



TO: Denver Planning Board
FROM: Francisca Peñafiel, Associate City Planner
DATE: September 8, 2021
RE: Official Zoning Map Amendment Application #2020I-00200

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2020I-00200.

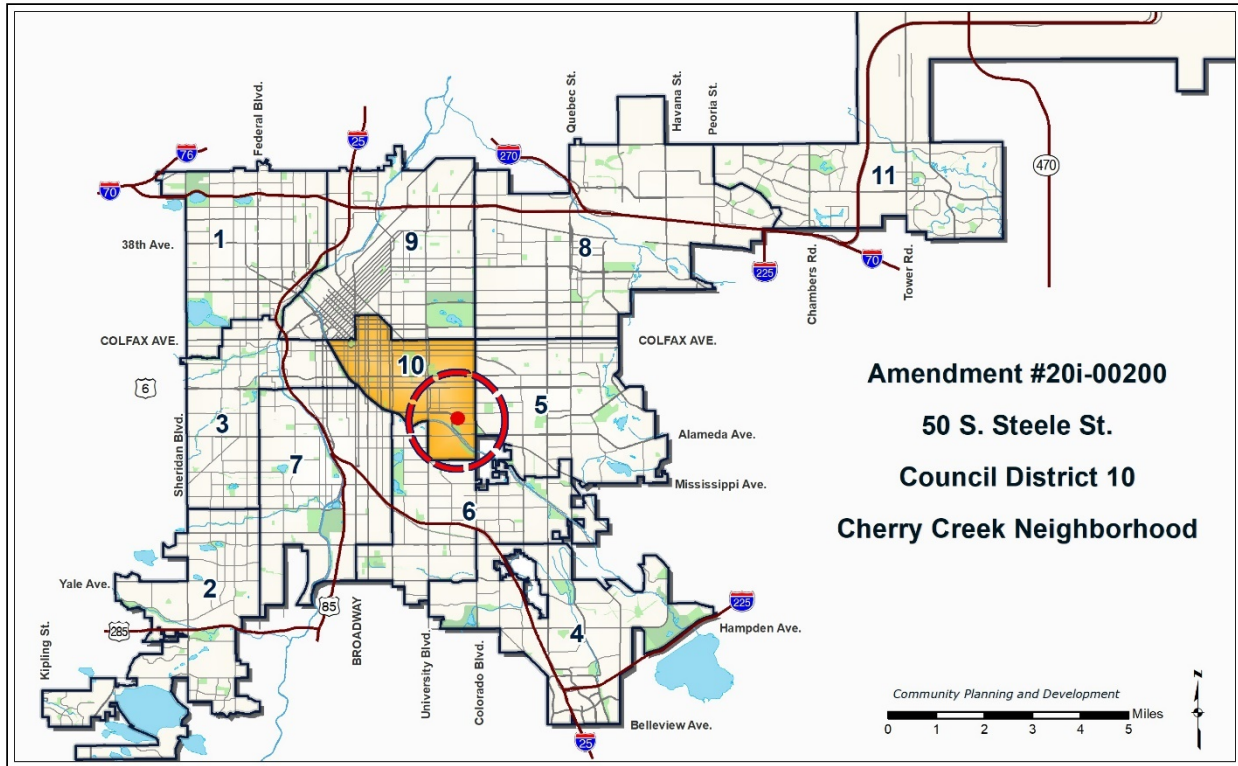
Request for Rezoning

Address:	50 South Steele Street
Neighborhood/Council District:	Cherry Creek / Council District 10, Chris Hinds
RNOs:	Inter-Neighborhood Cooperation (INC), Green Cherry Creek, Cherry Creek East Association, District 10 Neighborhood Coalition, Inc, Denver for All,
Area of Property:	62,625 square feet or 1.4 acres
Current Zoning:	C-MX-8
Proposed Zoning:	C-MX-12
Property Owner(s):	Steele Street Holding, LLC
Owner Representative:	Broe Real Estate – Marc Savela

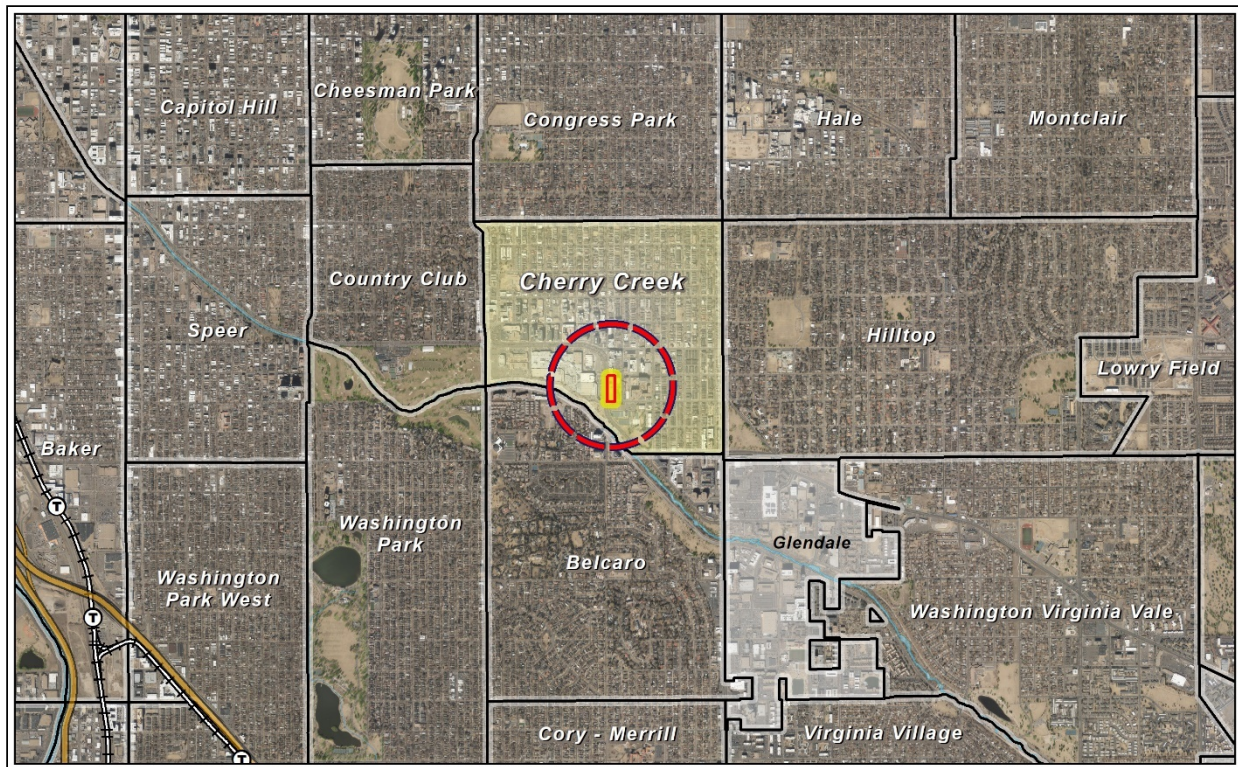
Summary of Rezoning Request

- The proposed rezoning is in the Cherry Creek statistical neighborhood along South Steele Street, between Ellsworth Avenue and Bayaud Avenue.
- The 1.4-acre subject property contains a 10-story office structure built in 1973 with a garden level and approximately 1,000 sf parking (1 level at grade parking and 2 levels of below grade parking).
- The applicant is requesting to rezone the property to facilitate mixed use redevelopment of the site, and their tentative plan is to build a mixed-use building with ground floor retail and residential units above.
- The proposed zone district C-MX-12, can be summarized as follows (see map below illustrating proposed zone district):
 - The C-MX-12 zone district stands for Urban **C**enter, **M**ixed Use, with a maximum height of **12** stories. The C-MX zone districts are mixed-use zone districts that allow a wide range of residential and commercial uses with minimum build-to and increased transparency requirements intended to promote active pedestrian areas on public streets. The C-MX-12 zone district allows up to 12 stories and 150 feet in building height.
 - 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



Neighborhood Location – Cherry Creek Neighborhood



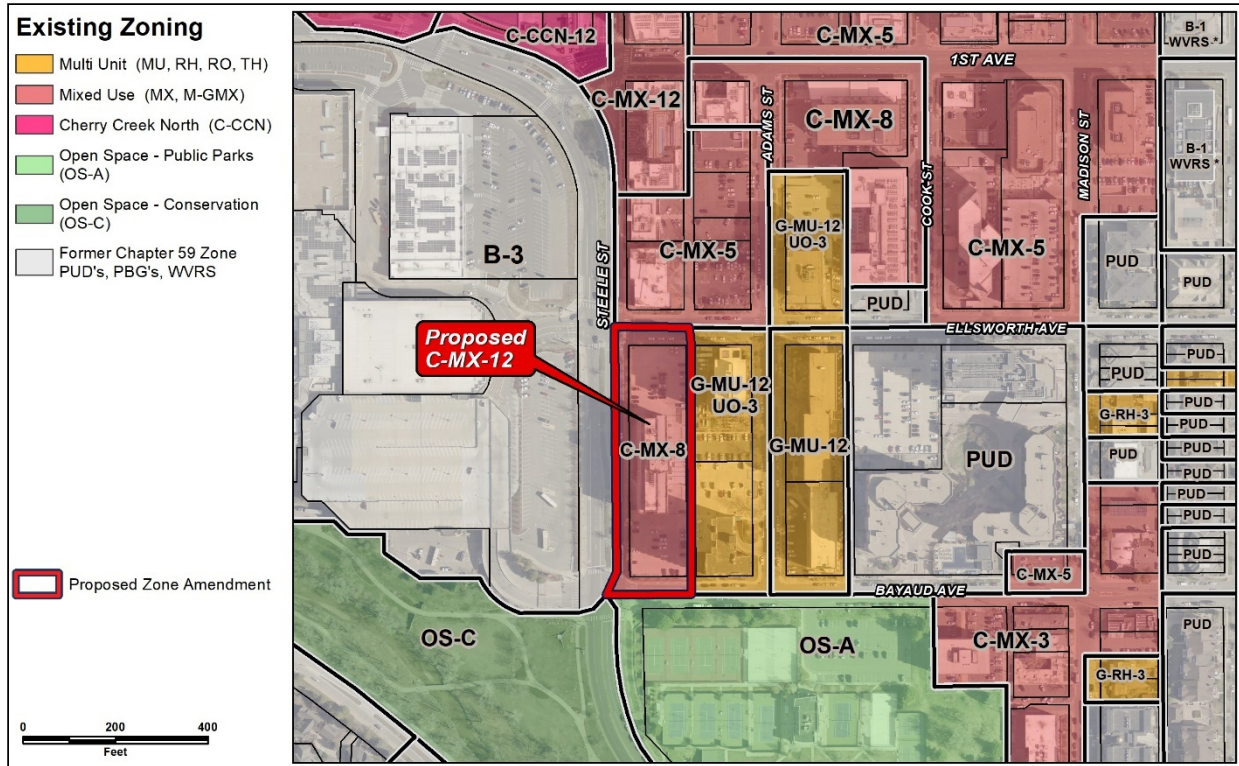


The subject property is located in the Cherry Creek neighborhood, between Ellsworth Avenue and Bayaud Avenue, along South Steele Street. The area is primarily composed of multi-unit residential and office buildings, with some commercial/retail along 1st Avenue and the Cherry Creek Shopping Center across the street on Steele Street. The subject site is directly north of Pulaski Park. Additionally, the popular Cherry Creek Trail is within a block of the site. Steel Street and Colorado Boulevard provide high-capacity RTD transit services to the immediate area. The applicant is requesting the C-MX-12 zone district which is consistent with neighborhood patter of mixed-use high-density developments.

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-8	Mixed Use	10-story office building with a garden level and approximately 1,000 sf parking (1 level at grade parking and 2 levels of below grade parking).	Generally regular grid of streets interrupted to the west the Cherry Creek Shopping Center and south by Cherry Creek Drive. Block sizes and shapes are generally consistent and rectangular. Pedestrian-oriented building frontages predominate.
North	C-MX-5	Mixed Use	2-story office building with surface parking on the back and minimal setbacks	
South	OS-A	Open Space Public Parks	Public park with small 2-story recreation center building	
East	G-MU-12 UO-3	Multi-Unit Residential	14-story structure with surface parking	
West	B-3	Former Ch. 59 Shopping Center	2-story shopping center with surface and underground parking	

1. Existing Zoning

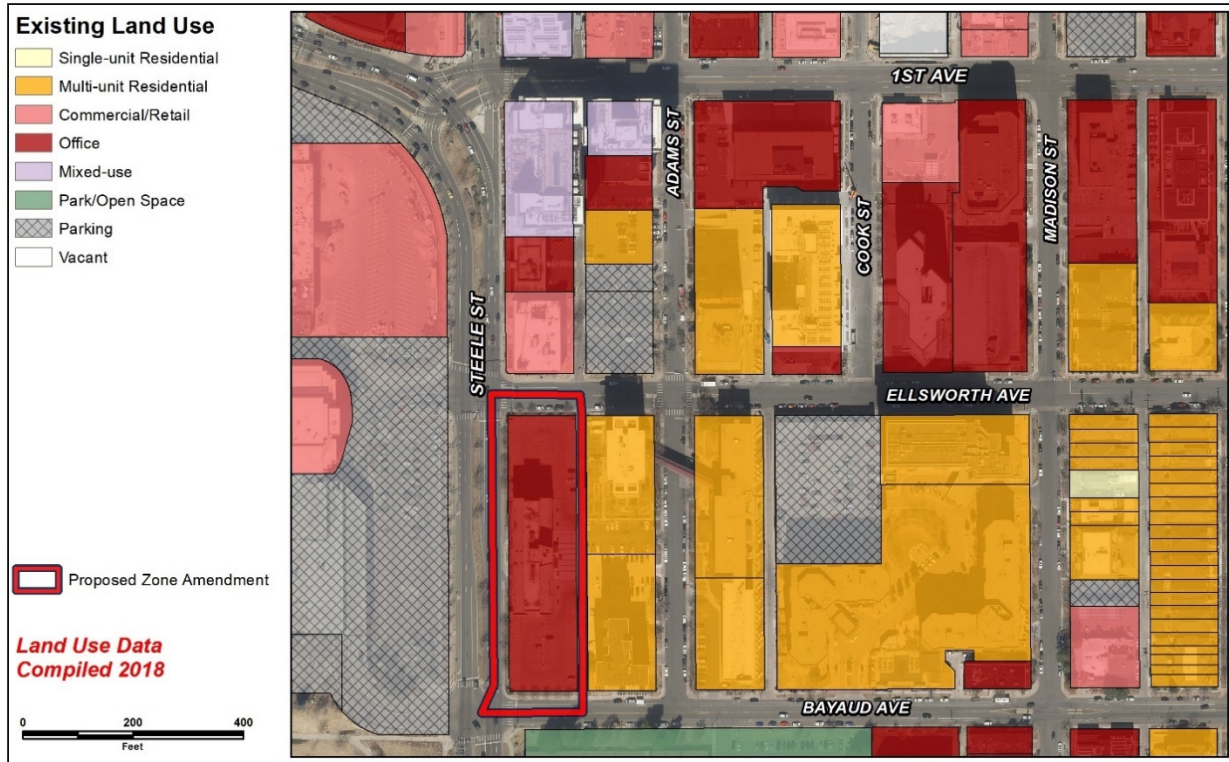


The existing zoning on the subject property is C-MX-8, which is a commercial mixed-use district allowing up to 8 stories and 110 feet in height. C-MX-8 allows primary structures in the Town House, General and Shopfront building forms. A broad range of commercial, residential, and civic uses are allowed.

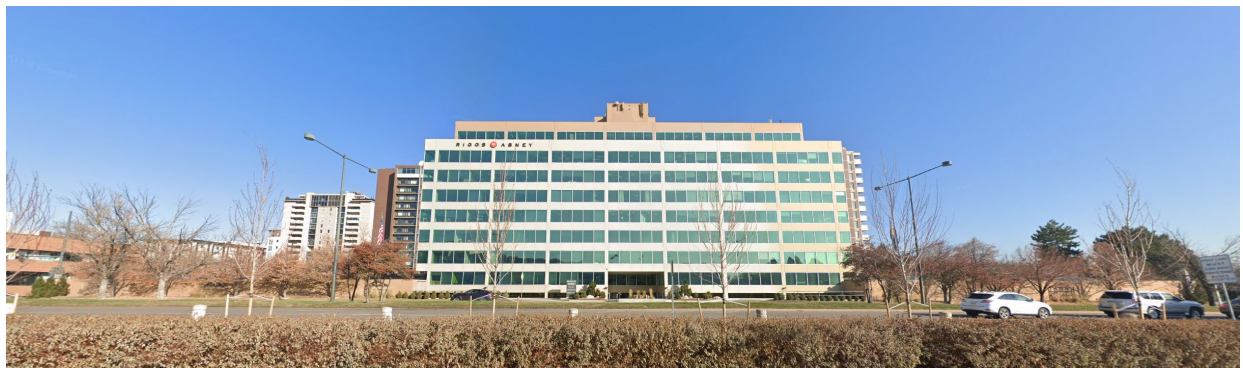
2. View Plane

The subject site is within 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 subject to a maximum height restriction of roughly 158 feet. However, the proposed zone district of C-MX-12 has a lower maximum height of 110 feet for primary structures.

3. Existing Land Use Map



4. Existing Building Form and Scale (All images are from Google Street View)



Site – from South Steele Street, facing east



Site – from Ellsworth Avenue, facing north



South – from Bayaud Avenue



West – from Steele Street



North - from Ellsworth Avenue



East- other side of the alley

Proposed Zoning

The requested C-MX-12 zone district is “intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge” (Section 7.2.2.1). The district allows a variety of residential, civic, commercial, and industrial uses. The maximum height is 12 stories or 150 feet with allowable encroachments. The minimum Primary Street setback is 0’, except for the Town House building form which has a 10’ minimum Primary Street setback. Surface parking is not allowed between the building and the Primary and Side Streets. Multi-unit dwellings require 0.75 parking spaces per unit. For additional details regarding building form standards in the C-MX-12 zone districts, see DZC Section 7.3.3.4.

The allowed primary building forms and key design standards in the existing and proposed zone districts are summarized below

Design Standards	C-MX-8, (Existing)	C-MX-12 (Proposed)
Primary Building Forms Allowed	Town House; General; Shopfront	Town House; General; Shopfront
Height in Stories / Feet (max)	8/110’	12/150’
Primary Street Build-To Percentages (min)	70% to 75%*	70% to 75%*
Primary Street Build-To Ranges	0’ to 15’*	0’ to 15’*
Minimum Zone Lot Size/Width	N/A	N/A
Primary Street Setbacks (min)	0’ to 10’*	0’ to 10’*
Building Coverage	N/A	N/A

Proposed Affordable Housing Agreement

Concurrent with the rezoning, the applicant has entered into a voluntary affordable housing agreement with HOST. The terms of the agreement are that 12.5% of all residential units will be dedicated as Income Restricted Units for 99 years. Of those Income Restricted Units, 100% shall serve households earning up to 80% AMI. The Income Restricted Units will include unit sizes (e.g., studio, one-bedroom, two-bedroom or three-bedroom) in approximate proportion to the unit sizes of all residential units constructed on the Subject Property. By way of example only, if fifty percent (50%) of all residential units constructed on the Subject Property are one-bedroom units, then approximately fifty percent of the Income Restricted Units will be one-bedroom units. A total of approximately 480 units are envisioned for the site.

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 – No Comments

Denver Parks and Recreation: Approved – No Comments

Department of Transportation and Infrastructure – R.O.W. - City Surveyor: Approved – No Comments

Development Services – Transportation: Approved – No Response

Development Services – Wastewater: Approved – No Response

Development Services – Project Coordination: Approve – 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:	06/24/21
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:	08/31/21
Planning Board Public Hearing:	09/15/21
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 (tentative):	09/07/21
Land Use, Transportation and Infrastructure Committee of the City Council meeting (tentative):	09/21/21
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):	10/11/21
City Council Public Hearing (tentative):	11/01/21

Public Outreach and Input

○ **Registered Neighborhood Organizations (RNOs)**

While staff has not received any written comments from RNOs pertaining to this application, the Cherry Creek East Association RNO is currently negotiating a good neighbor agreement with the applicant and has had multiple meeting with the applicant since before the submittal of the official application.

The draft good neighbor agreement would address issues like:

- Exterior design, sidewalks, landscaping, lighting, access, setbacks and safety provisions
- Residential unit sizing, street level activation, on-site parking and storage, outdoor amenity locations, community meeting space and security and staffing.

For additional details on the Good Neighbor Agreement Draft see the attachments to this staff report.

○ **Other Public Comment**

None

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

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density, while also enabling additional housing units close to services and amenities, some of which would be restricted to residents earning less than the Area Median Income. 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 C-MX-12 zoning designation 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 and becomes denser, 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).

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies in the Environmentally Resilient vision element:

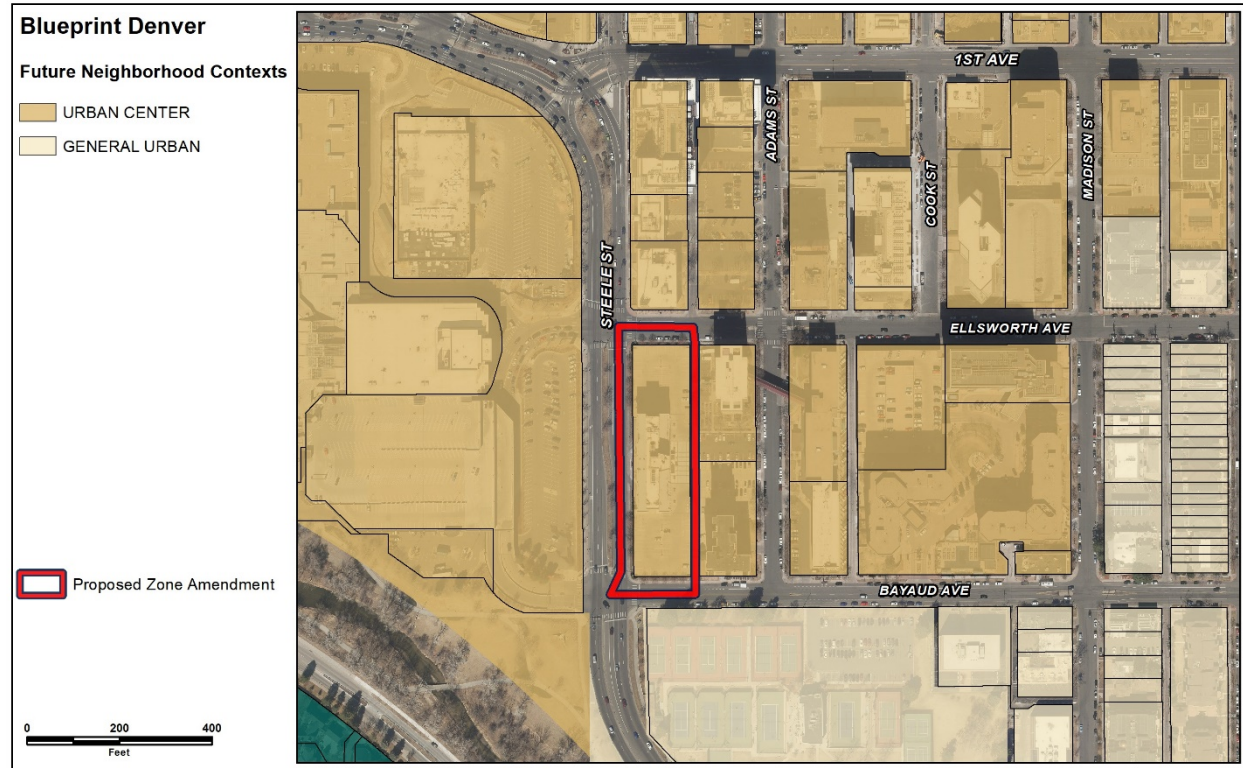
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B - *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).
- 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 (2019)

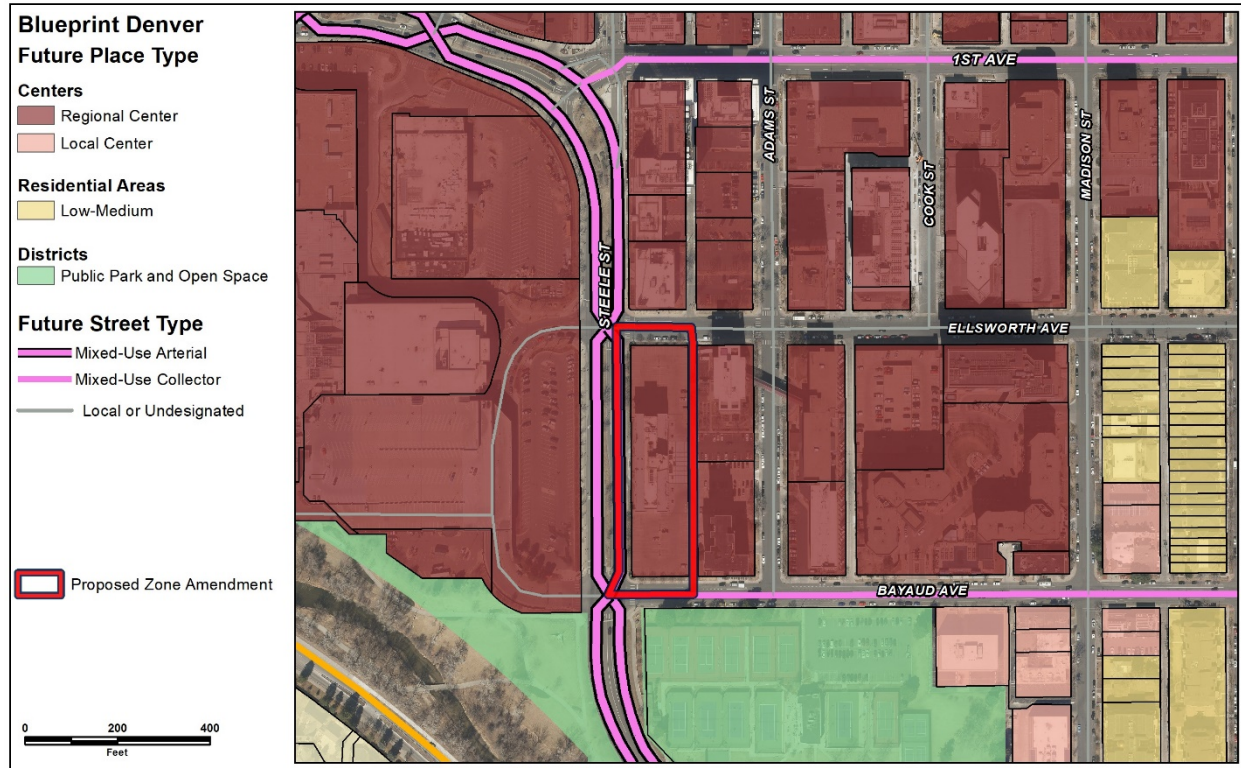
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city’s land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Regional Center future place within the Urban Center Context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

Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is within the Urban Center Context. *Blueprint* states, “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 proposed C-MX-12 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 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



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).

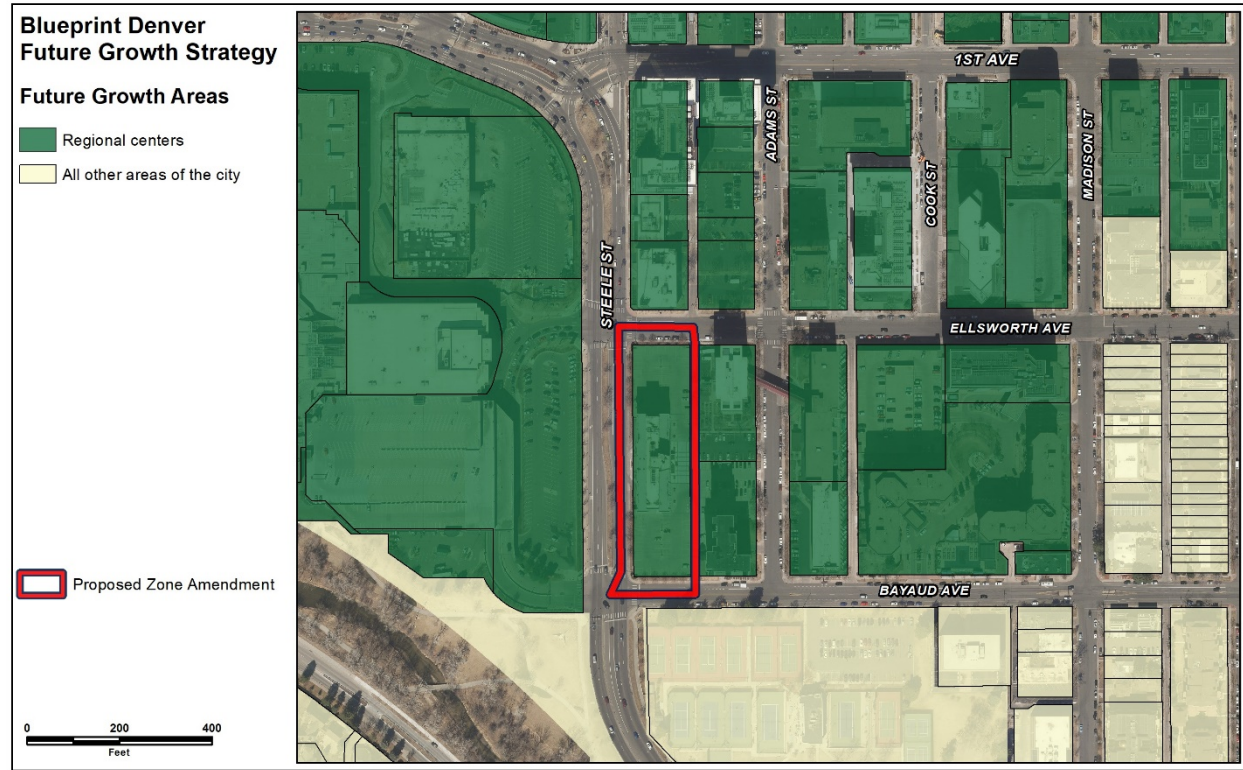
The proposed C-MX-12 zone district allows for a variety of commercial and residential uses in a pedestrian-oriented pattern with an active street level. Therefore, the requested C-MX-12 is appropriate and consistent with the future place plan direction.

Street Types

Blueprint Denver classifies Steele Street as mixed-use arterial. Arterial streets “are designed for the highest amount of through movement and the lowest degree of property access” (p. 154) and 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 C-MX-12 zone district is intended for areas served primarily by arterial streets (DZC Section 7.2.2.2.C). The subject property is served by South Steele Street, a mixed-use arterial. Staff believes the requested zone district is appropriate considering the street type designations.

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 C-MX-12 is consistent with the “Community centers and corridors” 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 the existing zoning allows.

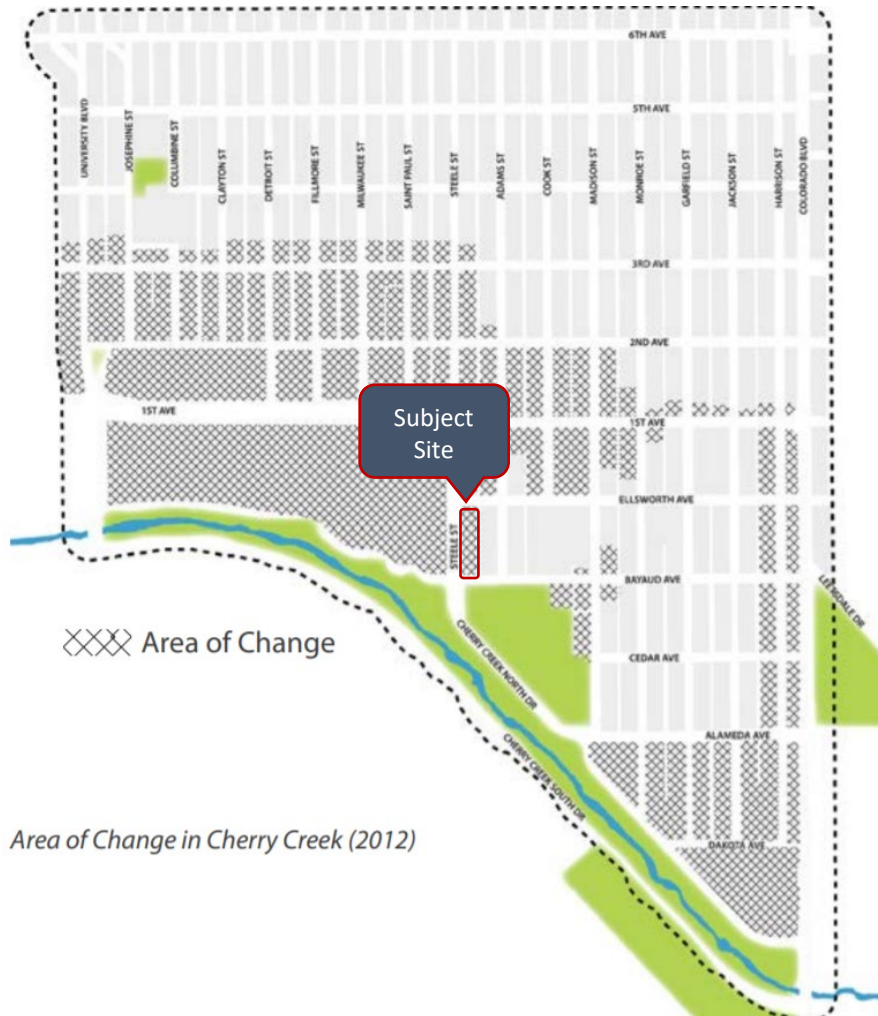
Additional Applicable Strategies

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

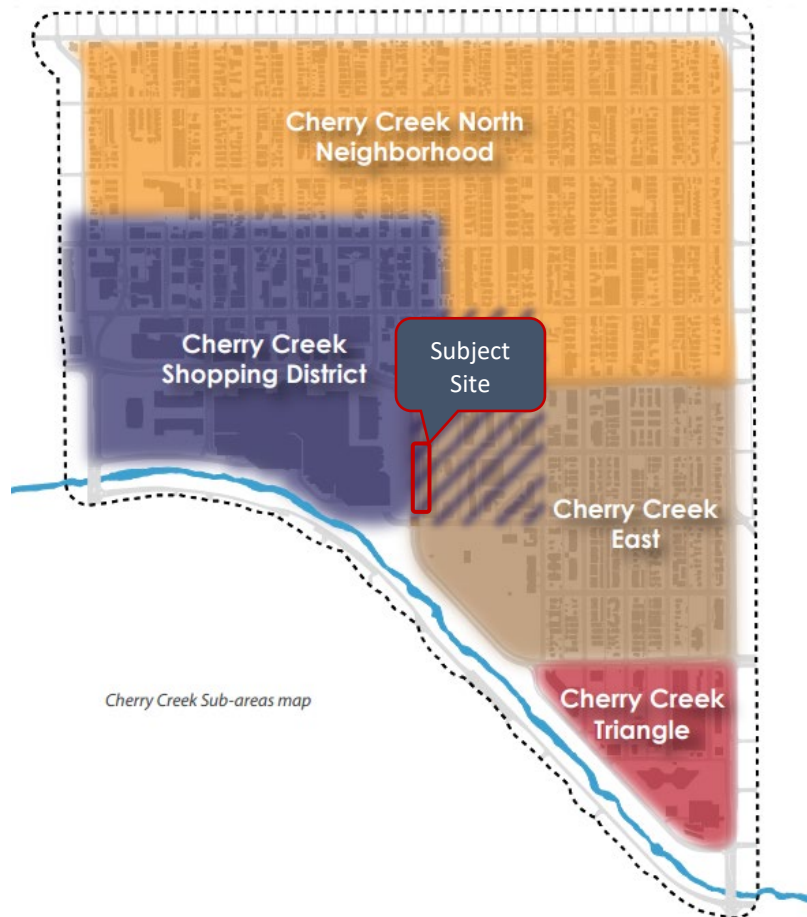
- Land Use and Built Form – General Policy 2 – *Incentivize or require efficient development of land, especially in transit-rich areas* (p. 72).
- Land Use and Built Form – Housing Policy 6, Strategy A - *Incentivize affordable housing through zoning, especially in regional centers, community centers 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).

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 overlap of the Cherry Creek East and Cherry Creek Shopping District sub-areas.



The overarching framework recommendations guide growth to targeted areas of Cherry Creek. The subject site is located in an Area of Change. As previously mentioned, the Area of Change/Stability concepts have been replaced with a more nuanced approach in the recent Blueprint update, but the recommendations are still relevant in terms of the communities’ desire to target growth and change expressed in an adopted plan. 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 to C-MX-12 is such a change in zoning regulations that would enable reinvestment and development in the subject property as expressed in the plan.



Subarea Strategies:

- Cherry Creek Shopping District - the region's most vibrant upscale retail and mixed-use district.
- Cherry Creek East - a highly desirable moderate density residential neighborhood that also includes a high-density office and residential district on its western edge.

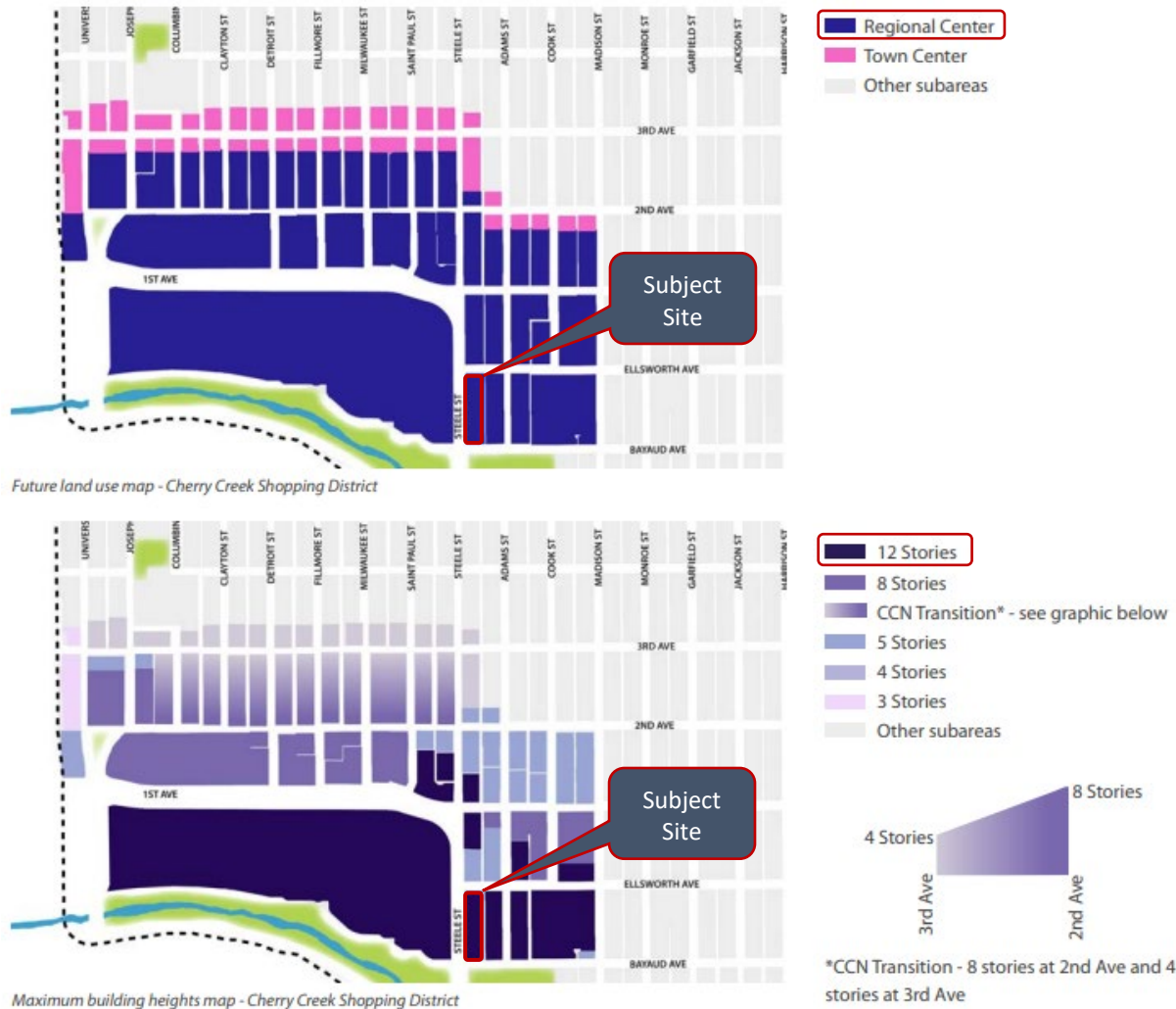
Some of the plan recommendations for both areas:

"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 as stated in the 2000 Neighborhood plan and further refined in this plan 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)

Also, looking at the future land use map for the Cherry Creek Shopping District, the plan designates the subject property as Regional center, with a maximum building height of 12 stories. Therefore, the requested C-MX-12 is appropriate and consistent with the Cherry Creek Area Plan recommendations.



2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-12 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 through the implementation of Denver Comprehensive Plan 2040, Blueprint Denver and the Cherry Creek Area Plan. The proposed rezoning would also facilitate increased housing density near services and amenities along Steele Street and foster the creation of a mixed-use, urban area within walking distance to RTD bus line. An increase in density and broadened mix of uses can also provide better health outcomes through increased physical activity and lessen the need for driving as services and amenities can occur within walkable and bikeable distances.

4. Justifying Circumstances

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 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 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, specifically due to the adoption of the Blueprint Denver in 2019 and the Cherry Creek Area Plan in 2012, both of which came after the last rezoning of the property in 2010.

Both Blueprint Denver and the Cherry Creek Area Plan were developed with extensive public input and the proposed rezoning would ensure those Plan’s recommendations are adhered to and that the public receives the full benefit of their work.

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

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.”

The C-MX zone districts are “intended to promote safe, active and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the street edge” (DZC Section 7.2.2.1.A). As these districts are also intended to enhance the ease of walking and transit, C-MX-12 is consistent and appropriate given the purpose of the district and the location in which it has been requested.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-12 district “applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 12 stories is desired” (DZC Section 7.2.2.2.D). The site is served primarily by South Steele Street classified as a mixed-use arterial. Thus, the street classifications and desired building heights in this area are consistent with the zone district intent statement.

Attachments

1. Rezoning application
2. Good neighbor Agreement Draft