

TO: Denver Planning Board, Julie Underdahl, Chair
FROM: Theresa Lucero, Senior City Planner
DATE: January 31, 2018
RE: Official Zoning Map Amendment Application #2017I-00042

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, staff recommends *approval* for map amendment application #2017I-00042.

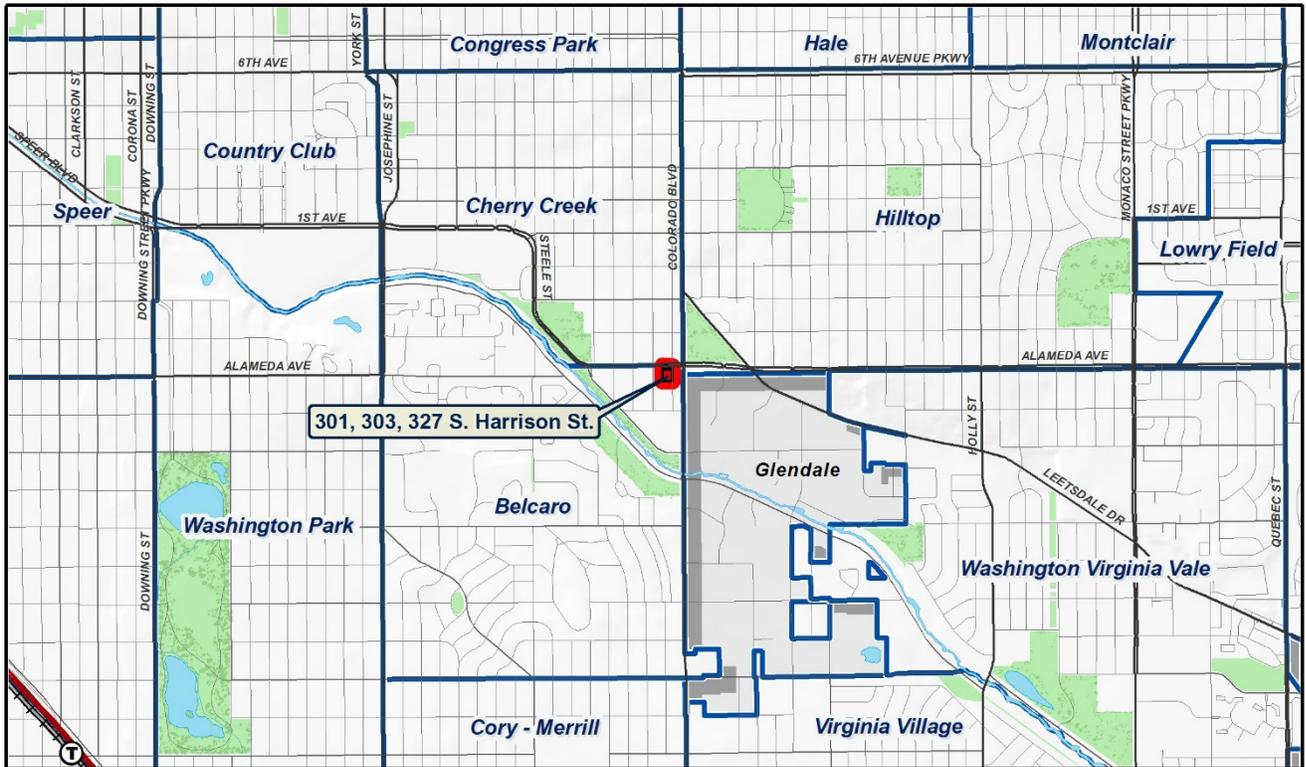
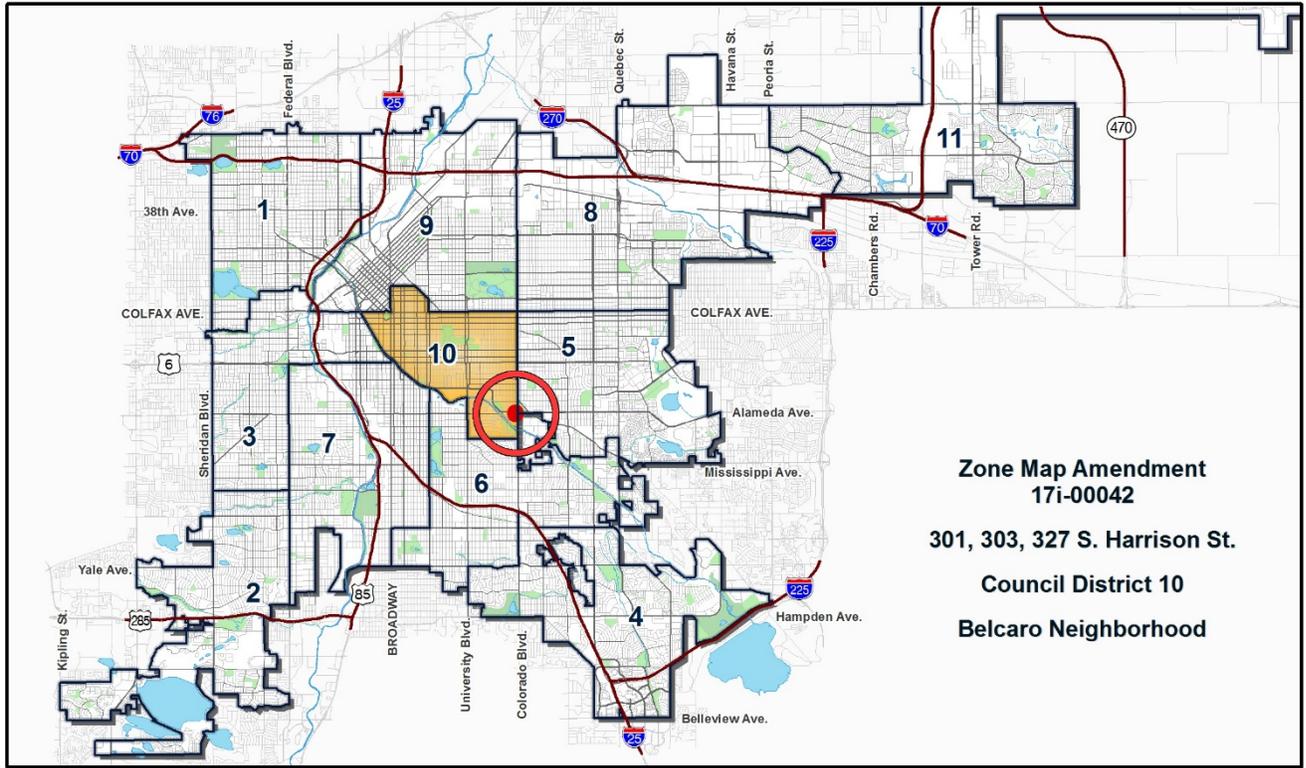
Request for Rezoning

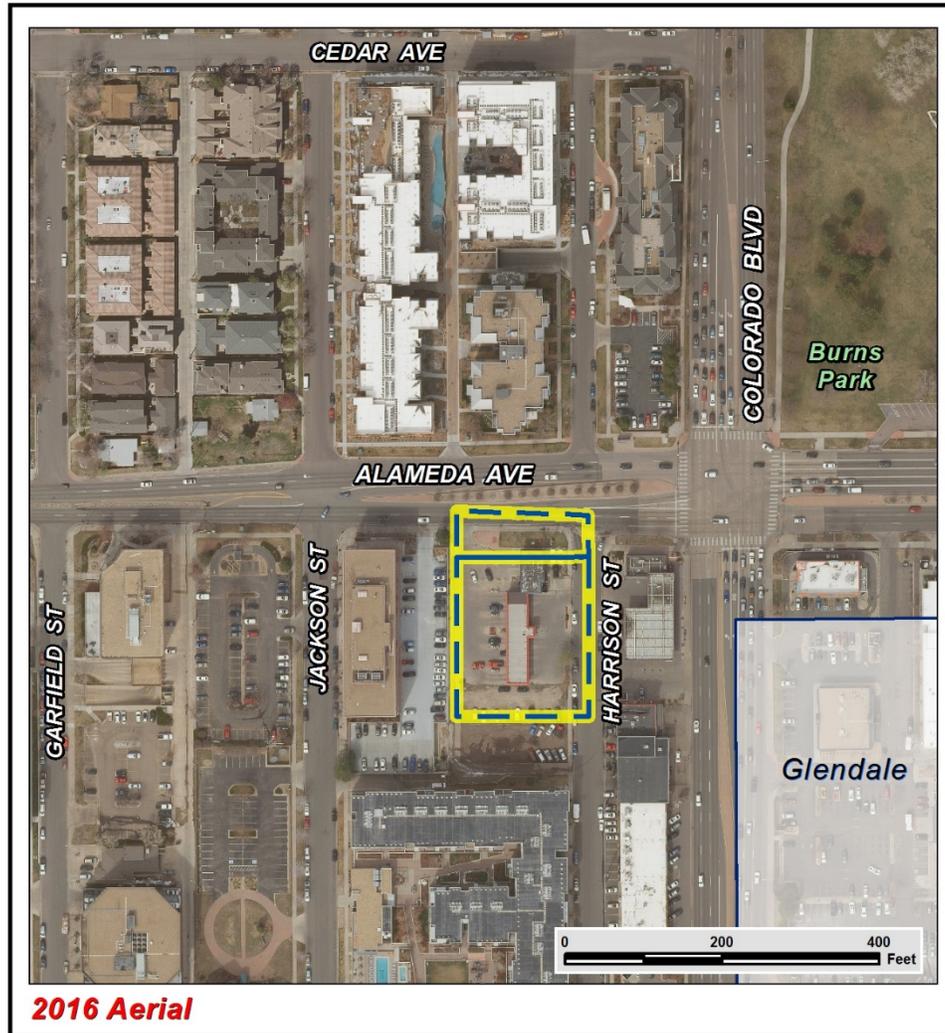
Address: 301, 303 & 327 South Harrison Street
Neighborhood/Council District: Belcaro Neighborhood / City Council District 10
RNOs: Cherry Creek East Association; Cranmer Park–Hilltop Civic Association; Denver Neighborhood Association, Inc.; Inter-Neighborhood Cooperation
Area of Property: 31,846 SF, 0.73 acres
Current Zoning: B-4 with Waivers, UO-1 & UO-2
Proposed Zoning: C-MX-5 and C-MX-8
Property Owner(s): Joseph H. McSoud and Shea NWM, LLC
Owner Representative: Mark Johnson, Opus Development Company LLC

Summary of Rezoning Request

- The subject property consists of two parcels, the larger parcel contains a car wash built in 1985, and the smaller parcel is vacant.
- The existing zoning is a Former Chapter 59 zone district, B-4 with waivers, approved in 1978. The property owners propose to rezone the subject property for future redevelopment.
- The C-MX-5 zone district is proposed for 33 feet of the property closest to East Alameda Avenue, and the C-MX-8 zone district is proposed for the remainder of the property.

The **C-MX-5** and **8** (Urban **C**enter, **M**ixed Use, with **5**- and **8**-story height limits) zone districts are intended for use in the Urban Center Neighborhood Context. This context consists of multi-unit residential and mixed-use commercial strips and commercial centers. Multi-unit residential uses are typically in multi-story mixed-use building forms, and commercial buildings are typically Shopfront and General building forms. Multi-unit residential uses are primarily located along residential collector, mixed use arterial and local streets. Commercial uses are primarily located along main and mixed-use arterial streets. Block patterns are shaped by a grid street system. The mixed-use zone districts encourage safe, active and pedestrian-scaled diverse areas that ensure new development contribute positively to established neighborhoods. The C-MX-5 and 8 zone districts have maximum height limits of 70 feet and 110 feet, respectively. Further details of the zone districts can be found in Article 7 of the Denver Zoning Code (DZC).





Existing Context

The subject property is in southeast Denver in the Belcaro Statistical Neighborhood. The property is in the northeast portion of the neighborhood, across East Alameda from the Cherry Creek East portion of the Cherry Creek neighborhood. The property is one property removed from South Colorado Boulevard to the east, 4 blocks south of 1st Avenue, and 15 blocks east University Boulevard. The Cherry Creek Shopping Center is 7 blocks to the northwest, and the City of Glendale is ½ block east across South Colorado Boulevard.

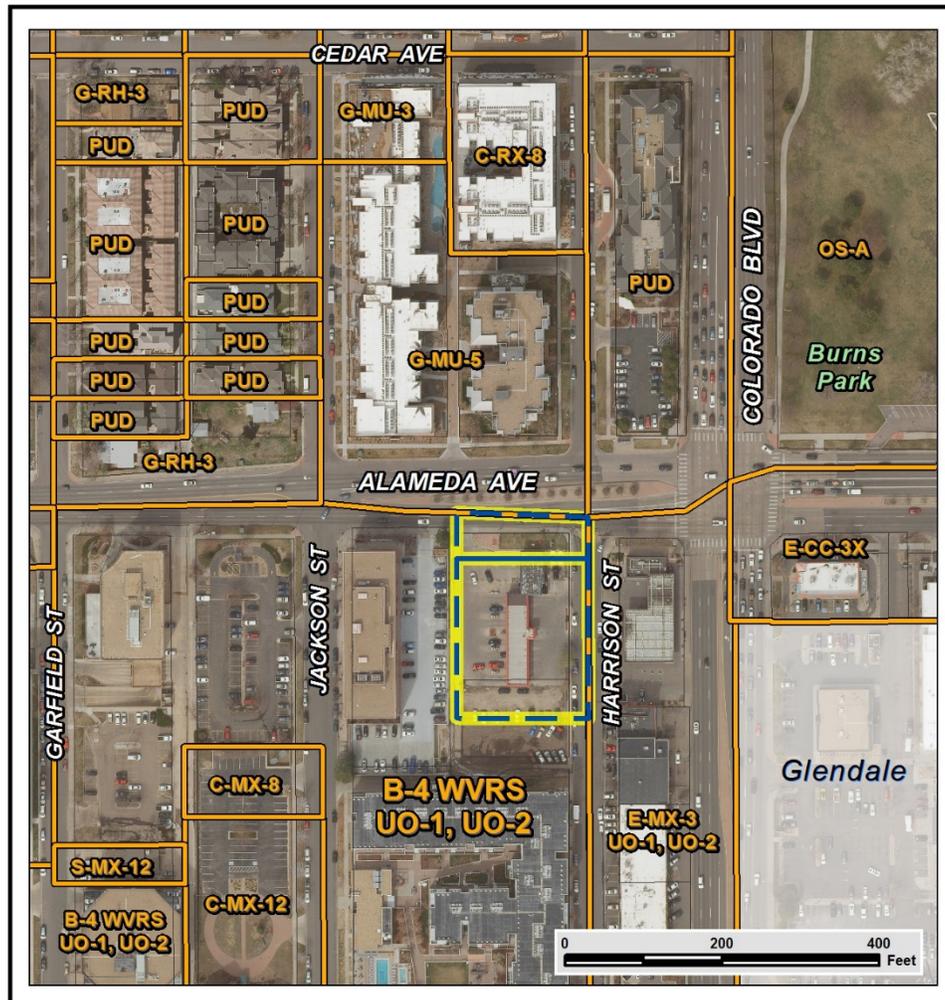
Area parks include Pulaski and City of Karmiel Park between Bayaud and Alameda Avenues along Cherry Creek North Drive, the Cherry Creek Greenway and Trail aligned along Cherry Creek, and across Colorado Boulevard, Burns and Cranmer Parks. Area schools include Bromwell Elementary School located at 3rd and Josephine Street, Good Shepherd Catholic

Church at 6th and Elizabeth, Hill Middle School a 5th and Clermont Street and Graland Country Day School at 1st and Clermont Street.

The physical context of the neighborhood is a traditional street grid with rectilinear blocks and some alleys. Sidewalks are a mixture of detached with landscaping and attached. The following table summarizes the existing context adjacent to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	B-4 with waivers, UO-1 and UO-2	Commercial	1-story commercial structure	Regular grid streets shaping a consistent pattern of rectilinear blocks with some alleys; Vehicle parking is both structured and to the side or rear of buildings (alley access where alleys are present).
North	G-MU-5	Multi-unit Residential	6-story residential structure	
South	B-4 with waivers, UO-1 and UO-2	Multi-unit Residential	5-story residential	
East	E-MX-3, UO-1 and UO-2	Commercial/Retail	1-story commercial structure	
West	B-4 with waivers, UO-1 and UO-2	Office	5-story commercial structures	

1. Existing Zoning

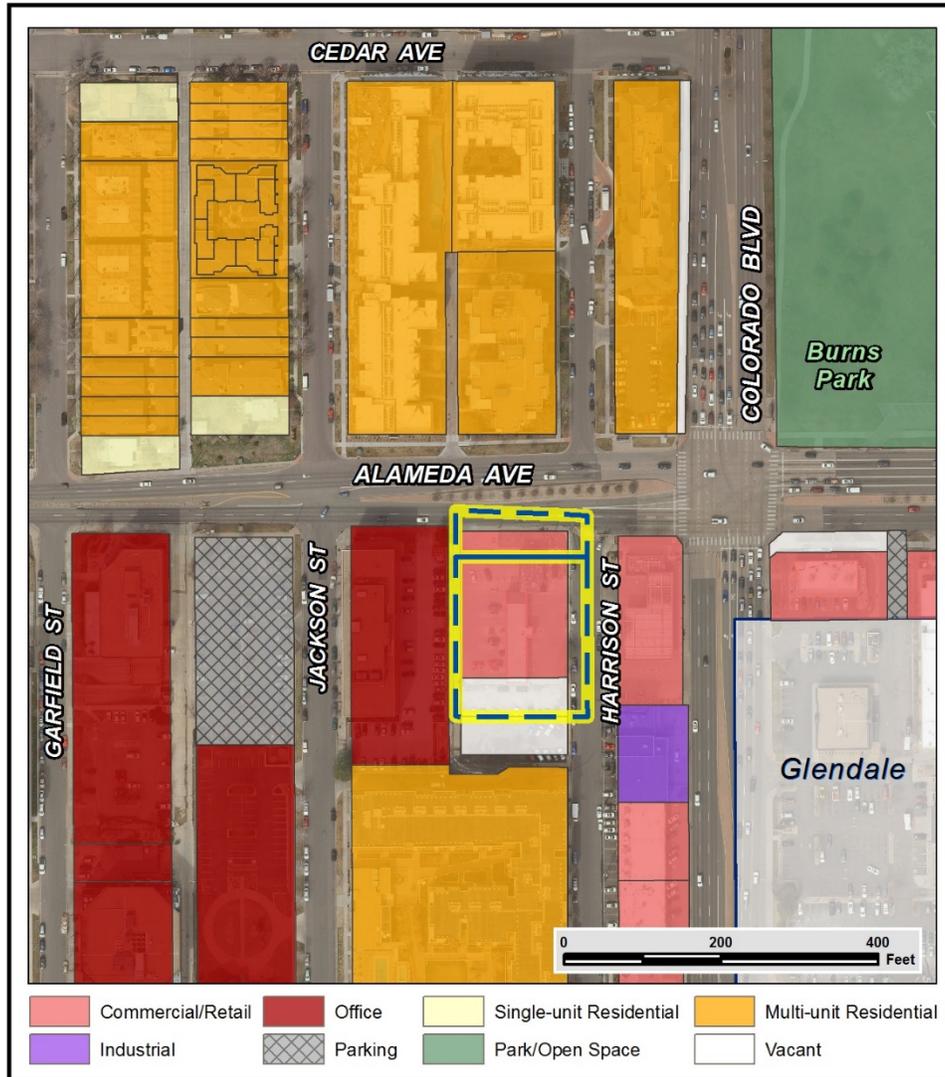


The existing zoning of B-4 with waivers is a Former Chapter 59 zone district approved in 1979. The B-4 district is a general business district encouraged along arterial streets. The district allows a wide variety of land uses and limits the maximum building floor area of structures to two times the site area. The approved waivers prohibit a variety of commercial uses, including adult uses, and industrial land uses, and waive the allowed height to a maximum of 72 feet.

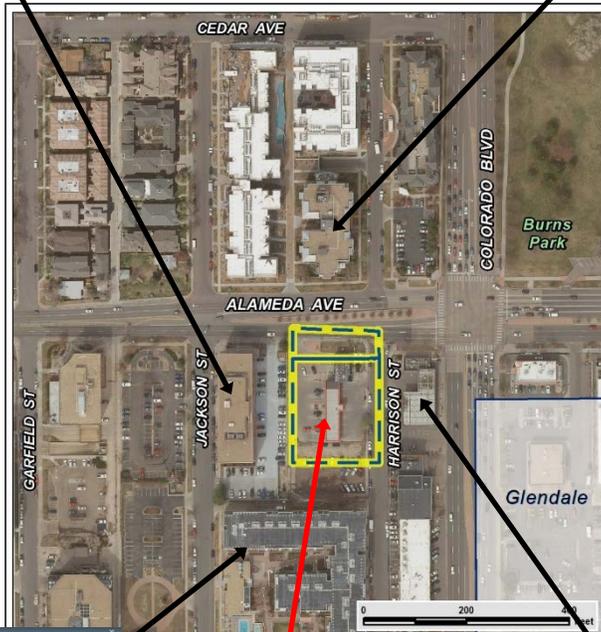
2. View Plane

The subject property is within the Cranmer Park view plane which restricts building heights to preserve mountain views. The allowable building height on the property is approximately 132 feet.

3. Existing Land Use Map



4. 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:

Asset Management: Approved – No Comments.

Environmental Health: Approved with the following comments: Notes. The Denver Department of Environmental Health (DEH) concurs with the rezoning request. However, DEH has information to indicate that a past petroleum release occurred from an underground tank system at a nearby property and a dry-cleaning facility may have also been historically present. Additionally, the property has operated as an automotive service station and nearby properties have operated as gas stations. Based on historical uses at the property and nearby properties, potential environmental conditions may exist that could impact redevelopment of the site. The developer should have assurance that site conditions are protective of workers during construction activities and of residents and workers during proposed use operations. If not already completed, the applicant may consider completing environmental site assessments to help determine the presence, nature and extent of potential contamination at the property and to identify specific cleanup needs.

If encountered during construction, underground storage tanks and contaminated soil and groundwater should be managed and disposed of in accordance with applicable regulations. Several groundwater monitoring wells are or were located at the property, potentially in relation to monitoring of current or past chemical impacts to groundwater. If present, monitoring wells should be properly abandoned in accordance with Colorado Division of Water Resources rules. 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.

Parks and Recreation: Approved with the following comment. Parks would approve of the zoning change conditioned on a full 20-foot parkway setback along East Alameda Parkway from the existing (current) property boundary.

Public Works – City Surveyor: Approved.

Public Works – Wastewater: Approved with the following comments. DES Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and Registered Neighborhood Organizations:	10/20/17
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 and Registered Neighborhood Organizations:	01/22/18
Planning Board public hearing:	02/07/18
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:	02/12/18
Land Use, Transportation and Infrastructure Committee of the City Council:	02/27/18
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and Registered Neighborhood Organizations:	03/17/18
City Council Public Hearing:	04/09/18

Registered Neighborhood Organizations (RNOs)

- To date, CPD has received no comment letters from any Registered Neighborhood Organization.

Other Public Comment

To date, no other public comments 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)
- Cherry Creek Area Plan (2012)

Denver Comprehensive Plan 2000

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

- **Environmental Sustainability** Strategy 2-F – “**Conserve land by promoting infill development within Denver at sites where services and infrastructure are already in place**” (p. 39).
- **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).
- **Mobility** Strategy 4-E – “**Continue to promote mixed-use development, which enables people to live near, work, retail and services**” (p. 78).
- **Legacies** Strategy 3-A – “**Identify areas where increased density and new uses are desirable and can be accommodated**” (p. 99).
- **Economic Activity** Strategy 4-B – “**Enhance existing business centers and establish new business centers in a manner that offers a variety of high-quality uses that support Denver’s business environment, complements neighboring residential areas, generates public revenue, and creates jobs**” (p. 135).

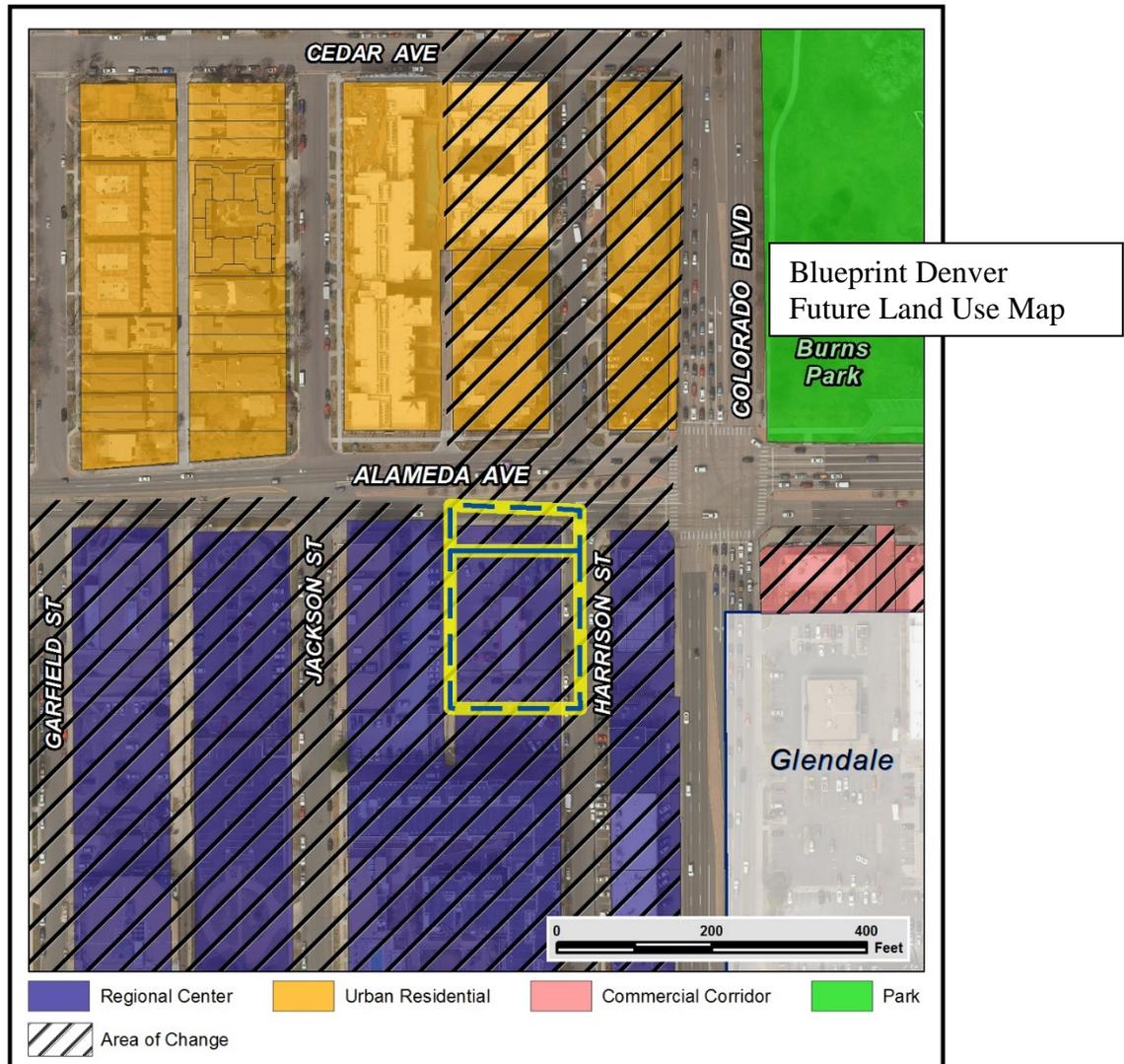
The rezoning is consistent with these Plan recommendations. The proposed C-MX-5 and 8 zone districts allow a variety of residential and commercial land uses. The map amendment will enable the redevelopment of the property in a manner that increases density, is consistent with the existing character of the area and is in a location where infrastructure is already in place.

Blueprint Denver

According to the Plan Map adopted in Blueprint Denver, this site has a concept land use of Regional Center and is in an Area of Change.

Future Land Use

The Blueprint Denver Regional Center concept land use designation is described in the Plan as having “a balance of retail, employment and residential land uses, though some may have begun as one major use like a regional shopping center or a large office park. These centers generally cover a large area and are dense enough to encompass both the dominant use and a wide variety of other uses. Cherry Creek is an example of a regional center where a major shopping center is at the core of many other uses concentrated in a small area” (p. 43).



Area of Change / Area of Stability

As noted, the subject property is in an Area of Change. In general, “The goal for 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...A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide a stimulus to redevelop” (p. 127).

The rezoning application is consistent with the Blueprint Denver Area of Change recommendation of channeling growth where it can improve access to housing and services with fewer and shorter auto trips. Expanding and redeveloping residential and commercial land uses near the shopping and services of the Cherry Creek Shopping Center and Cherry Creek East Area make this proposal consistent with the goals of Areas of Change.

Street Classifications

Blueprint Denver classifies East Alameda Avenue as a Mixed Use Arterial Street and Harrison Street as Undesignated Local Street. According to Blueprint Denver, Mixed Use Arterial streets “*provide a high degree of mobility*” as their primary function, and “*connect major urban elements such as the central business district, employment centers, large urban and suburban commercial centers and residential neighborhoods*” (p. 51). Mixed Use streets are “*located in high-intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity*” (p. 57). Local streets are “*tailored more to providing local access.*”

Blueprint Denver also classifies East Alameda Avenue and South Colorado Boulevard, ½ block to the east, as Enhanced Transit Corridors. On these corridors, the Plan encourages “*evaluating and implementing enhanced bus transit service*” (p. 98), and “*developing transit-supportive incentives like shared or reduced parking, and a mix of transit-supportive land uses*” (p. 100). The number 40 bus on Colorado Boulevard ½ block to the east arrives every 15 minutes. The proposed C-MX-5 and 8 zone districts allow the higher-intensity mixture of uses envisioned for areas served by mixed-use arterial streets and high-frequency transit services in a Regional Center/Area of Change.

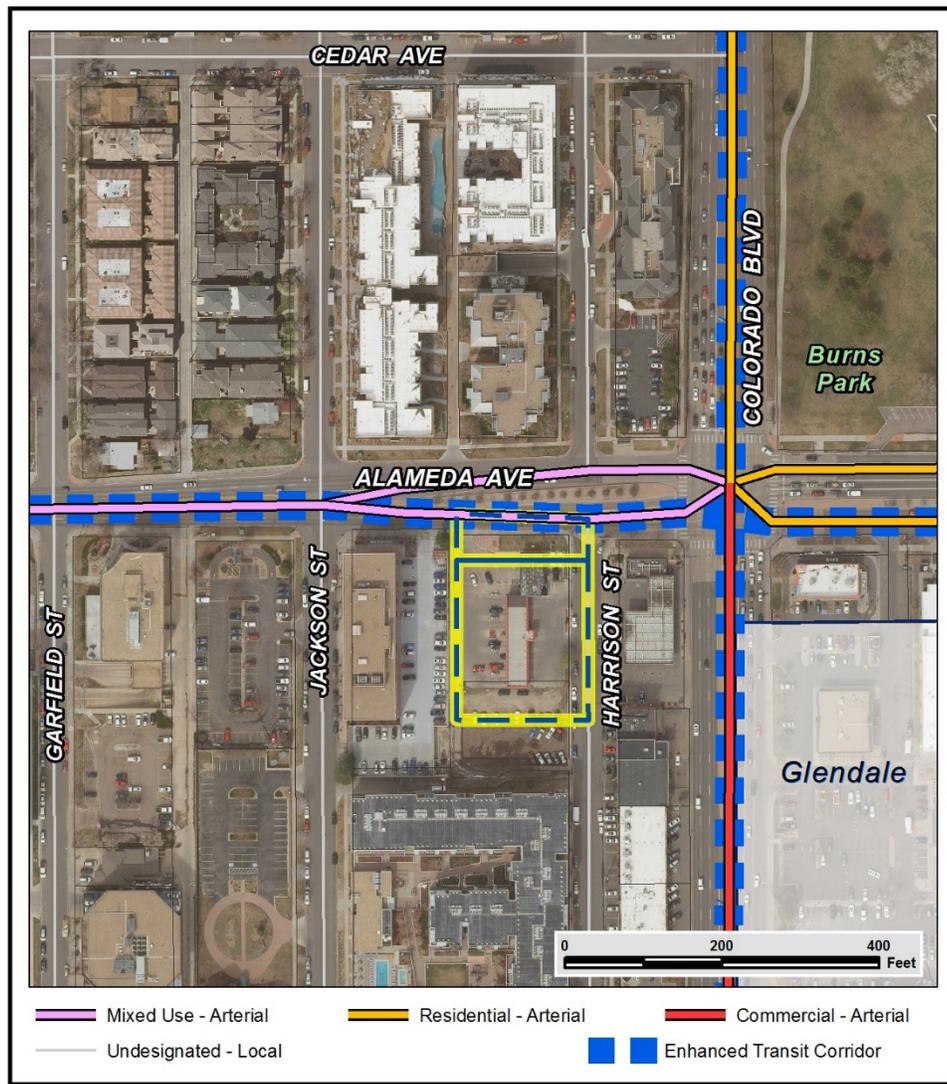
Former Chapter 59 Zoning with Waivers

Blueprint Denver recommends rezoning Former Chapter 59 zoning with waivers to Denver Zoning Code zone districts. Regarding waivers and conditions, Blueprint Denver provides the following guidance on page 82:

“The unsatisfactory performance of the current regulations has led to the use of unique conditions and waivers applied to rezonings. These waivers and conditions, which are not organized in the zoning code, further complicate Denver’s zoning situation. In addition, these conditions are written to address the construction of buildings and are not crafted broadly enough to address the ongoing regulation of the land after construction is completed. They remain enforceable for decades after, regardless of their effectiveness and applicability.”

“The result is that the regulatory system does not deliver effective land-use regulation, but its administration absorbs a large amount of resources. It is difficult to envision how Blueprint Denver will be implemented by simply adding another layer of regulation on top of the current code. In fact, if the reforms mentioned in this chapter are instituted, it may be appropriate to eliminate the practice of rezoning with conditions and waivers.”

Rezoning to a standard zone district in the Denver Zoning Code will implement the cited Blueprint Denver plan guidance by eliminating the limiting zoning waivers from this site.



Cherry Creek Area Plan (2012)

The Cherry Creek Area Plan offers guidance for both the overall neighborhood, in the Framework Plan, and for subareas within the neighborhood. The Plan includes the area south of Alameda Avenue, though officially the area is within the Belcaro statistical neighborhood. The Framework portion of the Plan discusses the mixed-use character of the Cherry Creek Neighborhood. *“Part of the character of Cherry Creek is its mixture of land uses. Retail and service uses appealing to both local and regional shoppers, office and established residential neighborhoods weave an interdependent mixed-use urban environment resulting in a variety of amenities benefiting the quality of life. [...] Continued introduction of office space, retail, and residential units will enhance the mixed-use nature of the neighborhood and reinforce the plan vision. As in most mixed-use districts throughout the country, the desire to maintain the character of Cherry Creek must be balanced with the thoughtful redevelopment of underutilized properties”* (pg. 26-27).

Framework Plan

The Framework Plan also updated the Blueprint Denver Map of Areas of Change and offers this guidance for Areas of Change: *“The Areas of Change in Cherry Creek have the greatest potential to accommodate this growth, both in terms of market demand and available land. Although not every property will see significant redevelopment, overall these areas benefit from new development, reinvestment, and more intense use. Areas of Change include the Shopping District, Cherry Creek Triangle, 1st Avenue, the commercial node at Madison and Bayaud and Harrison Street south of 1st Avenue”* (pg. 29). And further, the Plan provides the following recommendations for targeting growth in these Cherry Creek Areas of Change:

- *“Acknowledge that to remain prosperous, Cherry Creek must continue to grow and change. In order for this growth to occur in a way that reinforces the quality of life for Cherry Creek residents, the bulk of this growth should occur in these areas rather than stable neighborhoods”* (p. 29).
- *“Update the Blueprint Denver map to reflect revised Areas of Change boundaries. The updated Areas of Change are targeted to receive most of Cherry Creek’s residential and commercial growth over the next twenty years”* (p. 29).
- *“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 subject property is circled on the Blueprint Denver Map and the updated Cherry Creek Areas of Change map below.



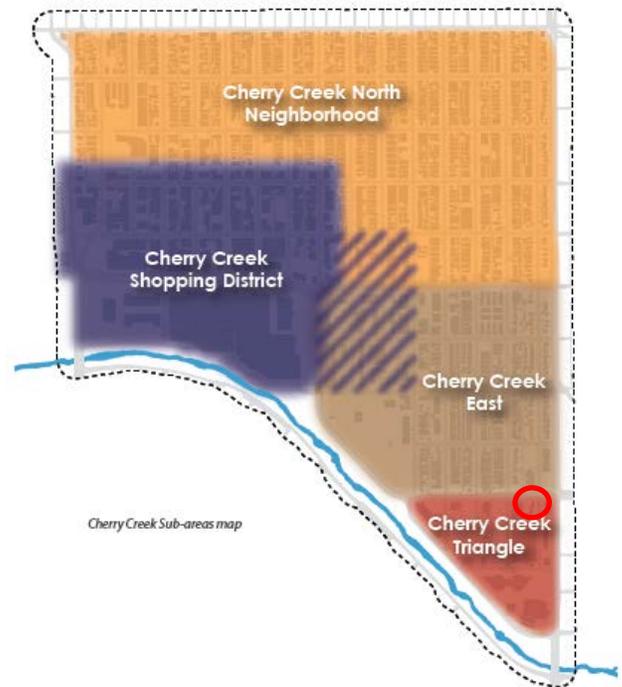
Further, the Plan recommends utilizing “urban design strategies to create appropriate transitions inbuilding heights and uses...Several key areas exist in Cherry Creek where areas of change sit adjacent to areas of stability. In these cases, new development should provide appropriate transitions in scale. Key transition areas include...Across Alameda Parkway between Cherry Creek East and Cherry Creek Triangle” (p. 32).

Finally, the Framework Plan recommends promoting continued investment and development in emerging neighborhoods. “The Cherry Creek Triangle is an emerging neighborhood providing a direct link between Cherry Creek and Glendale along the Cherry Creek Greenway. Development in this neighborhood has recently featured two multi-story residential structures to complement the existing mixture of office, hotel and retail uses within the area...Continued development should focus on quality architecture, improved streetscapes and enhancing the connections to Cherry Creek East and the Cherry Creek Greenway” (p.35). The proposed C-MX-5 and 8 zone districts implement the Cherry Creek Area Plan concepts of accommodating higher-intensity mixed use growth in an area of change, creating an appropriate transition in height between the Cherry Creek Triangle and Cherry Creek East and supporting development in an “emerging” portion of the neighborhood.

Cherry Creek Subareas

The Cherry Creek Area Plan also contains recommendations for subareas defined by the Plan. Subarea recommendations are used in the Plan to supplement the more general Framework Plan recommendations. The subject property is in the Cherry Creek Triangle subarea (see the circled area on the subarea map). This subarea is described by the Plan as supporting a wide range of land uses including large and small office buildings, multi-family residential structures and small-scale commercial serving Colorado Boulevard. For this subarea the Plan recommends:

- “Cherry Creek Triangle remains an Area of Change, meaning growth and reinvestment should be encouraged. Its prime location, existing mixture of uses, economic development opportunities and access to transit service create an ideal location for encouraging residential, commercial and employment growth.
- New development should continue to include a mix of land uses, especially office and residential. These uses should continue to be integrated into the neighborhood and serve residents, employees and visitors. Commercial uses on Colorado Boulevard should be better integrated into the fabric of Cherry Creek Triangle.



- *New development within the Triangle should respond to the surrounding conditions of parkways, greenways and other development. Special attention should be placed on the greenway edge of the Triangle to enhance visibility and connectivity to this important amenity. Street facing entries and ground floor transparency will be key elements for activating the pedestrian realm.*
- *Appropriate building mass transitions are important adjacent to Cherry Creek East to integrate development and reinvestment into the area. Maximum building heights will range from 5 to 12 stories, with a 5-story edge along Alameda to respond to lower scale residential on the north side of the street. This transition may be accomplished through variations in building height, upper story setbacks or other mass and scale alternatives” (p. 76-77).*

The proposed 5 and 8-story heights conforms to the maximum building height recommended in the Cherry Creek Area Plan for the subarea. The proposed mixed-use districts would enable a mix of land uses and the proposed districts provide an appropriate height transition to the Cherry Creek East subarea across Alameda Avenue. See the Plan’s Future Land Use Map and the Maximum Building Heights Map below.



Future land use map - Cherry Creek Triangle

■ Regional Center
■ Other subareas



Maximum building heights map - Cherry Creek Triangle

■ 12 Stories
■ 8 Stories
■ 5 Stories
■ Other subareas

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-5 and 8 zone districts 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 by implementing the City's adopted plans for the area, and by readying the property for reinvestment with zone districts that provide adequate transitions to the surrounding area and improve the pedestrian environment through improved building form standards.

4. Justifying Circumstance

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.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.*" As the Cherry Creek Area Plan discusses above, Cherry Creek must continue to grow and change to remain prosperous and to reinforce the quality of life for neighborhood residents. The subject property is located within an area the Cherry Creek Area Plan designates as a Regional Center and an Area of Change, where reinvestment and growth should be directed, and where the character of the area is expected to change, and is indeed changing. Several recent multi-unit and mixed-use development have been built in the surrounding area. The proposed rezoning will acknowledge the changing character of the area and will accommodate the planned reinvestment in the area, and this is an appropriate justifying circumstance for the proposed rezoning.

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

The requested C-MX-5 and 8 zone districts are within the Urban Center Neighborhood Context. The Urban Center Context is characterized by multi-unit residential and mixed use commercial strips and centers in a variety of building forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial and local streets. Commercial uses are primarily located along main and mixed-use arterials. The block and street pattern consist of regular block shapes formed by a grid street system. In this context building heights are moderate to high to promote a dense urban character. A high level of connectivity to multi-modal transit is characteristic of the context. The C-MX-5 and 8 zone districts are intended to promote safe, active, and pedestrian-scaled diverse areas with a variety of residential and commercial building forms located on collector or arterial streets. The proposed rezoning of the subject property to C-MX-5 and 8 zone districts is consistent with the Urban Center Context and the specific intent of the C-MX-5 and 8 zone districts.

Attachments

1. Application
2. Approved Legal Description
3. Existing B-4 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> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</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:			

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.

REQUIRED ATTACHMENTS

Please ensure the following required attachments are submitted with this application:

- Legal Description (required to be attached in Microsoft Word document format)
- Proof of Ownership Document(s) (Assessor Records)
- Review Criteria (See attached narrative)

ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:

- Written Authorization to Represent Property Owner(s)
- Individual Authorization to Sign on Behalf of a Corporate Entity

Please list any additional attachments:

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	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	Has the owner authorized a representative in writing? (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)	YES
Joseph H McSoud 3750 East Kettle Ave Centennial, CO 80122 303.587.7487 jhmcoud@msn.com	301 & 303 South Harrison Street, Denver, Colorado 80209	79%	 Mark Johnson	8/28/17	A	YES
Shea NWM, LLC 1805 Shea Center Drive, Suite 450 Highlands Ranch, CO 80129 303-486-1396 john.kilrow@sheaproperties.com	327 South Harrison Street, Denver, Colorado 80209	21%	 Mark Johnson	10/16/17	A	YES

EXHIBIT A
C-MX-5 AREA
SHEET 1 OF 2

A PORTION OF LAND WITHIN LOTS 9 AND 10, BLOCK 47 OF BURLINGTON CAPITAL HILL ADDITION, RECORDED AT BOOK 5, PAGE 14, TOGETHER WITH A PORTION OF VACATED S. HARRISON STREET PER AMENDED ORDINANCE 0046 SERIES 1988, LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST QUARTER CORNER SECTION 13, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; THENCE ALONG THE NORTHEAST LINE OF SAID SECTION 13, S89°39'23"W A DISTANCE OF 215.98 FEET; THENCE N00°15'55"W A DISTANCE OF 72.58 FEET TO THE EASTERLY LINE OF SAID S. HARRISON STREET RIGHT-OF-WAY VACATION BEING THE POINT OF BEGINNING;

THENCE S89°49'01"W A DISTANCE OF 134.63 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 9;

THENCE ALONG THE WESTERLY LINE OF SAID LOTS 9 AND 10, N00°15'57"W A DISTANCE OF 33.00 FEET;

THENCE N89°49'01"E A DISTANCE OF 134.63 FEET TO THE EASTERLY LINE OF SAID S. HARRISON STREET RIGHT-OF-WAY VACATION;

THENCE ALONG SAID EASTERLY LINE S00°15'55"E A DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 0.102 ACRES (4,443 SQUARE FEET), MORE OR LESS.

ALL DIMENSIONS ARE IN U.S. SURVEY FEET.

BASIS OF BEARING: BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING ASSUMED TO BEAR NORTH 89°39'22" EAST AND MONUMENTED AS SHOWN HEREON.

PREPARED BY DENNIS PETER
REVIEWED BY RICHARD A. NOBBE, PLS
FOR AND ON BEHALF OF MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
OCTOBER 16, 2017

EXHIBIT B
C-MX-8 AREA
SHEET 1 OF 2

A PORTION OF LAND WITHIN LOTS 6 THRU 9, BLOCK 47 OF BURLINGTON CAPITAL HILL ADDITION, RECORDED AT BOOK 5, PAGE 14, AND WITHIN LOTS 46 THRU 50, BLOCK 2 OF BURNSDALE SUBDIVISION, RECORDED AT BOOK 18, PAGE 45, TOGETHER WITH A PORTION OF VACATED S. HARRISON STREET PER AMENDED ORDINANCE 0046 SERIES 1988, LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 12 AND THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST QUARTER CORNER SECTION 13, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; THENCE ALONG THE NORTHEAST LINE OF SAID SECTION 13, S89°39'23"W A DISTANCE OF 215.98 FEET TO THE EASTERLY LINE OF SAID S. HARRISON STREET RIGHT-OF-WAY VACATION BEING THE POINT OF BEGINNING;
THENCE ALONG SAID EASTERLY LINE, S00°18'57"E A DISTANCE OF 131.38 FEET;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 46 EXTENDED, S89°43'42"W A DISTANCE OF 134.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 46;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 46 -50, N00°19'14"W A DISTANCE OF 131.29 FEET;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 6-9, N00°15'57"W A DISTANCE OF 72.87 FEET;
THENCE N89°49'01"E A DISTANCE OF 134.63 FEET TO SAID EASTERLY LINE OF S. HARRISON STREET RIGHT-OF-WAY VACATION;
THENCE ALONG SAID EASTERLY LINE, S00°15'55"E A DISTANCE OF 72.58 FEET TO THE POINT OF BEGINNING:

SAID PARCEL CONTAINS 0.631 ACRES (27,471 SQUARE FEET), MORE OR LESS.

ALL DIMENSIONS ARE IN U.S. SURVEY FEET.

BASIS OF BEARING: BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING ASSUMED TO BEAR NORTH 89°39'22" EAST AND MONUMENTED AS SHOWN HEREON.

PREPARED BY DENNIS PETER
REVIEWED BY RICHARD A. NOBBE, PLS
FOR AND ON BEHALF OF MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
OCTOBER 16, 2017

September 1, 2017

Site Description

The parcels being proposed for rezone are approximately 0.578 acres for Parcel A and 0.155 acres for Parcel B. The parcels are located at 301 & 327 South Harrison Street, respectively, on a corner lot at the southwest quadrant of East Alameda Avenue and South Harrison Street. The site's existing condition contains single story, non-historic buildings including a dilapidated car service center and self-serve car wash. Features and access of this existing condition include surface parking, 2 curb cuts facing Harrison and 1 shared alley/access curb cut fronting Alameda Avenue. The current property zoning is B-4 with Waivers per the former Chapter 59 zoning standard. Adjacent properties surrounding this site contain commercial and multi-family mixed-uses. A mix of zoning surrounds the site area including B-4, G-MU-5, C-MX-5, C-MX-8, E-MX-3, and others. This site is located within the Cranmer Park View Plane area and Alameda is designated as a Denver Parkway. The site has been listed as a Regional Center and "Area of Change" per the Blueprint Denver land use and transportation plan.

Purpose and Intent

The purpose of this rezoning is to create the opportunity for appropriate scaled senior housing development in this planned "Area of Change." The current B-4 with waivers zoning does not provide appropriate density in this location because it limits floor area to a project size that is not viable. This rezone opportunity would provide additional density and desirable uses at this important district and location. The site frontage to Alameda and one block proximity to the intersection of Alameda and Colorado Boulevard brings many opportunities and constraints. The opportunities include high visibility, access to mass transportation and local commercial amenities for residents. The constraints include high volume traffic, noise, and vehicle access limitations. It is because of these constraints and the existing character of the property that it currently provides a non-contributing edge to Alameda Avenue corridor while visually and physically compromising the parkway development and the gateway to Colorado Boulevard.

The intent of the rezone is to establish a zoning designation that will provide for a viable senior housing development in an area that is currently underserved in this growing population category. We believe that the B-4 zoning limitations make this property difficult to develop specifically for a senior residential use, as well as other uses. There is a fundamental disparity between the current site constraints, the City's desired Area of Change, and the current zoning and associated allowable density.

As proposed, a combination of C-MX-5 for the northerly 20' of the property and C-MX-8 for the remainder of the property would offer the flexibility required in density and housing type that would be viable in this location along the Alameda Denver Parkway corridor. The additional building height allowed by the proposed zoning is in scale with and complimentary to the surrounding zoning and development. The building will be limited to 5 stories (C-MX-5) within the northerly 20' along the future Alameda Parkway Right of Way. The intent is to step up to 8 stories (C-MX-8) for the remaining southerly portion of the property. The increased height will comply, not exceed, the Cranmer Park View Plane limitation. Finally, new senior residential development on this property has the opportunity to greatly improve the aesthetic character of this property and community while also providing enhancement to the Alameda parkway frontage at his site.

Review Criteria

General Review Criteria:: The proposal must comply with all of the general review criteria "DZC Sec. 12.4.10.7"

- A. *Consistency with adopted plans:* Consistent with objectives of Denver Comprehensive Plan 2000.
1. 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 character of the surrounding neighborhood, that offers opportunities for increased density and more amenities, and that broadens the variety of compatible uses.
 2. Mobility Strategy 4-E: "Continue to promote mixed-use development, which enables people to live near work, retail and services."
 3. Legacies Strategy 3-A: "Identify areas in which increased density and new uses are desirable and can be accommodated."
 4. Compact Development: "Improve neighborhood cohesion, reduce urban sprawl and residents more directly connected to services and amenities within their immediate living environment

The proposed rezone is consistent with Blueprint Denver in that this property is located within an Area of Change. This rezone would support the objectives of an Area of Change as follows:

- Redevelopment that focuses growth in a way that benefits the City as a whole with whole life housing.
- New development that enhances the visual quality of buildings, streets and neighborhoods, thereby affecting the quality of life in the Areas of Change and surrounding neighborhoods.
- Improving the City's economic base and providing jobs.

B. *Uniformity of District Regulations and Restrictions:*

1. The C-MX-5 / C-MX-8 zoning for this property will adhere to developed regulations that are consistent within the surrounding context and will be complementary to the surrounding neighborhood. The proposed use of senior housing and the 8 story form is appropriate for the surrounding uses and increases housing variety in this area, especially for the underserved senior category. The additional height provided with this zoning will comply with the Cranmer View Plane limitations.

C. *Public Health, Safety and General Welfare:*

1. The proposed rezone will improve the health, safety and welfare of the City by allowing this property to be developed with viable senior housing density. The current property's built environment can be enhanced in a way that will increase activity on the site which also deters illicit activity. Redevelopment of the site will provide additional Alameda Parkway expansion for trail development which is currently not in compliance with parkway standards. This expansion will continue to improve this important trail system for pedestrians, providing a safe and attractive corridor for community use. The current site appearance will be substantially enhanced and activated by a well maintained residential building and landscaping.

Additional Review Criteria for Non-Legislative Rezonings

“Additional Review Criteria for Non-Legislative Rezonings: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8”

- A. *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.*
1. The property is located in an area of the Denver that has and continues to change significantly since its original development. The increased traffic provided to this area by Colorado and Alameda have caused deterioration of the viability of small commercial business fronting this corridor. Due to this and its effect on local single family homes the area has seen substantial new mixed-use development. The condition of this property is evident that it now stands out as a non-contextual development opportunity which could enhance the local context and increase local activity to better align with current surrounding context. The enhanced density that this rezone encourages will provide a viable senior housing development that will complement the new development surrounding the site while furthering the vision of Blueprint Denver.
 2. Redevelopment of this property will attain the objectives identified by the City, its regulating documents and Blueprint Denver. Small, deteriorating and non-contextual buildings on site today provide an opportunity to increase activity and quality of the local built environment. This enhancement raises the quality and demand for the district as a whole further encouraging redevelopment in this Area of Change ultimately furthering the infill desired by the Comprehensive Plan.

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.

The proposed C-MX-5/C-MX-8 is a commercial mixed use district allowing senior housing use. Building form can be developed as high as 8-stories, with a 5 story limitation fronting Alameda, and will comply with the Cranmer View Plane limitations. This proposed zoning consists with uses that are contextual with its surroundings. The development will allow for expansion of the Alameda Parkway adjacent the site and will provide additional infill development along this important arterial which is currently underutilized.

BY AUTHORITY

ORDINANCE NO. 372
SERIES OF 1979

COUNCIL BILL NO. 327
Dorothea, Hertzell Perry,
Wynman, Grogan

A B I L L

FOR AN ORDINANCE RELATING TO ZONING,
CHANGING THE ZONING CLASSIFICATION FOR
A SPECIFICALLY DESCRIBED AREA, GENERALLY
DESCRIBED AS THE NORTHEAST CORNER OF
SOUTH JACKSON STREET AND EAST DAKOTA
AVENUE, RECITING CERTAIN WAIVERS PRO-
POSED BY THE OWNERS AND THE APPLICANTS
FOR THE ZONING CLASSIFICATION AND PRO-
VIDING FOR A RECORDATION OF THIS ORDINANCE.

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

Section 1. That upon consideration for 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-1 District, as part of the R-2-A District, as part of the B-1 District and as part of the B-3 District;

2. That the owners and the applicants propose that the zoning classification of the land area hereinafter described be changed to B-4;

3. That the land area hereinafter described is owned by Joseph McSoud, M. Boardman, P. Lynde, S. Bergle, C. Cicao, W. Clayton, J. Arthur, B. Arthur, R. Chandler, S. Chandler, D. Chisholm, Ruth Swett, Marvin Holmes, C. W. Richardson, B. Richardson, L. Miller, E. Miller, B. Parrott, G. Parrott, Milos Saich, Eleanor M. Saich, Larry Crabbs and Barbara Crabbs, and that the applicants for the change in zoning classification hereinafter set forth are Western Skies, Inc., a Colorado corporation, and Joseph McSoud;

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4. That in their application the owners and the applicants have represented that if the zoning classification is changed pursuant to their application, the owners and the applicants will and hereby do:

(a) waive the right to use or occupy the land area hereinafter described or to use, occupy or erect thereon any structure or structures designed, erected, altered, used or occupied for an ambulance service; for auto sales; for a blacksmithing shop; for a crating service; for an electric contractor; for a food locker plant; for koshering of poultry; for a mail order house; for metal sharpening; for mirror silvering; for a mortuary; for a motorcycle store; for a painting and decorating contractor; for radio and television broadcasting; for railway right-of way; for a sign contractor; for an establishment selling monuments and tombstones; for a special trades contractor; for an adult book store; for an eating place with adult amusement or entertainment; for an adult photo studio; for an adult theater; for any use intended to provide adult amusement or entertainment on the payment of a fee or admission charge; or for an outdoor general advertising device; and

(b) waive the right to erect, construct and/or build on the land area hereinafter described any building having a height in excess of seventy-two (72) feet.

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-1, R-2-A, B-1 and B-3 to B-4:

Lot 1, Block 2, Burnsdale Addition, Lots 6 to 27 inclusive, Block 2, Burnsdale Addition, Lots 44 to 50 inclusive, Block 2, Burnsdale Addition and Lots 1 to 10 inclusive, Block 47, Burlington, Capitol Hill addition,

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 following change in zoning classification is based upon the representations by the owners and the applicants 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 4 of Section 1 hereof, which said waivers shall be binding upon the owners and the applicants for the change in the zoning classification and shall be binding upon all successors and assigns of said owners and said applicants.

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 August 7, 1979

Elton Caldwell President

APPROVED *W. H. ...* Mayor August 8, 1979

ATTEST *S. J. Seragim* Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver

PUBLISHED IN The Daily Journal June 29, 1979 and Aug. 10, 1979

PREPARED BY: *Max P. ...* City Attorney 6-14 1979
W. H.



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