



TO: Neighborhoods and Planning Committee of the Denver City Council
FROM: Theresa Lucero, Senior City Planner
DATE: July 28, 2016
RE: Zoning Map Amendment #2016I-00012
Approximately Geneva Court and Martin Luther King Boulevard
Rezoning from R-MU-20 with waivers to M-MX-5

Staff Report and Recommendation

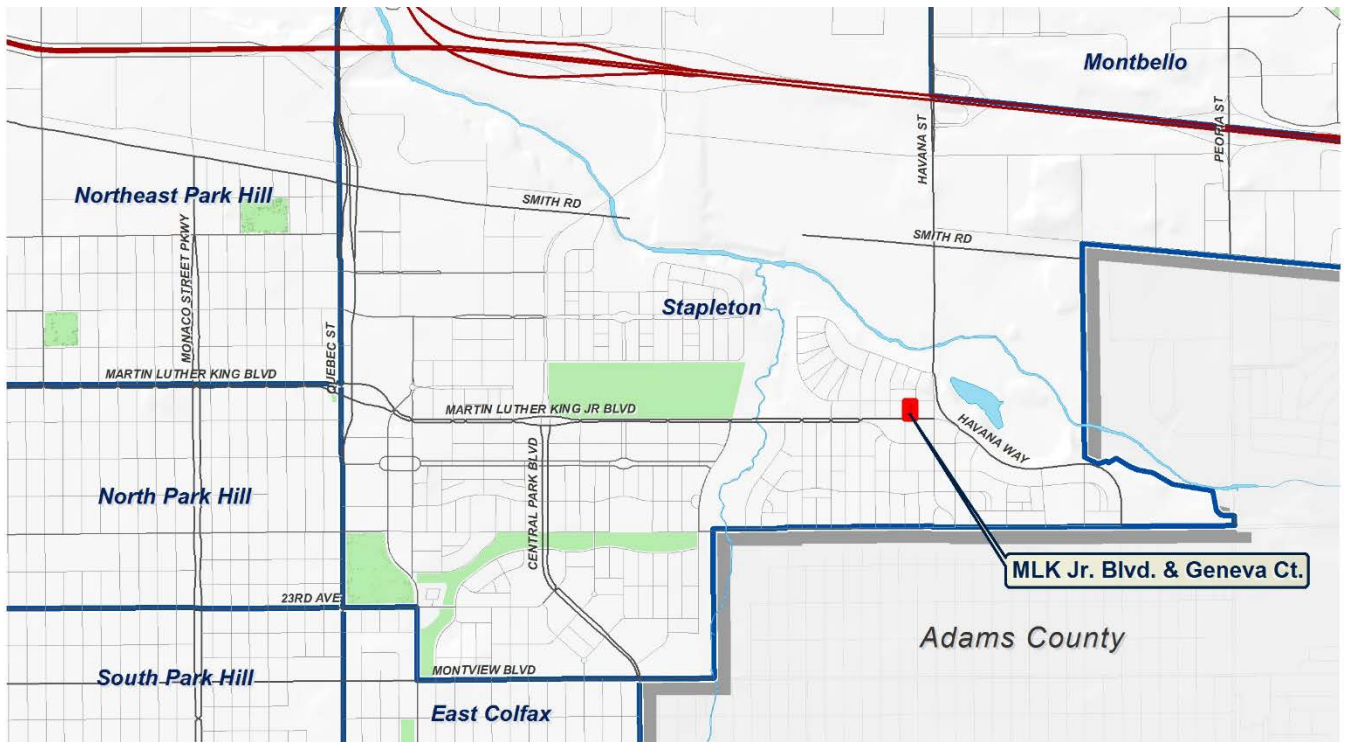
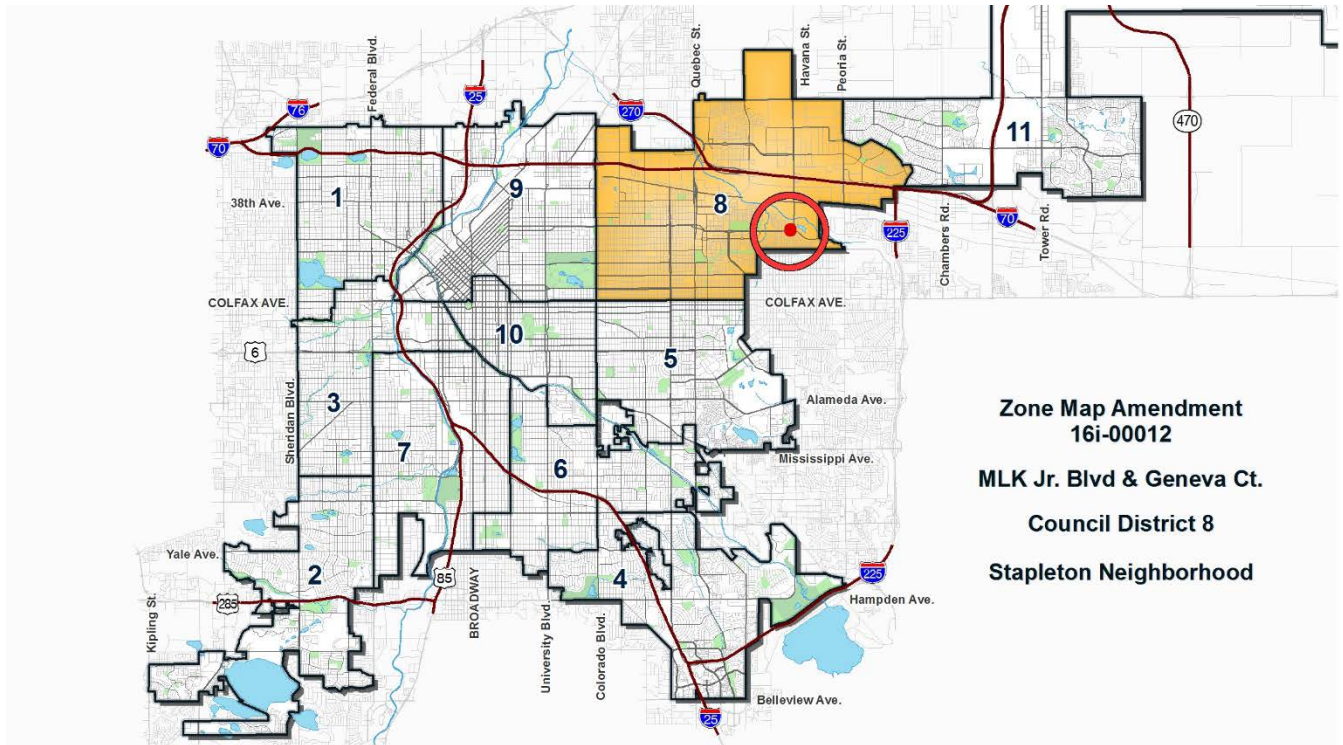
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for application #2016I-00012 for a rezoning from R-MU-20 with waivers to M-MX-5.

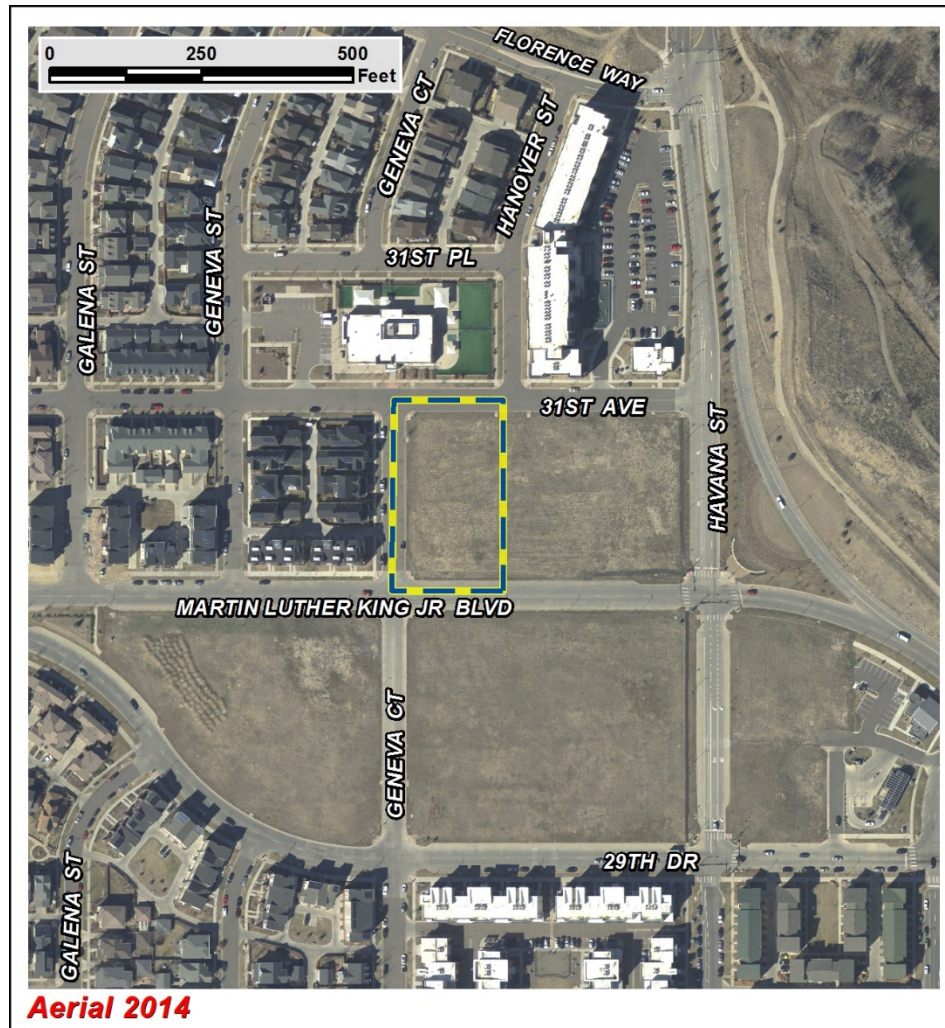
Request for Rezoning

Application:	#2016I-00012
Address:	Approx. Geneva Court and Martin Luther King Boulevard
Neighborhood/Council District:	Stapleton Statistical Neighborhood / City Council District #8
RNOs:	Stapleton Master Community Association, Stapleton United Neighbors, Denver Neighborhood Association, Inc., and. Inter-Neighborhood Cooperation
Area of Property:	36,281 SF, 0.83 acres
Current Zoning:	R-MU-20 with waivers
Proposed Zoning:	M-MX-5
Property Owner(s):	FC Stapleton II, LLC
Owner Representative:	Russell Perkins, Evergreen Devco Inc.

Summary of Rezoning Request

- The subject property is vacant and is located at the northeast corner of Martin Luther King Boulevard and Geneva Court.
- The applicant proposes to develop the property with medical office and financial service land uses. These uses are waived out of the existing Former Chapter 59 zone district.
- The proposed M-MX-5 zone district stands for **M**aster Planned Context, **M**ixed Use with a **5**-story height limit. The M-MX-5 zone district is intended to promote development of new town centers with zoning standards that support medium to high intensity development and a mixture of land uses. Further details of the zone districts can be found in Article 9 of the Denver Zoning Code (DZC).





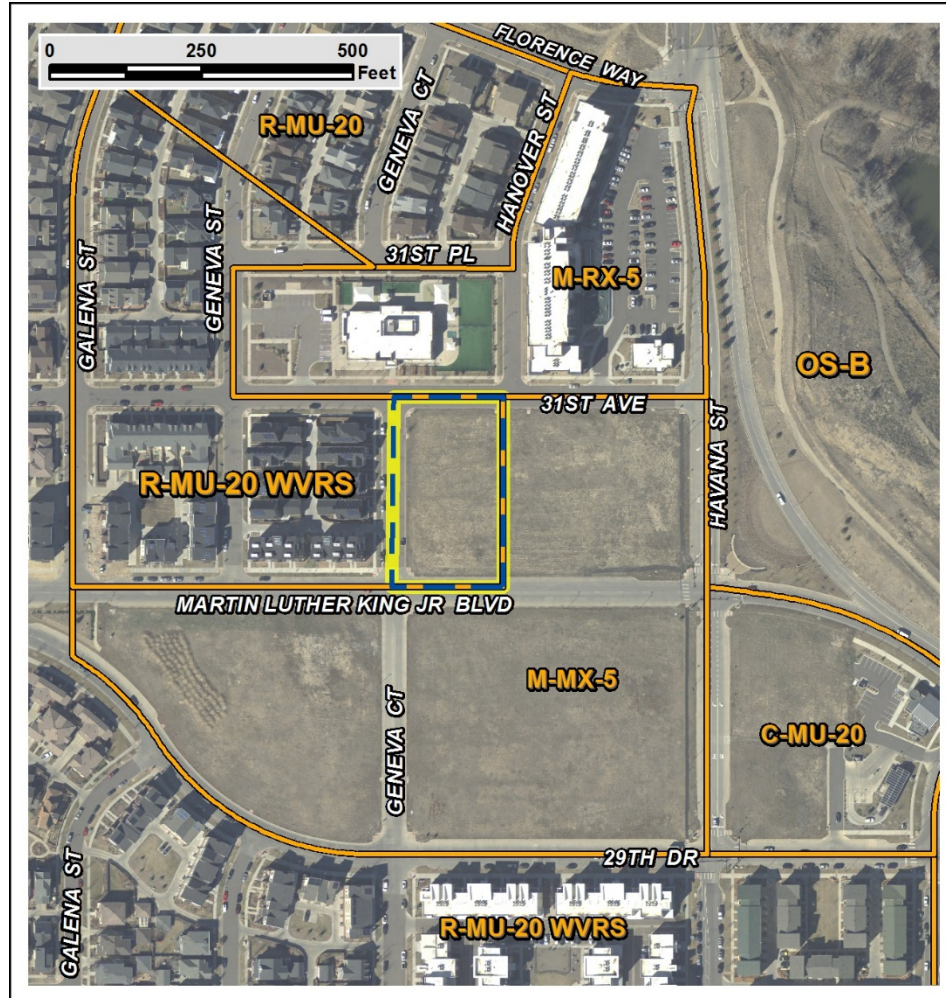
Existing Context

The property is located in the southeast portion of the Stapleton neighborhood, north of Martin Luther King Boulevard and west of Havana Street. The property is northwest across Martin Luther King Boulevard from the new grocery store under construction in the new Stapleton Eastbridge town center. The store is located at the southwest corner of the intersection of Martin Luther King Boulevard and Havana Street. North of the subject property is a preschool and a mid-rise apartment development. South of the property is a mixture of commercial uses. East is vacant, and west is a mixture of single-family and low-rise multi-unit land uses. In the general vicinity are the Bluff Lake Nature Center, east across Havana Street, Sand Creek and the Sand Creek Regional Greenway 3 blocks to the north, the Denver County Jail to the far northeast and the Urban Farm to the far northwest. In addition, the Central Park Recreational Center and Westerly Creek Trail are 4 blocks to the west and the Filing 15 Community Pool is 2 blocks to the south. The surrounding block pattern is a mix of a grid and modified grid pattern with varied lot sizes tied to the residential, commercial or open space land uses.

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	R-MU-20 with waivers	Vacant	N/A	Generally regular grid or modified grid street patterns.
North	M-RX-5	Civic	1-story Pre-school	
South	M-MX-5	Commercial	1-story General Building Form	
East	M-MX-5	Vacant	N/A	
West	R-MU-20 with waivers	Mix of Low-rise Single Family and Multi-Family	2-3-story residential	

1. Existing Zoning

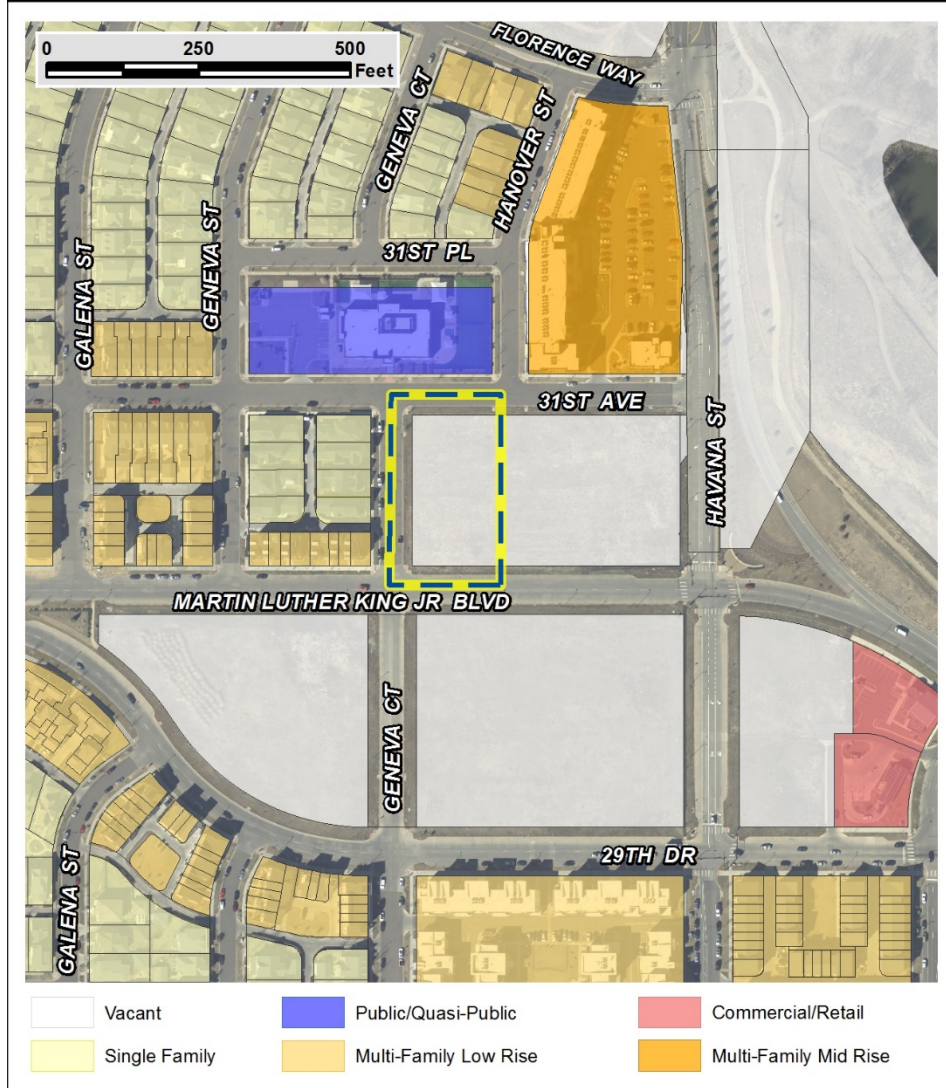


The existing zoning of the subject property is R-MU-20 with waivers, or **R**esidential **M**ixed **U**se 20, a Former Chapter 59 zone district. The district allows primarily single-family or multi-unit residential land uses with a mixture of neighborhood serving retail allowed on arterial or collector streets. The scale of structures is determined by bulk planes, maximum height (55 feet), setbacks, open space requirements and parking ratios. The intent of the zone district is a full range of housing types. The waivers relinquish the right to the following:

1. Some civic land uses including gallery, museum, boarding school and university or college.
2. Some commercial land uses including animal sales and service, banking and financial services, and medical or dental office or clinic.
3. The right to construct more than 2,500 square feet of individual office space, or 5,000 square feet of aggregate office space.

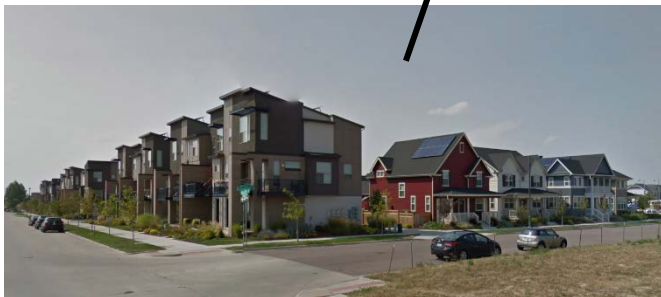
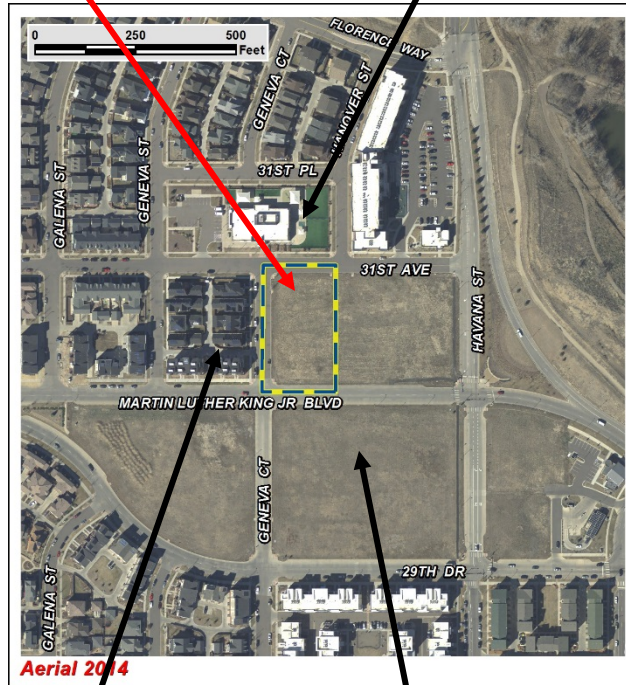
For additional details of the R-MU-20 zone district, see Former Chapter 59, Division 15.

2. Existing Land Use Map



Existing Land Use

3. Existing Building Form and Scale



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:

Public Works – City Surveyor: Approved, with the following comments. The Surveyor that created the Legal Description has provided us in Survey with a PDF of a signed version of the same Legal Description, which is our requirement for this approval. APPROVED.

Parks and Recreation - Approved

Environmental Health - Approved, with the following comments. DEH concurs with the proposed zoning change.

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, DEH 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.

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 DEH 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.

Public Review Process

Informational Notice

- CPD staff provided informational notice of receipt of the rezoning application to affected members of City Council and Registered Neighborhood Organizations on March 24, 2016.

Planning Board

- The property was legally posted for a period of 15 days announcing the June 1, 2016, Denver Planning Board public hearing, and written notification of the hearing was sent to all affected registered neighborhood organizations and City Council members. At the meeting one Stapleton resident spoke in favor of the rezoning and the Board voted 9 to 1 in favor of recommending that City Council approve the application.

Neighborhoods and Planning Committee

- Following Planning Board review the rezoning application will be referred to the Neighborhoods and Planning (PLAN) Committee of the City Council for review at a public meeting. The PLAN Committee meeting is scheduled for August 3, 2016. Electronic notice of the meeting was sent to all affected Registered Neighborhood Organizations 10 days in advance of the meeting. At the meeting Committee members will vote on whether to move the application forward to a public hearing before the full City Council.

City Council

- Following PLAN Committee review, the rezoning application is typically referred to the full City Council for final action at a public hearing. The City Council public hearing is tentatively scheduled for September 12, 2016. Electronic notice of the public hearing will be sent to all affected Registered Neighborhood Associations and notification signs will be posted on the property 21 days in advance of the hearing.

Registered Neighborhood Organizations (RNOs)

To date, CPD has received no comment letter from a Registered Neighborhood Organization.

Other Public Comment

To date, no other public 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

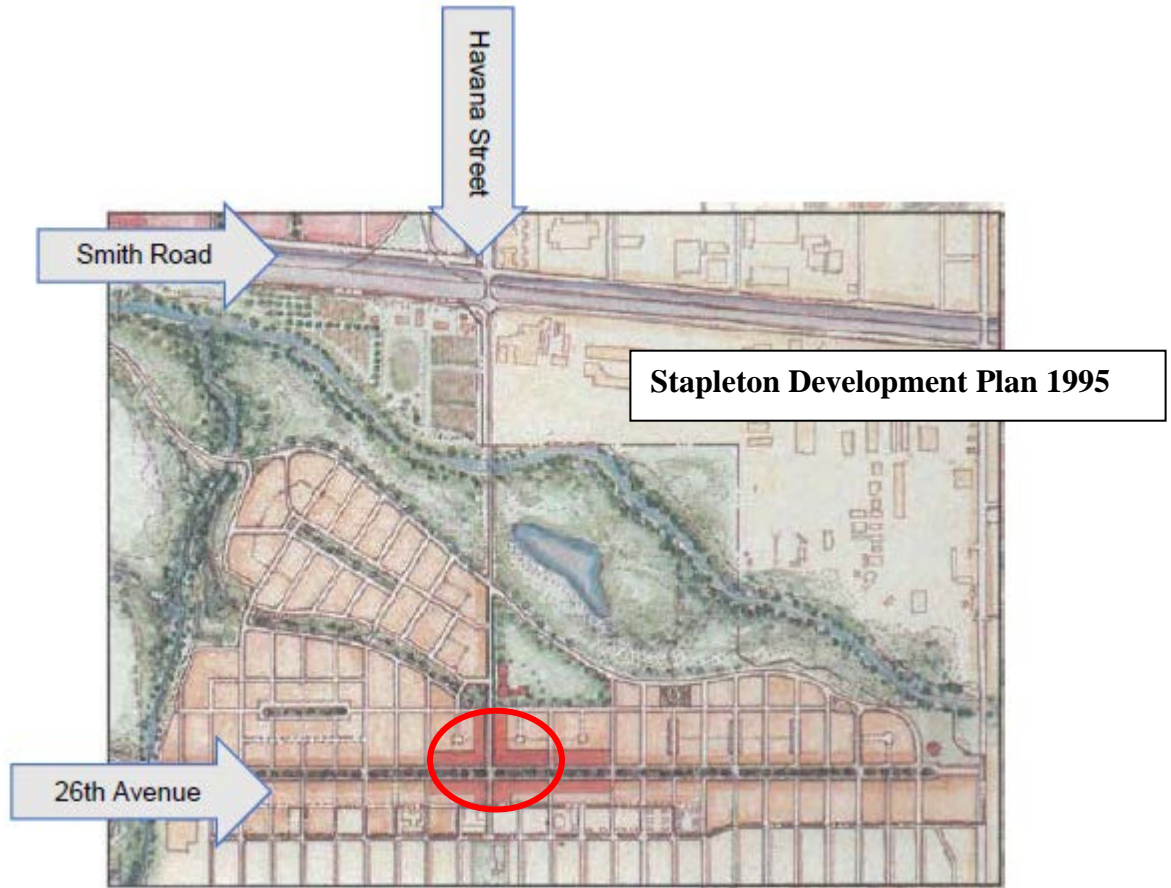
The following adopted plans apply to this property:

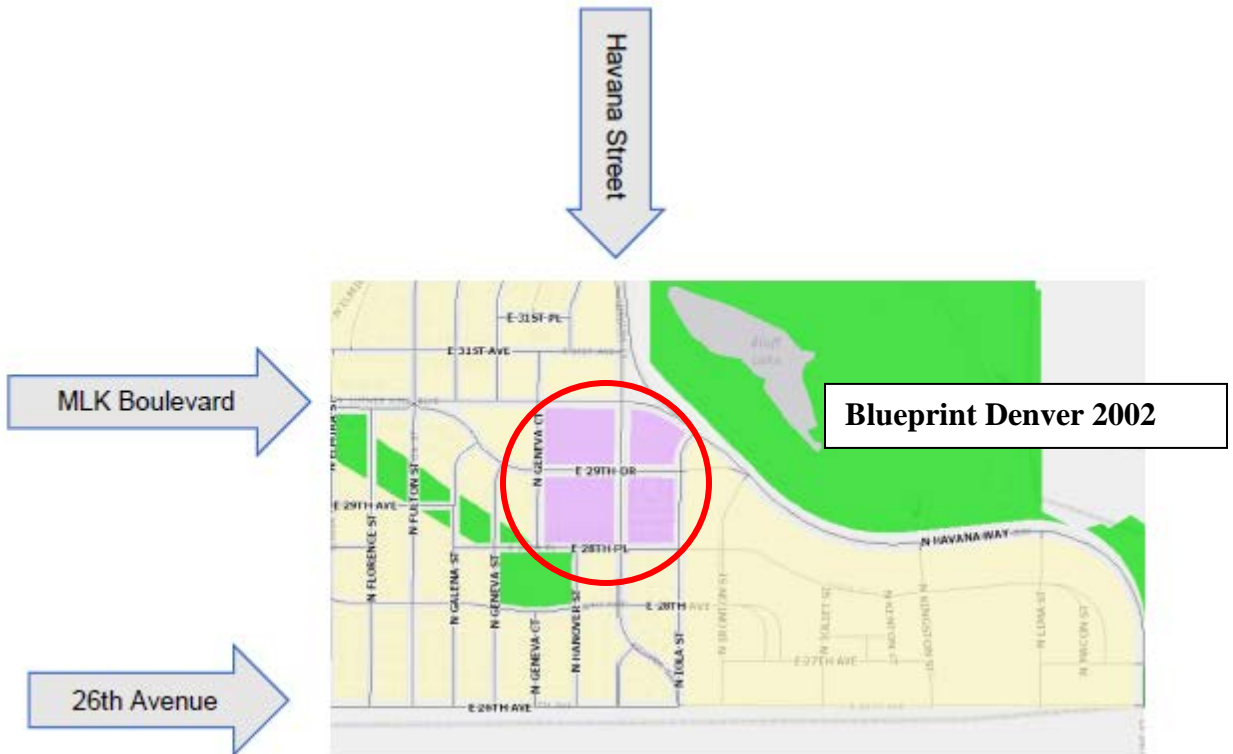
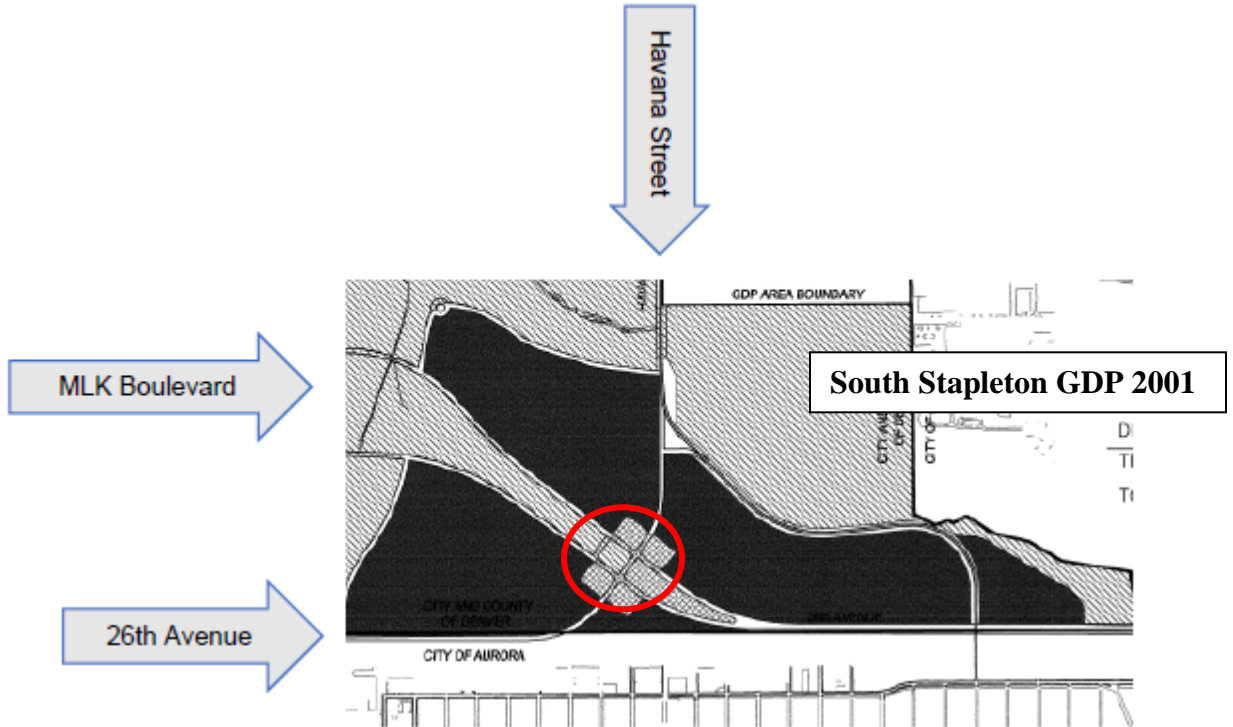
- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- Stapleton Development Plan (1995)
- Stapleton Redevelopment General Development Plan - South Area (2001)

Location of the Eastbridge Town Center over Time

The 1995 Stapleton Development Plan envisioned eight development districts in Stapleton with a (town) center for each district. The districts and centers are envisioned to help establish the neighborhood identity. The size of the centers in each district was envisioned to vary according to its role within the district, and each center was envisioned to minimally include a public area (park, square, community garden), an educational facility (elementary school, day care), and a transit stop. In 1995, when the Stapleton Development Plan was adopted, the location of the subject (Eastbridge) town center was envisioned to be at 26th Avenue and Havana Street. By 2001, when the Stapleton Redevelopment General Development Plan - South Area (GDP) was approved, the location of the center had been pinned to the intersection of Martin Luther King Boulevard (formerly 31st Avenue) and

Havana Street. The GDP depicts Martin Luther King Boulevard splitting into a divided street as it enters Stapleton at Quebec Street and eventually rejoining into one street near the intersection of 26th Avenue and Lola Street on the east side of Stapleton. With the adoption of the Blueprint Denver Map in 2002 the town center location was depicted as East 29th Drive and Havana Street. With succeeding approved subdivisions of the area the alignment of Martin Luther King Boulevard changed and the location of the intersection with Havana Street moved north to the current location, which is north of the location depicted in the approved GDP. See the maps below.





Denver Comprehensive Plan 2000

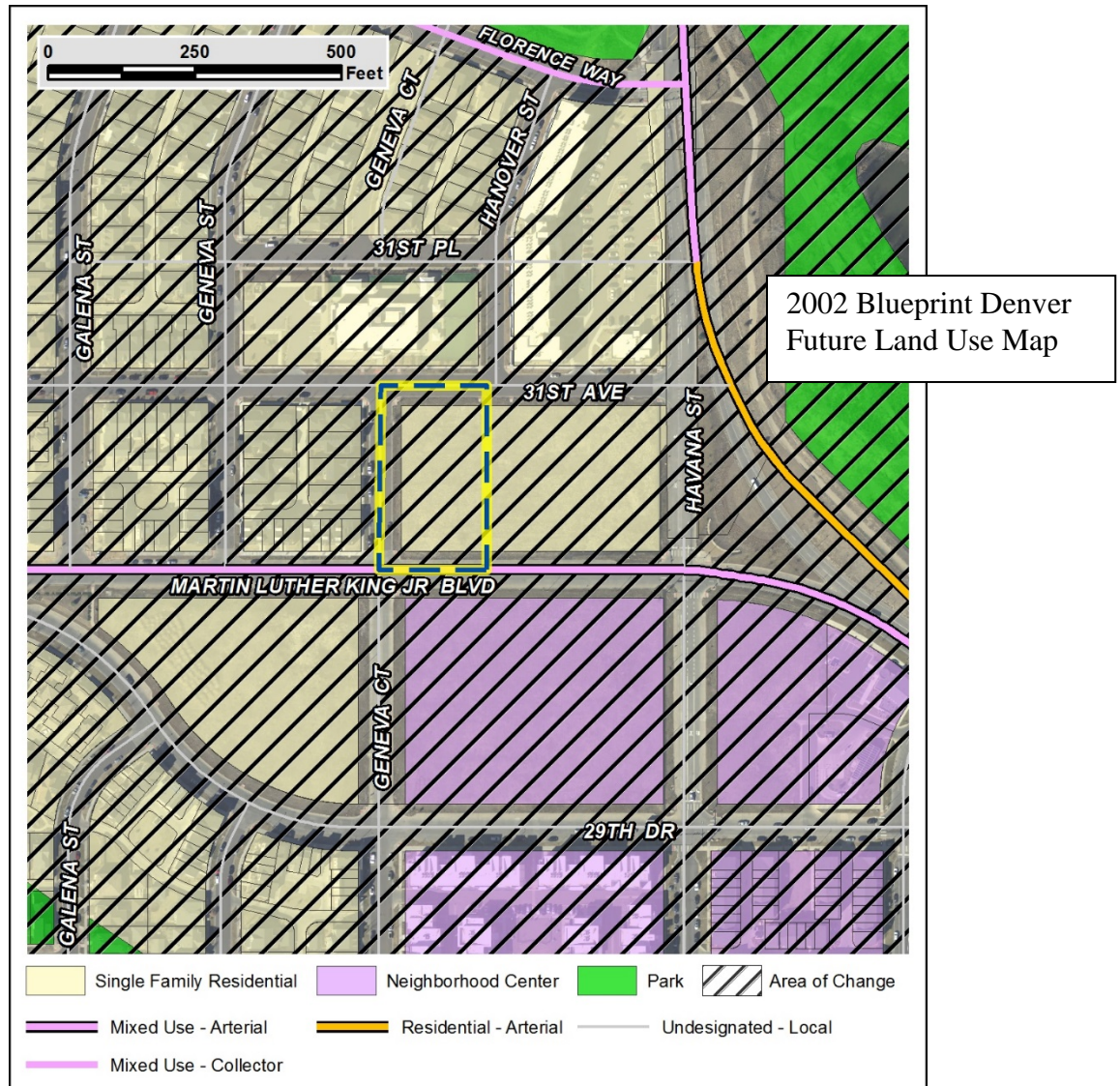
The proposal is consistent with many Denver Comprehensive Plan strategies, including:

- **Environmental Sustainability Strategy 4-A** – “*Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools are accessible by multiple forms of transportation, providing opportunities for people to live where they work.*” (p. 41).
- **Land Use Strategy 3-B** – “*Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses*” (p. 60).
- **Land Use Strategy 3-D** – “*Identify and enhance focal points in neighborhoods, and encourage the development of such focal points where none exist*” (p. 60).
- **Legacies Strategy 3-A** – “*Identify areas in which increased density and new uses are desirable and can be accommodated*” (p. 99).
- **Economic Activity Strategy 5-A** – “*Support small-scale economic development in neighborhoods using the following key strategies... Support development of neighborhood business centers that serve adjacent residential areas in existing neighborhoods and new neighborhoods within development areas*” (p. 136).

The proposed map amendment will contribute to the development of the new Eastbridge town center to serve the surrounding Stapleton neighborhood. The proposed office and commercial land uses contributes to the mixture of land uses in the new town center. The proposed M-MX-5 zone district allows a wide variety of residential, civic, and commercial lands uses. The rezoning is consistent with these Comprehensive Plan recommendations.

Blueprint Denver (2002)

The Blueprint Denver future land use designation for the subject property is Single Family Residential and the property is in an Area of Change.



Future Land Use

Blueprint Denver describes Single Family Residential as “Neighborhoods of single family houses”...where “densities are fewer than 10 units per acre...and the employment base is significantly smaller than the housing base” (p. 42). “A neighborhood is an area that consists primarily of residential land uses. A city should contain neighborhoods that offer a variety of housing types, as well as complementary land-use types such as stores, parks, and schools that provide the basic needs of nearby residents” (p. 41). On the Blueprint Denver Map the location of the Neighborhood Center, or the Eastbridge town center, is at the intersection of 29th Drive and Havana Street. The subject property is directly across Martin Luther King Boulevard from the designated Neighborhood Center, or town center, where a new grocery store is currently under construction. The proposed M-MX-5 zone district conforms to the Blueprint Denver Single Family Residential land use concept because the zone district will allow a mix of residential uses with complementary commercial and civic land uses to serve the Stapleton residential development.

Area of Change / Area of Stability

“The purpose of Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (p. 127). “One of Denver’s unique characteristics is the presence of these large vacant development sites. These sites were created when the Air Force Base at Lowry and the former Stapleton Airport closed and also when land was annexed for the new Denver Airport, creating the Gateway District. These sites offer the potential to create new neighborhoods that embody the best characteristics of Denver’s traditional residential areas. The Blueprint Denver scenario calls for a level of local retail, services and jobs to support the needs of residents who will occupy future housing on these sites. Such a development pattern ensures that residents can find goods, services and employment close to home and may help reduce the number and length of trips taken” (p. 22). Strategies for Stapleton, Gateway and Lowry Areas of Change include:

- Coordinated master planning
- Urban character
- Pedestrian and transit supportive design and development standards
- Mixed land uses – retail and employment near residential neighborhoods
- Diversity of housing type, size and cost

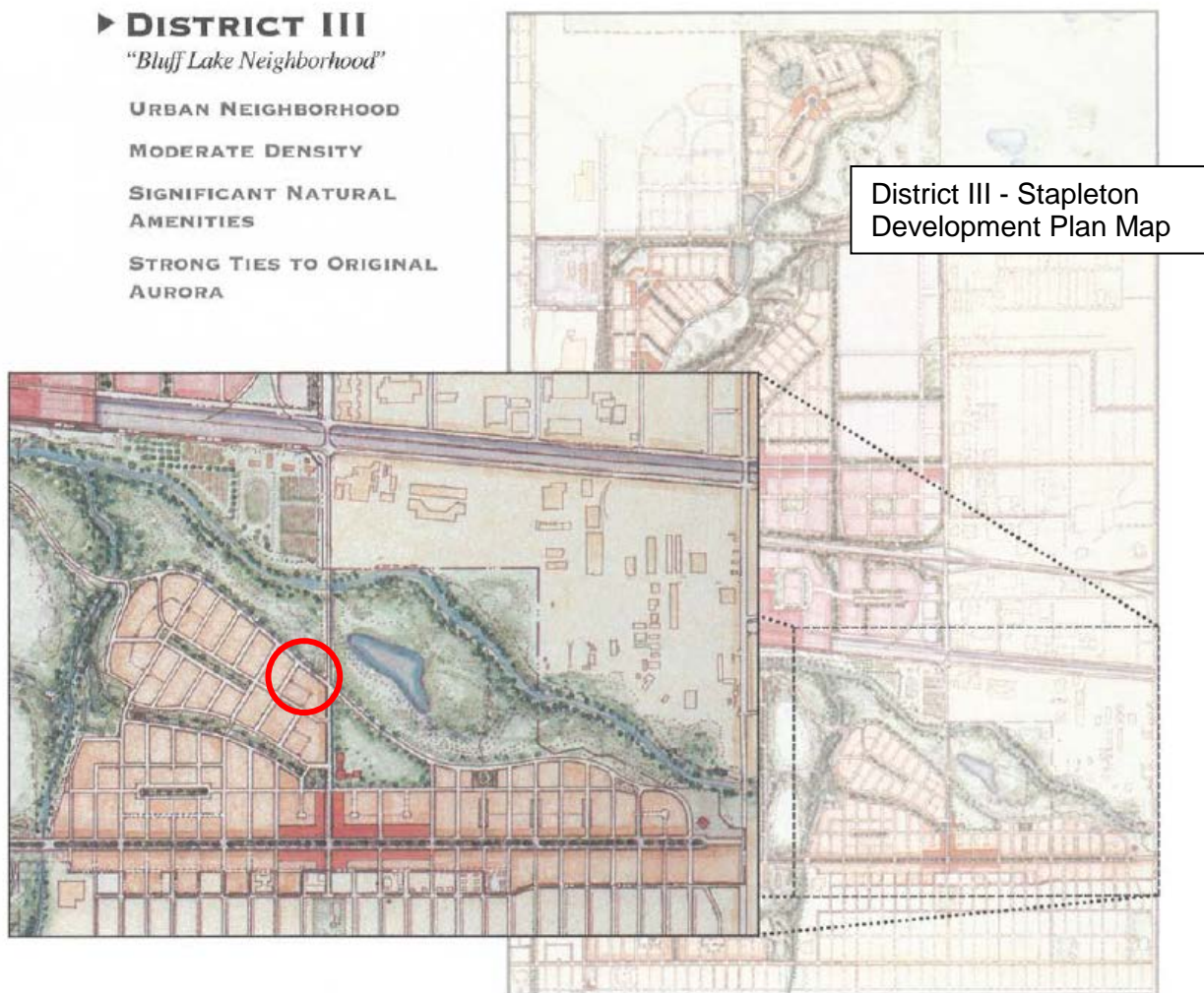
The rezoning of the subject property will enable the continued redevelopment of the former Stapleton Airport into a new residential mixed use neighborhood which provides the envisioned jobs, housing and services. The subject property has a Single Family Residential and Area of Change designation on the Blueprint Map, but has always been zoned for a mixture of land uses. The property has been zoned since 1999 for a mixture of land uses in conformance with the Stapleton Development Plan and General Development Plan. The M-MX-5 zone district will allow the property to continue to be used in the same mixed use manner as the existing zoning allows, but the new zone district will remove the waivers which preclude some civic and commercial land uses, and set limits on the size of office development. Staff believes that because the M-MX-5 zone district allows similar land uses to the existing R-MU-20 zone district, it conforms to the long-established land use concept of residential with neighborhood serving non-residential uses.

Street Classifications

The Blueprint Denver future street classifications identified Geneva Court and East 31st Avenue as Undesignated Local Streets and Martin Luther King Boulevard as a Mixed Use Arterial. The requested Mixed Use zone district is appropriate along a designated Mixed Use street.

Stapleton Development Plan (1995)

The applicable neighborhood plan for the property is the Stapleton Development Plan, which was adopted in March, 1995. On the Development Plan map the subject property is in District III. The District is bounded by Sand Creek on the north, 25th Avenue on the south, Peoria Street on the east and Westerly Creek on the west. Key elements of the Development Plan for this area are a predominance of *“residential land uses, a district center at Havana Street and 26th Avenue including street improvements to those streets, restoration of Sand and Westerly Creek and an elementary school in the neighborhood center”* (p. 5-48). With the relocation of the district center to the north over the years, the proposed M-MX-5 zone district is consistent with this Plan vision and will provide the regulatory basis for the mixture of residential and neighborhood-serving land uses envisioned in the Plan.

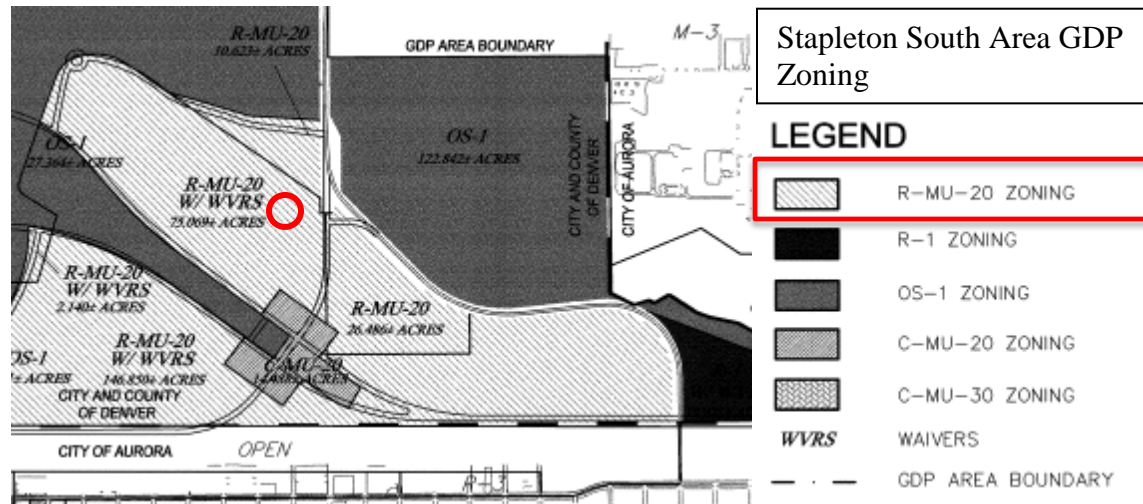
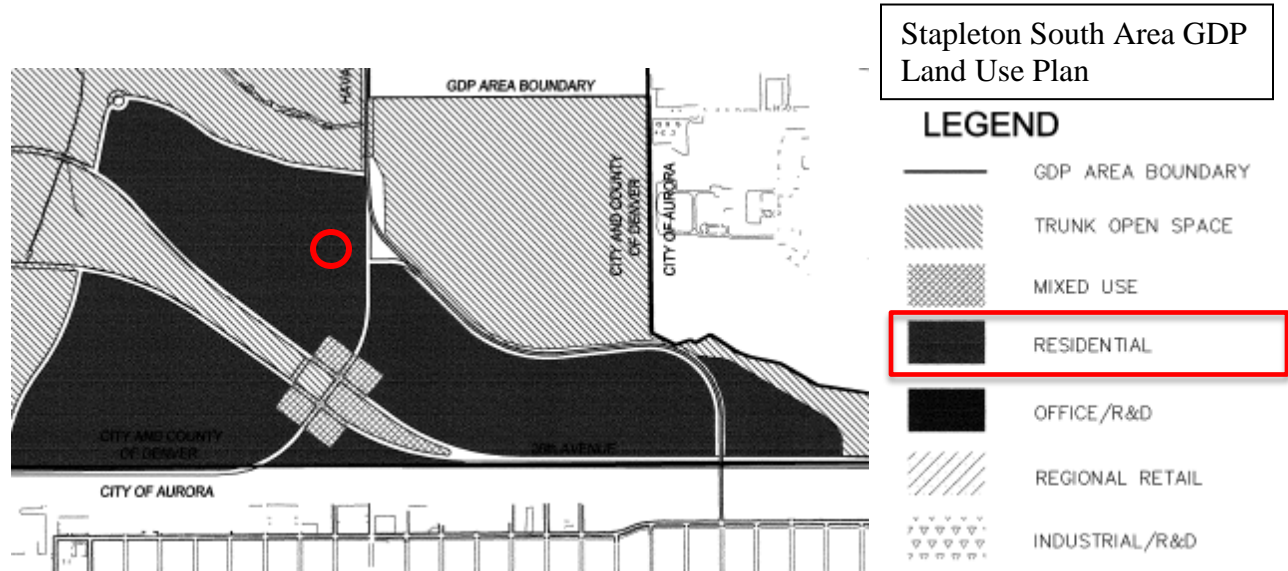


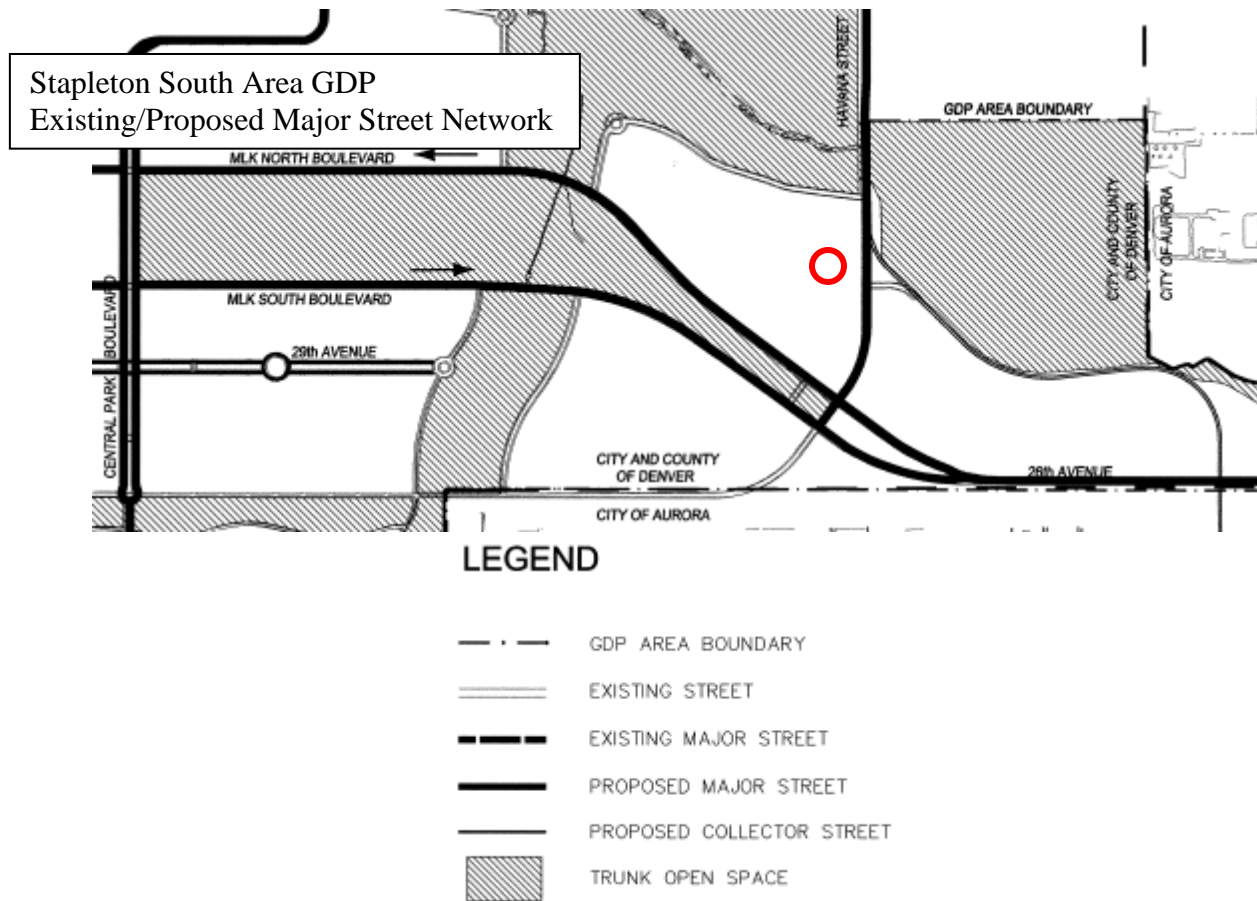
Stapleton Redevelopment, General Development Plan – South Area (2001)

The Stapleton Redevelopment, General Development Plan–South Area (GDP) was approved in 2001 and the area of the GDP encompassed is 2,155 acres. In 2001, GDPs were required for the development of large or phased projects in the mixed use zone districts of Former Chapter 59. GDPs were intended as conceptual master plans for addressing major infrastructure, utility, open space and land use issues. Former Chapter 59 required a GDP if the property was in a mixed use zone district, and if an arterial or collector street grid or an existing water drainage course was to be built or changed, or if required open space was being aggregated beyond a single zone lot.

The GDP development concept is based on the Stapleton Development Plan and *"calls for creation of a comprehensive community through the integration of housing, employment and recreation. The 2,155 acre South Area land plan is shaped by an open space system that connects walkable neighborhoods, mixed-use town and neighborhood centers, regional retail and major concentrations of new business opportunities... The Concept (land use) Plan may change and evolve over time but will remain*

consistent with zoning....Stapleton South was zoned in 1999 to include mixed use zoning and open space districts” (GDP Sheet 3).





The Residential land use category in the GDP is guided by the zoning put in place in 1999. The R-MU-20 zone district allows primarily single-family or multi-unit residential land uses with a mixture of neighborhood serving retail allowed on arterial or collector streets. The proposed M-MX-5 zone district would allow both residential land uses and the neighborhood-serving commercial and civic land uses envisioned to serve Stapleton residents as further development occurs.

The General Development Plan also established a hierarchy of street types for the south Stapleton area. On the GDP Existing/Proposed Major Street Network sheet it states that both Martin Luther King Boulevard and Havana Street are “proposed major streets.” Because the subject property is located on an arterial street, is located adjacent to existing commercial land uses in a designated town center, and because the proposed M-MX-5 zone district allows residential, civic and commercial land uses, staff believes the M-MX-5 zone district is consistent with this planned land use concept in the GDP.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to M-MX-5 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

By implementing the adopted Plans of the city the proposed official map amendment furthers the public health, safety, and general welfare of the City.

4. Justifying Circumstance

The application identifies the changing condition of the redevelopment of the Stapleton area as the Justifying Circumstance under DZC Section 12.4.10.8, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." The ongoing redevelopment of Stapleton, the completion of major regional infrastructure improvements, and the continuing development of additional residential dwelling units are cited by the applicant as the justifying circumstance. The change in location of the town center over time, and the ongoing commercial development of the town center, also resulted in a changed character of the area around this site in the time since its Former Chapter 59 zoning. Staff concurs that these are appropriate justifying circumstances for the proposed rezoning.

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

A Denver Zoning Code review criterion is that the proposed official map amendment should be consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district. The Master Planned Context is intended for developing areas that will develop or redevelop in phases over an extended period of time into entirely new residential and mixed use neighborhoods covering multiple blocks. Examples of areas in Denver that may be appropriately zoned within the Master Planned Context are the Stapleton and Gateway neighborhoods. Development may consist of single-unit, two-unit and multi-unit residential uses, mixed use centers embedded in residential areas, larger town centers, high density transit oriented developments, as well as commercial office and mixed-use industrial employment centers. Single- and two-unit residential uses are primarily located along local and residential arterial streets. Multi-unit residential uses are primarily located along local and residential arterial streets. Commercial uses are primarily located along mixed-use arterial streets but may be located at or between intersections of local streets. Office, research and industrial parks are primarily located near arterials and major highways.

The Master Planned Context consists of a variety of block shapes and patterns, often dependent upon the intended land use. In all cases, there is a high degree of vehicle and pedestrian connection through this context. In residential neighborhoods and town centers, blocks are sized to promote circulation and include detached sidewalks, tree lawns and/or streetscape elements, street and surface parking. Commercial development in town centers and transit oriented developments is typically built up to the street on at least one side of the block with buildings on other sides of the block sometimes having parking located between the building and the street. Commercial development in office, research or industrial parks may be set back from the street with parking or landscape areas between the building and the street.

The intent of zone districts in the Master Planned Context is to provide flexibility for master planned development of large sites to respond to market opportunities over time. The zoning regulations support phased mixed-use development and allow a wide variety of land uses and building forms. Building heights in Master Planned Context zone districts range from 1-12 stories.

The purpose and intent of the M-MX-5 zone district is to promote development of new town centers and mixed-use neighborhoods up to 5 stories in height. The district is intended to promote a mixture of land uses with buildings often built to the sidewalk edge to support a pedestrian-oriented pattern, and an active street level.

The subject property is located on a mixed use arterial and is across the street from an establishing town center. It is also located in a master-planned area. The M-MX-5 zone district will allow the range of land uses needed to continue development within the town center. Staff finds the proposed the M-MX-5 zone district is consistent with the existing adjacent residential and commercial land uses, and with the intent of the Master Planned Context.

Staff Recommendation

Based on the analysis set forth above, CPD staff finds that the application for rezoning the property located at approximately Geneva Court and Martin Luther King Boulevard to an M-MX-5 zone district meets the requisite review criteria. Accordingly, staff recommends ***approval***.

Attachments

1. Application
2. Approved Legal Description
3. Existing Waivers

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name		Representative Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	
<p>*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):			
Assessor's Parcel Numbers:			
Area in Acres or Square Feet:			
Current Zone District(s):			
PROPOSAL			
Proposed Zone District:			
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<input type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan. Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.
	<input type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.
	<input type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p>Justifying Circumstances - One of the following circumstances exists:</p> <input type="checkbox"/> The existing zoning of the land was the result of an error. <input type="checkbox"/> The existing zoning of the land was based on a mistake of fact. <input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage. <input type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area. <input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code. Please provide an attachment describing the justifying circumstance.
	<input type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District. Please provide an attachment describing how the above criterion is met.
	<p>REQUIRED ATTACHMENTS</p> <p>Please ensure the following required attachments are submitted with this application:</p> <input type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input type="checkbox"/> Proof of Ownership Document(s) <input type="checkbox"/> Review Criteria
<p>ADDITIONAL ATTACHMENTS</p> <p>Please identify any additional attachments provided with this application:</p> <input type="checkbox"/> Written Authorization to Represent Property Owner(s)	
<p>Please list any additional attachments:</p>	

PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement (must sign in the exact same manner as title to the property is held)	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Property owner representative written authorization? (YES/NO)
EXAMPLE John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	NO
Evergreen Devco, Inc. Russell Perkins	1873 S. Bellaire St #1106 Denver, CO 80222 Russ: 602-567-7129 rperkins@evgre.com	100%	<i>Russell Perkins</i>	3/17/16	(D) <i>owner authorization</i>	YES

Telephone 303-382-1800

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www.StapletonDenver.com
Email info@StapletonDenver.com

March 9, 2016

Mr. Russell Perkins
Vice President, Development
Evergreen Devco, Inc.
2390 East Camelback Road, Suite 410
Phoenix, Arizona 85016

Dear Mr. Perkins,

This letters serves as written authorization for Evergreen Development to represent Forest City Stapleton, as land owner, for the rezoning application related to title commitment 774235.

Sincerely,



Jim Chrisman
Senior Vice President
Forest City Stapleton, Inc.

UNANIMOUS WRITTEN CONSENT OF DIRECTORS
OF

EVERGREEN DEVCO, INC.,
a California corporation

The undersigned, constituting all of the duly elected and qualified Directors of Evergreen Devco, Inc., a California corporation (the "Corporation"), hereby adopt the following resolutions by unanimous written consent, without a meeting, pursuant to Section 307(b) of the California Corporations Code:

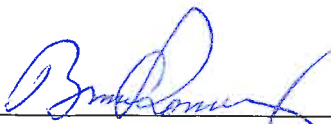
AUTHORIZED SIGNATORIES

RESOLVED, that, effective immediately, any one of Dana Dragon Douglas Leventhal, Heather Balzer, Laura Ortiz, Reuben Garbett, Russell Perkins or Tim O'Neil, each employees of the Corporation, acting alone (the "Authorized Signatory"), is hereby authorized, directed and empowered to execute, acknowledge and deliver in the name and on behalf of this Corporation, as deemed necessary or advisable, in the Authorized Signatory's sole discretion, escrow settlement statements, title and escrow documents (except conveyance documents), escrow instructions, mechanic lien indemnifications, certificates of substantial completion, agreements with real estate brokers, purchase and sale contracts or amendments, letters of intent, lease agreements, memoranda of agreements, CC&Rs, reciprocal easement agreements, easements, license agreements, affidavits, estoppel certificates, lease termination agreements, consultant and vendor agreements, construction contracts, federal, state and municipal applications and agreements, plat maps, parcel maps, lot splits, lot line adjustments, lot mergers, bonds, permit applications, utility contracts and agreements, bill of sales, purchase orders, and any amendments to any of the foregoing documents, all of the foregoing to be in such form and to contain such terms and conditions as may be approved by the Authorized Signatory, such approval to be conclusively evidenced by the execution thereof by the Authorized Signatory; and that the authority given hereunder shall be deemed retroactive and any actions authorized herein and performed prior to the passage of these resolutions is hereby ratified, confirmed and approved.

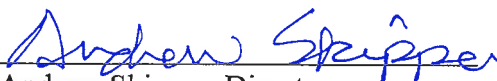
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The Secretary of this Corporation is hereby directed to file this Written Consent and the resolutions adopted hereby with the minutes of the proceedings of the Board of Directors.

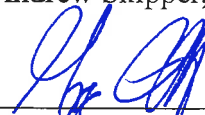
Dated: December 1, 2006



Bruce D. Pomeroy, Director



Andrew Skipper, Director



Gregg Alpert, Director

Legal Description

A parcel of land being part of Lot 1, Block 8, Stapleton Filing No. 21, situated in the E 1/2 of Section 27, T.3S., R.67W., of the 6th P.M., City and County of Denver, State of Colorado, being more particularly described as follows:

Beginning at the NW Corner of Lot 1, Block 8, Stapleton Filing No. 21;
Thence N90°00'00"E along the Southerly R.O.W. Line of 31st Avenue a distance of 146.00 feet;
Thence S00°00'00"W a distance of 248.50 feet to a point on the North R.O.W. Line of Martin Luther King Jr. Boulevard;
Thence S90°00'00"W along said North R.O.W. Line, a distance of 146.00 feet to a point on the East R.O.W. Line of Geneva Court;
Thence N00°00'00"E along said East R.O.W. Line, a distance of 248.50 feet to the **Point of Beginning**.

Parcel Contains (36,281 Square Feet) 0.8329 Acres, more or less.

Date prepared: March 7, 2016

Date of last revision:

Prepared by: Charles N. Beckstrom, PLS No. 33202
for and on behalf of
Engineering Service Company
1300 South Potomac Street, Suite 126
Aurora, Colorado 80012
Phone: 303-337-1393
cbeckstrom@engineeringserviceco.com





First American Title Insurance Company - NCS
1125 17th Street, Suite 500
Denver, Colorado 80202
Phone: (303)876-1112 Fax:(877)235-9185

DATE: March 07, 2016
FILE NUMBER: NCS-774235-CO
PROPERTY ADDRESS: Stapleton, Denver, CO
OWNER/BUYER: FC Stapleton II, LLC/Evergreen Devco, Inc.
YOUR REFERENCE NUMBER: Stapleton
ASSESSOR PARCEL NUMBER: 0127459001000

PLEASE REVIEW THE ENCLOSED MATERIAL COMPLETELY AND TAKE NOTE OF THE FOLLOWING TERMS CONTAINED THEREIN:

Transmittal:
Revision No.:
Schedule A:
Schedule B - Section 1 Requirements:
Schedule B - Section 2 Exceptions:

Should you have any questions regarding these materials, please contact First American Title Insurance Company National Commercial Services at the above phone number. We sincerely thank you for your business.

TO:	First American Title Insurance Company National Commercial Services 1125 17th Street, Suite 500 Denver, CO 80202	ESCROW OFFICER:	Mej Ellsworth/Aaron Harris
		PHONE:	(303)876-1126
		FAX:	(877)235-9185
		E-MAIL:	mellsworth@firstam.com/aharris@firstam.c
		DELIVERY:	E-MAIL

TO:	First American Title Insurance Company National Commercial Services	TITLE OFFICER:	Richard Brown
		PHONE:	
		FAX:	
		E-MAIL:	ribrown@firstam.com
		DELIVERY:	E-MAIL

To:	Evergreen 1873 S Bellaire St Ste 1106 Denver , CO 80222	ATTN:	Tyler Carlson
		PHONE:	(303)757-0462
		MOBILE:	
		FAX:	(303)280-2978
		E-MAIL:	tcarlson@evgre.com
		DELIVERY:	E-MAIL

To: Kutak Rock LLP
8601 N Scottsdale Rd Ste 300
Scottsdale , AZ 85253

ATTN: Arik J. Michelson
PHONE: (480)429-4824
MOBILE:
FAX: (480)429-5001
E-MAIL: arik.michelson@kutakrock.com
DELIVERY: E-MAIL

To: FC Stapleton II, LLC
c/o Forest City Stapleton, Inc. 7351
East 29th Avenue
Denver, CO 80238

ATTN:
PHONE:
MOBILE:
FAX: (303)996-5950
E-MAIL: jchrisman@forestcity.net
DELIVERY: E-MAIL

ALTA Commitment Form

COMMITMENT FOR TITLE INSURANCE

Issued by

First American Title Insurance Company

First American Title Insurance Company, a Nebraska corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate six (6) months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

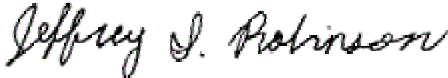
The Company will provide a sample of the policy form upon request.

IN WITNESS WHEREOF, First American Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

First American Title Insurance Company



Dennis J. Gilmore
President



Jeffrey S. Robinson
Secretary

EXHIBIT A

Commitment No.: NCS-774235-CO

The land referred to in Schedule A is situated in the County of Denver, State of Colorado and is described as follows:

Lot 1, Block 8,
Stapleton Filing No. 21
City and County of Denver,
State of Colorado.

NOTE: The above legal description will be amended upon satisfaction of the requirements herein set forth.

For informational purposes only: APN: 0127459001000

COMMITMENT FOR TITLE INSURANCE FORM
SCHEDULE B
SECTION ONE
REQUIREMENTS

The following requirements must be met:

1. Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
2. Pay us the premiums, fees and charges for the policy.
3. Payment of all taxes and assessments now due and payable.
4. Recordation of a Special Warranty Deed satisfactory to the Company, from FC Stapleton II, LLC, a Colorado limited liability company, vesting fee simple title in and to Evergreen Devco, Inc., a California corporation.
5. Recordation of a Deed of Trust satisfactory to the Company, from Evergreen Devco, Inc., to the Public Trustee of Denver County, for the benefit of the proposed insured lender.
6. Receipt by the Company of the following documentation for FC Stapleton II, LLC, a Colorado limited liability company:

Operating Agreement, and all amendments thereto, if any.
7. Receipt by the Company of a Corporate Resolution executed by the officers of Evergreen Devco, Inc., a California corporation, authorizing the transaction herein contemplated and setting forth the names and authority of those authorized to sign for the corporation.
8. Receipt by the Company of a satisfactory Final Affidavit and Indemnity, executed by FC Stapleton II, LLC, a Colorado limited liability company.
9. Receipt by the Company of a satisfactory Final Affidavit and Indemnity, executed by Evergreen Devco, Inc., a California corporation.
10. Receipt by the Company of an ALTA/ACSM Land Title Survey, certified to First American Title Insurance Company, and in form and content satisfactory to the Company. The Company reserves the right to make further requirements and/or exceptions upon review of this survey.

REQUIREMENT SATISFIED

COMMITMENT FOR TITLE INSURANCE FORM
SCHEDULE B
SECTION TWO
EXCEPTIONS

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Any facts, rights, interests or claims which are not shown by the Public Records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
2. Easements, or claims of easements, not shown by the Public Records.
3. This item has been intentionally deleted.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown in the Public Records.
5. Any and all unpaid taxes, assessments and unredeemed tax sales.
6. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of General Development Plan, recorded March 26, 2001 at Reception No. [2001043010](#).
7. Terms, conditions, provisions, obligations and agreements as set forth in the Intergovernmental License Agreement recorded June 18, 2001 at Reception No. [2001100014](#) and Amendment thereto recorded August 16, 2006 at Reception No. [2006131340](#).
8. Covenants, conditions, restrictions, provisions, easements and assessments as set forth in First Amended and Restated Community Declaration recorded May 10, 2002 at Reception No. [2002086362](#) and Amendments thereto recorded March 26, 2004 at Reception No. [2004079050](#), August 25, 2004 at Reception No. [2004176012](#), December 10, 2004 at Reception No. [2004252204](#), December 22, 2005 at Reception No. [2005217062](#), January 9, 2007 at Reception No. [2007003744](#), and February 9, 2007 at Reception No. [2007022702](#), but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin, and any and all amendments, assignments, or annexations thereto.
9. Any tax, lien, fee or assessment by reason of inclusion of subject property in the Westerly Creek Metropolitan District, as evidenced by instrument recorded June 17, 2004 at Reception No. [2004128627](#), November 5, 2004 at Reception No. [2004229438](#), and February 14, 2005 at Reception No. [2005027207](#).
10. Terms, conditions, restrictions and reservations as set forth in Property Deed recorded August 25, 2004 at Reception No. [2004176006](#).

11. Covenants, conditions, restrictions and provisions as set forth in Amended and Restated Design and Architectural Declaration recorded August 25, 2004 at Reception No. [2004176008](#), but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin, and any and all amendments, assignments, or annexations thereto.
12. Terms, conditions, provisions, obligations and agreements as set forth in the Recordation of Development Agreement recorded August 25, 2004 at Reception No. [2004176011](#).
13. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Stapleton Filing No. 15, recorded June 28, 2005 at Reception No. [2005107063](#).

NOTE: Affidavit of Correction in connection therewith recorded April 30, 2008 at Reception No. [2008058641](#).
14. Terms, conditions, provisions, obligations and agreements as set forth in the Ordinance No. 494, Series of 2005 recorded July 22, 2005 at Reception No. [2005123432](#).
15. This item has been intentionally deleted.
16. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Stapleton Filing No. 21, recorded November 21, 2006 at Reception No. [2006187750](#), and as shown on the survey prepared by William G. Barnes of Bell Surveying Company dated June 4, 2014 and last revised in June 27, 2014, (the "Survey").
17. Mineral rights and water rights as conveyed by Quit Claim Deeds recorded January 9, 2007 at Reception No. [2007003743](#) and January 29, 2008 at Reception No. [2008011673](#), and any and all assignments thereof or interests therein.
18. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Stapleton Residential Development Plan for Filing No. 21, recorded April 9, 2007 at Reception No. [2007056601](#) and amendment thereto recorded November 15, 2012 at Reception No. [2012156885](#).
19. Terms, conditions, provisions, obligations and agreements as set forth in the Disclosures of Environmental Conditions, Waiver and Release recorded January 21, 2010 at Reception No. [2010007681](#) and Notary Affidavit in connection therewith recorded May 13, 2010 at Reception No. [2010052345](#), and June 22, 2010 at Reception No. [2010068382](#).
20. Water rights, claims or title to water, whether or not shown by the public records.
21. Existing leases and tenancies.

EXHIBIT B
Statement of Charges

ALTA Owners Policy	\$
Tax Certification	\$

CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org/>.



First American Title

Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet. In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

DISCLOSURE STATEMENT

Pursuant to C.R.S 30-10-406(3)(a) all documents received for recording or filing in the Clerk and Recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one-half of an inch. The Clerk and Recorder will refuse to record or file any document that does not conform to the requirements of this section.

NOTE: If this transaction includes a sale of the property and the price exceeds \$100,000.00, the seller must comply with the disclosure/withholding provisions of C.R.S. 39-22-604.5 (Non-residential withholding).

NOTE: Colorado Division of Insurance Regulations 3-5-1, requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed." Provided that First American Title Insurance Company conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction.

Pursuant to C.R.S. 10-11-122, the company will not issue its policy or policies of title insurance contemplated by this commitment until it has been provided a Certificate of Taxes due or other equivalent documentation from the County Treasurer or the County Treasurer's authorized agent; or until the Proposed Insured has notified or instructed the company in writing to the contrary.

The subject property may be located in a special taxing district. A Certificate of Taxes due listing each taxing jurisdiction shall be obtained from the County Treasurer or the County Treasurer's authorized agent. Information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

NOTE: Pursuant to CRS 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments containing a mineral severance instrument exception, or exceptions, in Schedule B, Section 2.

- A. That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- B. That such mineral estate may include the right to enter and use the property without the surface owner's permission.

NOTE: Pursuant to Colorado Division of Insurance Regulations 3-5-1, Affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception no. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:

- A. The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
- B. No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
- C. The Company must receive an appropriate affidavit indemnifying the Company against un-filed mechanic's and material-men's liens.
- D. The Company must receive payment of the appropriate premium.

- E. If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of the Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium, fully executed Indemnity Agreements satisfactory to the company, and, any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

NOTE: Pursuant to C.R.S, 38-35-125(2) no person or entity that provides closing and settlement services for a real estate transaction shall disburse funds as a part of such services until those funds have been received and are available for immediate withdrawal as a matter of right.

NOTE: C.R.S. 39-14-102 requires that a real property transfer declaration accompany any conveyance document presented for recordation in the State of Colorado. Said declaration shall be completed and signed by either the grantor or grantee.

Nothing herein contained will be deemed to obligate the company to provide any of the coverages referred to herein unless the above conditions are fully satisfied.

NOTE: Pursuant to CRS 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.



Rezoning Justification Letter – Denver Zoning Code Criteria Analysis

NEC of M.L.K. Jr. Blvd and Geneva Ct.

March 17, 2016

Thank you for taking the time to review our Zone Map Amendment application for the vacant property located at the northeast corner of M.L.K Jr. Blvd. & Geneva Ct. The request would rezone the property from the R-MU-20 with waivers district to the M-MX-5 district. Included below is the analysis of the proposed Zone Map Amendment request against the following Denver Zoning Code sections:

Section 12.4.10.7: General Review Criteria Applicable to All Zone Map Amendments,

Section 12.4.10.8: Additional Review Criteria for Non-Legislative Rezonings

Section 12.4.10.7: General Review Criteria Applicable to All Zone Map Amendments.

The City Council may approve an official map amendment if the proposed rezoning complies with all of the following criteria:

- A. Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the City's plan. The applicable adopted plans are the Comprehensive Plan 2000, Blueprint Denver, Stapleton Development Plan (1995), and Stapleton Redevelopment GDP – South Area (2011).

Analysis:

Comprehensive Plan 2000:

The Comprehensive Plan 2000 focuses on the congruency of land use and zoning, creating a built environment with greater overall urban design integrity, stronger connections among urban centers, and a richer, more diverse mix of uses within geographically proximate areas. The Plan focuses on creating mixed use development that connect residents more directly to services and amenities within their immediate living areas.

Land Use Chapter, Objective 3: Residential Neighborhoods & Business Centers is to preserve and enhance the individuality, diversity and livability of Denver's Neighborhoods and expands the vitality of

Denver's Business Centers. The following strategies under this objective pertain directly to the proposed rezoning of the subject property:

- Strategy 3-B: Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.*
- Strategy 3-C: Identify and enhance existing focal points (can be park, school, distinctive shopping area, any amenity that helps create a neighborhood's image) in neighborhoods, and encourage the development of such focal points where none exist.*

The proposed rezoning to M-MX-5 will further these objectives and strategies by expanding the diversity and livability of the surrounding neighborhood by providing the opportunity for additional needed commercial services to support the surrounding residential area. The rezoning will allow a variety of use options for the property, which will enhance the focal point of the area, which is a distinctive shopping area for this neighborhood.

Mobility Chapter, Objective 4: Changing Travel Behavior, Strategy 4-E is to continue to promote mixed-use development, which enables people to live near work, retail and services. The proposed rezoning to M-MX-5 is consistent with this objective and strategy as it will provide for the opportunity for commercial development to provide needed services within walking distance of the surrounding existing residences.

Denver's Legacies Chapter Objective 3: Compact Urban Development, Strategy 3-A is to identify areas in which increased density and new uses are desirable and can be accommodated. The subject property is adjacent to property on the East, Southeast, South, and Southwest that is zoned M-MX-5. The northern edge of the subject property is adjacent to property zoned M-RX-5. South of the subject property is a proposed grocery store development currently approved through the City of Denver development review process. This area is a desirable area for the allowance of additional commercial services to serve the surrounding residences. Increasing the land area zoned for commercial uses will provide the opportunity for new uses to serve the community. Given the close proximity to existing zoned M-MX-5 property and other commercial uses, rezoning the property is consistent with the objective and strategy of this section to provide compact urban development.

Economic Activity Chapter, Objective 3: Expand Economic Opportunity, Strategy 3-B is to support retention and expansion of businesses and industries historically important to Denver, including small businesses. The proposed rezoning to R-MX-5 will provide the opportunity for small business to locate in a commercial center, potentially providing opportunity for employment in close proximity to residential uses.



Economic Activity Chapter, Objective 5: Neighborhood Economic Development, Strategy 5-A is to support small-scale economic development in neighborhoods by supporting development of neighborhood business centers that serve adjacent residential areas in existing neighborhoods and new neighborhoods within development areas. Rezoning the subject property to M-MX-5 would enhance the small scale business development in this neighborhood, providing opportunities for smaller businesses and greater variety in shopping/retail choices for surrounding residents.

Environmental Sustainability Chapter, Objective 2: Stewardship of Resources, Strategy 2-F is to conserve land by promoting infill development within Denver at sites where services and infrastructure are already in place. Design mixed-use communities and reduce sprawl so that residents can live, work and play within their own neighborhoods. The proposed rezoning of the subject property to M-MX-5 will fulfill these objectives. The road and utility infrastructure in this location are already in place. There are also approved commercial services immediately adjacent to the subject property. This rezoning would provide needed services to residents in their own neighborhood by increasing the land area available for commercial development, a mixture and variety of commercial uses can be provided.

Plan 2000 identifies this area as one of Denver's major development areas, anticipating a mixture of uses to provide needed services to residents. Rezoning the subject property to M-MX-5 is consistent with Plan 2000 as analyzed above.

Blueprint Denver:

The Blueprint Denver land use concept for the subject property is Single Family Residential (less than 10 du/acre). Residential areas include a recommendation to accommodate a mixture of housing types as well as complementary land uses including stores to support the needs of surrounding residents.

The subject property is designated as a Residential Area of Change. The purpose of Areas of Change are "to channel growth where it will be beneficial and can best improve access to jobs, housing, and services within fewer and shorter auto trips. Areas of Change are part of the city where most people agree that development or redevelopment would be beneficial". Development in areas of change should contain a balance of uses, provide economic opportunity, connect residences to needed services, and to contribute to the urban design vision through high quality building materials, landscaping, orientation of the building to the street, and transition to adjacent uses. The proposed zoning to M-MX-5 will permit a mix of commercial services that will be more responsive to the changing needs of the residential areas nearby. The M-MX-5 district is intended for developing areas that will develop or redevelop in phases.



Development within this zone district is intended to produce a mixture of uses, specifically calling for mixed use centers embedded in residential areas and commercial uses along mixed-use arterial streets (M.L.K. Jr. Blvd.). The M-MX-5 district is intended to promote the development of new town centers/neighborhood centers and mixed use neighborhoods. The Stapleton area has developed as a mixed use community with various town centers and supporting/complimentary commercial uses.

Blueprint Denver also states that the subject property has a conceptual land use designation of Single Family Residential (less than 10 du/acre). Residential areas include a recommendation to accommodate a mixture of housing types as well as complementary land uses including stores to support the needs of surrounding residents. The subject property is unique in that it is located on the border between single family residential uses and commercial or higher density residential uses. The subject property is better suited for commercial uses given the nature and zoning of the surrounding adjacent property. The Residential Area of Change designation allows the property to be considered for mixed use development based on the needs of the community and pattern of development in the area. Areas of Change allow the opportunity to focus growth in a way that benefits future residents and workers in these areas.

Given the subject property's location on a mixed-use arterial classified street, proximity to Havana, and adjacency to property currently zoned M-MX-5 and M-RX-5, we find that the rezoning request is consistent with Blueprint Denver, especially in that the guiding principles for Areas of Change can be met.

Stapleton Development Plan (1995) & Stapleton Redevelopment GDP – South Area(2001):

The subject property is located in District III of the Stapleton Development Plan (1995). The district is predominately residential but includes an anticipated neighborhood center/district center at Havana and 26th. The Stapleton Redevelopment GDP – South Area (2001) designates the subject property as residential with the neighborhood center/district center located generally at Havana and 28th, which is a shift from the 1995 plan due to residential development in the area.

Since the development of the 1995 plan, the actual build out of the general area has taken on a different form and the district/neighborhood center was not constructed at 26th and Havana. 26th and Havana is the southern end of District III and is predominately residential. Since 2001, the district center/neighborhood was also not constructed at 28th and Havana, a community recreation center is now constructed in this location, with no additional commercial services surrounding it, nor any vacant land.

The 1995 and 2001 plans also did not anticipate the intersections of M.L.K. Jr Blvd and Havana St. developing in the layout they did. As a result, the neighborhood/district center is more appropriately



located around this intersection, which currently is zoned M-MX-5. The subject property abuts this zone district on the south and east sides. Geneva Street would separate the subject property from the existing residential to the west. Allowing the property to rezone to M-MX-5 would be consistent with the 1995 and 2001 plans which anticipated a neighborhood/district center for all of District III. It is imperative that enough land be designated to allow for a sufficient neighborhood center/district center in order to serve the population in the surrounding area. The rezoning would add to the land area available for a neighborhood/district center which is currently experiencing development on the south side of M.L.K. Jr. Blvd.. Compatibility with the existing surrounding and proposed uses will be ensured through the implementation of the urban design standards required by the Denver Zoning Code and enforced upon development of the property (enforcement which is further enhanced by virtue of the involvement of the Stapleton Design Review Committee, to which any proposed development on the property will be subjected). The rezoning is simply an adjustment to the western boundary of the existing M-MX-5 zone line, locating the boundary line along Geneva Street, instead of bisecting undeveloped property, allowing a logical increase of the area for the neighborhood/district center.

Based on the evolving nature of the street system design, residential neighborhood layouts, and location for the neighborhood/district center, we believe that the intent of the rezoning is consistent with the intent and the goals of both the Stapleton Development Plan (1995) and the Stapleton Redevelopment GDP – South Area (2001) in that the intent of both plans was to create a mixed use neighborhood center with a variety of housing, community, and commercial uses, adequate in size, to serve the neighborhood/district residents.

- B. Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.
Analysis: The proposed rezoning to M-MX-5 is simply an increase in the size of the existing adjacent M-MX-5 zoning boundary. The rezoning will allow the logical development of the northwest quadrant of M.L.K Jr. Blvd & Havana as part of the neighborhood/district center, utilizing Geneva Street as the buffer between the existing residential uses and the proposed M-MX-5 district. The regulations are uniform and at the time of a site plan, will be appropriately reviewed for design criteria.
- C. Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety and general welfare of the City.
Analysis: Rezoning to M-MX-5 will allow the development of needed commercial services as part of a neighborhood/district center for the overall area. Commercial development of this area under the M-MX-5 district will ensure a viable, walkable area serving the existing surrounding residents. The subject property is located on a mixed-use arterial roadway, suitable for commercial development.



Section 12.4.10.8: Additional Review Criteria for Non-Legislative Rezonings

In addition to compliance with the general review criteria stated in Section 12.4.10.7, the City Council may approve an official map amendment that the City Attorney has determined is not a legislative rezoning only if the City Council finds the application meets the following criteria:

- A. Justifying Circumstances: One of the following circumstances exists
1. The existing zoning of the land was the result of an error;
 2. The existing zoning of the land was based on a mistake of fact;
 3. The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;
 4. *The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area; or*
 5. It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.

Analysis: Circumstance 4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area" exists in the case of this rezoning. The proposed rezoning to M-MX-5 is in response to the changes that have occurred in this area. As described in the analysis of the Stapleton Development Plan (1995) and the Stapleton Redevelopment GDP- South Area (2001), the previously designated neighborhood/district center generally located at 26th & Havana was developed as residential instead of as a town center. The roadway system has also developed in a different configuration over time. As a result, the town center has shifted to the general area of M.L.K. Jr. Blvd. and Havana St. This area is currently zoned M-MX-5. Rezoning the subject property to the same zoning will expand the town center in a logical fashion, providing the opportunity for a greater variety of commercial uses to support the existing surrounding residents. The residential development has also evolved over time and the densities constructed appear to be greater than anticipated, the demand for services has undoubtedly increased as well, driving the need for the M-MX-5 rezoning of the subject property.

- B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements: The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.

Analysis: Neighborhood context for the M-MX-5 district is for developing areas that will develop or redevelop in phases over an extended period of time into entirely new residential and mixed use neighborhoods. The Zone District Purpose for M-MX-5 is to provide flexibility for master planned development of large sites to respond to evolving market opportunities over time. The Zone District



regulations support phased mixed-use development and allow for a wide variety of uses and building forms. As development proceeds, the permitted uses and building forms are further defined to provide clarity and predictable development outcomes. The building form standards and use standards support medium to high density development and are organized into nine distinct Zone Districts. Multiple building forms are allowed on a single zone lot. The M-MX-5 district is intended to promote the development of new town centers and mixed use neighborhoods. The Stapleton area has developed as a mixed use community with various town centers/neighborhood centers and supporting/complimentary commercial uses. The subject property is located in an area that is consistent with the description, purpose, and intent of the M-MX-5 zone district to function as a town/neighborhood/district center. This area has developed over time and will continue to develop over time in order to meet the needs of the residents by providing commercial services and other mixed uses. The rezoning is simply the logical expansion of the immediately adjacent area currently zoned M-MX-5.

Through the analysis above, we find that the proposed rezoning of the subject property to M-MX-5 is consistent with the Comprehensive Plan 2000, Blueprint Denver, Stapleton Development Plan (1995), the Stapleton Redevelopment GDP – South Area (2001), the remaining criterial list in Section 12.4.10.8 and 12.4.10.8 of the Denver Zoning Code.



Legal Description

A parcel of land being part of Lot 1, Block 8, Stapleton Filing No. 21, situated in the E 1/2 of Section 27, T.3S., R.67W., of the 6th P.M., City and County of Denver, State of Colorado, being more particularly described as follows:

Beginning at the NW Corner of Lot 1, Block 8, Stapleton Filing No. 21;
Thence N90°00'00"E along the Southerly R.O.W. Line of 31st Avenue a distance of 146.00 feet;
Thence S00°00'00"W a distance of 248.50 feet to a point on the North R.O.W. Line of Martin Luther King Jr. Boulevard;
Thence S90°00'00"W along said North R.O.W. Line, a distance of 146.00 feet to a point on the East R.O.W. Line of Geneva Court;
Thence N00°00'00"E along said East R.O.W. Line, a distance of 248.50 feet to the **Point of Beginning**.

Parcel Contains (36,281 Square Feet) 0.8329 Acres, more or less.

Date prepared: March 7, 2016

Date of last revision:

Prepared by: Charles N. Beckstrom, PLS No. 33202
for and on behalf of
Engineering Service Company
1300 South Potomac Street, Suite 126
Aurora, Colorado 80012
Phone: 303-337-1393
cbeckstrom@engineeringserviceco.com



BY AUTHORITY

ORDINANCE NO. 929

COUNCIL BILL NO. 842

SERIES OF 1999

COMMITTEE OF REFERENCE:

9900212775 1999/12/17 16:01:41 1/ 4 ORD
DENVER COUNTY CLERK AND RECORDER .00 .00 AWE

LAND USE

A BILL

FOR AN ORDINANCE RELATING TO ZONING, CHANGING THE ZONING CLASSIFICATION FOR A SPECIFICALLY DESCRIBED AREA, GENERALLY DESCRIBED AS APPROXIMATELY 2000 QUEBEC STREET THROUGH 4100 QUEBEC STREET, RECITING CERTAIN WAIVERS PROPOSED BY THE OWNER AND THE APPLICANT FOR THE ZONING CLASSIFICATION AND PROVIDING FOR A RECORDATION OF THIS ORDINANCE.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That upon consideration of a change in the zoning classification of the land area hereinafter described, Council finds:

1. That the land area hereinafter described is presently classified as part of the R-MU-20 with waivers district;

2. That the owner and the applicant propose that the land area hereinafter described be changed to R-MU-20 with reasonable waivers they have approved;

3. That in its application the owner and the applicant have represented that if the zoning classification is changed pursuant to their application, the owner and the applicant will and hereby do:

(i) waive their right to use or occupy the land hereinafter described or to use, occupy, or erect thereon any structures designed, erected, altered, used or occupied for:

(b) Civic Uses

8. gallery;

13. museum;

21. school, boarding; and

23. university or college.

(c) Commercial Uses

5. animal sales or service;

10. banking and financial services; and

17. clinic or office, dental or medical.
- (ii) waive their right to use, occupy, construct, erect, alter or maintain more than two thousand five-hundred (2,500) square feet individually and/or more than five thousand (5,000) square feet in aggregate of office: non-dental or non-medical, as listed in Section 59-430.03(1)(c)40 of Division 25 of the Denver Revised Municipal Code.

Section 2. That the zoning classification of the land area in the City and County of Denver described as follows or included within the following boundaries shall be and hereby is changed from R-MU-20 with waivers to R-MU-20 with waivers zone district with certain waivers which waivers are set forth in Subsection 3 of Section 1 hereof:

PARCEL "12"

A parcel of land located in part of Section 27 and the South Half of Section 26, Township 3 South, Range 67 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 27, said point also being the *POINT OF BEGINNING*; thence along the Southerly line of the Southwest Quarter of said Section 27 S 89°36' 18" W a distance of 926.17 feet; thence departing said Southerly line the following five (5) courses:

1. N 00°23' 41" W a distance of 70.87 feet;
2. N 17°17' 36" E a distance of 1350.00 feet;
3. N 89°31' 38" E a distance of 450.00 feet;
4. N 16°19' 00" E a distance of 651.59 feet;
5. N 58°41' 00" W a distance of 368.58 feet to a point of tangent curve;

thence along the arc of a curve to the right having a delta angle of 77°58' 22", a radius of 100.00 feet, a long chord which bears N 19°41' 49" W, 125.83 feet, the arc having a length of 136.09 feet to a point of tangency; thence N 19°17' 22" E a distance of 1052.87 feet to a point of tangent curve; thence along the arc of a curve to the right having a delta angle of 50°07' 27", a radius of 300.00 feet, a long chord which bears N 44°21' 05" E, 254.16 feet, the arc having a length of 262.45 feet to a point on the centerline of Bluff Drive, said point also being a point of compound curvature; thence along said centerline and the arc of a curve to the right having a delta angle of 55°11' 43", a radius of 530.00 feet, a long chord which bears S 82°59' 20" E, 491.06 feet, the arc having a length of 510.57 feet to a point of tangency; thence continuing along said centerline S 55°23' 28" E a distance of 1315.48 feet to a point of intersection of Martin Luther King Boulevard and Bluff Drive centerlines; thence continuing S 55°23' 28" E and departing said centerline a distance of 904.52 feet to the Westerly Right-Of-Way line of Havana Street as established in Book 277 at page 498; thence along said Right-Of-Way line S 00°22' 58" E a distance of 140.00 feet to a point on the Southerly Right-Of-Way line of Havana Street as established by Ordinance number 230, Series 1951, City and County of Denver; thence along said Southerly line N 89°31' 03" E a distance of 50.00 feet; thence departing said Right-Of-Way line the following three (3) courses:

1. S 00°23' 28" E a distance of 1330.00 feet;
2. N 89°42' 43" E a distance of 1350.00 feet;
3. N 00°23' 28" W a distance of 375.84 feet to a point on the Southerly Right-Of-Way line of Havana Way as established by Ordinance 127, Series 1954, in Book 7504 at page 176, said point also being a point of non-tangent curve;

thence along said Right-Of-Way line and the arc of a curve to the left having a delta angle of

22°25' 25", a radius of 1196.00 feet, a long chord which bears S 84°54' 13" E, 465.09 feet, the arc having a length of 468.07 feet to a point of tangency; thence continuing along said Right-Of-Way line N 83°53' 05" E a distance of 756.60 feet to a point of tangent curve ; thence continuing along said Right-Of-Way line and the arc of a curve to the right having a delta angle of 95°49' 28", a radius of 624.10 feet, a long chord which bears S 48°12' 11" E, 926.31 feet, the arc having a length of 1043.78 feet to a point of tangency; thence continuing along said Right-Of-Way line S 00°17' 27" E a distance of 446.05 feet to a point on the Southerly line of the Southeast Quarter of said Section 26; thence along said Southerly line S 89°39' 23" W a distance of 590.15 feet to the South Quarter Corner of said Section 26; thence along the Southerly line of the Southwest Quarter of said Section 26 S 89°42' 43" W a distance of 2661.21 feet to the Southwest corner of said Section 26; thence along the Southerly line of the Southeast Quarter of said Section 27 S 89°35' 05" W a distance of 2655.04 feet to the *POINT OF BEGINNING*.

Said parcel contains 11668779 square feet or 267.878 acres more or less.

BASIS OF BEARING

The Easterly line of the Southwest Quarter of Section 26 was found to be N 00°41'16" W, based upon the North American Datum of 1983, Colorado Central Zone, a local network as established by CDOT, District 6, Reference stations "King" and "Ramp".

in addition thereto those portions of all abutting public rights-of-way, but only to the centerline thereof, which are immediately adjacent to the aforesaid specifically described area.

Section 3. That the foregoing change in zoning classification is based upon the representations by the owner and the applicant that they will waive those certain rights available to them, and, in lieu thereof, agree to certain limitations which limitations are set forth in Subsection 3 of Section 1 hereof, and no permit shall be issued except in strict compliance with the aforesaid waivers. Said waivers shall be binding upon all successors and assigns of said owner and applicant, who along with said owner and applicant shall be deemed to have waived all objections as to the constitutionality of the aforesaid waivers.

Section 4. That this ordinance shall be recorded by the Department of Zoning Administration among the records of the Clerk and Recorder of the City and County of Denver.

PASSED BY THE COUNCIL December 13 1999
 _____ - PRESIDENT
 APPROVED: [Signature] - MAYOR DEC 14 1999
 ATTEST: [Signature] - CLERK AND RECORDER,
 EX-OFFICIO CLERK OF THE
 CITY AND COUNTY OF DENVER

PUBLISHED IN THE DENVER ROCKY MTN NEWS Nov. 19, 1999 Dec. 17, 1999

PREPARED BY: [Signature] KAREN A. AVILES, ASSISTANT CITY ATTORNEY 11/4/99
 REVIEWED BY: [Signature] - CITY ATTORNEY 11/5 1999
 SPONSORED BY COUNCIL MEMBER(S) _____

