Community Planning and Development
Planning Services

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TO: Denver City Council
FROM: Tony Lechuga, Senior City Planner
DATE: April 18, 2024
RE: Official Zoning Map Amendment Application #2023I-00117

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2023I-00117.

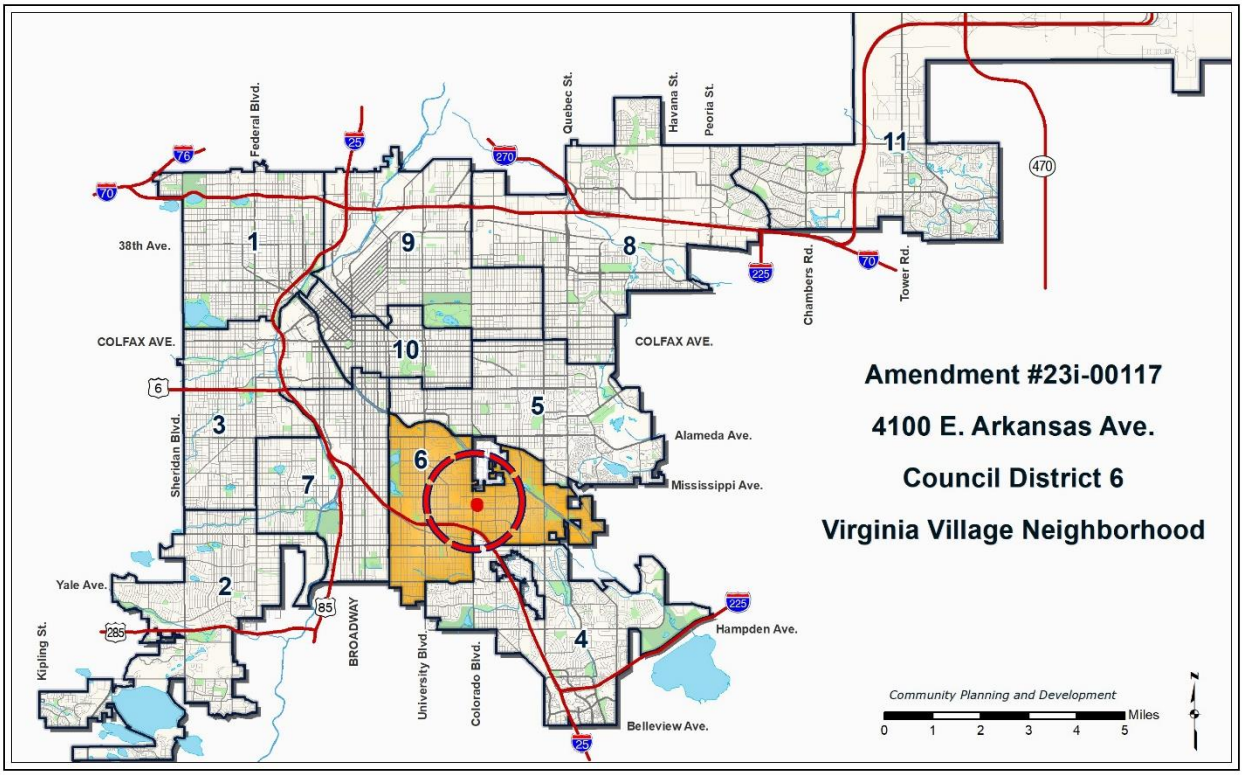
Request for Rezoning

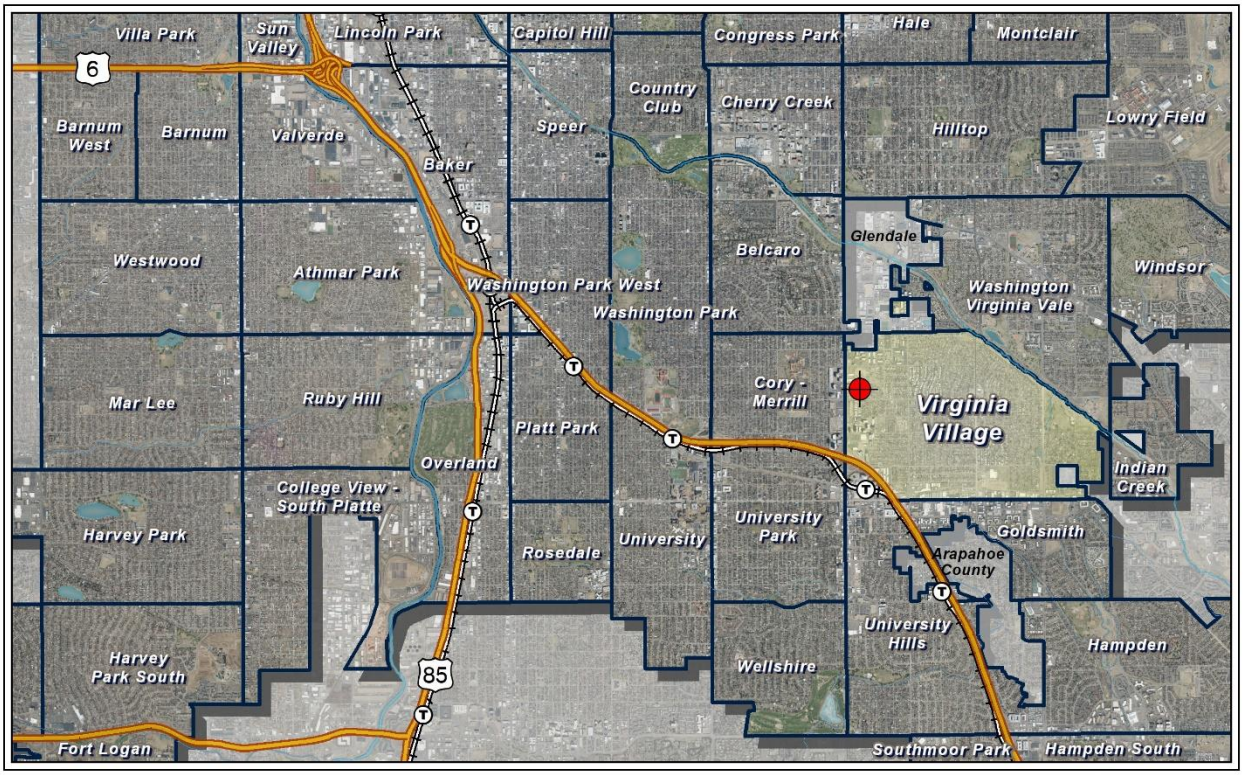
Address:	4100 E. Arkansas Avenue & 1451 S. Ash Street
Neighborhood/Council District and CM:	Virginia Village / Council District 6, CM Kashmann
RNOs:	Virginia Village Ellis Community Association, East Evans Business Association, Inter-Neighborhood Cooperation (INC), Strong Denver
Area of Property:	99,356 square feet or 2.28 acres
Current Zoning:	S-MX-3
Proposed Zoning:	S-MX-5A
Property Owner(s):	ICP-Flywheel Arkansas, LLC

Summary of Rezoning Request

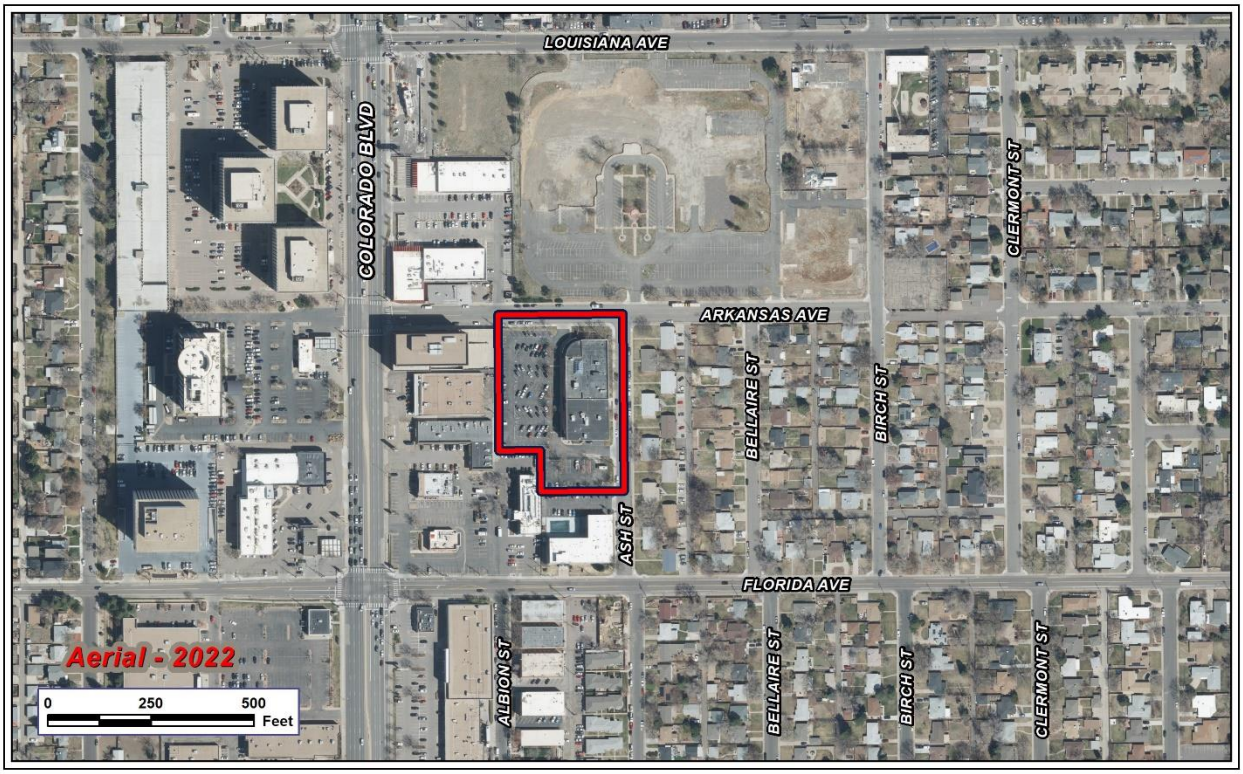
- The subject property is in the Virginia Village neighborhood and in Council District 6, at the southwest corner of East Arkansas Avenue and South Ash Street, one block east of Colorado Boulevard.
- The properties consist of a two-story office building built in 1965. More than 50% of the property consists of surface parking lots.
- The applicant is requesting the rezoning to align with the guidance of the recently adopted Near Southeast Area Plan.
- The proposed S-MX-5A (**S**uburban, Mi**x**ed-Use, **5**-story) zone district allows a broad range of commercial and residential uses in the General and Shopfront building forms with a maximum height of five stories. The design standards of the 5**A** district provide flexibility in building siting while supporting a consistent pattern of buildings placed closer to the street to offer an active street front. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 3 of the Denver Zoning Code (DZC).

Existing Context





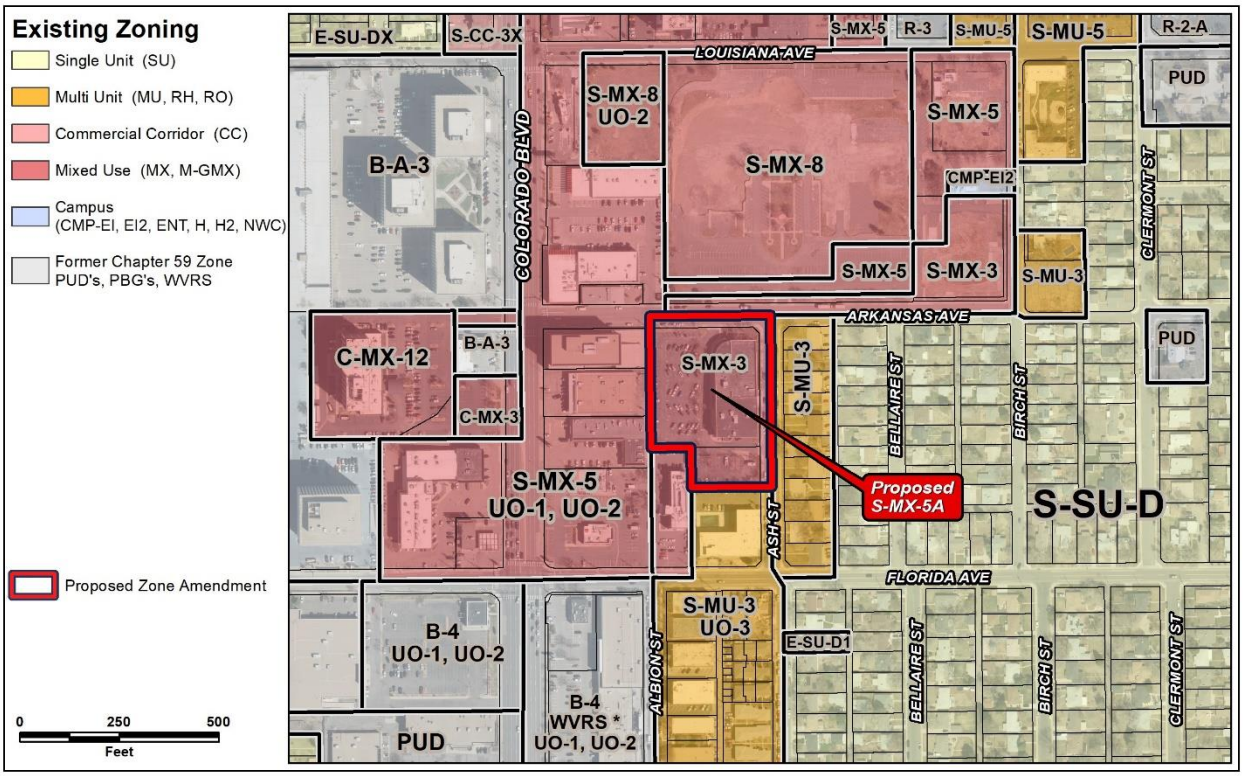
The subject property is a 2.28-acre site consisting of two parcels with primary frontage on Arkansas Avenue but also occupying a large frontage on Ash Street. The subject property is on a larger-than-average block since Albion Street ends to the south of this block at Florida Avenue. The area consists of a mix of suburban neighborhood to the east and more dense urban development along Colorado Boulevard one block to the west. Immediately south of the property are medical facilities and apartment buildings. To the north of the property is the former CDOT headquarters which was rezoned to allow 5 and 8 story development between Arkansas and Louisiana Avenues. Immediately to the east along Ash Street is multi-unit housing that tapers to largely single-unit residential in the subsequent blocks. The subject property is 1 mile north of the Colorado/I-25 train station. One block to the west are stops for the 40-bus line which runs north-south along Colorado Boulevard. Two blocks to the west are stops for the 46-bus line which runs north-south along Birch Street. Colorado Boulevard is notable for being the site of a future planned Bus Rapid Transit network.



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

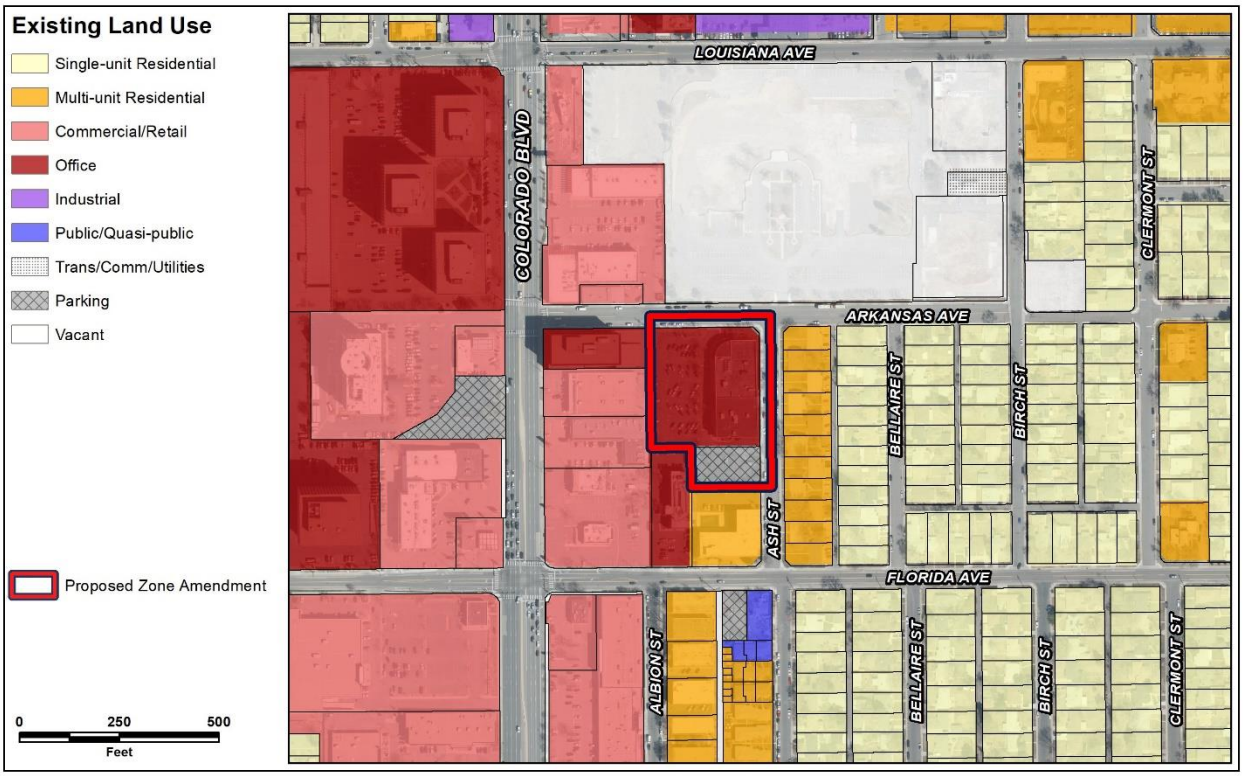
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	S-MX-3	Office & Parking	2 story office building and surface parking.	There is a regular grid of streets with consistent and rectangular block sizes that vary in size depending on the use. Single-unit zone lots in the area are generally east-west oriented with the shorter sides of the parcel parallel to the street and alley. The area mostly contains alleys, detached garages, 3-ft sidewalks with rollover curbs, and on-street vehicle parking.
North	S-MX-5 and S-MX-8	Vacant	While the site has a current listed land use of "Vacant," construction has begun on the site which will consist of 5-8 story commercial and residential, including a new grocery store.	
East	S-MU-3	Multi-unit residential	1.5 story brick structures with garden level and second story units with parking in the rear.	
South	S-MU-3, UO-3	Multi-unit residential	4 story brick apartment building fronting Florida Avenue with parking in the rear.	
West	S-MX-5, UO-1, UO-2	Office & Commercial/Retail	At the corner of Colorado Boulevard and Arkansas Avenue is a 7-story office building. Further along Colorado Boulevard, adjacent the subject property are 1-story commercial/retail properties with parking in front in the style of suburban strip malls.	

1. Existing Zoning



The existing S-MX-3 zoning is a Mixed-Use district that allows the Drive Thru Services, Drive Thru Restaurants, General, and Shopfront building forms up to three stories or 45 feet in height with various requirements for building siting depending on building form. The intent of the Mixed-Use Districts is to promote safe, active, pedestrian-scaled, diverse, areas that enhance the ease of walking, shopping, and public gatherings, especially along corridors, for larger sites, and at major intersections. For additional details of the zone district, see DZC section 3.3.

2. Existing Land Use Map



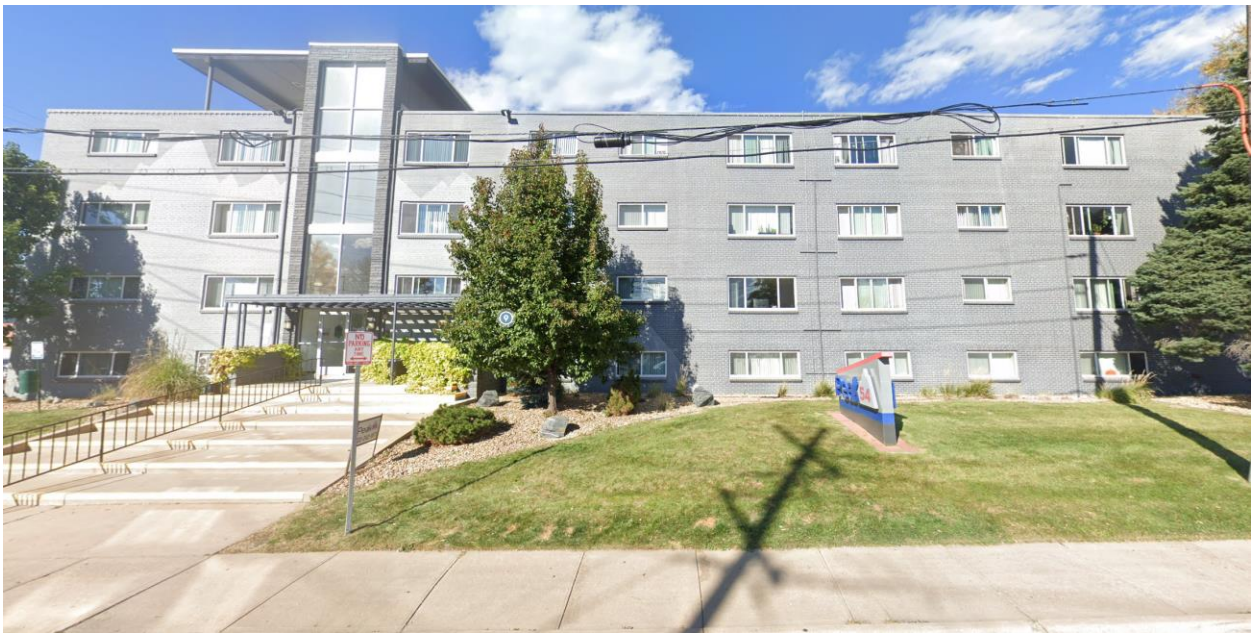
3. Existing Building Form and Scale

View of the subject property from Arkansas Avenue, looking south (*Source: Google Maps*)

View of the subject property from Ash Street, looking west (*Source: Google Maps*)

View of the property to the north, looking north (*Source: Google Maps*)

View of the properties to the east, looking east (*Source: Google Maps*)



View of the property to the south, looking north (*Source: Google Maps*)

View of the properties to the west, looking east (*Source: Google Maps*)

Proposed Zoning

The requested S-MX-5A zone district has a maximum height of five stories or 70 feet with siting and design requirements to promote building density and active street frontages closer to the street. This is largely achieved through minimum primary street setback of zero feet. A variety of mixed residential, commercial, and civic uses are allowed. Build-to requirement ranges between 60% and 75%, depending on the building form. For additional details of the requested zone district, see DZC Section 3.3.3.

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

Design Standards	S-MX-3 (Existing)	S-MX-5A (Proposed)
Primary Building Forms Allowed	Drive Thru Services; Drive Thru Restaurant; General; Shopfront	General; Shopfront
Stories/Heights (max)	3/45'*	5/70'**
Build-to Primary Street (min % within min/max)	50% within 0'/80'***	75% within 0'/5'***
Primary Street Setbacks (min)	0'	0'
Side Street Setbacks (min)	0'	0'
Rear Setbacks (min)	0'	0'
Primary Street Transparency (min)	40%	60%***
Surface Parking between building and Primary Street/Side Street	Allowed/Allowed	Not Allowed/Allowed***

*4 stories or 55' with incentives
**7 stories or 95' with incentives
***Standard varies between building forms or uses

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: Approve rezoning only - Will require additional information at Site Plan Review. DOTI assesses the proposed rezoning to increase population density of the approximately 2-acre site at 4100 E. Arkansas Ave, in itself, will not cause an overload of the current infrastructure support systems. However, a study of all infrastructure support (transportation, mobility, utilities, etc.) must be completed prior to future re-zoning and increased density. The current transportation/mobility corridors effected by this re-zoning are already heavily congested and are anticipated to become more congested with added density. Consistent with Denver Moves Everyone, the City will manage this congestion as well as possible through innovative means such as enhanced public mass transit and multi-modal connectivity along the necessary corridors. One of these key innovations is the future Colorado Blvd Bus Rapid Transit (BRT) corridor that will add significant mobility infrastructure to this area. Transit supportive density is an essential component of BRT success and the overall safety and mode share goals of the city. Additional infrastructure improvements may be required during the site development process.

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

Development Services – Project Coordination: Approve rezoning only - Will require additional information at Site Plan Review

Development Services - Fire Protection: Approved – No Response

Development Services – Transportation: Approved – No Response

Development Services- Wastewater: 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:	**08/30/23**
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:	**02/06/24**
Planning Board voted 10-0 to recommend approval at a public hearing	**02/21/24**
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 (10) working days before the meeting:	**03/02/24**
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward:	**03/12/24**
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:	**04/01/24**
City Council Public Hearing:	**04/22/24**

- **Public Outreach and Input**
  - **Registered Neighborhood Organizations (RNOs)**
    - At the time of this staff report, we have received a letter of support from the East Evans Business Association noting the increased development potential and pedestrian friendly design requirements of the proposed district.

  - **General Public Comments**
    - At the time of this staff report, we have received one letter of opposition noting concerns around street-parking.

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 2040* (2019)
- *Blueprint Denver* (2019)
- *Near Southeast Area Plan (2023)*

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 is consistent with the following strategies in the Equitable, Affordable, and Inclusive vision element:

- Goal 1, Strategy A – Increase development of housing units close to transit and mixed-use developments (p. 28).

The proposed rezoning is consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Goal 1, Strategy A – Build a network of well-connected, vibrant mixed-use centers and corridors (p. 34).
- Goal 1, Strategy B – Ensure neighborhoods offer a mix of housing types and services for a diverse population (p. 34).
- Goal 1, Strategy D – Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased development (p. 34).
- Goal 2, Strategy C – Create people-oriented places that embrace community character with thoughtful transitions, aspirational design, and an engaging public realm (p. 34).
- Goal 9, Strategy A – encourage design and new development to improve public health and safety (p. 35).

The proposed rezoning is consistent with the following strategies from the Connected, Safe and Accessible Place vision element:

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

The proposed rezoning is consistent with the following strategies from the Environmentally Resilient vision element:

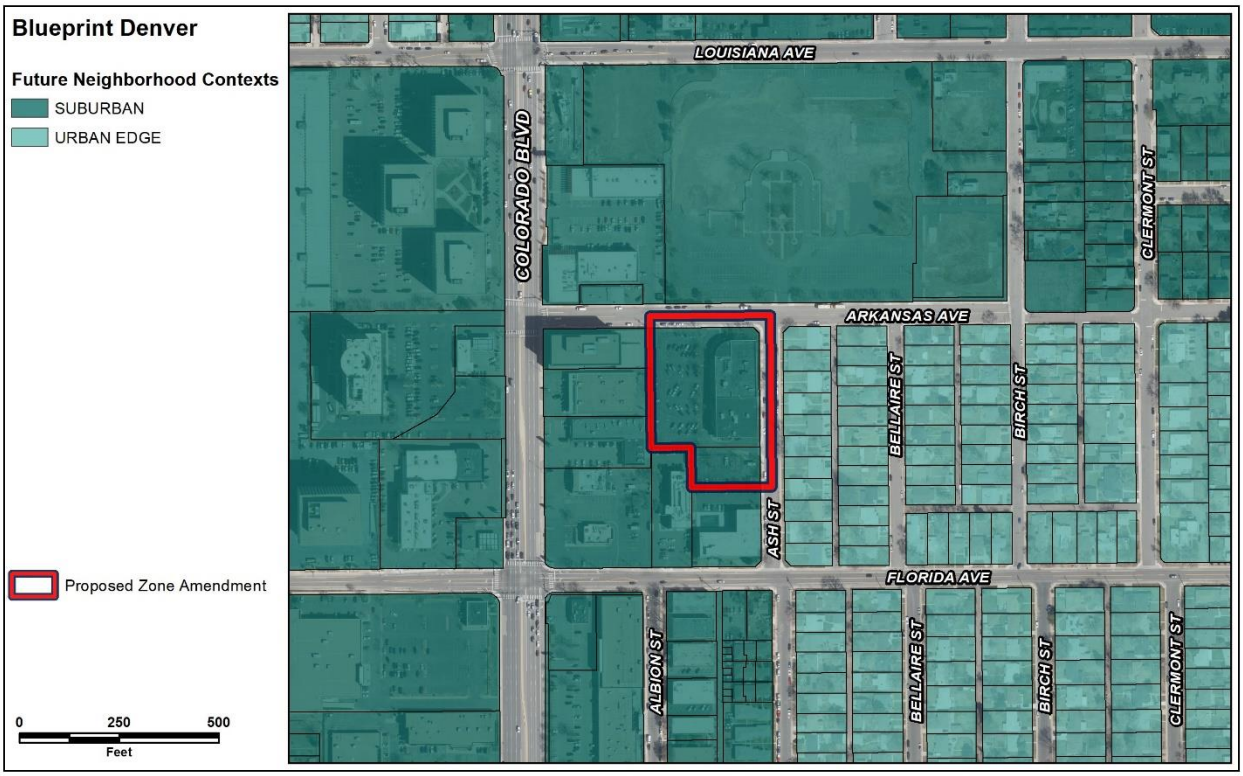
- Environmentally Resilient Goal 8, Strategy A - Promote infill development where infrastructure and services are already in place (p.54).
- Environmentally Resilient Goal 8, Strategy B – Encourage mixed-use communities where residents can live, work, and play in their own neighborhoods (p. 54).

As described above, the proposed rezoning to S-MX-5A would facilitate higher-density mixed-use development with higher design requirements at an appropriate location near transit and future Bus Rapid Transit, consistent with the recommendations of *Comprehensive Plan 2040*.

Blueprint Denver

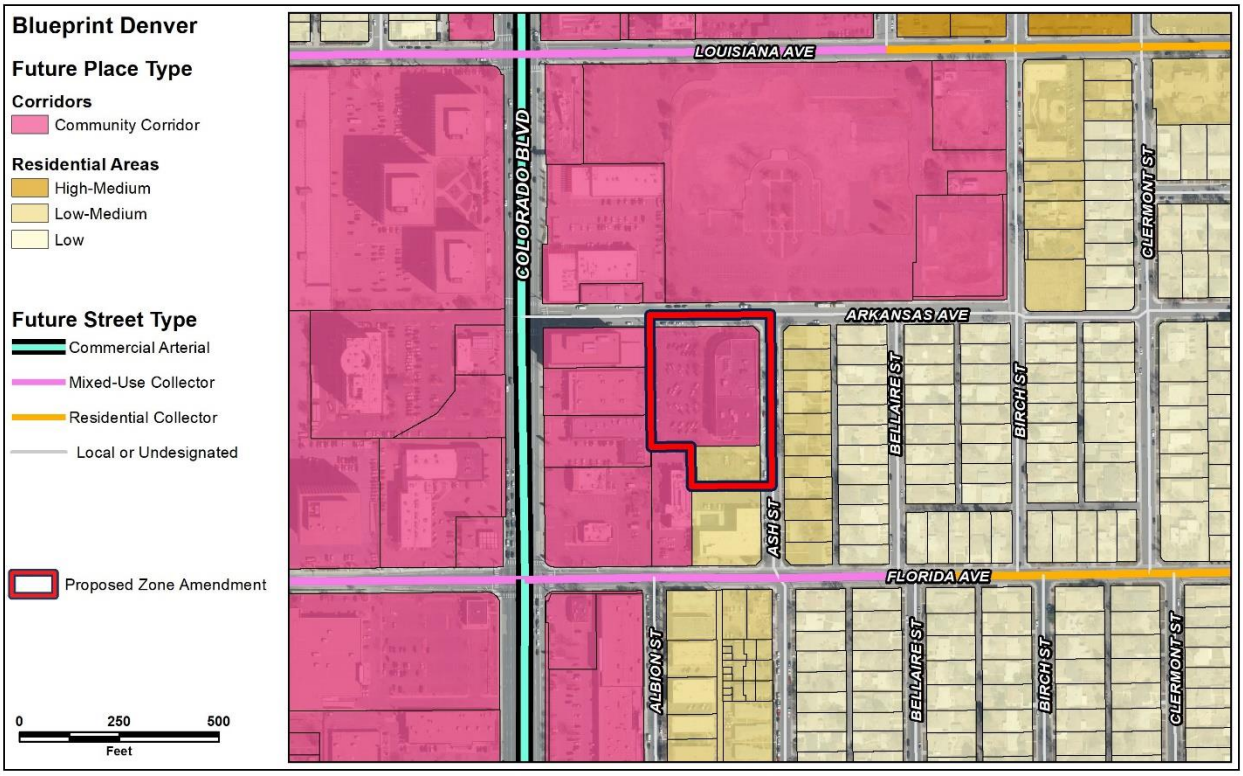
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions.

Blueprint Denver **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 Suburban neighborhood context. The neighborhood context map and description help guide appropriate zone districts (p. 66). The Suburban neighborhood context is described as "largely single-unit, but can also include higher intensity residential" and "commercial development is focused along main corridors and centers bordering residential areas" (p. 189). The proposed S-MX-5A zone district is part of the Suburban context and "applies to areas or intersections served primary by collector or arterial streets" where "design standards provide flexibility in building siting while supporting a consistent pattern of buildings placed closer to the street to offer an active street front (DZC 3.2.4.2.G). Since the proposed district allows a substantial mix of uses with allowable building forms that contribute to street activation, the proposed rezoning within the Suburban context is appropriate and consistent with the plan.

Blueprint Denver **Future Places**

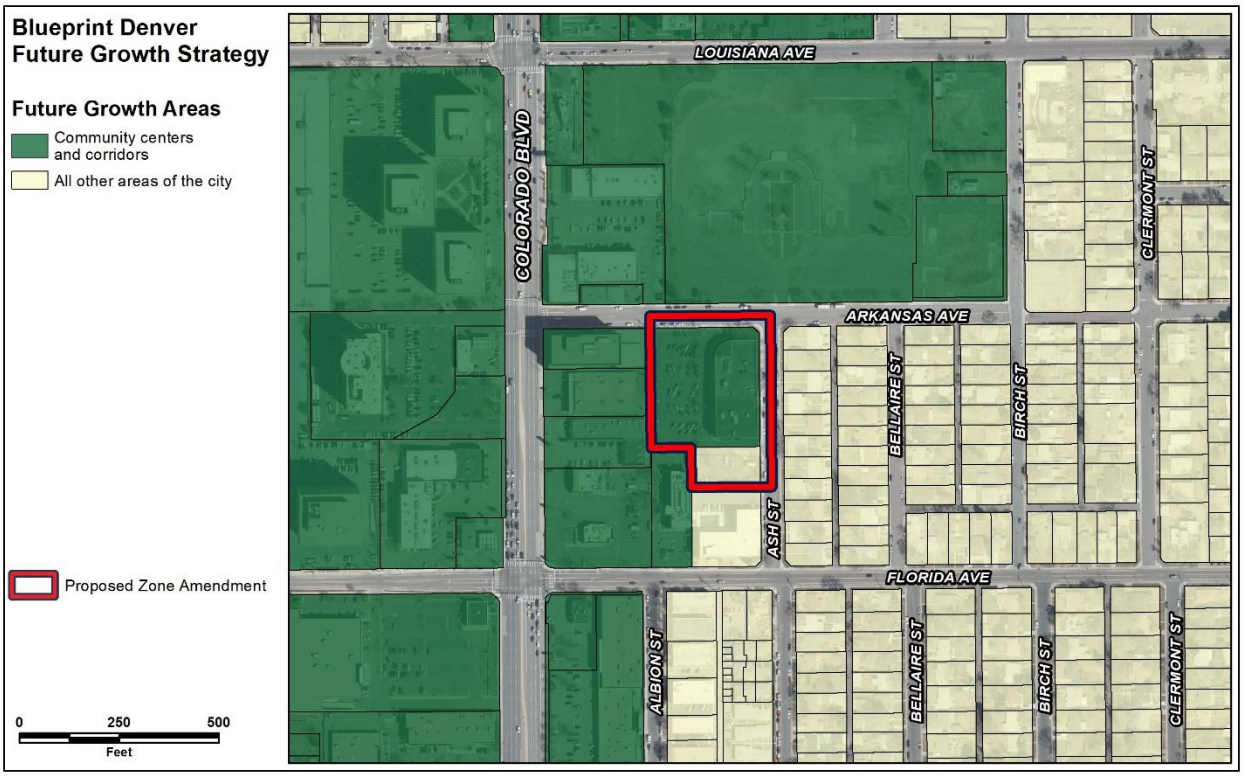


The Future Places Map shows the subject property as mostly part of a Community Corridor place type. *Blueprint Denver* describes the aspirational characteristics of Community Corridor place types in the Suburban context as "some mix of office, commercial, and residential" with "activity levels vary[ing] depending on the type and mix of uses" (p. 196). Community Corridor is further described as a place where, "building has a distinctly linear orientation" with heights generally up to 5 stories (p. 196). The southern part of the property is noted as having a place type of Low-Medium

Residential which is described as, “a mix of low- to mid-scale multi-unit residential options” with “limited mixed-use” and heights generally up to 3 stories. Our planning process takes a large-scale view and cannot effectively analyze existing conditions on every site. While our planning processes typically considers individual parcels in determining the appropriate recommendations, in this instance the two properties currently function as one site noted by a continuous wall along the property’s western and southern borders. Therefore, application of a single zone district with guidance following the larger parcel is consistent with the plan guidance.

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 both Arkansas and Ash as local streets which are described as having the “highest degree of property access and the lowest amount of through movement” (p. 154). Overall, given that S-MX-5A allows for a diversity of uses, with appropriate street activation, it is consistent with the context, place, and street type recommendations of Blueprint Denver.

Blueprint Denver **Growth Strategy**



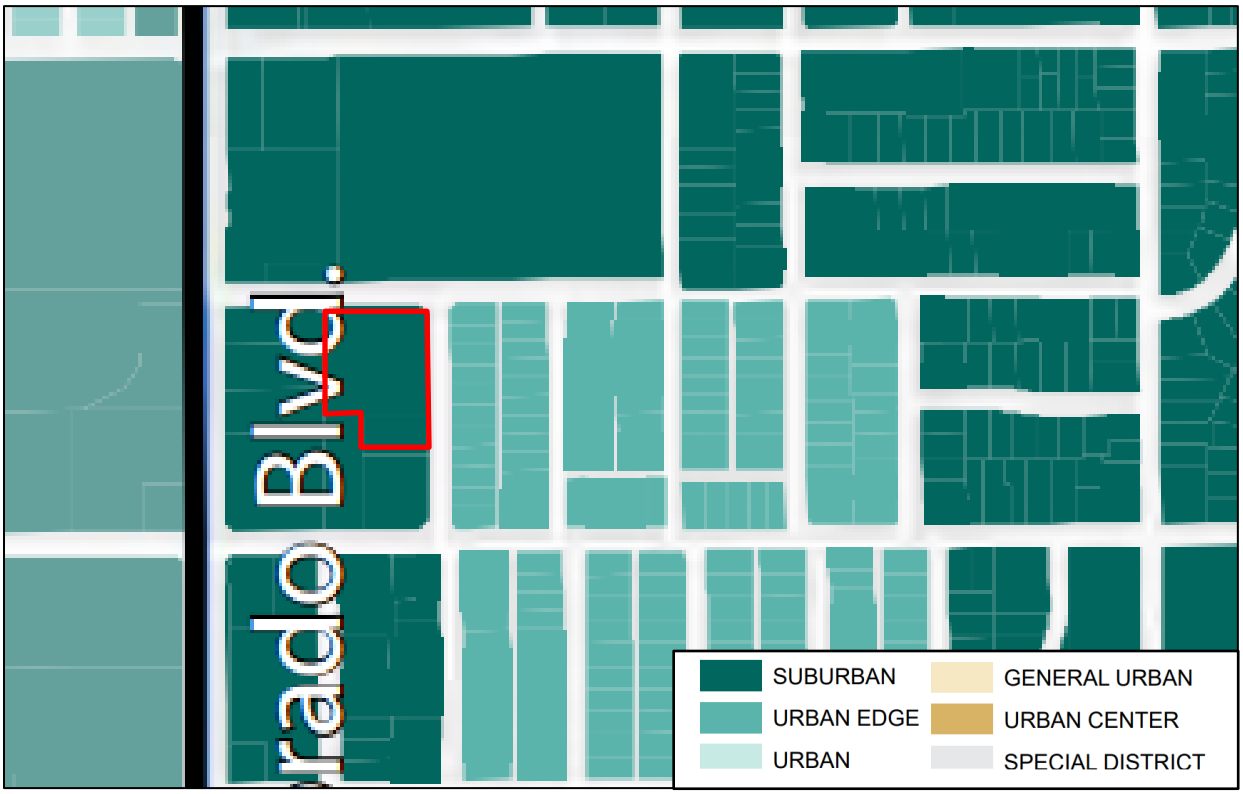
Blueprint Denver’s growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of Community Centers and Corridors. These areas are anticipated to see around 50% of new housing growth and 20% of new employment growth by 2040 (p. 51). The smaller portion to the south has a growth strategy of All other areas of the city where we anticipate seeing about 20% of new housing growth and 10% of

new jobs by 2040 (p.51). The proposed map amendment to S-MX-5A would focus mixed-use growth where it has been determined to be most appropriate.

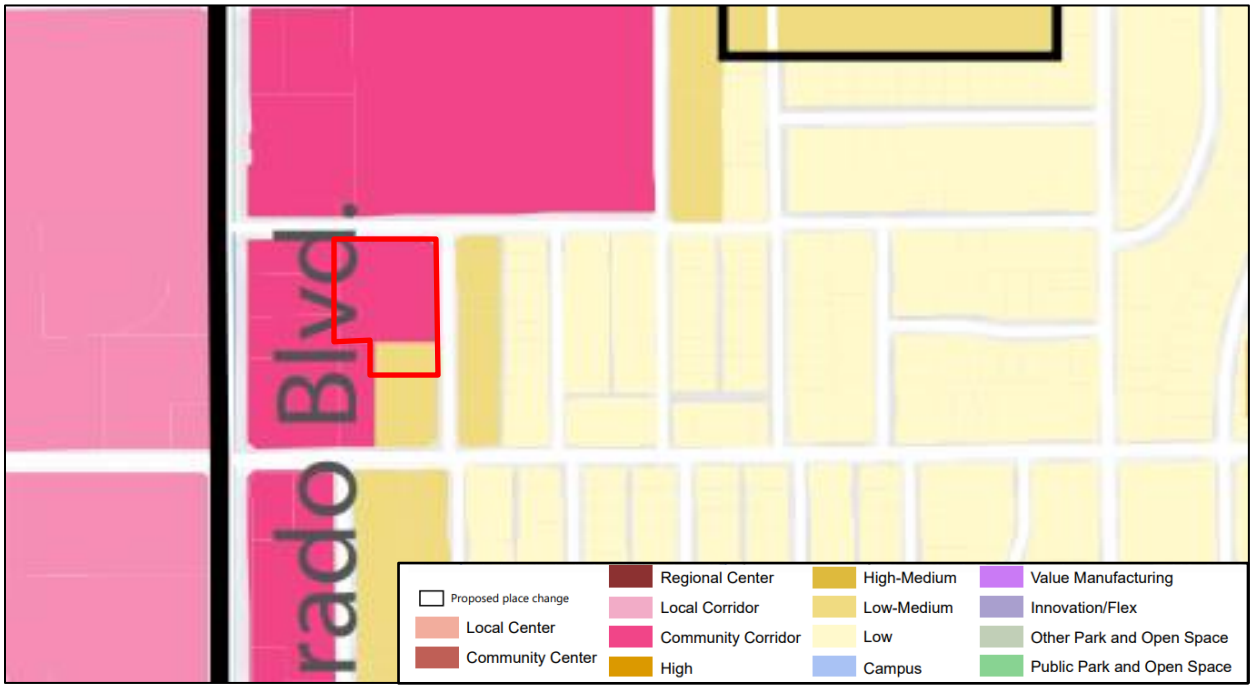
***Near Southeast Area Plan* (2023)**

The *Near Southeast Area Plan* mirrors the *Blueprint Denver* guidance in describing this area as a Suburban neighborhood context.

***Near Southeast Area Plan* Future Neighborhood Context**

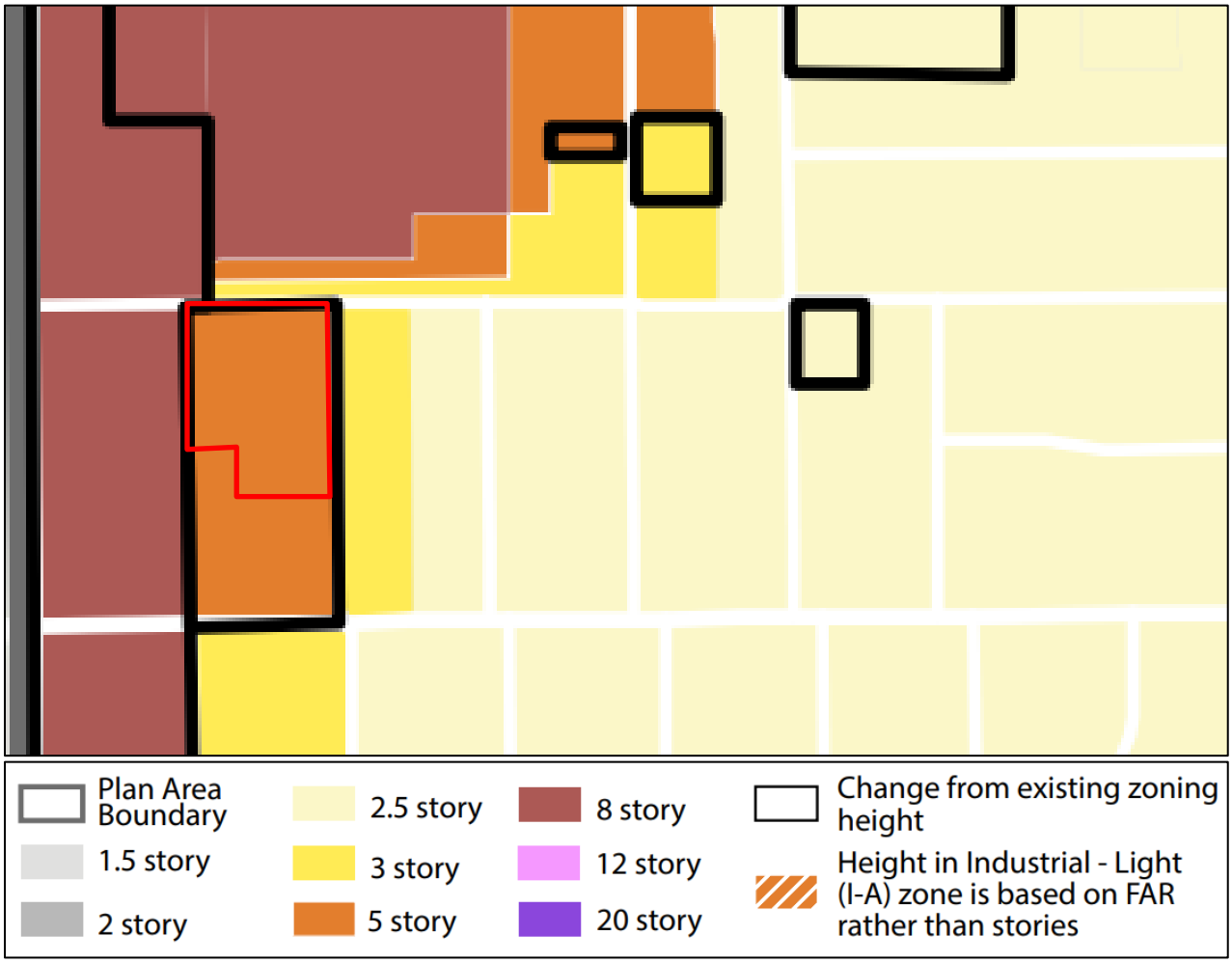


***Near Southeast Area Plan* Future Place Type**



The future place types of these properties mirror the recommendations of *Blueprint Denver*. The northern portion of the property is noted as Community Corridor. The plan describes Suburban Community Corridor as "provid[ing] some mix of office, commercial and residential" where "buildings have a distinctly linear orientation" (p. 34). The southern area of the property is described as Low-Medium residential which is a "mix of low- to mid-scale multi-unit residential" and "limited mixed-use along some arterial and collector streets and some intersections" (p. 34). As stated before, our planning process takes a large-scale view and cannot effectively analyze existing conditions on every site. While our planning processes typically considers individual parcels in determining the appropriate recommendations, in this instance the two properties currently function as one site noted by a continuous wall along the property's western and southern borders. Therefore, application of a single zone district with guidance following the larger parcel is consistent with the plan guidance.

***Near Southeast Area Plan* Recommended Heights**



The plan also contains guidance on building heights. This block is noted for having a change in guidance from the existing zoning height. In this case the recommendation is a maximum height of 5 stories or 7 stories with incentives along the entire block frontage. Given this refined height guidance for both properties, the proposed S-MX-5A is consistent with plan guidance by providing potential for a mix of uses at a height of up to 5 stories.

The proposed rezoning is consistent with the following land use strategies from the *Near Southeast Area Plan*:

- LU-1 – Consistent with *Blueprint Denver* and in coordination with citywide efforts, direct growth to regional centers, community centers, and community corridors with improved infrastructure and design and incorporate elements of complete neighborhoods in areas where additional height beyond existing entitlements is recommended (p. 40).

The proposed zoning would direct growth to a community corridor place type and the application of the 5A district would require improved design outcomes.

- LU-1, Strategy B – Ensure regional and community centers and corridors where additional height is recommended have adequate mobility infrastructure to support development. Prioritize completing needed infrastructure through city projects or using tools applicable citywide. (p. 40). LU-1, Strategy B1 – Until needed mobility network infrastructure or appropriate tools are in place, proposed applicant-driven rezonings to increase allowed height in regional and community centers and corridors consistent with adopted plans should go through an established coordinated review process, regardless of development size. Proposed rezoning with minimal infrastructure impact, such as small lots, may be determined not to require additional review. For other proposals, the review process should require an adequate mobility infrastructure analysis prior to approval of the proposed rezoning (p. 40).

  CPD used the established review/referral process to conduct direct coordinated meetings with the Department of Transportation and Infrastructure to discuss potential infrastructure impacts and a potential mobility infrastructure analysis. It was determined and noted in the DOTI comments earlier in this staff report, that the impact of this individual rezoning will not cause an overload of the current infrastructure system. They did note that future rezonings will need to go through a similar coordinated process to make the same determination. It should also be noted that the city is going through a coordinated infrastructure and mobility analysis for both Colorado Boulevard and Evans Avenue.

- LU-2, Strategy A – Transform the centers and corridors of Near Southeast into safe, welcoming, pedestrian-oriented places that are integrated with the surrounding neighborhoods and where community members can meet daily shopping needs and find dining and entertainment options (p. 44). LU-2, Strategy A1 – Locate new buildings closer to the street to create a sense of enclosure and human scale in mixed-use areas while still allowing for wide sidewalks, landscaping, and amenity spaces between the street and buildings (p. 44). LU-2, Strategy B1A – Prohibit auto-oriented building forms, such as drive thrus, car washes, and gas stations (p. 45).

  The proposed S-MX-5A zone district meets this plan guidance through applying a zone district that limits auto-oriented building forms and requires new buildings be built closer to the street.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to S-MX-5A 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 plans and allowing for compatible infill development that aligns with the city's growth expectations.

4. Justifying Circumstance

The application identifies changing conditions and the adoption of the *Near Southeast Area Plan* as Justifying Circumstances 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 as degree that the proposed rezoning is in the public interest. Such a change may include: Changed or changing conditions in a particular area, or in the city generally; or a city adopted plan; or that the city adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning." The application notes the recent rezoning of the former CDOT site to the north as well as the *Near Southeast Area Plan* noting corridors of Virginia Village as locations to evolve to allow more mixed-use.

The city is also planning significant investment in the Colorado Boulevard corridor with the application of Bus Rapid Transit. Therefore, given the changing conditions and plan guidance for additional height on the property, this application meets the justifying circumstances.

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

The requested S-MX-5A zone district is within the Suburban Neighborhood Context. The neighborhood context generally consists of single- and multi-unit residential, commercial strips and centers, and office parks (DZC, Division 6.1). The proposed rezoning would allow a mix of residential and commercial uses at an appropriate location consistent with the neighborhood context description.

The General Urban Mixed-Use zone districts are intended to "promote safe, active, and pedestrian scaled, diverse areas and enhance convenience and ease of walking, shopping and public gathering" and "mixed-use district are appropriate along corridors, for larger sites, and at major intersections" (DZC 3.2.4.1). The proposed S-MX-5A is consistent with the general purpose of the Suburban Mixed-Use zone districts.

The specific intent of the S-MX-5A zone district is to apply "areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 5 stories is desired" and where "design standards provide flexibility in building siting while supporting a consistent pattern of buildings places closer to the street to offer an active street front" (DZC 3.2.4.2.G). The proposed rezoning would facilitate development consistent with the intent of the S-MX-5A zone district.

Attachments

1. Application
2. Public Comments