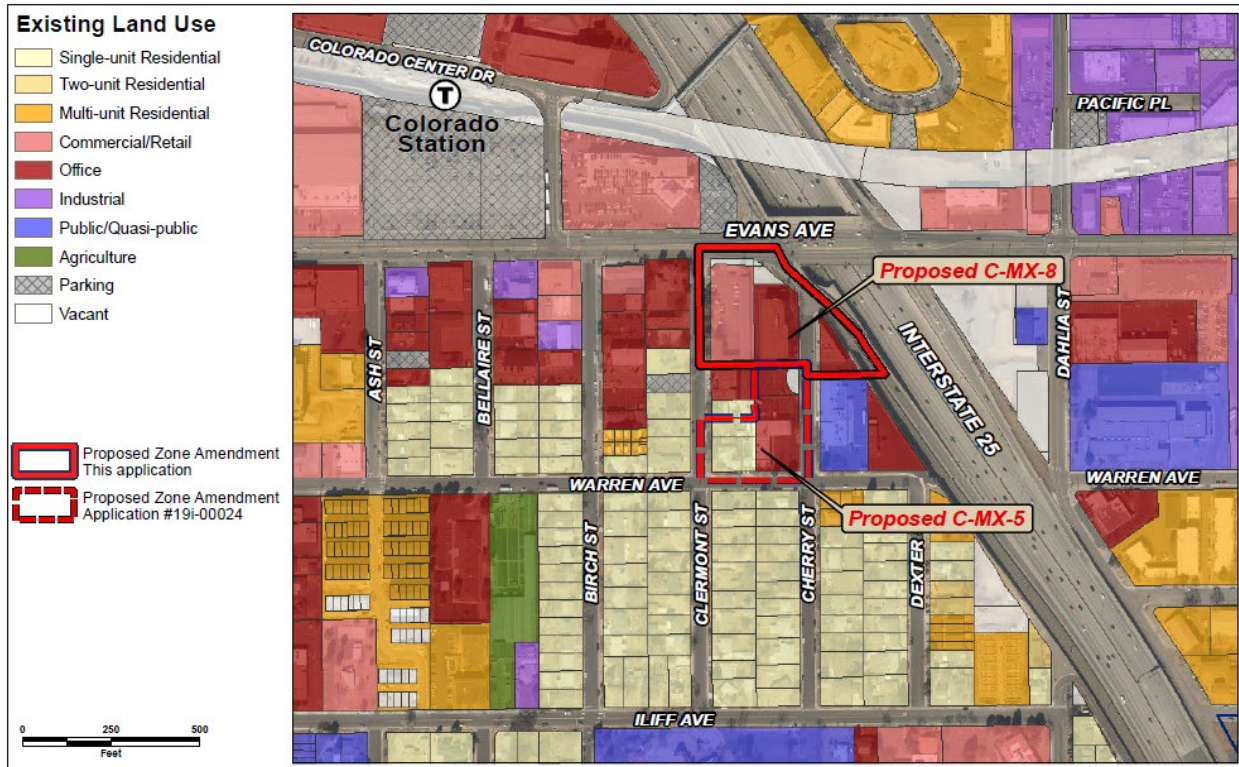
The GDP includes a conceptual street layout that includes a new east-west street between Evans Ave. and Warren Ave. The streets are intended to have on-street parking and detached sidewalks. The GDP also calls for new open space, stating “if land assembly and redevelopment allows, provide a neighborhood park north of Warren Avenue east of Birch Street.”

## 2. Existing Zoning



The subject property is zoned C-MX-5, which is a mixed-use zone district in the Urban Center context. It allows primary structures in the Town House, Drive Thru Services, Drive Thru Restaurant, General, and Shopfront building forms up to five stories and between 45 and 70 feet in height. However, the Drive Thru Services and Drive Thru Restaurant building forms would not be allowed at this location because it is less than ¼-mile from the Colorado Station transit station. Primary street setbacks are block sensitive, and other setbacks range from 0 to 10 feet. A broad range of commercial, residential, and civic uses are allowed.

### 3. Existing Land Use Map



### 4. Existing Building Form and Scale



Site – from Clermont St. & Evans Ave.



Site – from Cherry St.



**North** – from Evans Ave.



**East** – from Interstate 25



**West** – from Clermont St.  
Source: Google Maps



**South** – from Cherry Ave.

## **Proposed Zoning**

The requested C-MX-8 zone district allows the Town House, Drive Thru Services, Drive Thru Restaurant, General, and Shopfront building forms with a maximum height in feet of 110' with allowable encroachments. However, because the subject property is less than ¼-mile from the Colorado Station transit station, the Drive Thru building forms would not be allowed. The minimum primary street front setback is 0', except for the town house building form which has a 10' minimum primary street setback. A variety of mixed residential and commercial uses are allowed. For additional details of the requested zone district, see DZC Article 7.

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

Design Standards	C-MX-5 (Existing)	C-MX-8 (Proposed)
Primary Building Forms Allowed	Town House, Drive Thru Services*, Drive Thru Restaurant*, General, Shopfront	Town House, Drive Thru Services*, Drive Thru Restaurant*, General, Shopfront
Height in Stories/Feet (max)	5/45'-70'**	5-8**/45'-110'**
Primary Build-To Percentages (min)	50-75%**	50-75%**
Primary Build-To Ranges	0'-10' to 5'-15'**	0'-10' to 5'-15'**
Minimum Zone Lot Size/Width	N/A	N/A
Primary Setbacks (min)	0'-10'**	0'-10'**
Building Coverages	N/A	N/A

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

\*\*Standard varies between building forms

### Development Agreement

Concurrent with the rezoning, the applicant is also facilitating a voluntary development agreement to be recorded by the property owner. The agreement applies to the property proposed to be rezoned under this application, as well as the property proposed to be rezoned under application 19I-00024. General terms of the signed agreement include:

- Affordable Housing
  - Minimum of 10% of all units income-restricted at or below 80% Area Median Income (AMI) for a period of 99 years
  - Minimum of 25% of income restricted units will be two-bedroom units
  - Residential units will be constructed in the first phase of development
- Publicly Accessible Private Open Space
  - Minimum of 30,000 square feet of publicly accessible private open space
  - Minimum of 20,000 square feet of the publicly accessible private open space to be in one compact and contiguous formation with direct public access from Clermont St.
  - Applicant shall own and maintain the publicly accessible private open space with an open space easement ensuring public accessibility
- Streetscape
  - Applicant will construct detached sidewalks with five-foot tree lawns along Clermont St. and Warren Ave., instead of the otherwise required attached sidewalks

### 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 below:

- Notes. DDPHE concurs with the rezoning and has no information to suggest that current environmental conditions would impact the proposed rezoning.
- General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, 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: DEH 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:** Approved – No comments

**Development Services - Transportation:** Approved – See comments below:  
 DES Transportation approves the subject zoning change. The applicant has begun the redevelopment process by submitting a conceptual plan. Refer to DS Project #2019PM0000059 for the extent of required design and improvements necessary i.e. additional engineering, ROW dedication to the City, access changes, and right of way improvements.

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

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

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

**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:	7/3/19
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:	8/30/19
Planning Board recommended approval by a 10-0 vote:	9/18/19
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	9/23/19
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	10/8/19
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 (tentative):	10/28/19
City Council Public Hearing (tentative):	11/18/19

- **Registered Neighborhood Organizations (RNOs)**
  - The city has received a letter of support from the University Hills North Community along with a copy of a good neighbor agreement between the applicant and UHNC. The support is conditional upon finalizing a good neighbor agreement between the RNO and the applicant. The letter and agreement are attached.
- **Other Public Comment**
  - To date, no other comment letters 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 currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *Colorado Station General Development Plan*
- *Housing An Inclusive Denver*

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

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

- Equitable, Affordable, and Inclusive Goal 1, Strategy A – *Increase development of housing units close to transit and mixed-use development (p. 28).*
- Equitable, Affordable, and Inclusive Goals 2, Strategy D – *Increase the development of senior-friendly and family-friendly housing, including units with multiple bedrooms in multi-family development (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 close to transit (p. 28).*

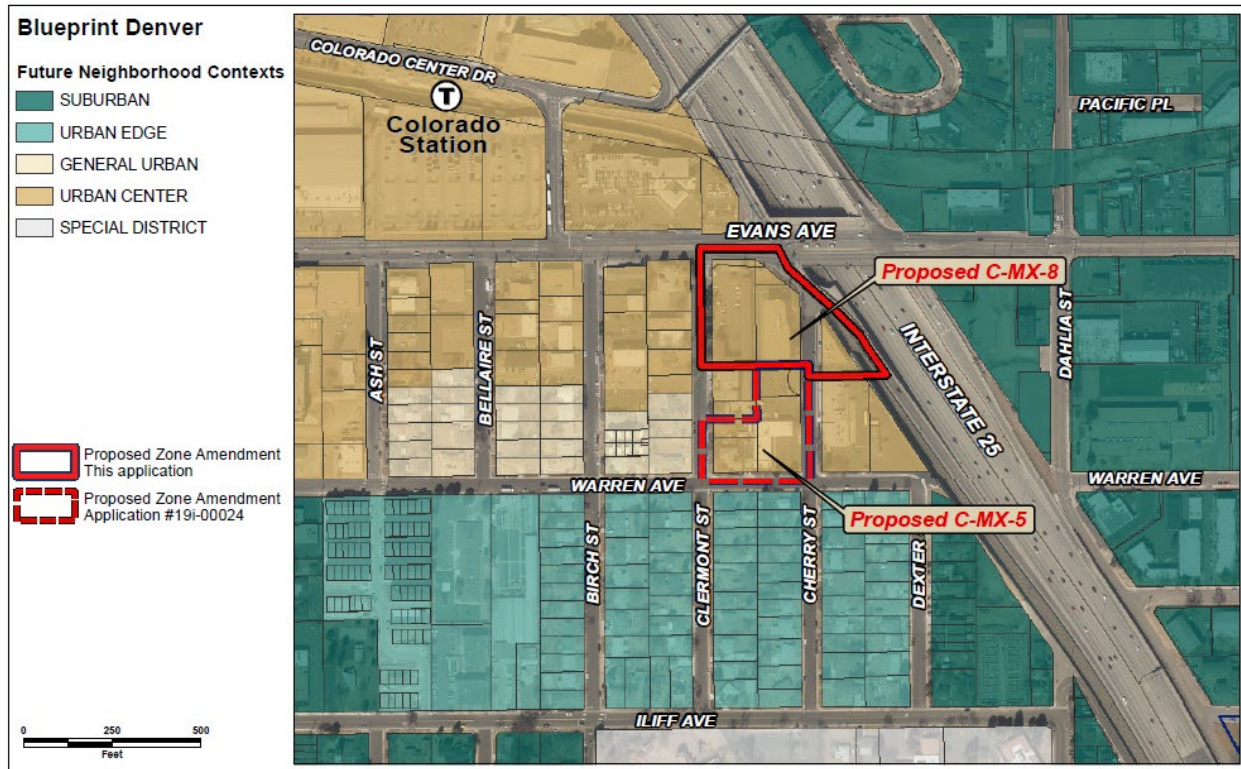
- Strong and Authentic Neighborhoods Goal 1, Strategy A – *Build a network of well connected, vibrant, mixed-use centers and corridors* (p. 34).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).
- 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).
- 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).
- Healthy and Active Goal 2, Strategy C – *Expand the supply of parks, recreational facilities, and programs relative to Denver’s population growth* (p. 58).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested C-MX-8 zone district broadens the variety of uses allowing residents to live, work and play in an area served by transit. The development agreement ensures affordable and family-friendly residential units will be constructed, and additional open space will be provided. Therefore the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

### ***Blueprint Denver***

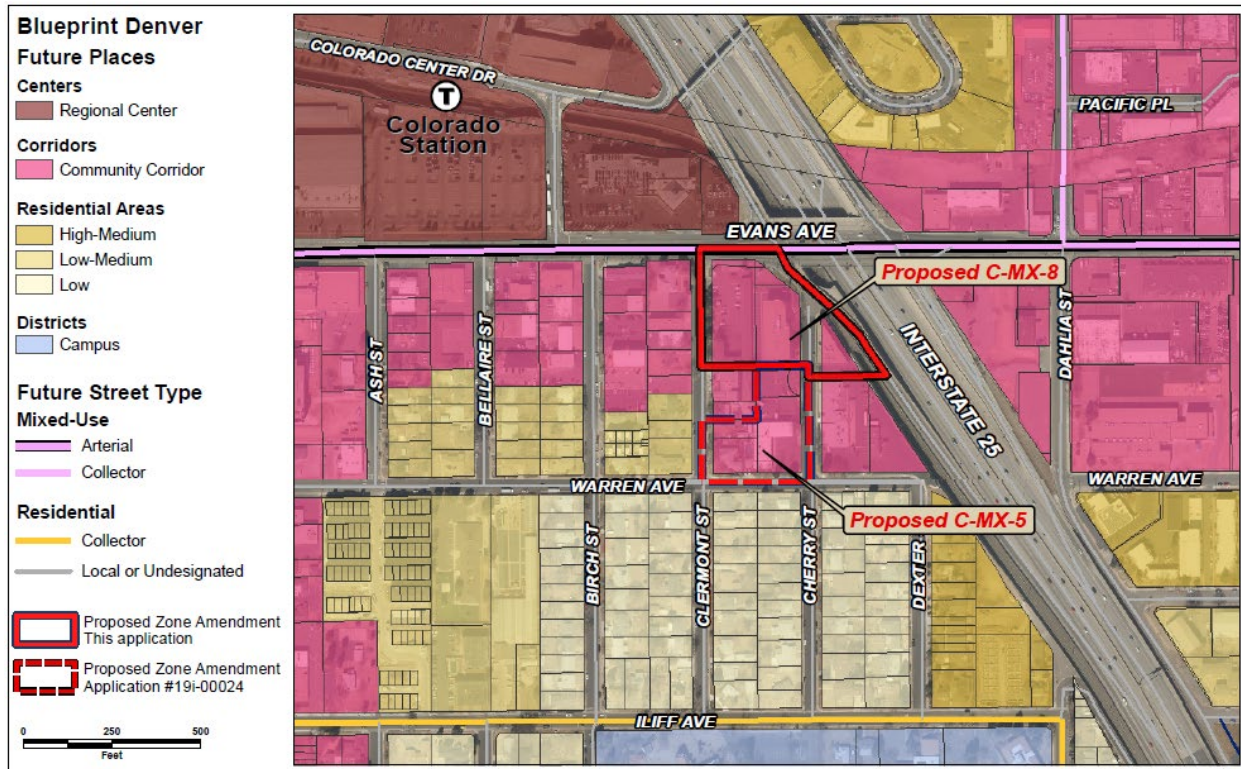
*Blueprint Denver* was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city’s land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Community Corridor place within the Urban Center Neighborhood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

***Blueprint Denver Future Neighborhood Contexts***



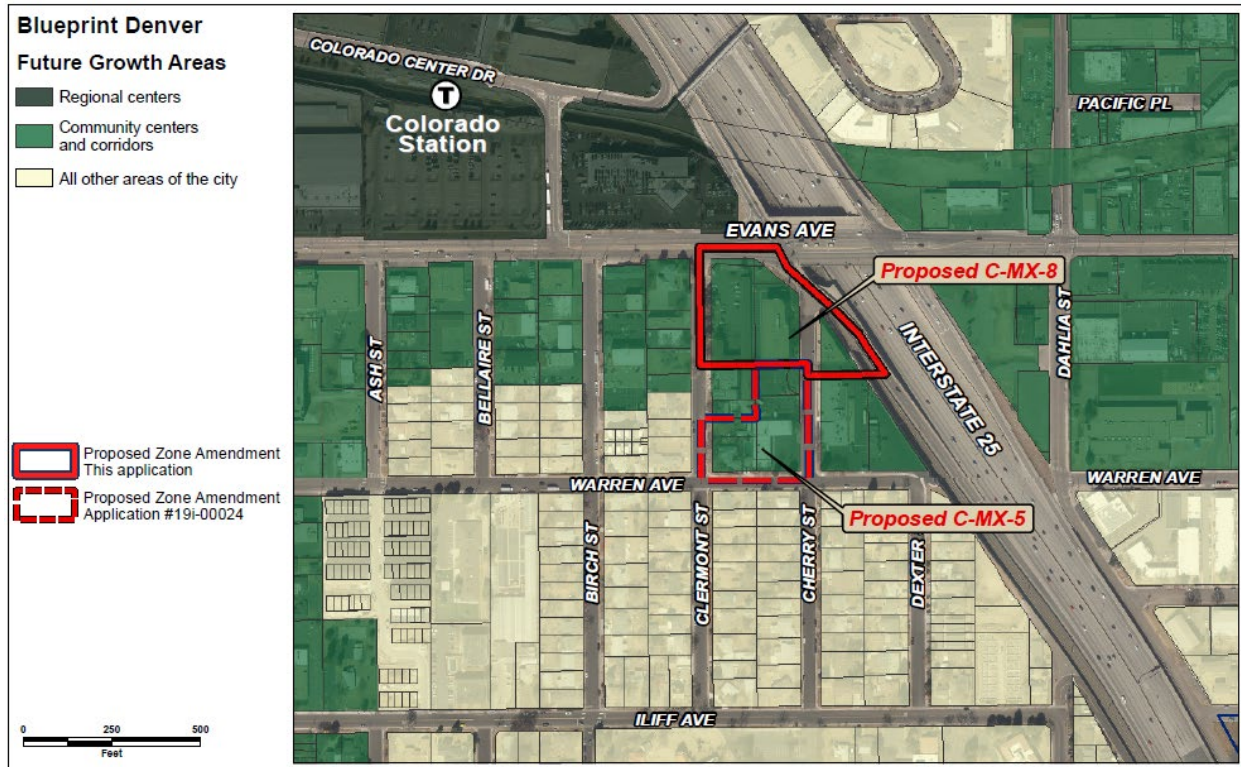
In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in things like land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is shown on the context map as Urban Center neighborhood context. The neighborhood context map and description help guide appropriate zone districts (p. 66). The Urban Center neighborhood context is described as containing “high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity” (p. 252). The proposed C-MX-8 zone district is part of the Urban Center context and is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge” and “the Mixed-Use districts are focused on creating mixed, diverse neighborhoods” (DZC 7.2.2.1). Since the proposed district allows a substantial mix of uses and allowable building forms that contribute to street activation, the proposed rezoning to an Urban Center context is appropriate and consistent with the plan.

***Blueprint Denver Future Places***



The neighborhood context of Urban Center provides nuance to the aspirations of the individual places shown on the map. The Future Places Map shows the subject property as part of a Community Corridor. *Blueprint Denver* describes the aspirational characteristics of Regional Centers in the Urban Center context as, “Typically provides a mix of office, commercial and residential uses.... Buildings have a distinctly linear orientation along the street. Building footprints are typically larger. Heights are generally up to 8 stories. Due to shorter lot depths, special attention may be needed for transitions to nearby residential areas” (p. 258). The proposed district of C-MX-8 provides a wide range and mix of uses. The future proposed height of up to 8 stories is appropriate for a community corridor in this location, providing a transition between the 20-story zoning north of Evans Ave. and the single-unit zoning south of Warren Ave.

## **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 part of a Community Corridor. Community Centers and Corridors are anticipated to see around 25% of new housing growth and 20% of new employment growth by 2040 (p. 51). "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 C-MX-8 will focus mixed-use growth to a Community Corridor where it has been determined to be most appropriate. Access to jobs, housing, and services can improve in the mixed-use zone districts, and this site has access to light rail and bus transit.

## **Street Types**

In *Blueprint Denver*, street types work in concert with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). *Blueprint Denver* classifies Evans Ave. as a Mixed-Use Arterial and Cherry St. and Clermont St. as Local Streets. Interstate 25 is undesignated.

*Blueprint Denver* states "Arterial streets are designed for the highest amount of through movement and the lowest degree of property access" (p. 154). Mixed Use streets are intended for a "varied mix of uses including retail, office, residential, and restaurants, typically multi-story, usually with high building coverage with a shallow front setback" (p. 159). The proposed C-MX-8 zone district would allow multi-

story mixed-use development with a shallow front setback along Evans Ave., consistent with the Mixed-Use Arterial street type description.

“Local streets provide the lowest degree of through travel but the highest degree of property access” (p.161). The use and built form characteristics of Local streets are described as, “Local streets can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p.161). The proposed C-MX-8 district is consistent with these descriptions as Local streets provide property access and connections to larger streets, such as Evans Ave.

### **Strategies**

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

- Land Use and Built Form: General Policy 1, Strategy A – *Use zoning and land use regulations to encourage higher-density, mixed-use development in transit-rich areas including:... Community corridors where transit priority streets are planned* (p. 72).
- Land Use and Built Form: General Policy 2, Strategy C – *Allow increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas* (p. 72).
- Quality of Life Infrastructure Policy 2, Strategy B – *Support a robust street tree canopy by prioritizing trees in right-of-way design* (p. 118).

The proposed C-MX-8 zoning would allow higher-density mixed-use development in an area served by transit. In addition, *Blueprint Denver* designates Evans Ave. a Medium-Capacity Transit Corridor (p. 179). And the development agreement would require the installation of street trees along Clermont St. and Warren Ave. Therefore the proposed rezoning to C-MX-8 is consistent with the policies, context, place, growth strategy, and street type recommendations of *Blueprint Denver*.

### ***Colorado Station General Development Plan***

As described above, the Colorado Station GDP applies to the subject property. Under the Denver Zoning Code, “City Council may approve an official map amendment (rezoning) application for property located within an approved LDF (Large Development Framework) or GDP area, taking into consideration the approved LDF or GDP” (DZC Section 12.4.12.15.B). The proposed C-MX-8 zone district is consistent with the GDP intent to allow more intense commercial uses. While the height and allowed uses of C-MX-8 do not exactly match the GDP, the “GDP is a framework plan only and does not specifically allocate building height, mix of uses or density.” The proposed development agreement includes the provision of publicly accessible private open space and detached sidewalks as described in the GDP. Overall, the proposed map amendment and development agreement are consistent with the general framework outlined in the Colorado Station GDP.

### ***Housing an Inclusive Denver***

Housing an Inclusive Denver is not adopted as a supplement to the Comprehensive Plan, but the plan was adopted by City Council. Housing an Inclusive Denver provides guidance and strategies to create and preserve strong and opportunity-rich neighborhoods with diverse housing options that are



accessible and affordable to all Denver residents (p. 6). Core goals of the plan include: creating affordable housing in vulnerable areas and in areas of opportunity; preserving affordability and housing quality; promoting equitable and accessible housing; and stabilizing residents at risk of involuntary displacement (p. 7). To that end, the plan includes several recommendations, including “promote development of new affordable, mixed-income and mixed-use rental housing” (p. 83). As described above, the proposed development would require residential units in the first phase of any development, with 10% of those units affordable at 80% AMI for 99 years. Given this commitment, the proposed rezoning would facilitate additional affordable housing opportunities consistent with the goals and strategies of Housing an Inclusive Denver.

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

The proposed rezoning to C-MX-8 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 the city’s adopted land use plan and fostering the creation of a walkable, mixed-use area. The proposed development agreement would also enhance public health, safety, and welfare by providing additional publicly accessible open space and detached sidewalks, promoting physical activity in a safe and convenient manner.

## **4. Justifying Circumstance**

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, “Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include: Changed or changing conditions in a particular area, or in the city generally....”

The area between Warren Ave. and Evans Ave. has seen several new town house and apartment developments over the last few years, starting to change the character of the area into a higher-intensity residential and mixed-use area, consistent with the proposed C-MX-8 zoning. In addition, there has been new high-rise development in Colorado Center, just north of the transit station, further developing the transit-oriented development around the station, of which this property would be an extension. The character of the area is changing into a transit-oriented mixed-use corridor, which justifies the rezoning of the property to C-MX-8 to serve the public interest.

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

The requested C-MX-8 zone district is within the Urban Center Neighborhood Context. The neighborhood context generally consists of multi-unit residential and mixed-use commercial strips and commercial centers (DZC, Division 7.1). The current zone district, C-MX-5, is also in the Urban Center Neighborhood Context. The area is currently evolving to fit this context description, consistent with

adopted plans, and the proposed rezoning will facilitate development consistent with that evolution and the Urban Center context description.

The general purpose for the mixed-use zone districts stated in the Denver Zoning Code is to “promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly define and activate the public street edge” and “ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods” (DZC Section 7.2.2.1). The proposed C-MX-8 zone district would facilitate mixed-use development with active ground floors, providing a transition between more intense development to the north and less intense development to the south, consistent with the stated purpose.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-8 district “applies to areas or intersections served primarily by arterial streets where a building scale of 2 to 8 stories is desired” (DZC Section 7.2.2.2.C). The subject property is served by Evans Ave., a Mixed-Use Arterial street. In addition, Interstate 25 is immediately east of the site and the Colorado Station transit station is just across Evans Ave. The street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

### **Attachments**

1. Application
2. Development Agreement (November 4, 2019)
3. Public Comment