



TO: Denver Planning Board
FROM: Francisca Peñafiel, Senior City Planner
DATE: April 26, 2023
RE: Official Zoning Map Amendment Application #2022I-00258

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2022I-00258.

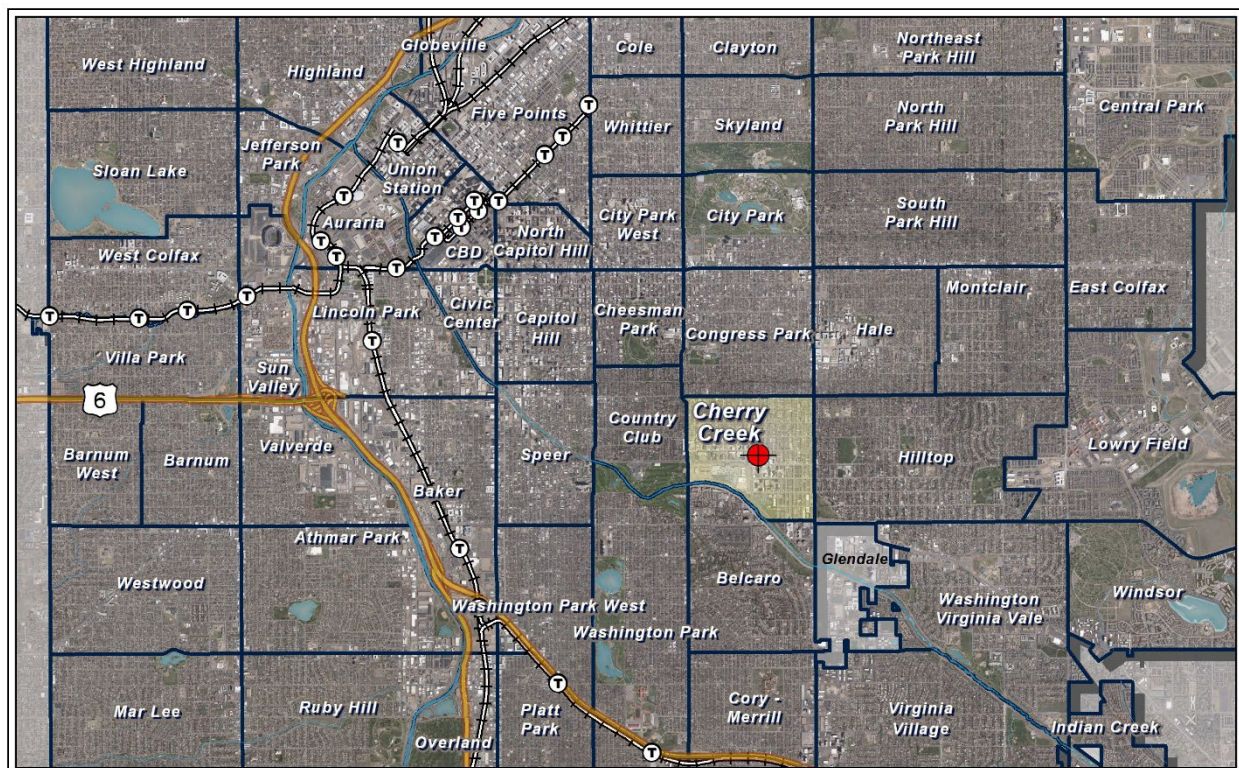
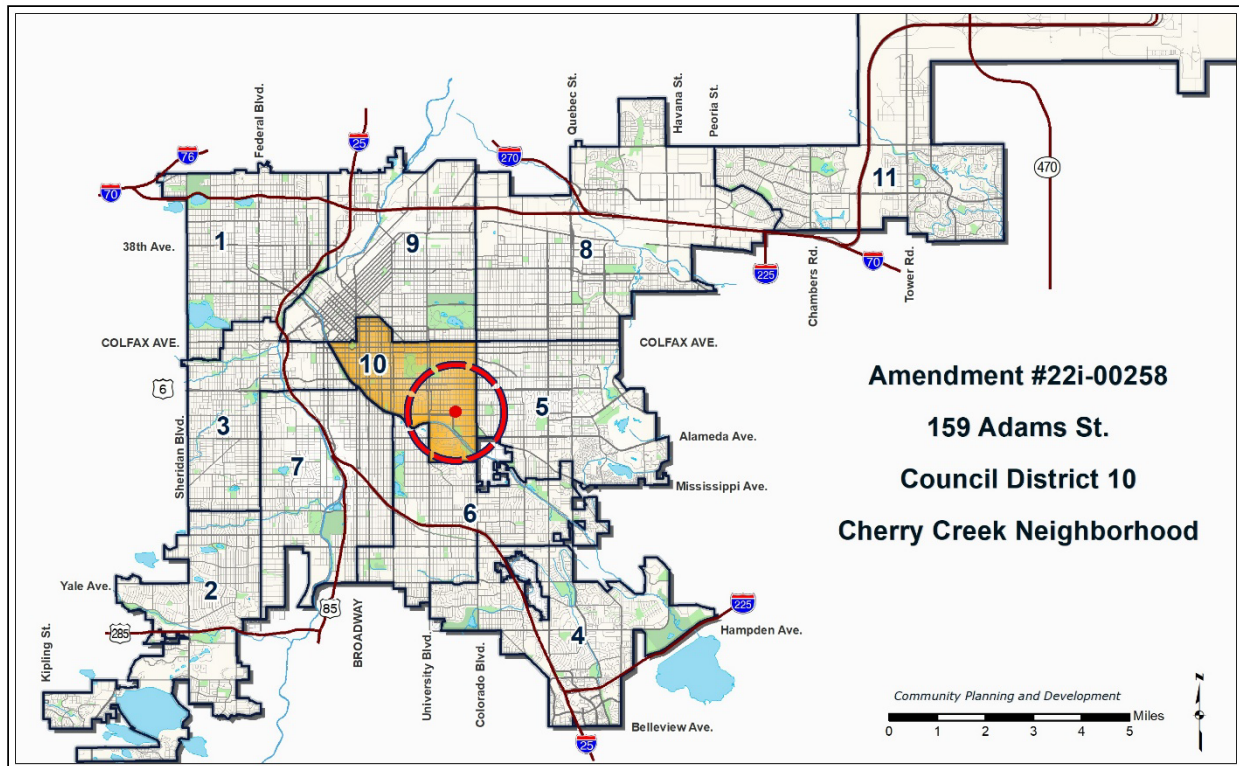
Request for Rezoning

Address:	159 North Adams Street
Neighborhood/Council District:	Cherry Creek / Council District 10, Chris Hinds
RNOs:	Inter-Neighborhood Cooperation (INC), Capitol Hill United Neighborhoods, Cherry Creek North Neighborhood Association, Cherry Creek North Business Improvement District, Strong Denver
Area of Property:	6,250 square feet or 0.14 acres
Current Zoning:	CCN with waivers (Former Chapter 59)
Proposed Zoning:	C-MX-5
Property Owner(s):	Tamas & Edit Viski-Hanka
Owner Representative:	Daniel Huml - Magnetic Capital Acquisitions

Summary of Rezoning Request

- The property is in the Cherry Creek statistical neighborhood between East 1st Avenue and East 2nd Avenue, along North Adams Street.
- The property is currently occupied by a 1.5-story brick house, built in 1900 as a single-unit residence and later in 1998 modified into a business use (Spa).
- The site is currently zoned CCN with waivers, which is a zone district from Former Chapter 59 with some customization, specifically tailored for the existing building and waives out a variety of commercial uses. Additional details on the waivers can be found within the attached document.
- The applicant is requesting to rezone the property to facilitate the redevelopment of the property that is consistent with the recommendations in adopted plans and to match the existing zoning directly to the north, east and south
- The proposed zone district C-MX-5, can be summarized as follows:
 - The C-MX-5 zone district stands for Urban Center, Mixed Use, with a maximum height of 5 stories. The C-MX zone districts are mixed-use zone districts that allow a wide range of residential and commercial uses with minimum build-to and increased transparency requirements intended to promote active pedestrian areas on public streets. The C-MX-5 zone district allows up to 5 stories and 70 feet in building height.
 - Further details of the requested zone district can be found in the proposed zone district section of the staff report (below), and in Article 7 of the Denver Zoning Code (DZC).

Existing Context



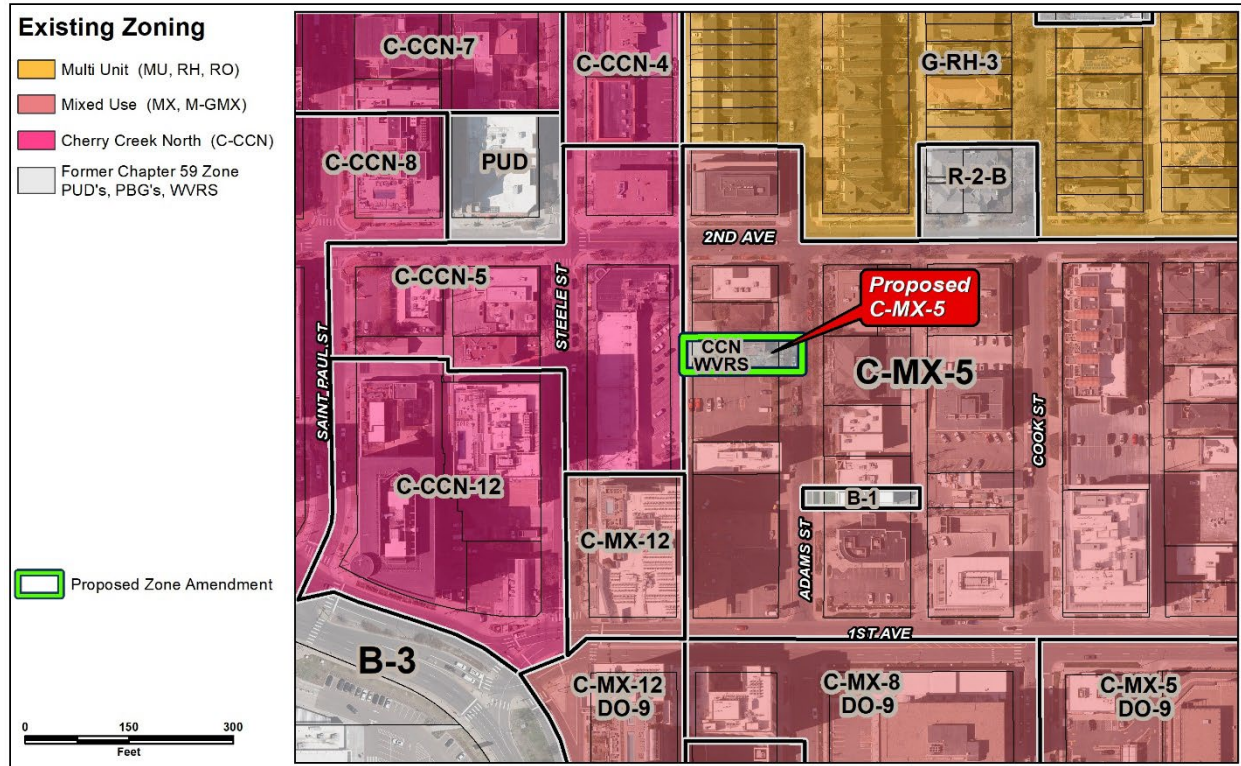


The subject property is located in the Cherry Creek neighborhood, between East 1st Avenue and East 2nd Avenue, along North Adams Street. The area is primarily composed of multi-unit residential and office buildings, with some commercial/retail along East 1st Avenue and the Cherry Creek Shopping Center located two blocks to the southwest on Steele Street. The subject site is 3 blocks north of Pulaski Park. Additionally, the popular Cherry Creek Trail is within 0.4 miles of the site. RTD Bus Route 3/3L, 83/83L run along 1st Avenue and South Steele Street onto East Alameda Avenue connecting east-west. 46 runs east-west along 1st Avenue and has a bus stop one half block south of the subject site. The subject site is also within 0.4 mile of Colorado Boulevard to the east, which provides high-capacity RTD transit service to the immediate area. RTD Bus Route 40 runs north-south on Colorado Boulevard. The applicant is requesting the C-MX-5 zone district which is an extension of the pattern of existing C-MX zone districts found throughout the surrounding blocks and is consistent with the zoning pattern of adjacent properties to the north, east and south.

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	CCN w/waivers	Commercial/Retail	2-story structure with covered surface parking lot	Generally regular grid of streets interrupted to the south by Cherry Creek Drive. Block sizes and shapes are generally consistent and rectangular. Pedestrian-oriented building frontages predominate.
North	C-MX-5	Mixed Use	Currently vacant lot	
South	C-MX-5	Parking	Surface parking lot	
East	C-MX-5	Office	2-story brick building with parking in the rear	
West	C-CCN-5	Commercial/Retail	1-story brick building with pedestrian access on Steele Street and surface parking on the rear	

1. Existing Zoning



The existing zoning is CCN with waivers, which is a Former Chapter 59 zone district with some customization. The basic goal of the CCN district is to promote development that is in keeping with the existing character, scale and ambience of the existing Cherry Creek North business area and to encourage interesting and attractive architectural design solutions for new developments and to promote pedestrian and shopping activities, particularly at street level. Goals of the CCN district also include: to maintain and enhance the retail ambience of the Cherry Creek North district, to encourage a mixture of uses, including residential and office, and to encourage low-scale, small lot development projects that reinforce and enhance the eclectic, urban architectural character and pedestrian scale of the district. The owner rezoned the property from B-1 to CCN with waivers in 1998. These waivers were established in the ordinance and were specifically tailored for the existing building and waived out a variety of commercial uses allowed by the CCN district. The ordinance (attached) provides the list of the uses that are currently waived for this property.

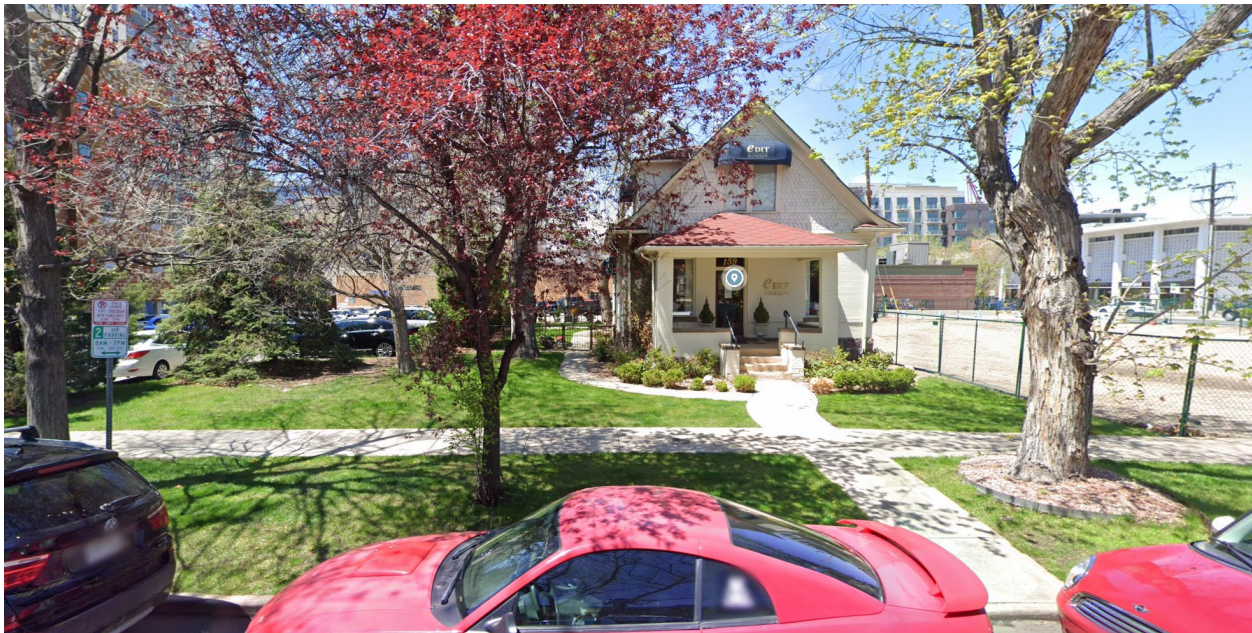
2. View Plane

The subject site is within the *Cranmer Park View Plane*. The intent of this view plane is to preserve the view of the Rocky Mountains (west of the subject site) from Cranmer Park (east of the subject site). No part of any structure within the view plane may exceed an elevation of 5,434 feet above mean sea level. Therefore, the subject site is subject to a maximum height restriction of roughly 148 feet. However, the proposed zone district of C-MX-5 has a much lower maximum height of 70 feet for primary structures.

3. Existing Land Use Map



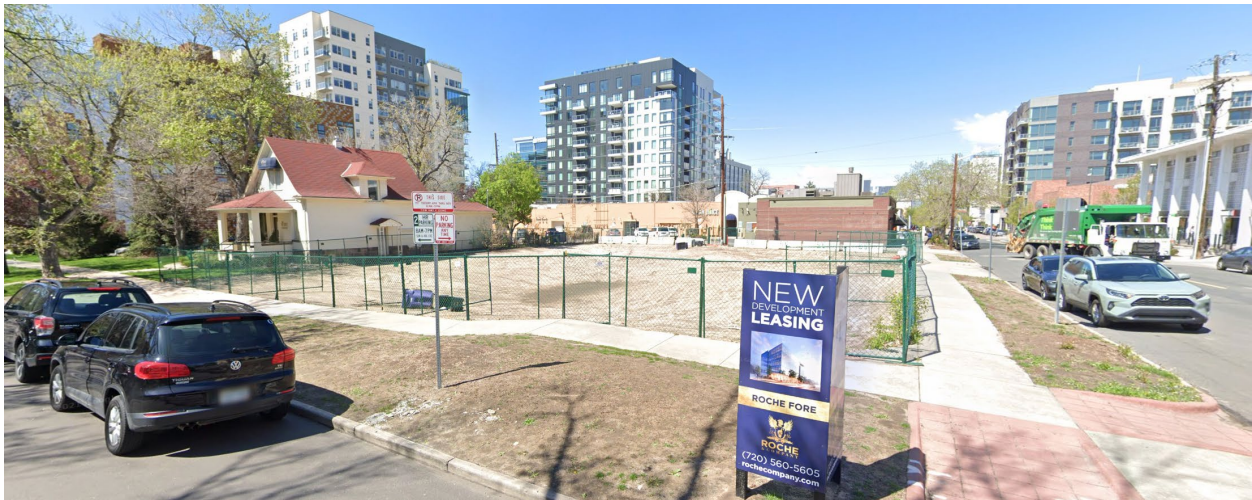
4. Existing Building Form and Scale (All images are from Google Street View)



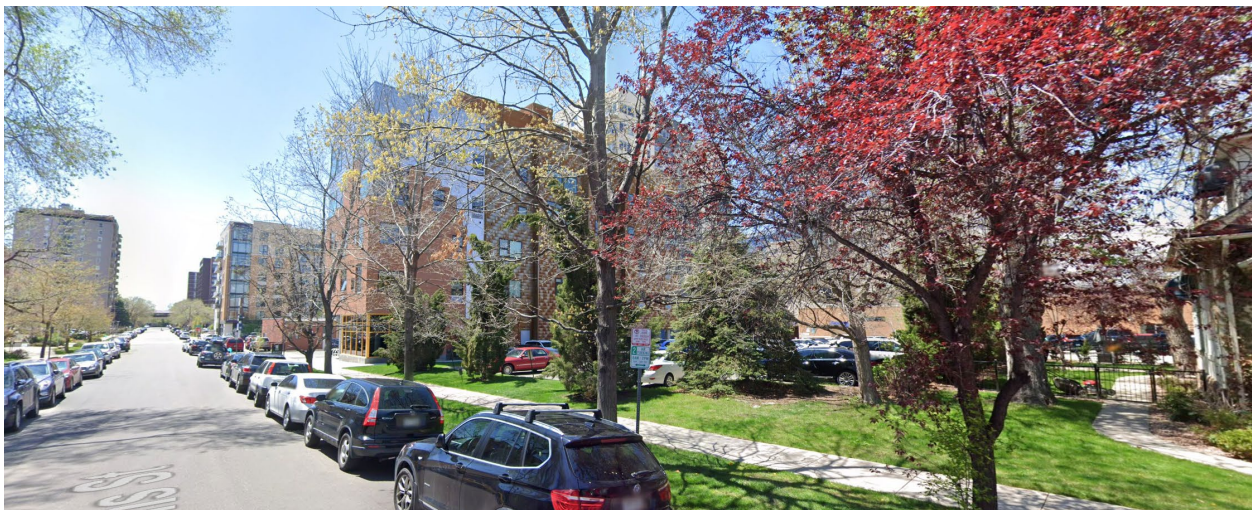
Subject site – view of the subject site, looking west on North Adams Street.



Subject site – View of the subject site from the alley, looking east.



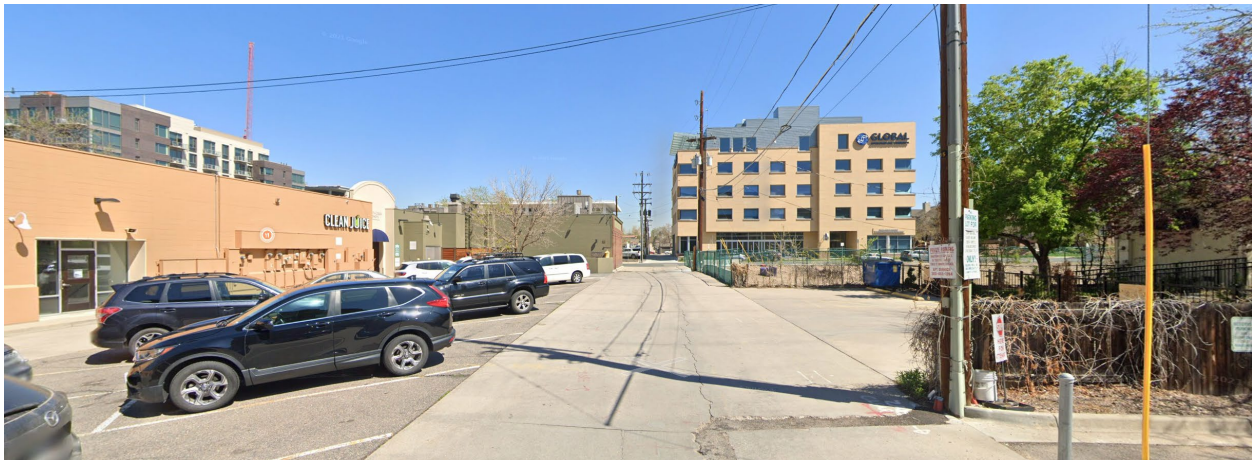
North – View of the vacant site directly north to the subject site, looking southwest.



South – View of the surface parking lot to the south of the subject site, looking southwest.



East – View of the buildings to the east, across the street on North Adams Street, looking southeast.



West – View of the building to the west (other side of the alley), looking north.

Proposed Zoning

The applicant is requesting to rezone to C-MX-5, which stands for Urban Center– Mixed Use – 5 stories maximum height. C-MX-5 applies to areas served primarily by collector or arterial streets where a building scale of 1 to 5 stories is desired (see DZC 7.2.2.2.B). The Mixed-Use zone districts are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge. (DZC 7.2.2.1). The district allows a variety of residential, civic, commercial, and industrial uses. The maximum height is 70 feet with allowable encroachments. The minimum Primary Street setback is 0-10'. The minimum build-to is 70% with 40% transparency on a Primary Street and 25% transparency on a Side Street. Surface parking is not allowed between the building and the Primary and Side Streets. For additional details regarding building form standards in the C-MX-5 zone district, see DZC Section 7.3.3.

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:

Community Planning and Development: Approved – No Comments

Assessor: Approved – No response

Asset Management: Approved – No comments

Denver Public Schools: Approved – No response

Department of Public Health and Environment: Approve Rezoning Only – Will require additional information at Site Plan Review.

Denver Department of Public Health & Environment - Division of Environmental Quality (EQ) does not guarantee approval of any proposed development project at this site by providing a response to this Official Map Amendment Referral Agency Review Request. Future development is subject to existing land use controls and other environmental requirements in accordance with applicable local, state, and federal environmental regulations and statutes. EQ recommends the Property Owner conduct an environmental site assessment to determine the potential presence, nature, and extent of possible contamination on the site and to identify specific cleanup needs associated with future development. EQ may have additional information about localized potential environmental concerns at the site. However, providing such information about a specific site is beyond the scope of these zoning application comments.

Denver Parks and Recreation: Approved – No comments

Department of Transportation and Infrastructure – R.O.W. - City Surveyor: Approved – See Comments Below.

Recommend adding the quarter section, township, and range to the description. Revised document provided.

Development Services – Transportation: Approved – No response

Development Services – Wastewater: Approved – No response

Development Services – Project Coordination: Approve – No response

Development Services – Fire Prevention: Approved – No response

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	02/28/23
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:	04/18/23
Planning Board Public Hearing:	05/03/23
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting (tentative):	05/30/23
Land Use, Transportation and Infrastructure Committee of the City Council meeting (tentative):	06/13/23
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):	07/10/23
City Council Public Hearing (tentative):	07/31/23

Public Outreach and Input

- **Registered Neighborhood Organizations (RNOs)**

To date, staff has not received any comment letters from any RNOs.

- **Other Public Comment**

To date staff has not received any comment letters from the community.

Criteria for Review / Staff Evaluation

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

DZC Section 12.4.10.7

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

DZC Section 12.4.10.8

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

1. Consistency with Adopted Plans

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver* (2019)
- *Cherry Creek Area Plan* (2012)

Denver Comprehensive Plan 2040

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

The proposed rezoning would enable mixed-use infill development at a location where services and infrastructure are already in place. The proposed C-MX-5 zoning designation would allow for a broader variety of uses including housing, retail, and services and is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy A – Build a network of well connected, vibrant mixed-use centers and corridors (p. 34).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities (p. 34).
- Strong and Authentic Neighborhoods Goal 2, Strategy D – Use urban design to contribute to economic viability, public health, safety, environmental well-being, neighborhood culture and quality of life (p. 34).

As Denver continues to grow and becomes denser, it is imperative that we shift how we plan around our mobility system. Therefore, the proposed rezoning allowing for a mix of uses near high-capacity transit is consistent with strategies in the Connected, Safe and Accessible Places vision element:

- Connected, Safe and Accessible Places Goal 8 – Strengthen multimodal connections in mixed-use centers and focus growth near transit (p. 42).

- Connected, Safe and Accessible Places Goal 8, Strategy B – Promote transit-oriented development and encourage higher density development, including affordable housing, near transit to support ridership (p. 42).

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

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

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density, while also enabling additional housing units close to services and amenities. It is therefore consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

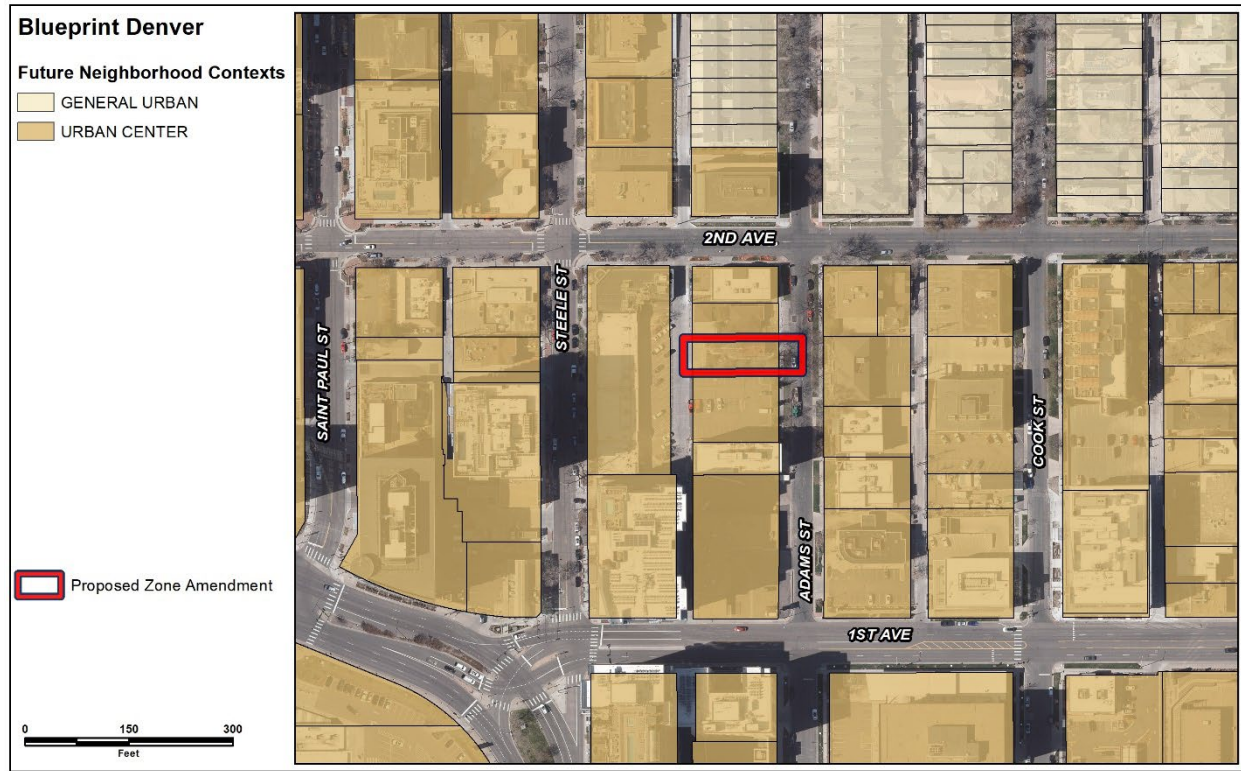
- Equitable, Accessible and Inclusive Goal 1 – Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities (p. 28).
- Equitable, Affordable and Inclusive Goal 1, Strategy A – Increase development of housing units close to transit and mixed-use developments (p. 28).
- Equitable, Affordable and Inclusive Goal 2, Strategy A - Create a greater mix of housing options in every neighborhood for all individuals and families (p. 28).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested zone district broadens the variety of uses allowing residents to live, work and play in the area. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

Blueprint Denver (2019)

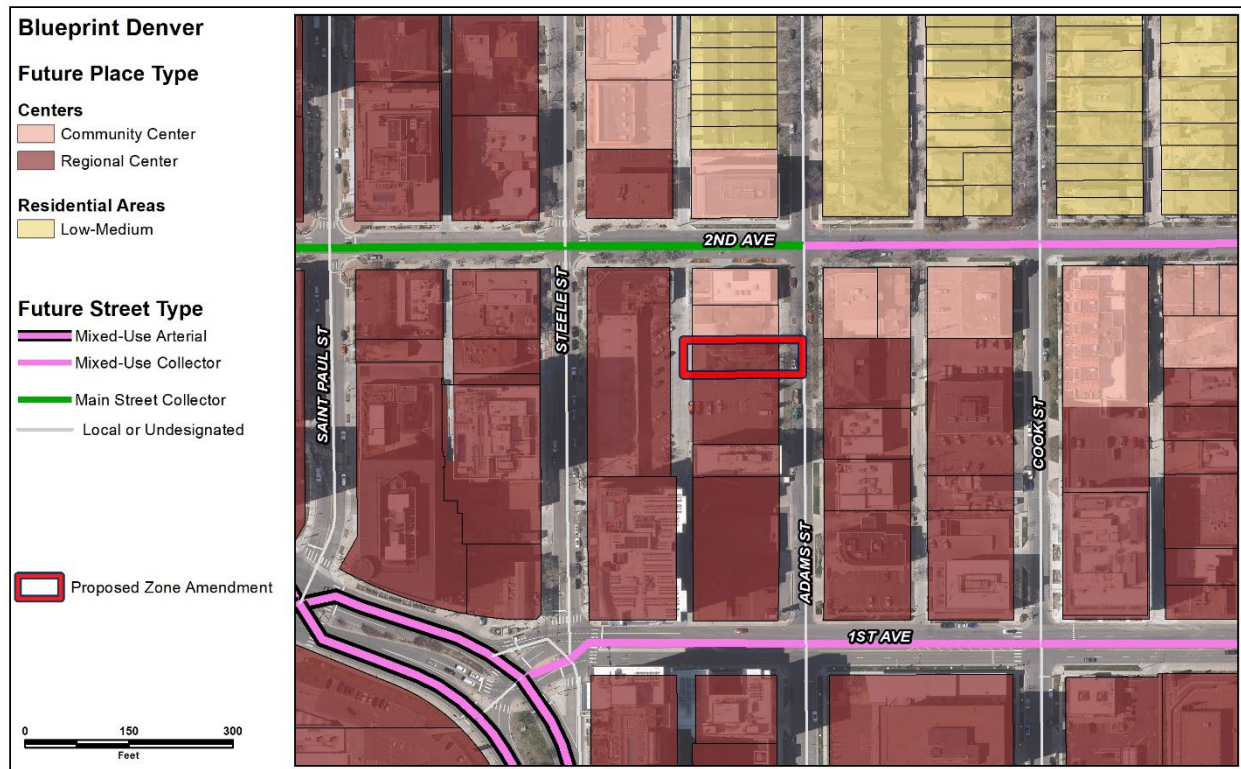
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Regional Center future place within the Urban Center Context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

Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is within the Urban Center Context. *Blueprint* states, “This context contains high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity” (p. 252). The proposed C-MX-5 zone district is part of the Urban Center context and is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge” and “the Mixed-Use districts are focused on creating mixed, diverse neighborhoods” (DZC 7.2.2.1). Since the proposed district allows a mix of uses and allowable building forms that contribute to street activation, the proposed rezoning to an Urban Center context is appropriate and consistent with the plan.

Blueprint Denver Future Places



Blueprint Denver describes a Regional Center in the Urban Center context as “providing a mix of office, commercial and residential uses. A wide customer draw both of local residents and from other parts of the city” (p. 256). Buildings are typically larger in scale and orient to the street with a strong degree of urbanism and continuous street frontages. Additionally, “heights can be generally up to 12 stories in the taller areas and should transition gradually within the center’s footprint to the surrounding residential areas” (p. 256).

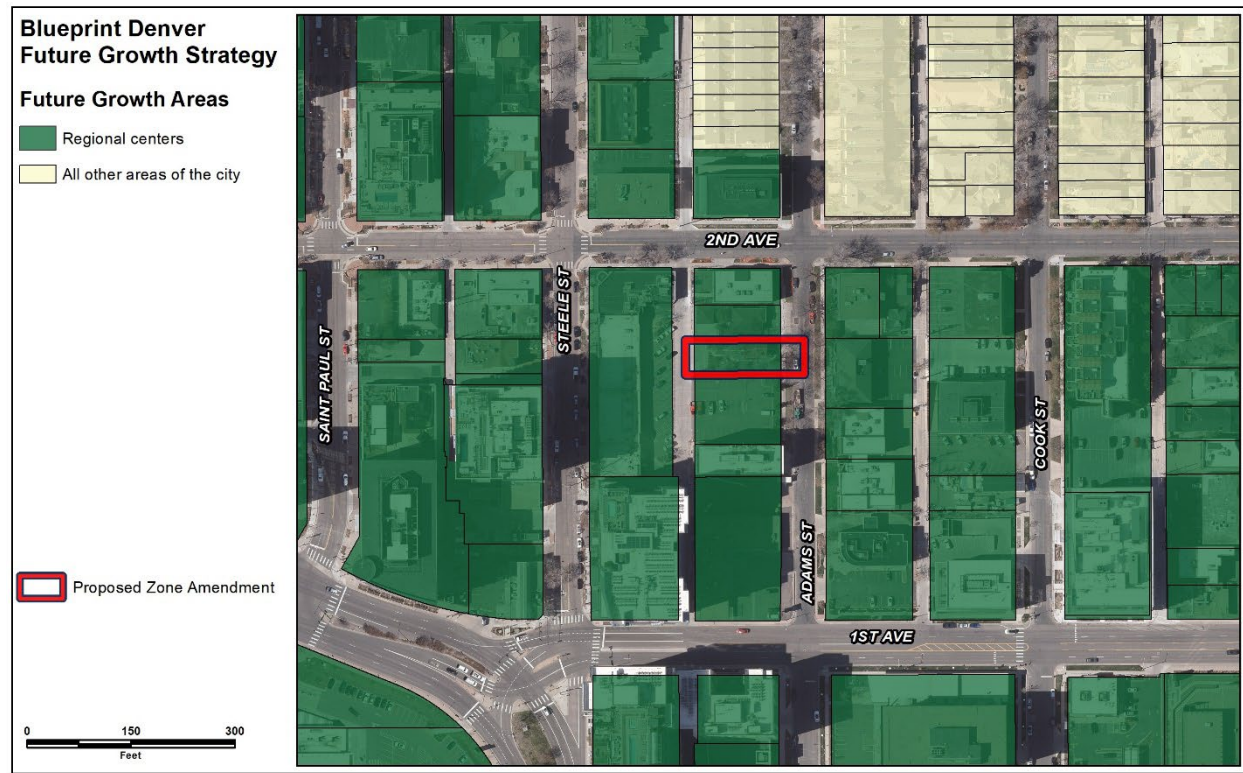
The proposed C-MX-5 zone district allows for a variety of commercial and residential uses in a pedestrian-oriented pattern with an active street level. Therefore, the requested C-MX-5 is appropriate and consistent with the future place plan direction.

Street Types

Blueprint Denver classifies North Adams Street as a local or undesignated street. Local streets “are designed for the highest degree of property access” (p. 154) and “can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p. 160).

The proposed C-MX-5 zone district is intended for areas served primarily by collector or arterial streets (DZC Section 7.2.2.2.B). While North Cook Street is designated as a local or undesignated street, the subject property is located only one half block north from East 1st Avenue, a mixed-use collector, and one half block south from East 2nd Avenue, a main street collector. Staff finds the requested zone district is appropriate considering the surrounding street type designations.

Growth Strategy



Blueprint Denver’s growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is located within the “Regional centers” growth area, these areas are anticipated to see around 30% of new housing growth and 50% of new employment growth by 2040 (p. 51). The proposed map amendment to C-MX-5 is consistent with the “Community centers and corridors” growth area in that it will allow a broad range of job opportunities and housing types and direct more intense and appropriate growth to this area than the existing zoning allows.

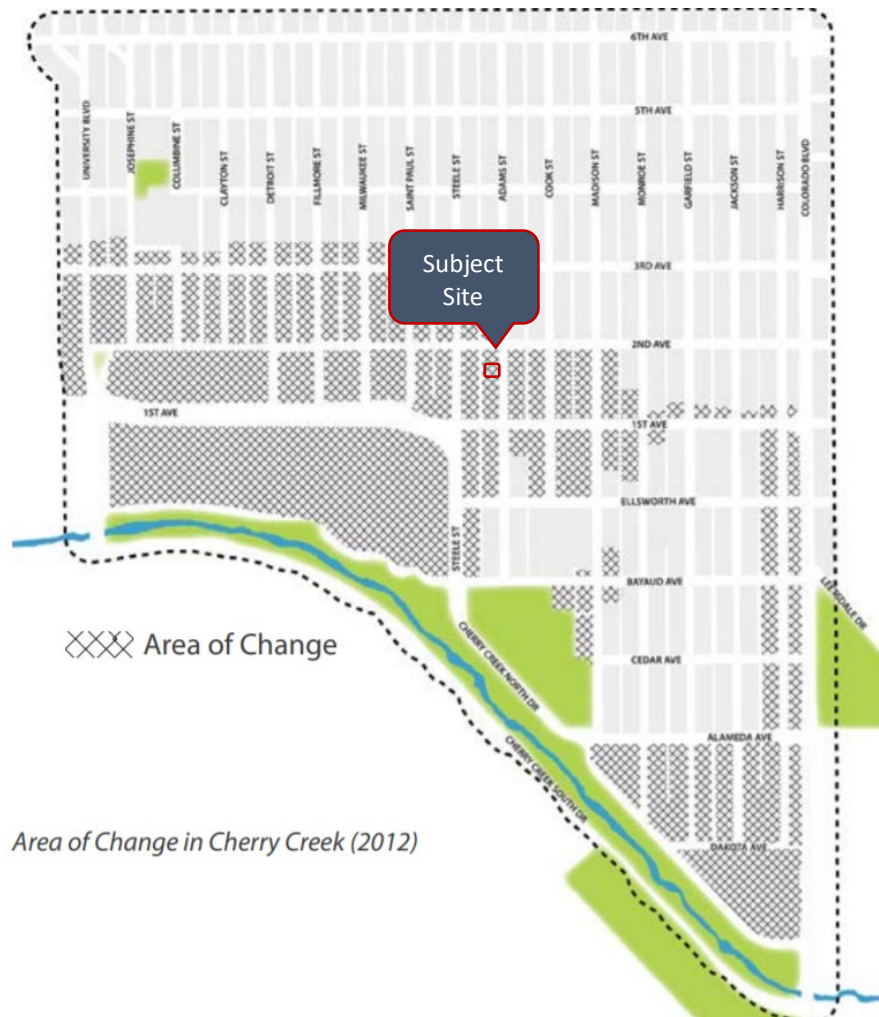
Additional Applicable Strategies

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

- Land Use and Built Form – General Policy 2 – *Incentivize or require efficient development of land, especially in transit-rich areas* (p. 72).
- Land Use and Built Form – Housing Policy 8 – *Capture 80 percent of new housing growth in regional centers, community centers and corridors, high-intensity residential areas, greenfield residential areas, innovation flex districts and university campus districts* (p. 86).

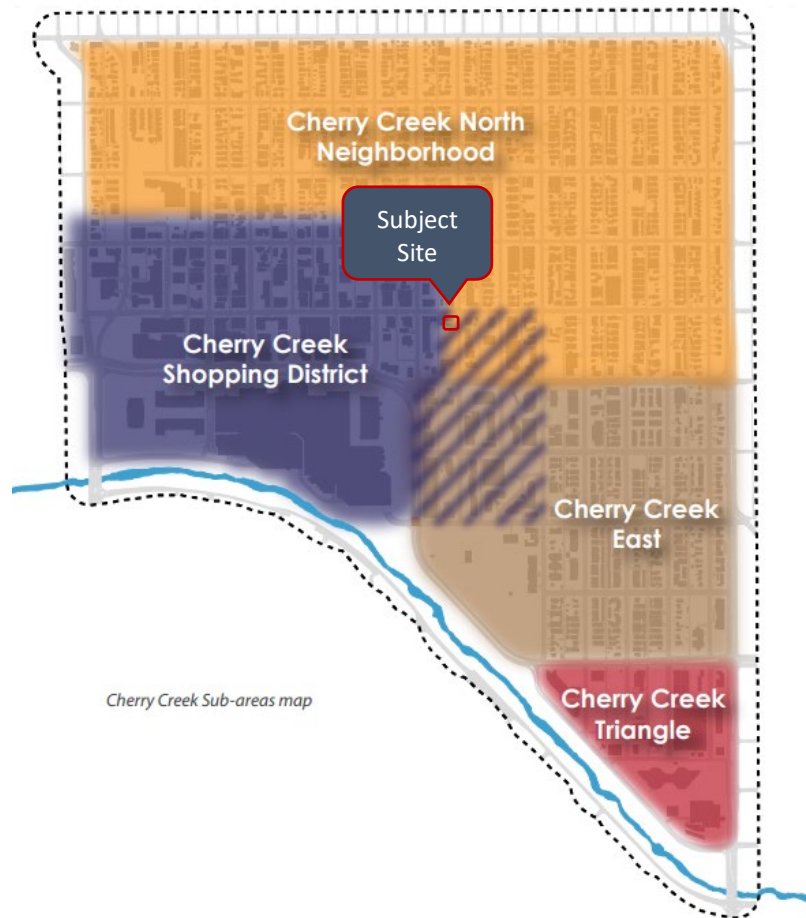
Cherry Creek Area Plan (2012)

The Cherry Creek Area Plan (CCAP) was adopted by City Council in 2012 and applies to the subject property. As the plan was adopted prior to the 2019 *Blueprint Denver* update, the CCAP builds off of the previous growth management paradigm of “Areas of Change” and “Areas of Stability”, providing guidance on where growth should occur in Cherry Creek. The Plan organizes the neighborhood into sub-areas and provides recommendations for each of these smaller neighborhood areas. The subject property is located in the overlap of the Cherry Creek North Neighborhood and Cherry Creek Shopping District sub-areas.



The overarching framework recommendations guide growth to targeted areas of Cherry Creek. The subject site is located in an Area of Change. As previously mentioned, the Area of Change/Stability concepts have been replaced with a more nuanced approach in the recent Blueprint update, but the recommendations are still relevant in terms of the communities’ desire to target growth and change expressed in an adopted plan. Cherry Creek Area Plan notes that, “overall these areas [Areas of Change] benefit from new development, reinvestment and more intense use” (p. 29). Moreover, the plan recommends that the city “modify land use policy, zoning regulations and design guidelines to encourage appropriate reinvestment to assure that Areas of Change continue to mature in positive ways” (p. 29).

The requested rezoning to C-MX-5 is such a change in zoning regulations and would enable reinvestment and development in the subject property as expressed in the plan.



This property is located within two Subareas of the Cherry Creek Area Plan:

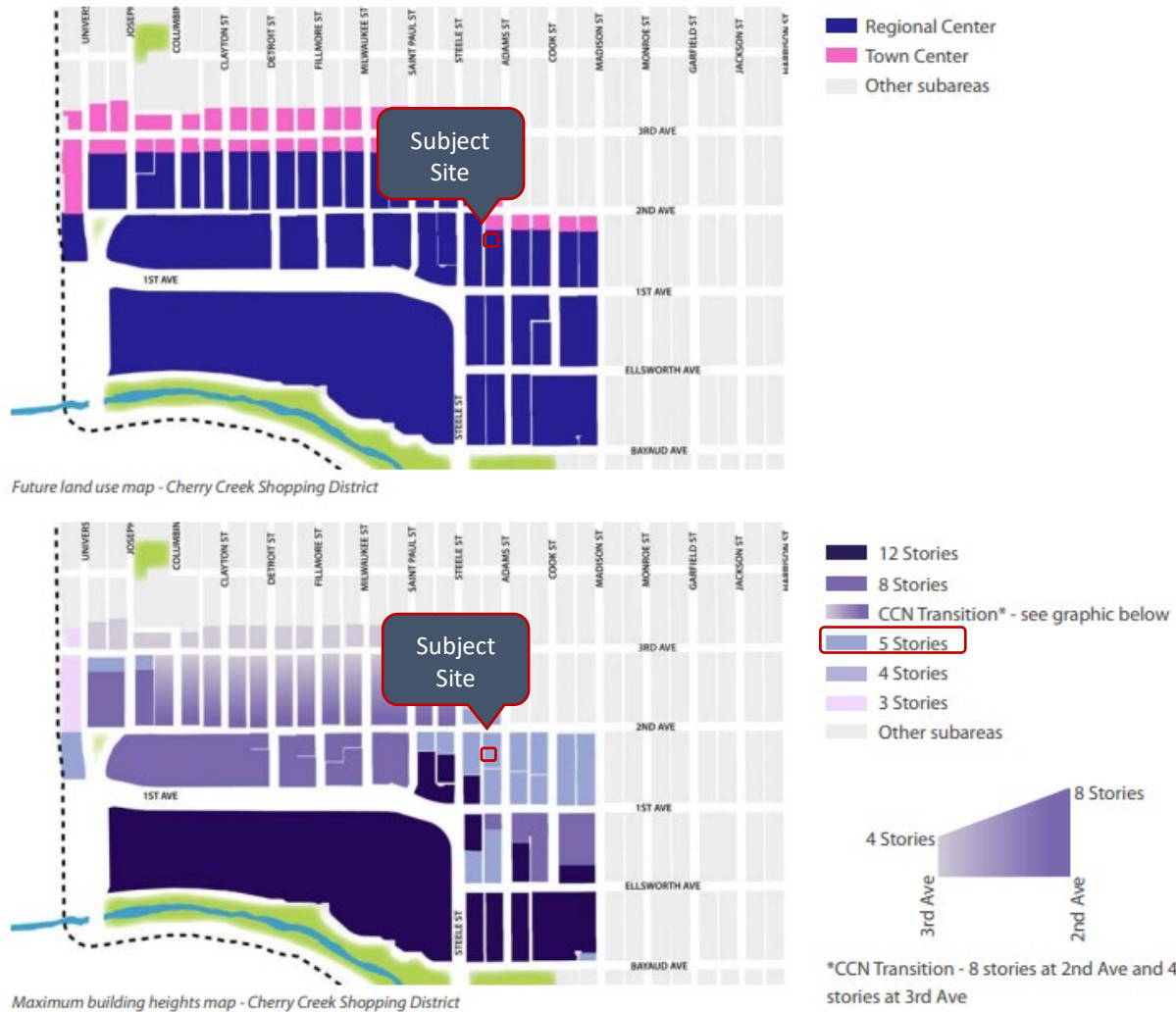
- Cherry Creek Shopping District - the region's most vibrant upscale retail and mixed-use district.
- Cherry Creek North Neighborhood - a highly desirable, moderate density residential neighborhood with some embedded neighborhood-serving commercial uses.

Some of the plan recommendations for both areas include:

- "More residential, hotel and office development in Shopping District and other nearby Areas of Change, such as Cherry Creek Triangle" (p. 59)
- "The long-term vision for the Shopping Center as stated in the 2000 Neighborhood plan and further refined in this plan includes greater density at the east and west ends, as well as a greater mix of uses that may include higher intensity mixed-use office, hotel and residential along with ground floor retail" (p. 60)
- "Continue to develop vacant and underutilized parcels with mid—and high—rise mixed-use buildings that complement Cherry Creek East and the Shopping District on. Quality development is encouraged through the existing zoning and design standards and guidelines" (p.60)
- "Continue to support a mix of uses including office, retail, commercial and multifamily residential. Support compact development patterns and an enhanced public realm including

landscaping, wayfinding signage, pedestrian lighting, public art and inviting building entries. The Town Center areas act as an important transition between Regional Center and residential areas in scale and/or use” (p. 68)

The proposed rezoning is consistent with all of these recommendations. Additionally, the future land use map for the Cherry Creek Shopping District designates the subject property as Regional Center, with a maximum building height of 5 stories. Therefore, the requested C-MX-5 is appropriate and consistent with the Cherry Creek Area Plan recommendations.



2. Uniformity of District Regulations and Restrictions

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

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare through implementation of the city's adopted land use plan. The proposed rezoning would also facilitate increased housing density near services and amenities along Adams Street and foster the creation of a mixed-use, urban area within walking distance to RTD bus line. An increase in density and broadened mix of uses can also provide better health outcomes through increased physical activity and lessen the need for driving as services and amenities can occur within walkable and bikeable distances.

4. Justifying Circumstances

The application identifies several changed or changing conditions as the justifying circumstance under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: (a.) Changed or changing conditions in a particular area, or in the city generally; or, (b.) a City adopted plan; or, (c.) that the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning".

Blueprint Denver was adopted in 2002, and updated in 2019, and the Cherry Creek Area Plan was adopted in 2012. Each of these plans were adopted following the initial zoning of the Property to the CCN zone district under the Former Chapter 59 zoning code. The Rezoning will better align with the goals and vision set forth by the City's plans, discussed in further detail above, by allowing a greater mix of uses. Also, the adoption of the Denver Zoning Code in 2010 and the retention of a Former Chapter 59 zone district on the subject property, including custom zoning, is an appropriate justifying circumstance for the proposed rezoning.

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

The requested zone district is within the Urban Center Neighborhood Context which generally consists of a mix of multi-unit residential, commercial, office, civic, institutional, and entertainment uses in large buildings containing one or more uses. (DZC 7.1.1). As discussed above, and given the surrounding context, application of a zone district from the Urban Center Context is appropriate for this site.

Within the Urban Center context, Mixed-Use Zone Districts are intended to promote safe, active, pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public realm (DZC 7.2.3.1). The purpose of the Mixed-Use Zone Districts is appropriate for a site in an area envisioned for vibrant, mixed-use development.

The C-MX-5 district applies to areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 5 stories is desired. The requested rezoning is consistent with the

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neighborhood context description, zone district purpose and intent, as the requested zoning is intended to provide for mixed-use development at a maximum height of 5 stories.

Attachments

1. Rezoning application
2. 1998 Zoning Ordinance w/Waivers
3. Comment Letters