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**TO:** Land Use, Transportation, and Infrastructure Committee of the Denver City Council  
**FROM:** Scott Robinson, Senior City Planner  
**DATE:** January 2, 2020  
**RE:** Official Zoning Map Amendment Application #2019I-00030

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00030.

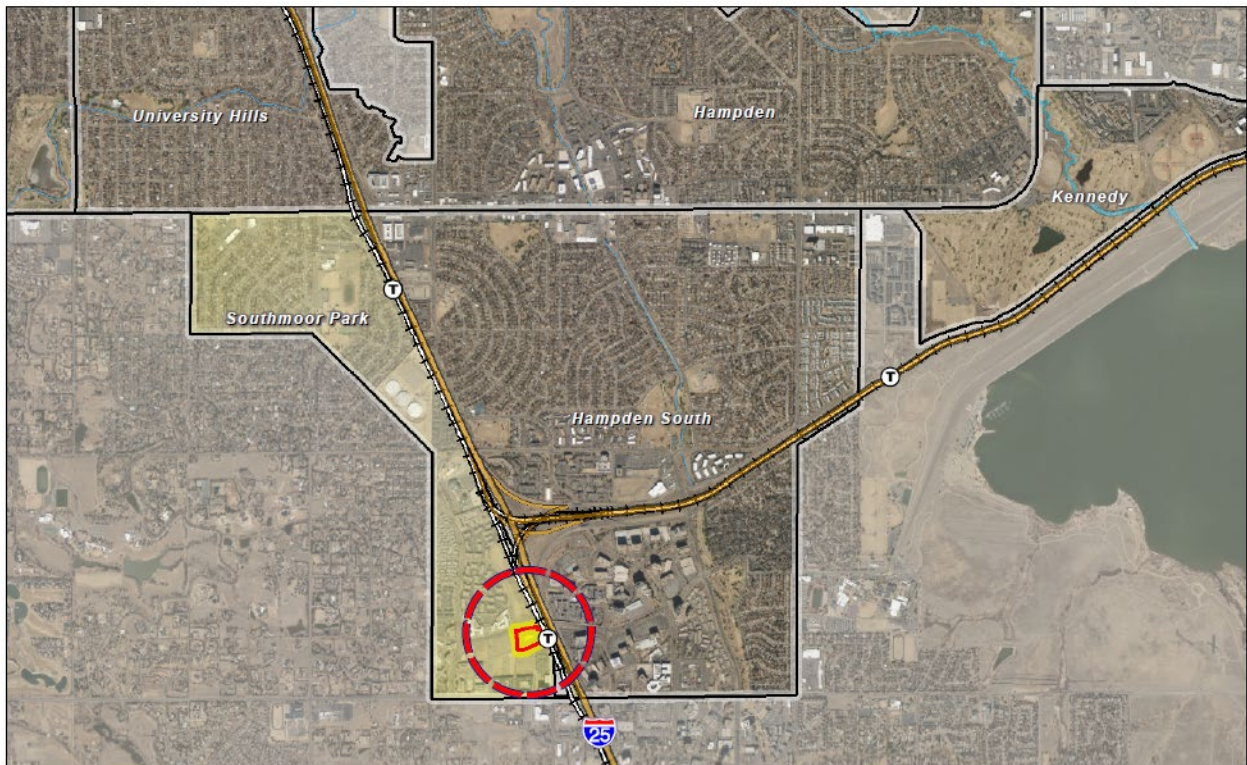
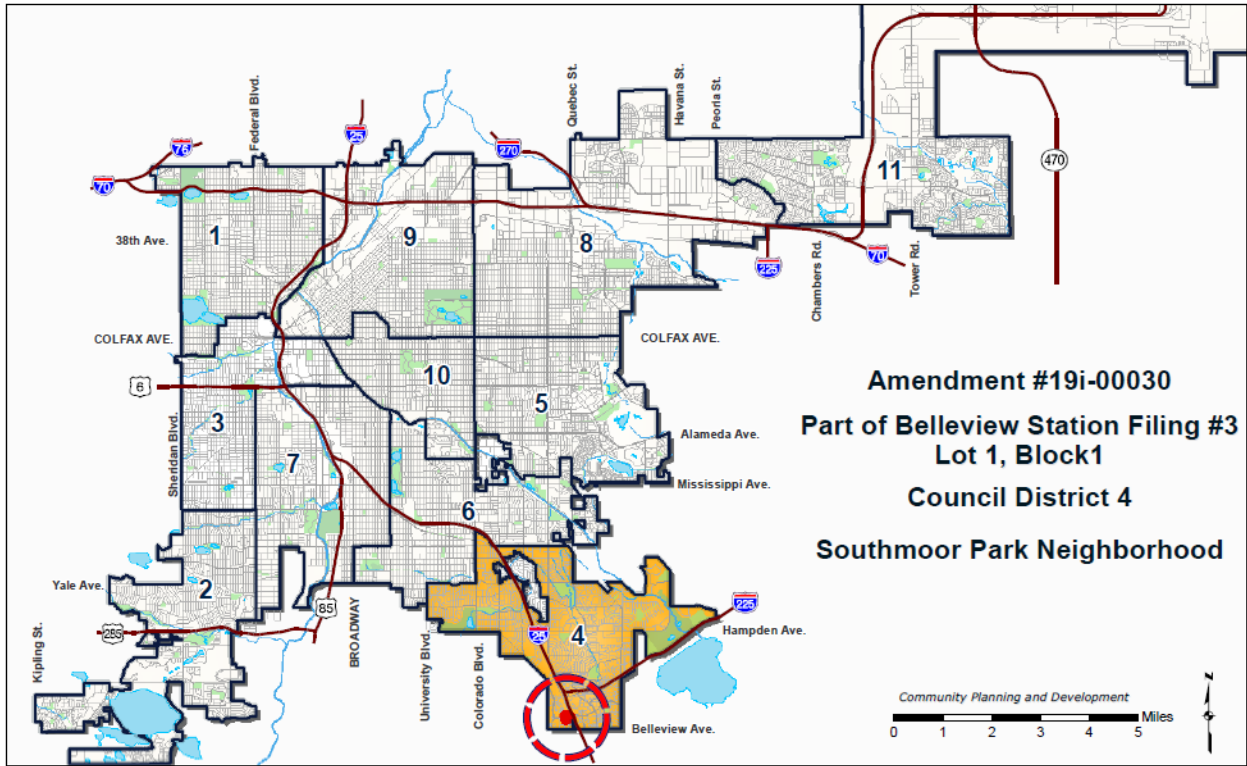
### Request for Rezoning

Address: 4706, 4752, & 4792 S. Newport St. and 6804 Layton Ave.  
Neighborhood/Council District: Southmoor Park / Council District 4  
RNOs: Inter-Neighborhood Cooperation (INC)  
Area of Property: 3.66 acres  
Current Zoning: T-MU-30 w/ waivers UO-1  
Proposed Zoning: C-MX-20  
Property Owner: Madre Investment Co. LLC  
Owner Representative: Robert E. Warren

### Summary of Rezoning Request

- The subject property is in the Southmoor Park neighborhood adjacent to the RTD Belleview Station, at the southwest corner of Interstate 25 and Union Ave.
- The site is currently vacant.
- The applicant is requesting the rezoning to develop the site.
- The C-MX-20 (Urban Center, Mixed Use, 20 story) zone district allows a wide range of commercial, civic/institutional, and residential primary uses in the General, Shopfront, and Town House building forms. Drive Thru building forms would not be allowed at the subject location because it is less than ¼-mile from the Belleview Station transit station. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 7 of the Denver Zoning Code (DZC).
- The UO-1 Adult Use Overlay would be removed from the property.

### Existing Context





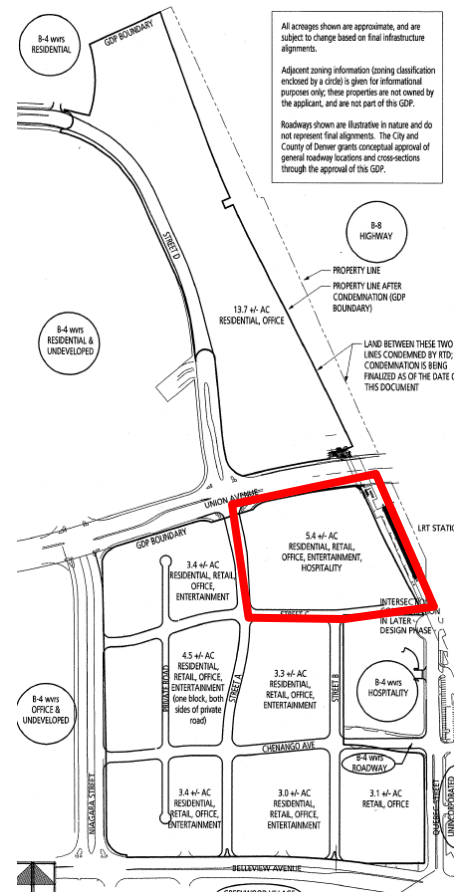
The subject property is located in the Southmoor Park neighborhood, at the southwest corner of the Union Avenue overpass over I-25. The Belleview Station transit station is immediately to the east, which serves both RTD bus and light rail. The nearest Denver park is Warren park, about  $\frac{3}{4}$ -mile to the east, however Monaco park in Greenwood Village is about  $\frac{1}{4}$ -mile to the southwest. The property is part of the Belleview Station transit-oriented development area, which includes residential, office, retail, and hotel uses. There is a new office building currently under construction immediately to the south of the subject property.

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

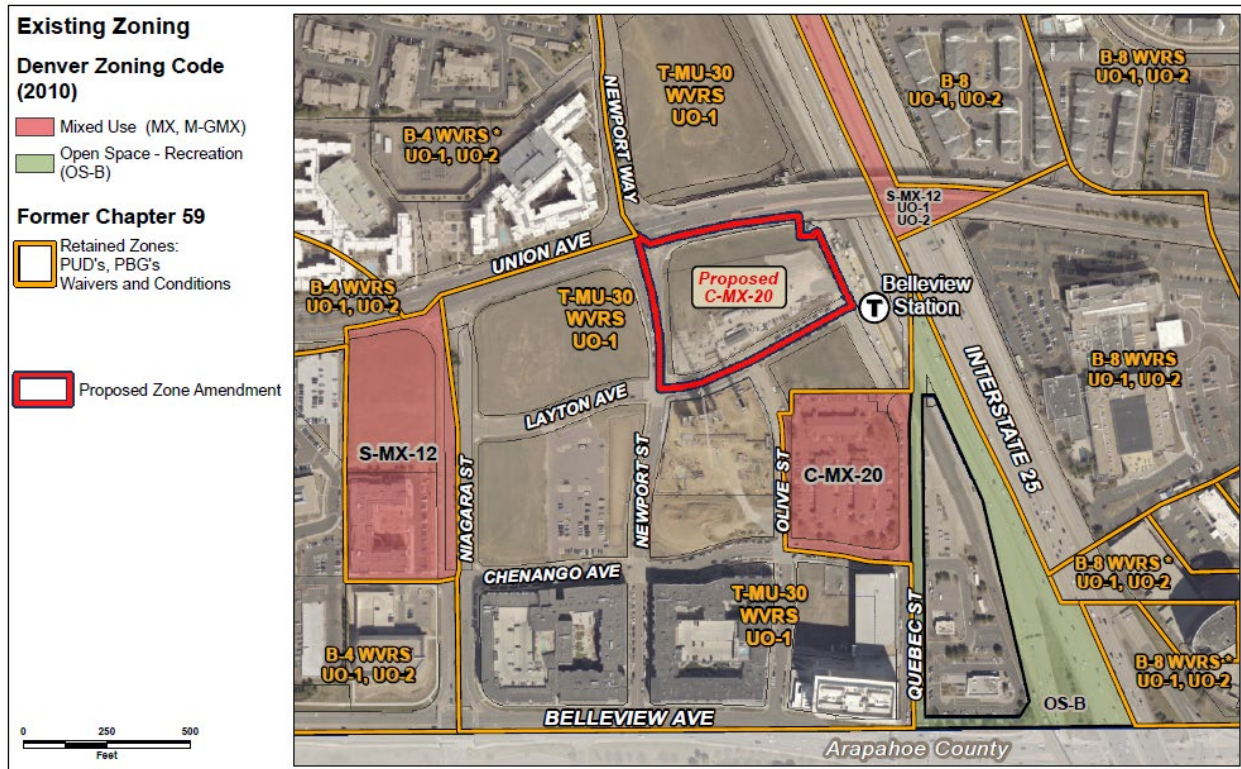
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	T-MU-30 w/ waivers UO-1	Vacant	None	An improved grid network of streets that was completed in the mid-2000's for development of the area surrounding the Belleview Station light rail platform; Interstate 25 interrupts the street grid immediately to the east of the subject property.
North	T-MU-30 w/ waivers UO-1	Vacant	None	
South	T-MU-30 w/ waivers UO-1; C-MX-20	Office (under construction); Hotel	15-story office building under construction, 2-story hotel	
East	T-MU-30 w/ waivers UO-1	Transit station, interstate, hotel	13-story hotel across I-25	
West	T-MU-30 w/ waivers UO-1	Vacant	None	

### 1. General Development Plan (GDP)/ Large Development Review (LDR)

The subject property is part of the Belleview Station General Development Plan (GDP), approved in 2006. The subject block in the GDP is intended for “residential, retail, office, entertainment, hospitality.” The GDP also calls for a “transit plaza” on the subject block, connecting Layton Ave. and Newport St. to the light rail platform as part of the 10% required open space. The transit plaza and open space will be required at the time of site development plan approval by the GDP and the urban design standards and guidelines discussed below. The GDP anticipates building heights up to 220 feet and ground-floor retail uses. However, the GDP also states “this GDP is a framework plan only and does not specifically allocate height, mix of uses or density of the development. Changes to these items will not require any amendment, minor or major, to this GDP.” A Large Development Review was not required for this property because it was less than five acres and the existing infrastructure and GDP were determined to be adequate for the proposed rezoning and development.



## 2. Existing Zoning



The subject property is zoned T-MU-30 with waivers, UO-1. T-MU-30 is a Former Chapter 59 zone district and this property was not rezoned with the adoption of the Denver Zoning Code in 2010 because it was customized with waivers. T-MU-30 is a mixed-use district intended for transit-oriented development areas near light rail stations. It allows a broad range of office, retail, residential, and civic uses. The maximum allowed height is 220 feet and development is limited by a maximum floor area ratio (FAR) of five to one. However, this FAR is applied across the entire Belleview Station GDP area, so individual properties may exceed the FAR limit if other properties within the GDP are below the limit.

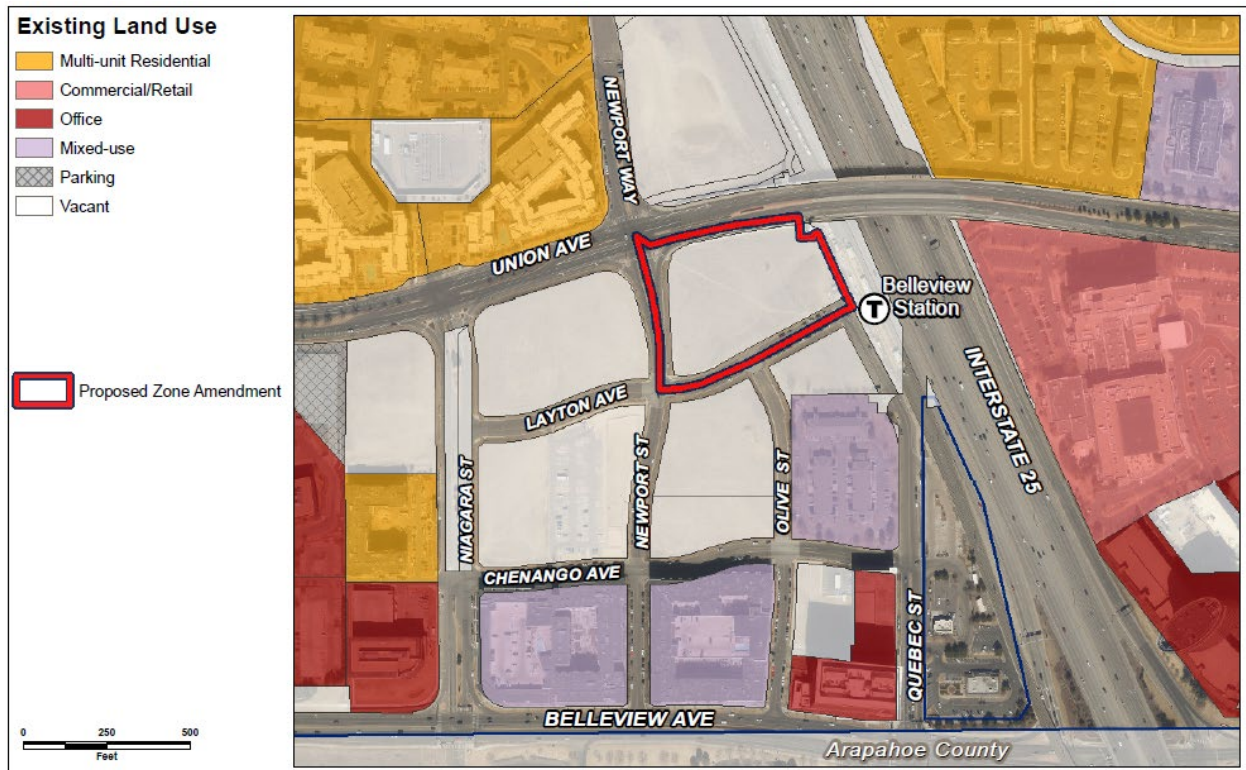
The waivers applied to the zoning when the property was rezoned in 2003 relate to setbacks and signage. The waivers require a front setback of between zero and 10 feet and a rear setback between zero and 20 feet in certain circumstances, instead of the standard zero feet. Side setbacks are zero feet. The signage waivers require the creation of a comprehensive sign plan for all signs within the GDP area. See attached zoning ordinance for more information.

The UO-1 is the Adult Uses Overlay which permits certain adult oriented uses on zone lots where the overlay is applied. The applicant is proposing the removal of the overlay as part of their rezoning request. Staff has evaluated the proposal to remove the UO-1 overlay and determined there will be sufficient remaining land in the city for first amendment-protected uses, so the city has no objection to removing the UO-1 in this instance.

### 3. Urban Design Standards & Guidelines

The property in question is subject to the Belleview Station Urban Design Standards and Guidelines (DSGs), which were first adopted in 2007 and amended in January of 2019. The DSGs control site planning; architecture including building form and scale, materials, entries, rooftops, and parking structures; landscaping; and signage in the area of the Belleview Station GDP. The vision of the DSGs is “to create a truly mixed use, high density neighborhood that combines residential, office, hotel, entertainment, dining, and retail together rather than just an office district, residential pod, or shopping center.” The DSGs are administered by staff at the time of site development plan review. The amendment in 2019 expanded the boundary of the DSGs to include the hotel property to the southeast of the subject property at the time it was rezoned to C-MX-20.

### 4. Existing Land Use Map



## 5. Existing Building Form and Scale



**Site** – from S. Quebec St. & Layton Ave.



**North** – from S. Newport St. & Union Ave.



**Site** – from S. Newport St. & Layton Ave.  
Source: Google Maps

## Proposed Zoning

The requested C-MX-20 zone district allows the Town House, Drive Thru Services, Drive Thru Restaurant, General, and Shopfront building forms with a maximum height in feet of 250' with allowable encroachments. However, because the subject property is less than ¼-mile from the Belleview Station transit station, the Drive Thru building forms would not be allowed. The minimum primary street front setback is 0', except for the town house building form which has a 10' minimum primary street setback. A variety of mixed residential and commercial uses are allowed. For additional details of the requested zone district, see DZC Article 7.

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

Design Standards	T-MU-30 w/ waivers (Existing)	C-MX-20 (Proposed)
Primary Building Forms Allowed	N/A	Town House, Drive Thru Services*, Drive Thru Restaurant*, General, Shopfront
Height in Stories / Feet (max)	N/A / 220'	3-20**/45'-250'***
Primary Build-To Percentages (min)	N/A	50-75%**
Primary Build-To Ranges	N/A	0'-10' to 5'-15'***
Minimum Zone Lot Size/Width	N/A	N/A
Primary Setbacks (min)	0'-20'	0'-10'***
Building Coverages	10% of GDP area must be open space	N/A

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

\*\*Standard varies between building forms

## Summary of City Agency Referral Comments

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

**Assessor:** Approved – No Response

**Asset Management:** Approved – No comments

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

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

- Notes. DDPHE concurs with the rezoning and has no information to suggest that current environmental conditions would impact the proposed rezoning.



- **General Notes:** Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DDPHE suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.
- If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.
- The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.
- Denver’s Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).
- **Scope & Limitations:** DEH performed a limited search for information known to DDPHE regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

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

**Public Works – R.O.W. - City Surveyor:** Approved – No comments

**Development Services - Transportation:** Approved – No Response

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

**Development Services – Project Coordination:** Approve Rezoning Only – will require additional information at site plan review.

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

**Public Review Process**

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	8/6/19
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	12/2/19
Planning Board voted unanimously to recommend approval:	12/18/19
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	12/24/19
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	1/7/20
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative):	1/27/20
City Council Public Hearing (tentative):	2/18/20

- **Registered Neighborhood Organizations (RNOs)**
  - To date, no comment letters have been received from Registered Neighborhood Organizations.
- **Other Public Comment**
  - To date, no other public comment has been received.

**Criteria for Review / Staff Evaluation**

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

**DZC Section 12.4.10.7**

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

**DZC Section 12.4.10.8**

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

**1. Consistency with Adopted Plans**

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *Bellevue Station GDP (2006)*

***Denver Comprehensive Plan 2040***

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

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density, near the Bellevue Station light rail stop, which provide high-quality transit service to downtown Denver, Aurora, Greenwood Village, and Lone Tree. It is therefore consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy A – *Increase development of housing units close to transit and mixed-use developments (p. 28).*
- Equitable, Affordable and Inclusive Goal 2 Strategy A - *Create a greater mix of housing options in every neighborhood for all individuals and families (p. 28).*

The proposed rezoning would enable mixed-use infill development at a location where services and infrastructure, including Bellevue Station, are already in place. The proposed C-MX-20 zoning would allow for a broad variety of uses including housing, retail services, and employment at an intensity consistent with the desire for dense, walkable, mixed-use neighborhoods around transit, and it is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy A – *Build a network of well connected, vibrant, mixed-use centers and corridors (p. 34).*
- Strong and Authentic Neighborhoods Goal 1, Strategy B – *Ensure neighborhoods offer a mix of housing types and services for a diverse population (p. 34).*

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

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

- Environmentally Resilient Goal 8, Strategy A – *Promote infill development where infrastructure and services are already in place* (p.54).
- Environmentally Resilient Goal 8, Strategy B – *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).
- Environmentally Resilient Goal 8, Strategy C – *Focus growth by transit stations and along high- and medium-capacity transit corridors* (p. 54).

Directing growth to regional centers along transit lines is also consistent with the following strategies in the Denver and the Region vision element:

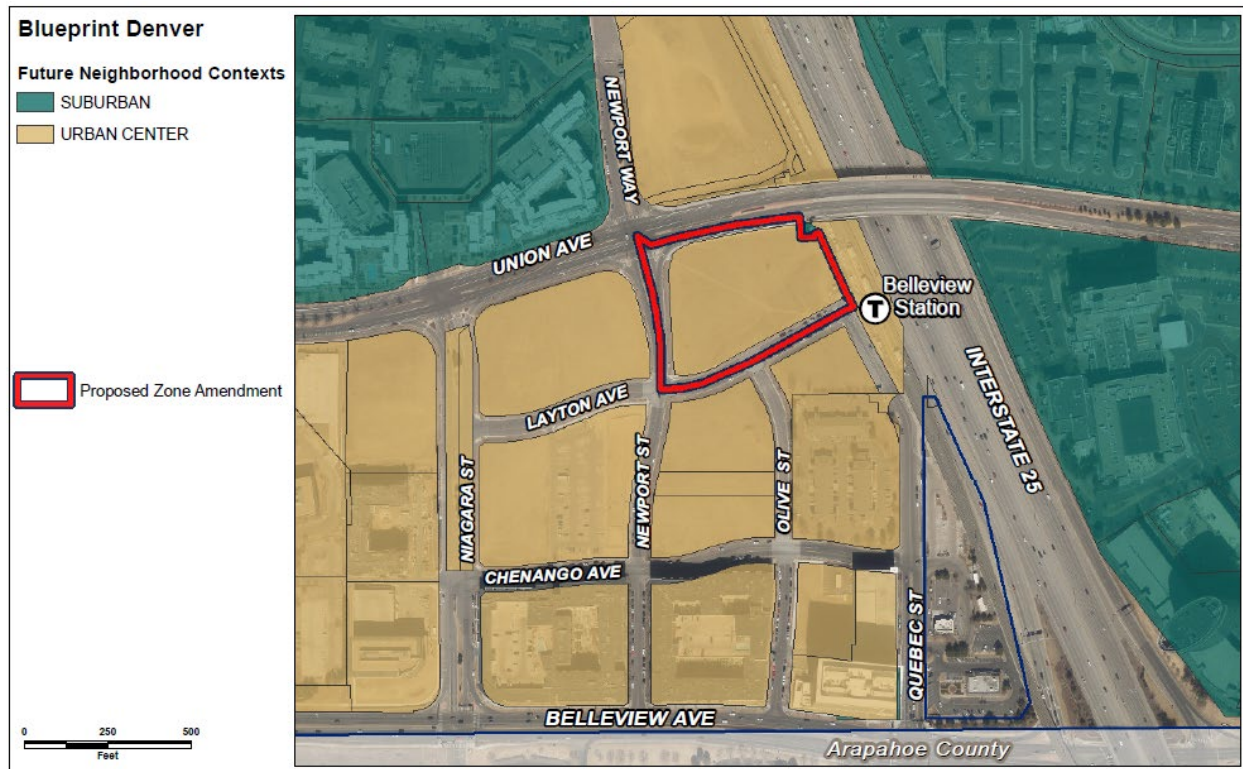
- Denver and the Region Goal 2, Strategy A – *Direct significant growth to regional centers and community centers and corridors with strong transit connections* (p. 64).
- Denver and the Region Goal 4, Strategy A – *Leverage the regional investment in RTD's FasTracks program to develop a network of transit-oriented centers at rail stations* (p. 65).

The proposed C-MX-20 zoning would allow for a broad variety of uses including housing, retail services, and employment at an intensity consistent with the desire for dense, walkable, mixed-use neighborhoods around transit expressed in Comprehensive Plan 2040.

### ***Blueprint Denver***

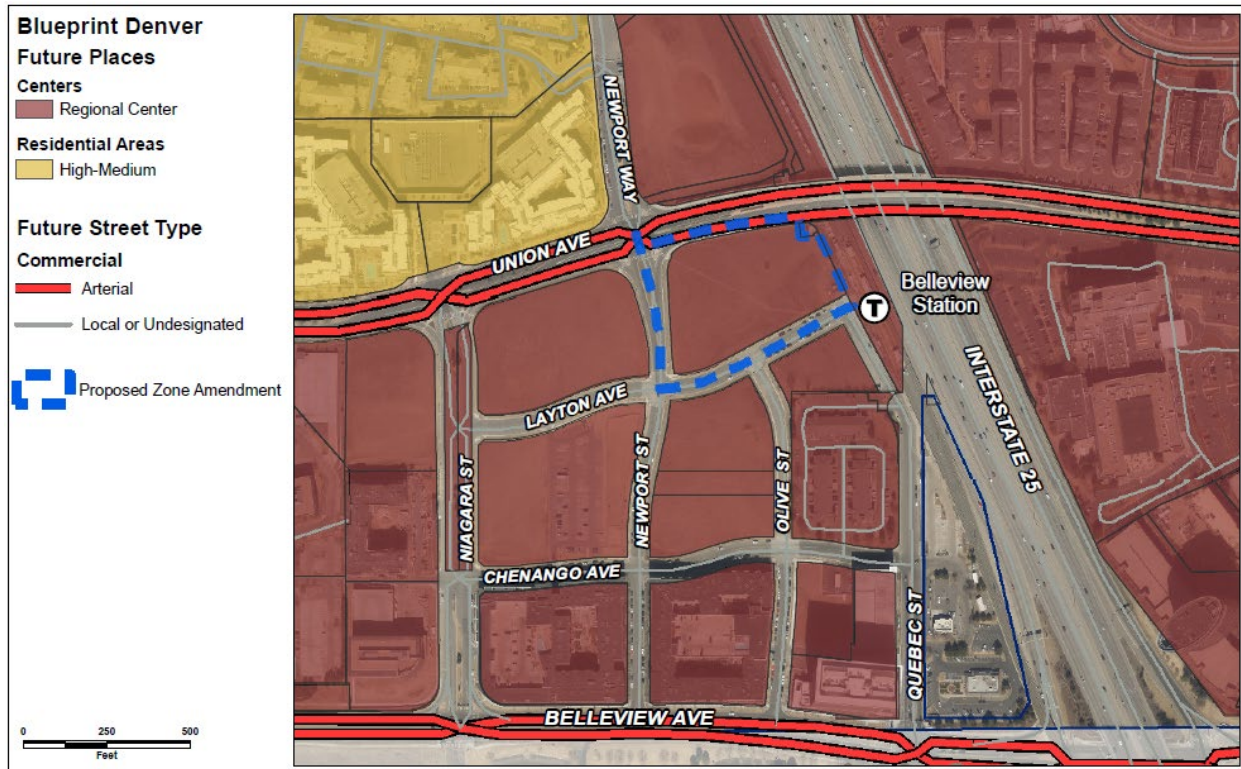
*Blueprint Denver* was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Regional Center place within the Urban Center Neighborhood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

***Blueprint Denver Future Neighborhood Context***



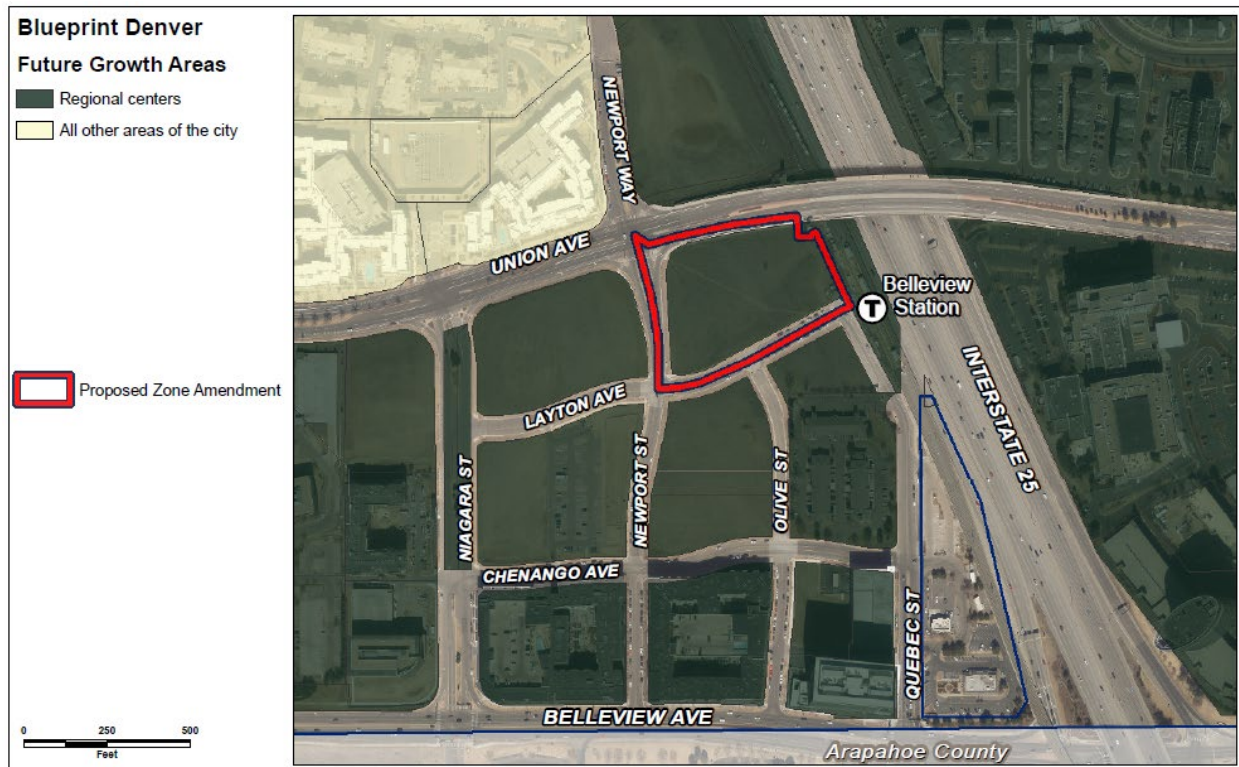
In Blueprint Denver, future neighborhood contexts are used to help understand differences in things like land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is shown on the context map as Urban Center neighborhood context. The neighborhood context map and description help guide appropriate zone districts (p. 66). The Urban Center neighborhood context is described as containing “high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity” (p. 252). The proposed C-MX-20 zone district is part of the Urban Center context and is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge” and “the Mixed-Use districts are focused on creating mixed, diverse neighborhoods” (DZC 7.2.2.1). Since the proposed district allows a substantial mix of uses and allowable building forms that contribute to street activation, the proposed rezoning to an Urban Center context is appropriate and consistent with the plan.

***Blueprint Denver Future Places***



The Future Places Map shows the subject property as part of a Regional Center. *Blueprint Denver* describes the aspirational characteristics of Regional Centers in the Urban Center context as containing, “a high mix of uses...larger scale mixed-use buildings are common. Structures should respond in form and mass to the streets and public spaces around them. High degree of urbanism with continuous building frontages to define the public realm. Heights are generally the tallest in the context and transition gradually within the center to the surrounding residential areas” (p. 256). The proposed district of C-MX-20 provides a wide range and mix of uses. The future proposed height of up to 20 stories is appropriate for a regional center in this location, given its proximity to transit, central location within the regional center, and the allowed and existing building heights in the area.

## **Growth Strategy**



*Blueprint Denver's* growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of a Regional Center. Regional Centers are anticipated to see around 30% of new housing growth and 50% of new employment growth by 2040 (p. 51). "Focusing growth in centers and corridors helps to provide a variety of housing, jobs and entertainment options within a comfortable distance to all Denverites and is a key element of building complete neighborhoods throughout Denver" (p. 49). The proposed map amendment to C-MX-20 will focus mixed-use growth to a Regional Center where it has been determined to be most appropriate.

## **Street Types**

In *Blueprint Denver*, street types work in concert with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). *Blueprint Denver* classifies Union Avenue as a Commercial Arterial. "Arterial streets are designed for the highest amount of through movement and the lowest degree of property access" (p.154). The use and built form characteristics of Commercial streets is described as, "Commercial streets typically contain commercial uses including shopping centers, auto services and offices" (p.159). Newport St. and Layton Ave. are designated as Local streets, which "are designed for the highest degree of property access and the lowest amount of through movement" (p. 154). In addition, "local streets can vary in their land uses and are found in all neighborhood contexts" (p. 161). The proposed C-MX-20 district is consistent with these descriptions,

with the local streets providing connections from the property to the arterial, which is intended for more intense development.

### **Strategies**

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

- Land Use and Built Form: General Policy 1, Strategy A – *Use zoning and land use regulations to encourage higher-density, mixed-use development in transit-rich areas including: Regional centers and community centers...* (p. 72).

The proposed C-MX-20 zoning would allow higher-density mixed-use development in a regional center served by transit. The proposed rezoning to C-MX-20 is consistent with the policies, context, place, growth strategy, and street type recommendations of *Blueprint Denver*.

### ***Bellevue Station General Development Plan***

As described above, the Bellevue Station GDP applies to the subject property. Under the Denver Zoning Code, “City Council may approve an official map amendment (rezoning) application for property located within an approved LDF (Large Development Framework) or GDP area, taking into consideration the approved LDF or GDP” (DZC Section 12.4.12.15.B). The proposed C-MX-20 zone district is consistent with the GDP intent to allow intense development with a broad range of commercial uses. While the height and allowed uses of C-MX-20 do not exactly match the GDP, the “GDP is a framework plan only and does not specifically allocate building height, mix of uses or density.” Overall, the proposed map amendment is consistent with the general framework outlined in the Bellevue Station GDP.

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

The proposed rezoning to C-MX-20 will result in the uniform application of zone district building form, use and design regulations.

## **3. Public Health, Safety and General Welfare**

The proposed official map amendment furthers the public health, safety, and general welfare of the City through implementation of the city’s adopted land use plan and fostering the creation of a walkable, mixed-use area and supporting growth of jobs and housing near transit where multiple mobility options are available.

## **4. Justifying Circumstance**

The application identifies the fact that the property has retained Former Chapter 59 zoning as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, “Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include:... That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.” As discussed above, the property was not rezoned with the



adoption of the Denver Zoning Code in 2010 and retained Former Chapter 59 zoning. Rezoning the property into a Denver Zoning Code zone district is in the public interest to ensure more consistent and higher quality development outcomes, justifying the proposed rezoning.

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

The requested C-MX-20 zone district is within the Urban Center Neighborhood Context. The neighborhood context generally consists of multi-unit residential and mixed-use commercial strips and commercial centers (DZC, Division 7.1). The area is currently developing to fit this context description, consistent with adopted plans, and the proposed rezoning will facilitate development consistent with that evolution and the Urban Center context description.

The general purpose for the mixed-use zone districts stated in the Denver Zoning Code is to “promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly define and activate the public street edge” and “enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city’s neighborhoods” (DZC Section 7.2.2.1). The proposed C-MX-20 zone district would facilitate mixed-use development with active ground floors, providing a variety of services around a transit station, consistent with the stated purpose.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-20 district “applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 20 stories is desired” (DZC Section 7.2.2.2.B). The property is adjacent to Union Ave., which is an arterial, and is two blocks north of Belleview Ave., a major arterial, and just west of the interchange with I-25. The street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

### **Attachments**

1. Application
2. Existing zoning ordinance