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TO: Denver City Council
FROM: Fran Penafiel, Principal City Planner and Alisa Childress, Associate City Planner
DATE: January 23, 2025
RE: Official Zoning Map Amendment Application #2023I-00095

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval of application #2023I-00095 by the full City Council.

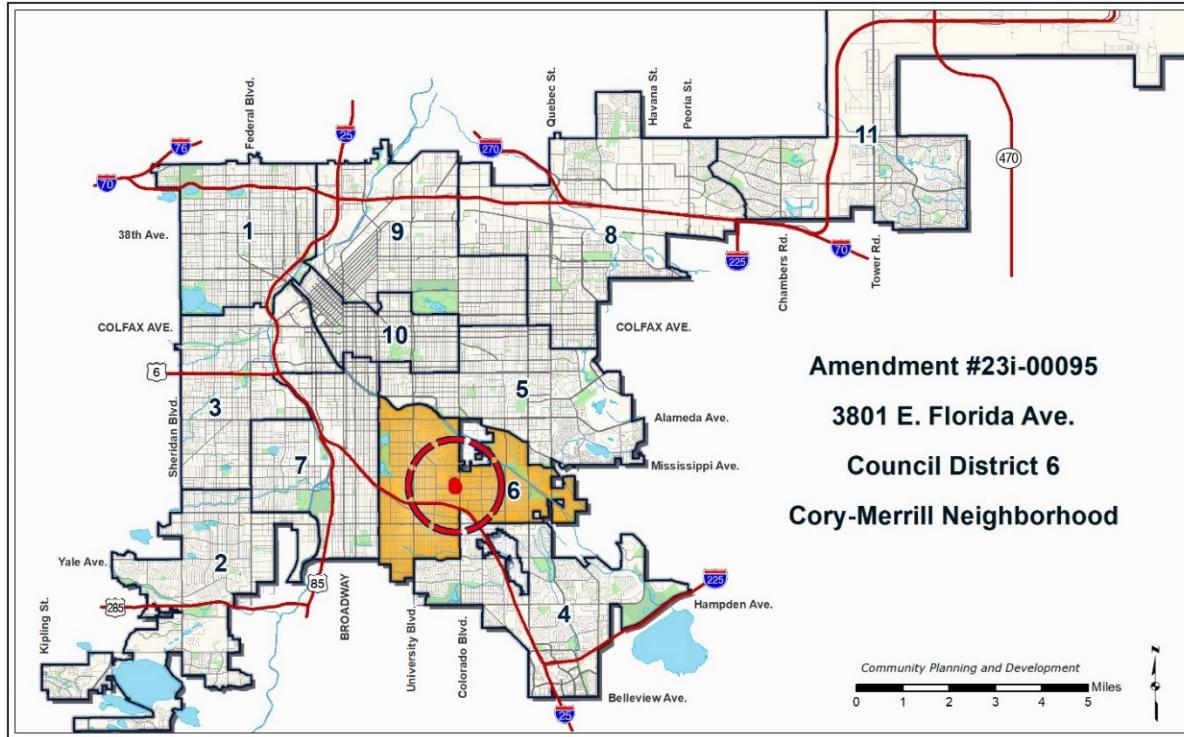
Request for Rezoning

Address:	3801 East Florida Avenue
Neighborhood/Council District and CM:	Cory-Merrill / Council District 6 – Paul Kashmann
RNOs:	Cory-Merrill Neighborhood Association, Strong Denver, Inter-Neighborhood Cooperation (INC)
Area of Property:	126,697 square feet or 2.912 acres
Current Zoning:	B-A-3 and O-1
Proposed Zoning:	S-MX-5
Property Owner(s):	F6F, LLC
Owner Representative:	David Budrow, David Budrow Architects, LLC

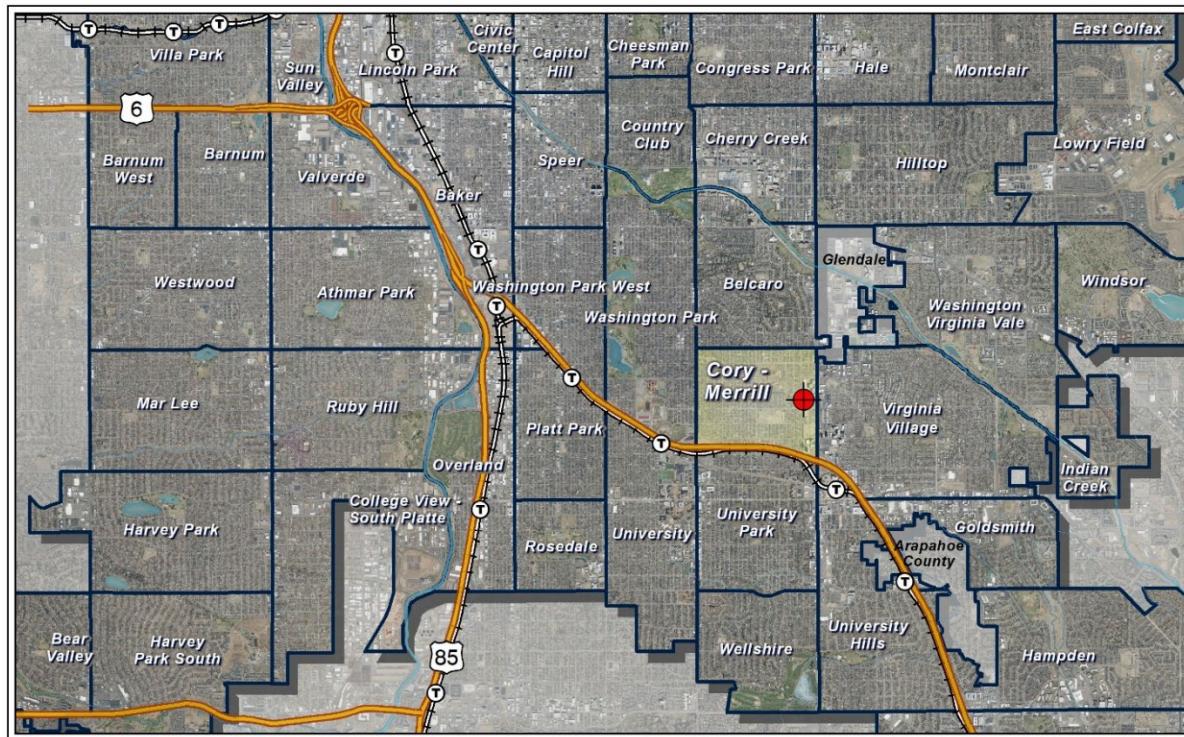
Summary of Rezoning Request

- The subject property is in the Cory-Merrill neighborhood, at the corner of South Jackson Street and East Florida Avenue.
- This application proposes to rezone the subject property to S-MX-5. The property is currently zoned B-A-3 and O-1, which are districts in the Former Chapter 59 Zoning Code. See “Existing Zoning” below for more information about the current zoning of this property.
- The subject property is currently occupied by a nine-story office building and parking lot.
- The applicant is requesting the rezoning to facilitate the redevelopment of the property in a way that is consistent with the recommendations in adopted plans. If rezoned, the structure on the property will be considered a Compliant Structure. If the structure was demolished and rebuilt, the 5-story height maximum would apply.
- The proposed S-MX-5 (Suburban, Mixed-Use, 5-story) zone district allows a broad range of commercial, residential, and civic uses in the General, Drive Thru Services, Drive Thru Restaurant, and Shopfront building forms with a maximum height of five stories. 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).

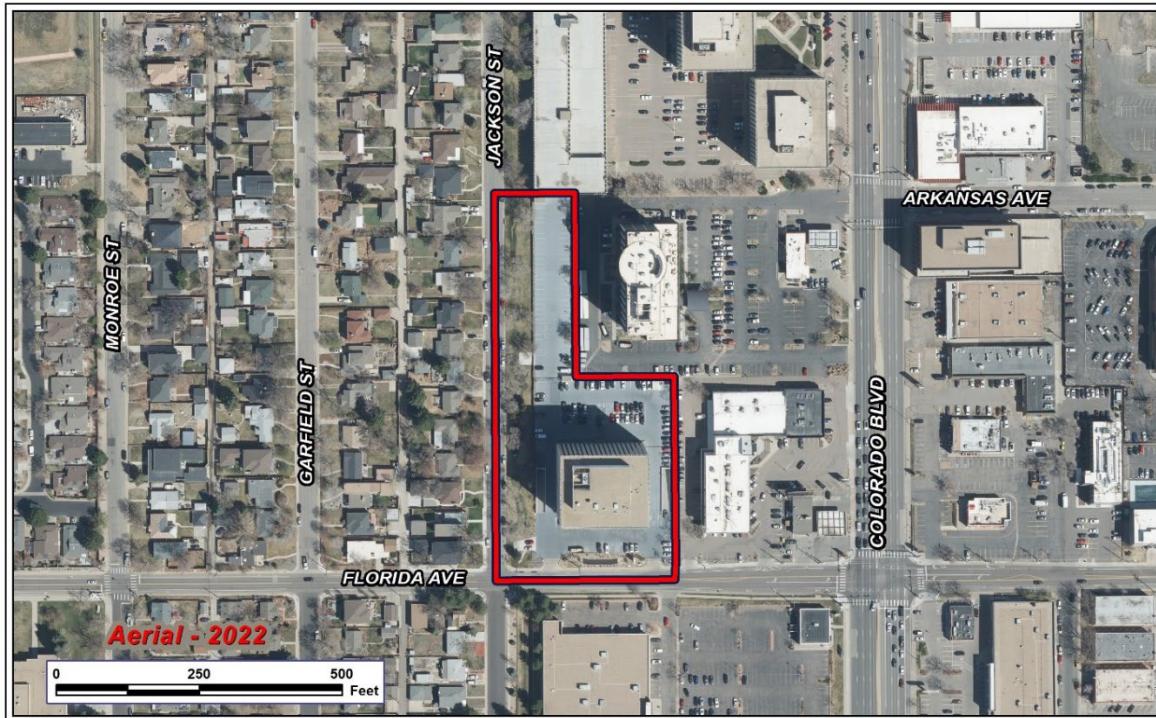
City Location



Neighborhood Location – Cory-Merrill



Existing Context

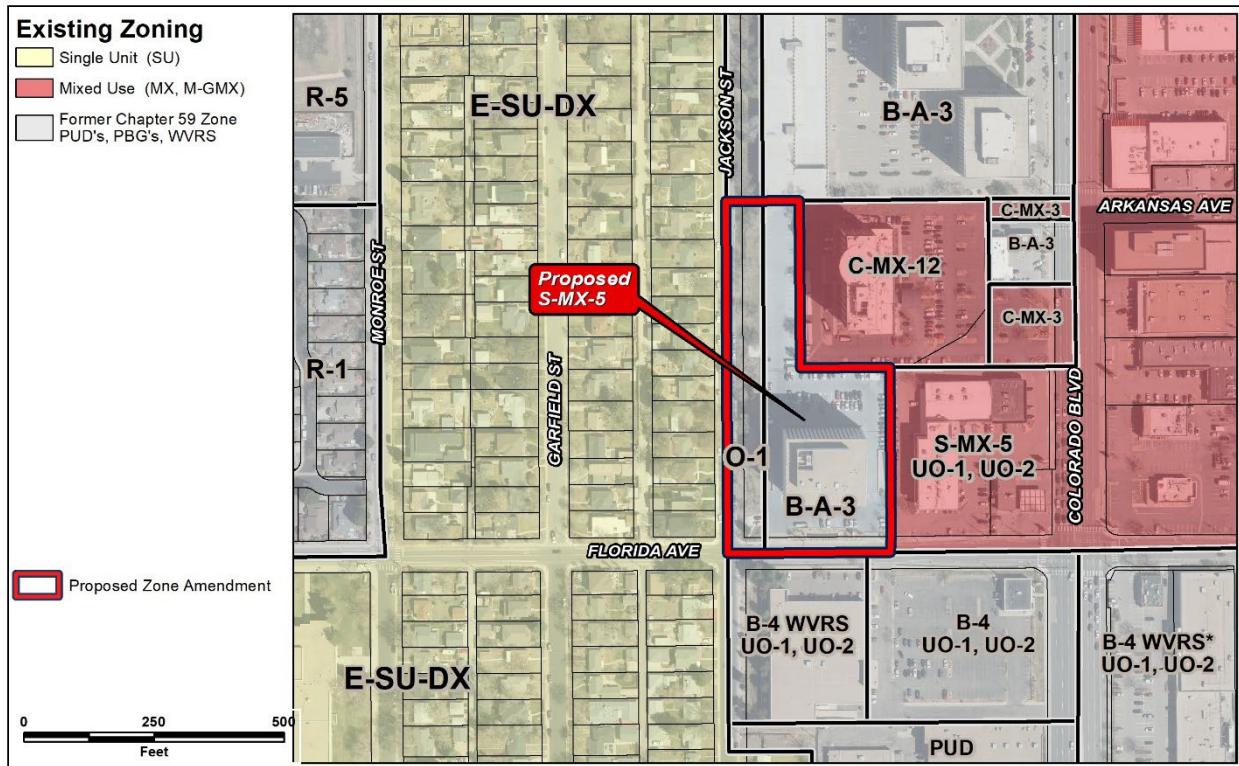


The subject property is in the Cory-Merrill neighborhood at the corner of South Jackson Street and East Florida Avenue. It is one-half block from South Colorado Boulevard which runs parallel to South Jackson Street. The area has a mix of commercial/retail and office uses on the east side of South Jackson Street and single-family homes on the west side. Transit access includes the Regional Transportation District (RTD) bus route 40 which runs along South Colorado Boulevard and has 30-minute headways. The bus stop for this route is approximately one-block away, along South Colorado 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-A-3 and O-1	Office	Nine-story office building and parking lot	The street pattern is suburban and inconsistent. Block sizes, shapes, building setbacks, and street orientation are varied.
North	C-MX-12	Commercial	13-story hotel	Large-scale development often occupies super blocks while residential uses occupy smaller blocks, some served by alleys.
South	B-4 WVRS, UO-1, UO-2	Commercial	1-story commercial building	
East	S-MX-5, UO-1, UO-2	Commercial	3-story commercial building	
West	E-SU-Dx	Single-unit residential	1-2 story residential homes	

1. Existing Zoning



The subject site is currently zoned primarily B-A-3, which is a zone district in the Former Chapter 59 zoning code that allows a wide array of commercial, residential, and industrial uses. The western side of the property is zoned O-1. O-1 is a zone district in the Former Chapter 59 zoning code that allows a variety of industrial and institutional uses.

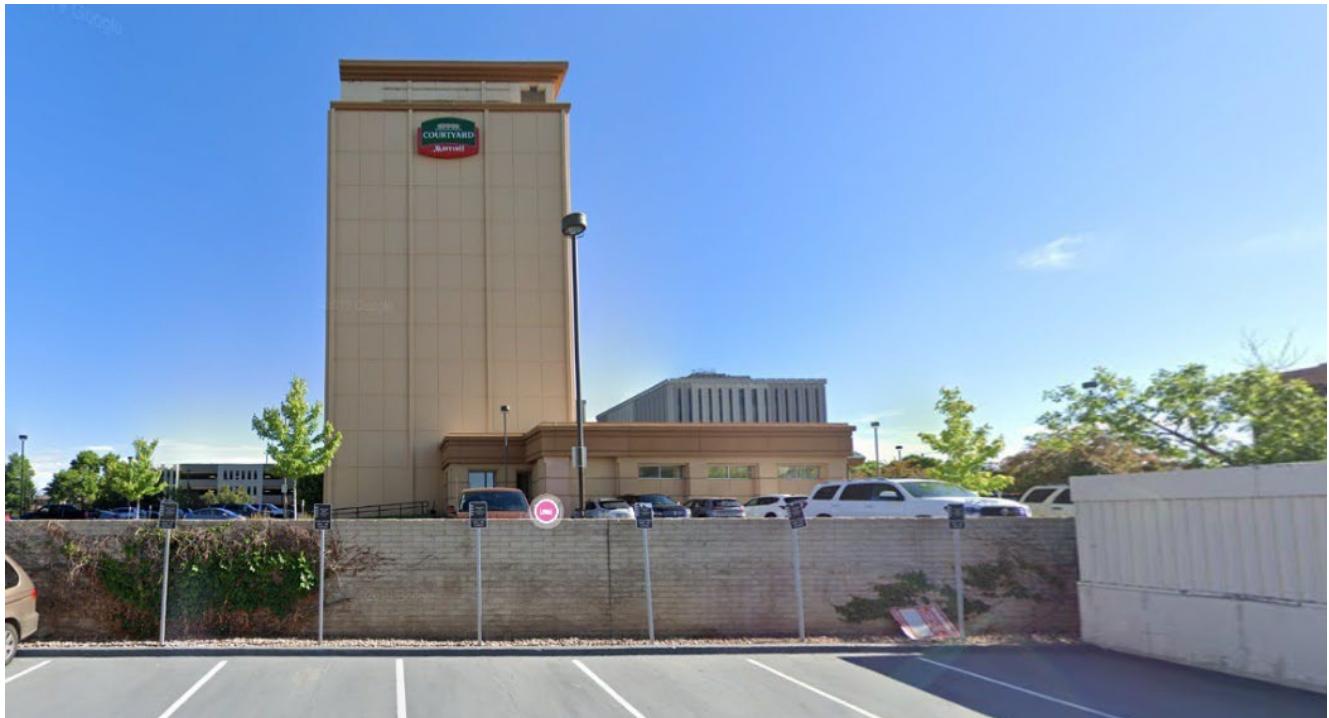
2. Existing Land Use Map



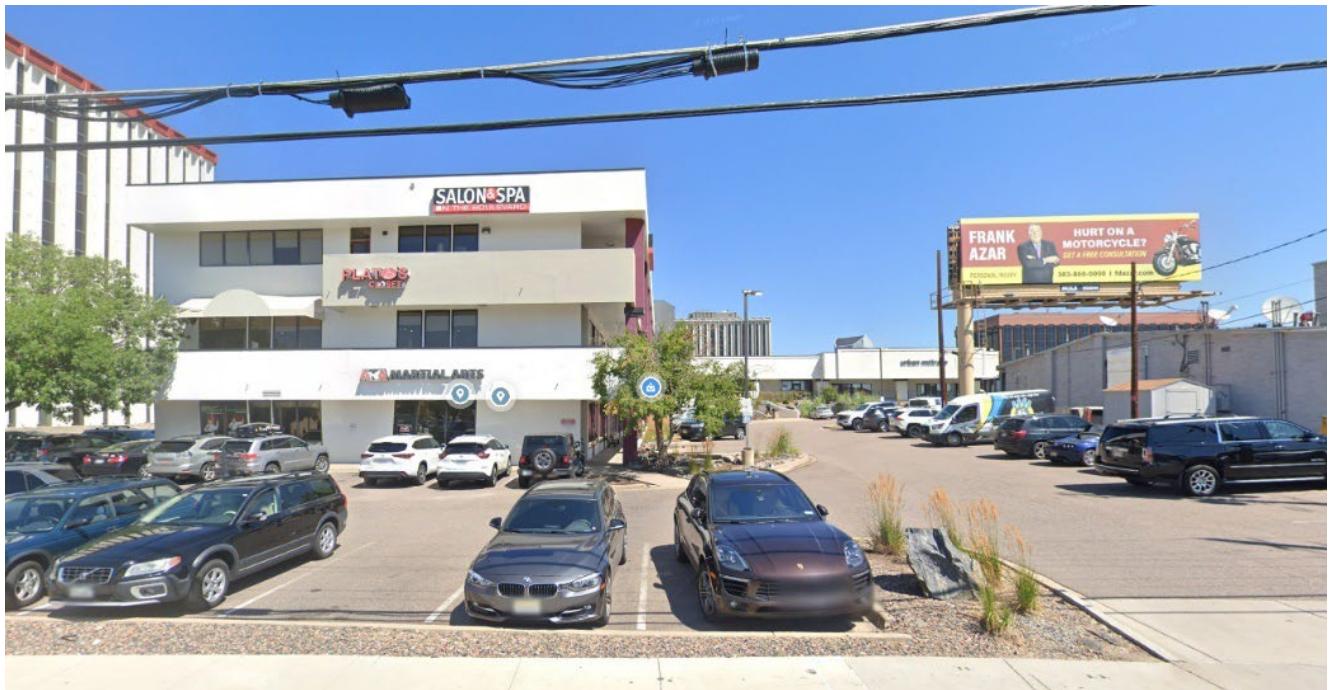
3. Existing Building Form and Scale (Source: Google Maps)



Site - Looking north from across East Florida Avenue



North - The property to the north, looking north from the north side of the property



East – The property to the east, looking north from East Florida Avenue

Rezoning Application #2023i-00095

3801 East Florida Avenue

January 23, 2025

Page 7



South – The property to the south, looking south across East Florida Avenue



West – The single-unit housing to the west, looking west across South Jackson Street

Proposed Zoning

The requested S-MX-5 zone district has a maximum height of five stories or 70 feet with allowable encroachments, except for the drive-thru building forms, which are limited to three stories and 45 feet. The minimum primary street setback is zero feet. A variety of residential, commercial, industrial, and civic uses are allowed. Build-to requirement ranges between 0% and 75%, depending on the building form. For additional details of the requested zone district, see DZC Sections 3.3.3.4. The primary building forms allowed in the existing zone district and the proposed zone district are summarized below.

Design Standards	B-A-3 (Existing)	S-MX-5 (Proposed)
Primary Building Forms Allowed	NA	Drive Thru Services, Drive Thru Restaurant, General, Shopfront
Stories/Heights (max.)	NA	5 stories / 70 feet without incentives* 7 stories / 95 feet with incentives*
Feet, within 175' of Protected District (max)	75'*	75'*
Building Coverage per Zone lot	30%	NA
Primary Build-To Percentages (min.)	NA	Drive Thru Services: NA Drive Thru Restaurant: 50% General: 50% Shopfront: 75%
Primary Build-To Ranges (min./max.)	NA	Drive Thru Services: NA Drive Thru Restaurant: 0'/80' General: 0'/80' or 0'/150' Shopfront: 0'/5' (0'/10' for Residential only)
Primary Street Setbacks (min.)	20' if primary street is an arterial 10' if primary street is not an arterial	0' for all building forms
Primary Street Transparency (min.)	NA	Drive Thru Services: 40% Drive Thru Restaurant: 40% General: 40% (30% for Residential only) Shopfront: 60% (40% for Residential only)

*7 stories or 95 feet is allowed in the general and storefront building form for the provision of enhanced affordable housing. However, the site's proximity to a protected district (E-SU-Dx) would limit height to 75 feet.

Generally, specific development proposals and standards are not assessed until a Site Development Plan is submitted. However, initial conversations with the Department of Transportation and Infrastructure Wastewater and Forestry teams revealed the following:

- The sidewalk ordinance will require a 5' sidewalk and an 8' amenity zone along Jackson Street. This would preserve approximately 15' of the green space in the form of right-of-way.
- Forestry will require the preservation of all the trees immediately along the curb on Jackson St.
- All proposed improvements, including sidewalks and access ways, should be located outside the tree protection zone of trees. This may mean that a larger amenity zone will be required.
- Generally speaking, Forestry would not permit the mass removal of the trees along Jackson Street.

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) performed a limited search for environmental information regarding environmental conditions at the project site. This review was not intended to conform to the ASTM standard practice for environmental site assessments, nor was it designed to identify all potential environmental conditions. The EQD provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided. This review was not intended to assess environmental conditions for any property interest dedication or grant. Nor does this review does constitute an approval or action by the EQD concerning any property dedication or grant associated with the project.

--EQD is not aware of environmental concerns that would affect the proposed project. Although EQD is not aware of contaminated environmental media (soil, soil vapor, or groundwater) at the project Site, undocumented contamination could be encountered during ground-disturbing activities. If encountered, contaminated environmental media or underground storage tanks should be properly managed in accordance with applicable regulations. 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 – No Comments.

Department of Transportation and Infrastructure – Surveyor: Approved.

Development Services – Project Coordination: Approved – No Response.

Development Services – Transportation: Approved – No Response.

Development Services – Wastewater: Approved – No Response

Development Services – Fire Protection: 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:	11/14/2023
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:	4/30/2024
Planning Board public hearing: (Recommended Approval)	5/15/2024
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 (10) working days before the meeting:	7/16/2024
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	7/30/2024
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:	8/26/2024
City Council Public Hearing – CM Kashmann requested postponement of a month to allow time to the applicant to do engagement and work on potential waiver. CPD studied a waiver alternative and determined it was not an appropriate tool to address the issues with green space and tree preservation.	9/16/2024
City Council – postponed to a day certain by applicant request. CPD offered mediation services to the applicant to work with the concerns neighbors. The applicant decided not to pursue mediation or any other type of community engagement.	10/14/2024
City Council	1/27/2025

- **Registered Neighborhood Organizations (RNOs)**
 - 1 letter of support from the East Evans Business Association has been received. The letter expressed support for a district that promotes safe, active, and pedestrian-scaled development and that a mixed-use district would provide a good transition to the residential area.
 - 1 letter of opposition from the Cory-Merrill Neighborhood Association has been received. The letter expresses opposition for the rezoning, citing concerns about property values, privacy, noise, parking, and aesthetics.
- **Other Public Comments**
 - To date, staff has received 16 comments in opposition from neighboring property owners. Comment themes include concerns about potential loss of green space along Jackson Street, increased traffic and street noise, less parking, and the impact of commercial uses spilling over into the neighborhood.
- **Protest Petition**

Kimberly Panther Page submitted a protest petition. It was determined that the protest petition signatures submitted did not meet the 20% requirement, and the petition does not constitute a legal protest. Please see the attached memo summarizing the results.

Criteria for Review / Staff Evaluation

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

DZC Section 12.4.10.7

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

DZC Section 12.4.10.8

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

1. Consistency with Adopted Plans

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2040* (2019)
- *Blueprint Denver* (2019)
- *The Colorado Boulevard Plan* (1991)

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 – “Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities” (p. 28).

S-MX-5 allows for residential, commercial, and office uses, which will allow for a variety of amenities and basic services for nearby residents.

- Strong and Authentic Neighborhoods Goal 1, Strategy D – “Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities” (p. 34).

S-MX-5 expands the permitted uses on the site which could lead to an increase in amenities. The design standards will ensure any proposed use or development is consistent with the surrounding neighborhood.

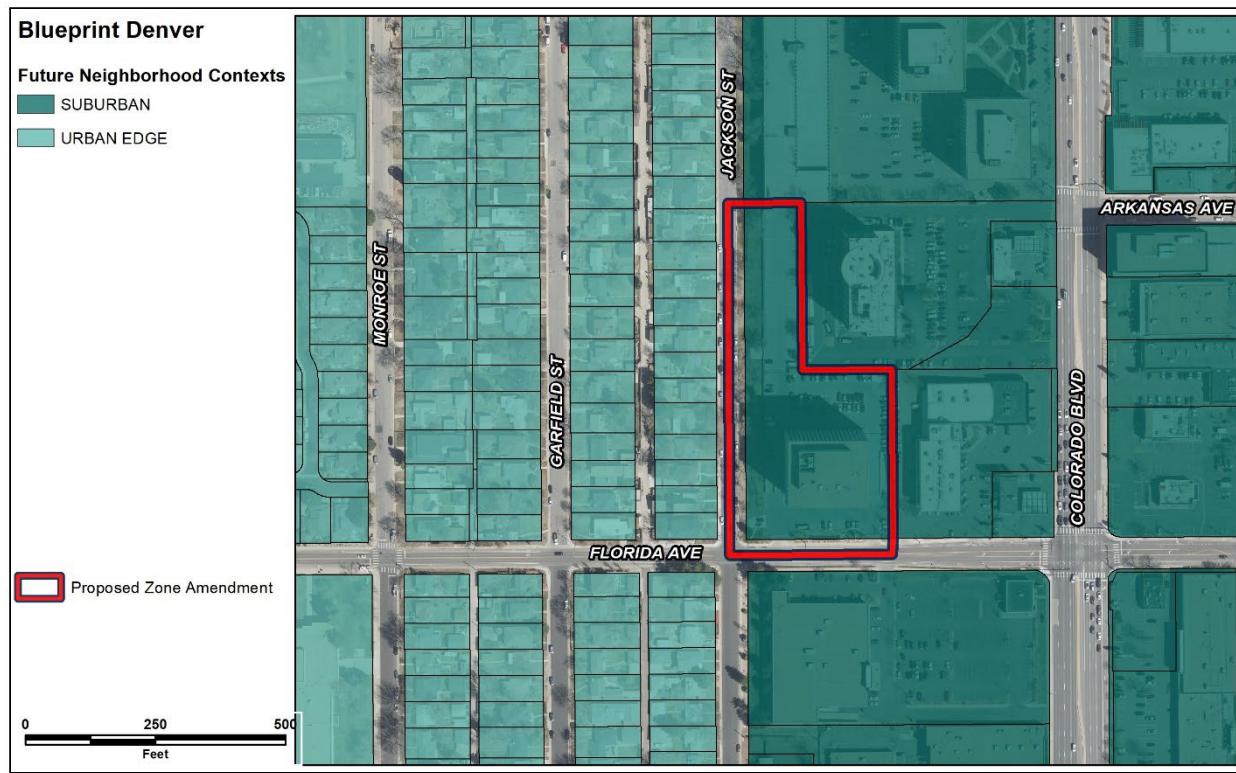
- Environmentally Resilient Goal 8, Strategy B – “Encourage mixed-use communities where residents can live, work and play in their own neighborhoods” (p. 54).

The proposed map amendment will facilitate a mixed-use development in an area where uses are largely separated from each other with a single land use on each lot. S-MX-5 permits a variety of uses on a single lot, which allows Denver to grow responsibly and promotes land conservation.

Blueprint Denver

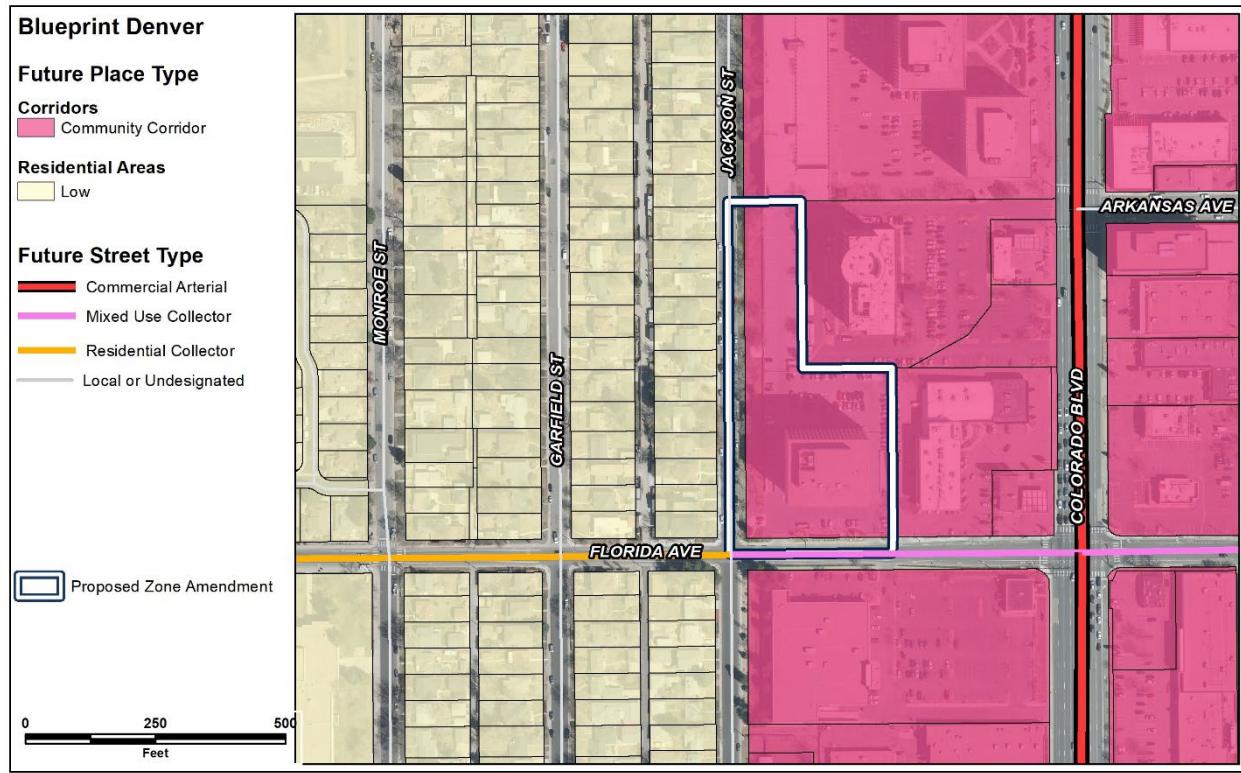
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of the Community Center future place within the Suburban Neighborhood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

Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences between land use, built form, and mobility at a high scale, between neighborhoods. The subject site is shown on the context map as the Suburban neighborhood context, the description of which is used to guide appropriate zone districts (p. 66). The Suburban neighborhood context is described as a “range of uses from single-unit and multi-unit residential to commercial corridors and centers” with irregular block patterns with curvilinear streets (p. 136). While the Suburban context is more auto oriented than the other neighborhood contexts, “Denver’s suburban areas are still more urban in nature and suburban places should reflect that” (p. 189). S-MX-5 is a zone district within the Suburban neighborhood context and is “intended to promote safe, active, pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city’s neighborhoods” (DZC 3.2.4.1). S-MX-5 is consistent with the Blueprint future neighborhood context of Suburban because it will promote Blueprint’s aspiration of making suburban places more urban in nature by encouraging a more walkable community.

Blueprint Denver Future Place and Future Street Types



The future place map shows which place description(s) should be used to evaluate the appropriateness of the proposed zone district (p. 66). The subject property is mapped as Community Corridor in the Future Place Map. *Blueprint Denver* describes the aspirational characteristics of Community Corridor in the Suburban context as “typically provides some mix of office, commercial and residential. A wide customer draw both of local residents from surrounding neighborhoods and from other parts of the city. Activity levels vary depending on the type and mix of uses. Buildings have a distinctly linear orientation, but may provide an opportunity for infill in large setbacks that are a result of historic suburban development. Heights are generally up to 5 stories. Due to shorter lot depths, special attention is needed for transitions to nearby residential areas.” (p. 196).

The proposed district of S-MX-5 provides a wide range and mix of uses in building forms that address the street and define the public realm. The future proposed height of up to 5 stories is appropriate for a Community Corridor in this location.

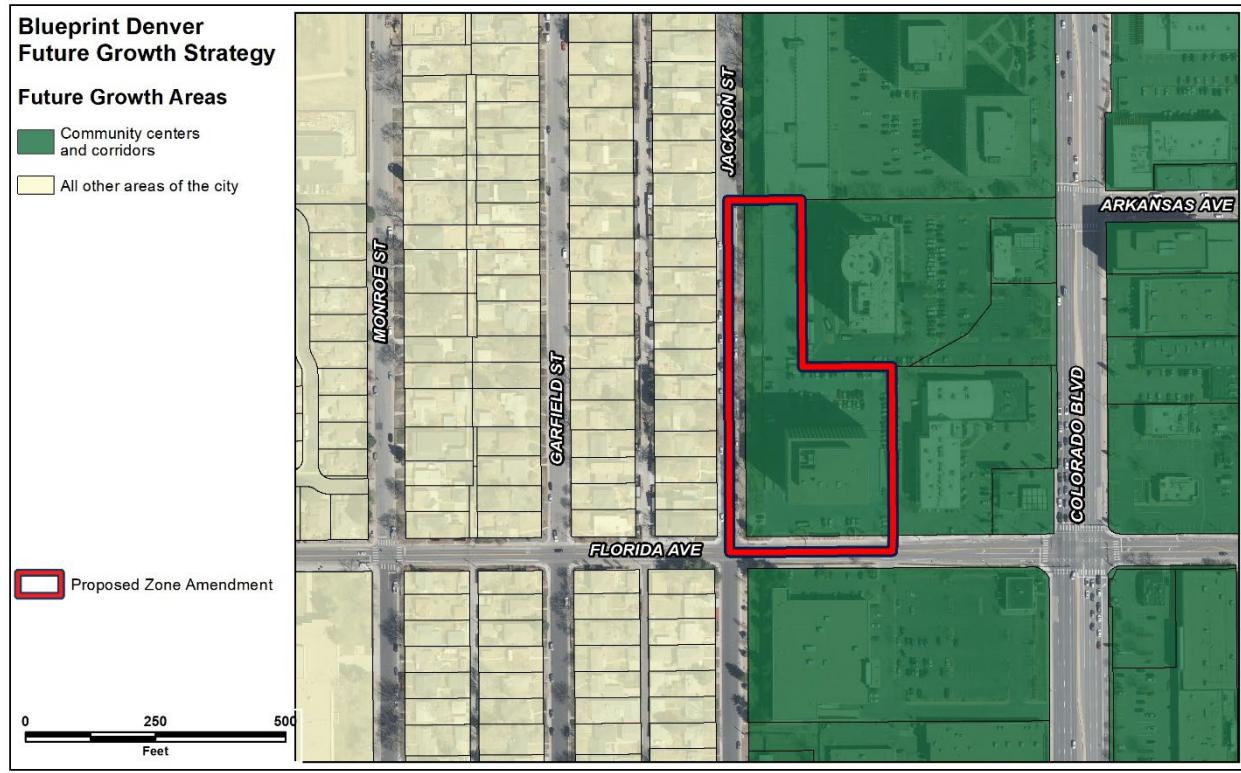
Street Types

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 East Florida Avenue as a Mixed-Use Collector. “Collector streets are in between a local street and an arterial street; they collect movement from local streets and convey it to arterial streets” (p. 154). Mixed-use streets are characterized by 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. A street wall is present, but may vary" (p. 159).

The rezoning request is consistent with *Blueprint Denver*'s identified Street Types because it would allow residential uses, as well as additional uses that serve the neighborhood.

Blueprint Denver Future 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 Center. Community Centers and Corridors are anticipated to see around 25% of new housing growth and 20% of new employment growth by 2040 (p. 51). The plan states that "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-5 will focus mixed-use growth to a Community Center and Corridor where it has been determined to be most appropriate.

Given that the intent of this rezoning is to facilitate the redevelopment of the property in a way that is reflective of adopted plans, the proposed S-MX-5 district is consistent with these descriptions as it is intended to create an active area with a mix of uses along East Florida Avenue while South Jackson

Street provides residential access. Overall, the proposed rezoning is consistent with the context, place, growth strategy, and street type recommendations of Blueprint Denver.

Blueprint Denver Strategies

- Land Use & Built Form: General, Policy 3, 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).

The proposed S-MX-5 district is a district within the Denver Zoning Code and will bring the property at 3801 East Florida Avenue from the Former Chapter 59 code to the Denver Zoning Code, consistent with this strategy.

The Colorado Boulevard Plan

The *Colorado Boulevard Plan* was adopted in 1991 and applies to the subject property, although the site is not located directly along Colorado Boulevard. Land Use Recommendation 2 discusses the mix of land uses in the area and states that “Glendale and Denver should seek to retain the diversity of land uses in the corridor. Denver and Glendale should also encourage large office projects to incorporate either retail, residential, entertainment, lodging or restaurant uses in addition to the primary office use.”

The proposed S-MX-5 district allows a variety of residential, commercial, industrial, and civic uses and will help maintain the mix of land uses desired in this plan.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to S-MX-5 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 which recommends “rezon[ing] properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC” (p. 73).

Compared to the current B-A-3 and O-1 zoning, a mixed-use district such as S-MX-5 facilitates a greater mix of uses and may facilitate the creation of additional community amenities. The improved design standards found in the S-MX-5 district may lead to improved design outcomes along East Florida Avenue, such as greater transparency and active ground floor uses.

4. Justifying Circumstance

The application identifies the adoption of *Blueprint Denver* 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 as 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; or a city adopted

plan; or that the city adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.”

The current zoning B-A-3 and O-1 are Former Chapter 59 zone districts, and rezoning to S-MX-5 will bring the property under the regulations of the Denver Zoning Code. Therefore, this is an appropriate justifying circumstance for the proposed rezoning.

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

The requested S-MX-5 zone district is within the Suburban Neighborhood Context. This neighborhood context is “characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks” and “commercial buildings are typically separated from residential and consist of Shopfront and General forms” (DZC, Division 3.1.1). These areas consist of “an irregular pattern of block shapes surrounded by curvilinear streets within a modified non-existent grid, with cul-de-sacs and typically no alleys” (DZC, Section 3.2.1. The proposed rezoning to S-MX-5 is consistent with the neighborhood context description.

Denver Zoning Code Section 3.2.4 states the general purpose of the Mixed Use zone districts as “promot[ing] safe, active, pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city’s neighborhoods.” These districts 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). The proposed S-MX-5 will provide a buffer between the more intense commercial uses to the north and east and the single-unit residential uses to the east. It will also allow for a more pedestrian-oriented area than the current zoning accommodates.

The specific intent of the S-MX-5 zone district “applies to areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 5 stories is desired” (DZC 3.2.4.2.E). The subject site is in an area primarily served by collector streets where buildings up to 5 stories is desired in Blueprint Denver. Therefore, rezoning this site would be consistent with the specific intent of the zone district.

Attachments

1. Application
2. Protest petition results
3. Public comments