



TO: Denver City Council, Land Use, Transportation and Infrastructure Committee
FROM: Theresa Lucero, Senior City Planner
DATE: June 7, 2018
RE: Official Zoning Map Amendment Application #2017I-00185

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, staff recommends that the Land Use, Transportation, and Infrastructure Committee move application #2017I-00185 forward for consideration by the full City Council.

Request for Rezoning

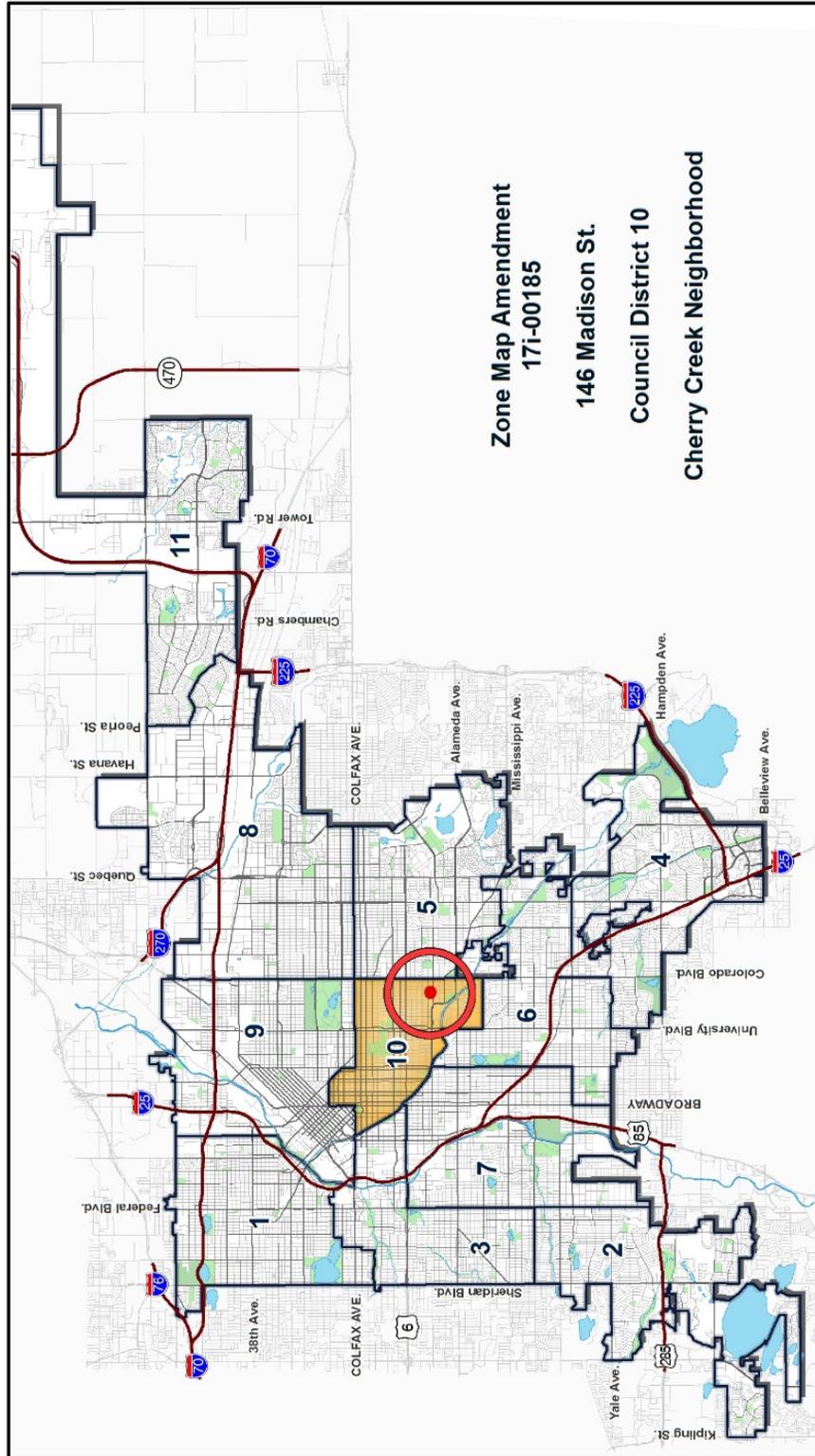
Address: 146 Madison Street
Neighborhood/Council District: Cherry Creek Neighborhood / City Council District 10
RNOs: Cherry Creek North Neighborhood Association; Green Cherry Creek; Capitol Hill United Neighborhoods, Inc.; Inter-Neighborhood Cooperation
Area of Property: 7,250 SF square feet or 0.166 acres
Current Zoning: B-1 with Waivers and Conditions
Proposed Zoning: C-MX-5
Property Owner(s): Madison Street Associates, LLC
Owner Representative: Gregg Johnson, Western Development Group, LLC

Summary of Rezoning Request

- The subject property is a single parcel which contains one existing office structure that was built in 1996. The property owner also owns two parcels to the north of the subject site that are zoned C-MX-5.
- The property owner proposes to rezone the subject property to the same zone district as the northern properties to combine the entire property into a single zone lot.

The proposed **C-MX-5**, Urban **C**enter, **M**ixed Use, with a **5**-story height limit (70 feet maximum height) zone district is intended for use in the Urban Center Context which is characterized by multi-unit residential and mixed-use strips and commercial centers. Multi-unit residential uses are typically in multi-story, mixed-use building forms located primarily along residential collector, mixed-use arterial and local streets. Commercial uses are primarily located along main and mixed-use arterial streets. The C-MX-5 zone district is intended to promote safe, active and pedestrian-scaled, diverse and mixed-use areas with a variety of building forms. Mixed use districts are used to ensure new development contributes positively to established residential neighborhoods and character and improve the transition between commercial development and adjacent residential neighborhoods. In the Urban Center Context mixed use districts require the same level of pedestrian enhancements as Main Street districts, though Mixed Use districts do not require shop-front buildings at the street edge as do Main Street districts. In the C-MX-5 zone district the General, Shopfront, Drive Thru Services and Drive Thru Restaurant primary building forms are allowed. Further details of the zone district can be found in Article 7 of the Denver Zoning Code (DZC).

Planning Services
Community Planning and Development
201 W. Colfax Ave., Dept. 205 | Denver, CO 80202
www.denvergov.org/CPD
p. 720.865.2983



Existing Context

The subject property is in southeast Denver in the Cherry Creek Statistical Neighborhood. The property is in the east central portion of the neighborhood in the Cherry Creek North portion of the neighborhood, 1 block north of the Cherry Creek East Neighborhood, 5 blocks north of East Alameda Avenue, 3 blocks east of the Cherry Creek Shopping Center, and 5 blocks west of Colorado Boulevard. In the general vicinity are the Cherry Creek Shopping Center and the Cherry Creek North commercial center, and the Colorado Boulevard commercial area south of Alameda Avenue. The Cherry Creek North residential area is comprised of moderate density structures ranging in scale from 1 to 3-story single-family, duplex, row home and townhome structures.

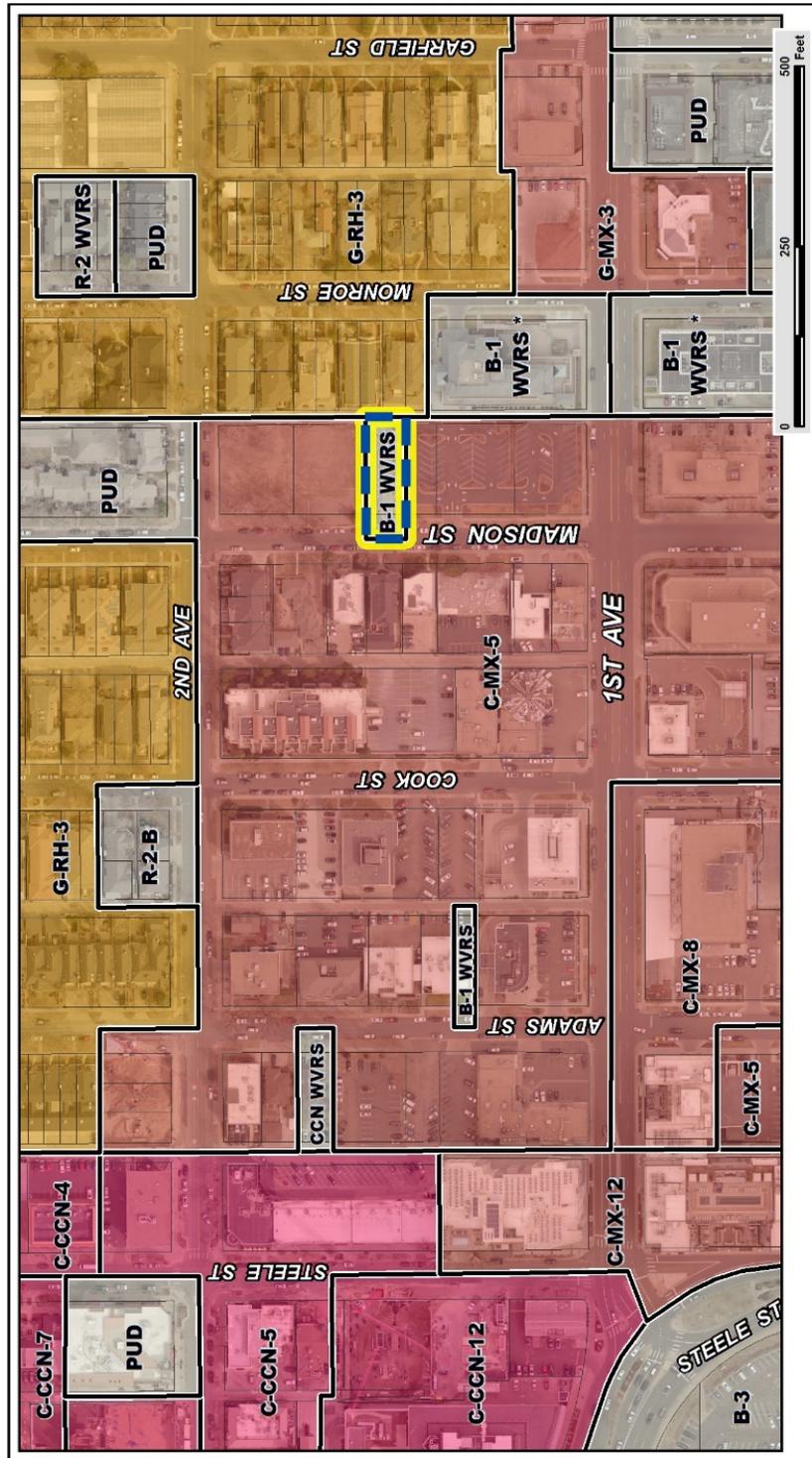
Area parks include James N. Manley Park at 4th Avenue and University Boulevard, the Cherry Creek Greenway and Trail aligned along Cherry Creek, Pulaski and City of Karmiel Park between Bayaud Avenue and Alameda Avenues along Cherry Creek North Drive and Burns and Cranmer Parks across Colorado Boulevard. Area schools include Bromwell Elementary School located at 3rd Avenue and Josephine Street, Good Shepherd Catholic Church at 6th Avenue and Elizabeth Street, Hill Middle School at 5th Avenue and Clermont Street and Graland Country Day School at 1st Avenue and Clermont Street.

The physical context of the neighborhood is a traditional street grid and rectilinear blocks with alleys. Sidewalks are generally detached with tree lawns separating the sidewalk, however, on the subject block sidewalks are attached on a portion of the block.

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-1 with Waivers and Conditions | Office | 2-story commercial building | Regular grid streets shaping a consistent pattern of rectilinear blocks with alleys; Vehicle parking is both structured and to the side or rear of buildings (alley access). |
| North | C-MX-5 | Vacant | Vacant | |
| South | C-MX-5 | Surface Parking | No Structures | |
| East | G-RH-3 and B-1 with waivers | Residential and Office | 2-3-story low-rise multi-unit and office structures | |
| West | C-MX-5 | Low-rise Office/Mixed Use | 1-3-story commercial and mixed-use structures | |

1. Existing Zoning

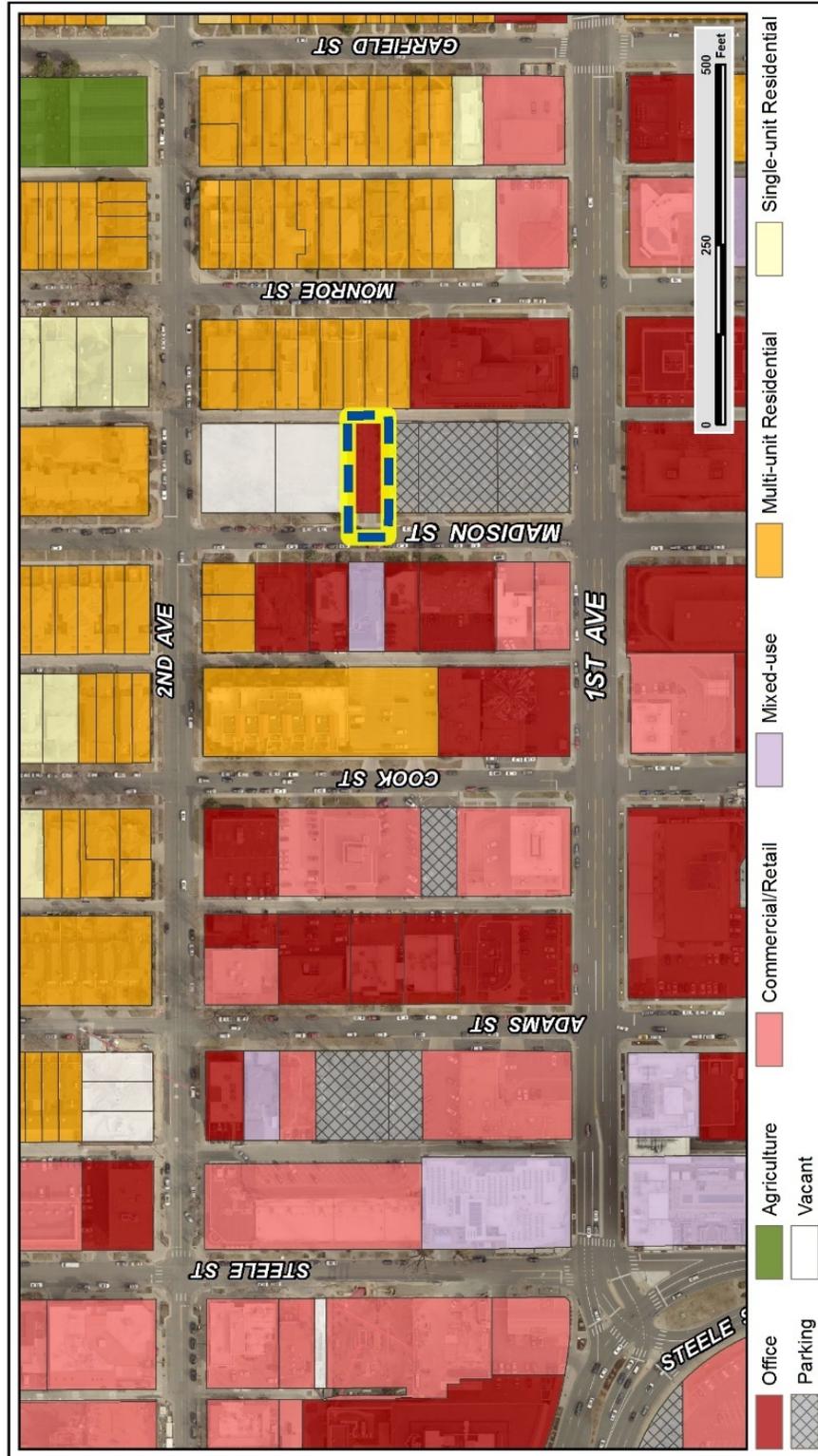


Because the existing zone district contains waivers and conditions the subject property was not rezoned in the 2010 citywide rezoning. The current zone district, B-1 with waivers and conditions, is a Former Chapter 59 district approved in 1995. The approved waivers restrict building heights to a maximum of 35 feet and allow only three land uses, office building, fine arts gallery and photographic studio. Approved conditions restrict site development to an approved site plan for parking quantity and location, site access/egress, square feet of the structure and building setbacks.

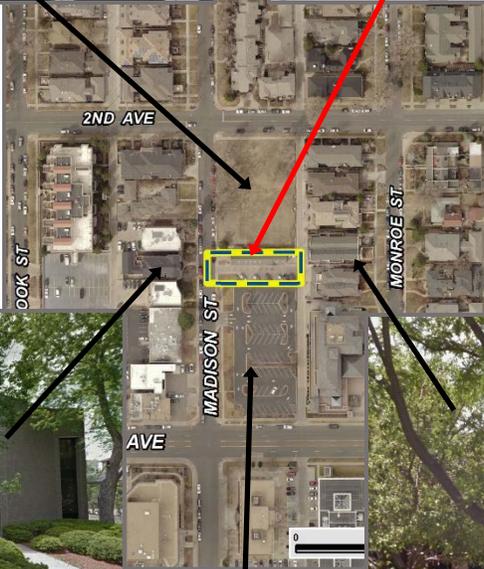
2. View Planes

The subject property is within the Cranmer Park View Plane. Allowable height on the property is limited to 128 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:

Public Works – City Surveyor: Approved.

Public Review Process

| | Date |
|---|-----------------|
| CPD informational notice of receipt of the rezoning application to all affected members of City Council and Registered Neighborhood Organizations: | 03/08/18 |
| 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: | 04/30/18 |
| Planning Board public hearing, by a vote of 8-0 the Board recommended approval: | 05/16/18 |
| 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: | 05/24/18 |
| Land Use, Transportation and Infrastructure Committee of the City Council: | 06/12/18 |
| 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: | 07/01/18 |
| City Council Public Hearing: | 07/23/18 |

Registered Neighborhood Organizations (RNOs)

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

Other Public Comment

To date, no other public comment letters have been received, though at the Planning Board public hearing a neighboring resident testified in opposition to the rezoning.

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:

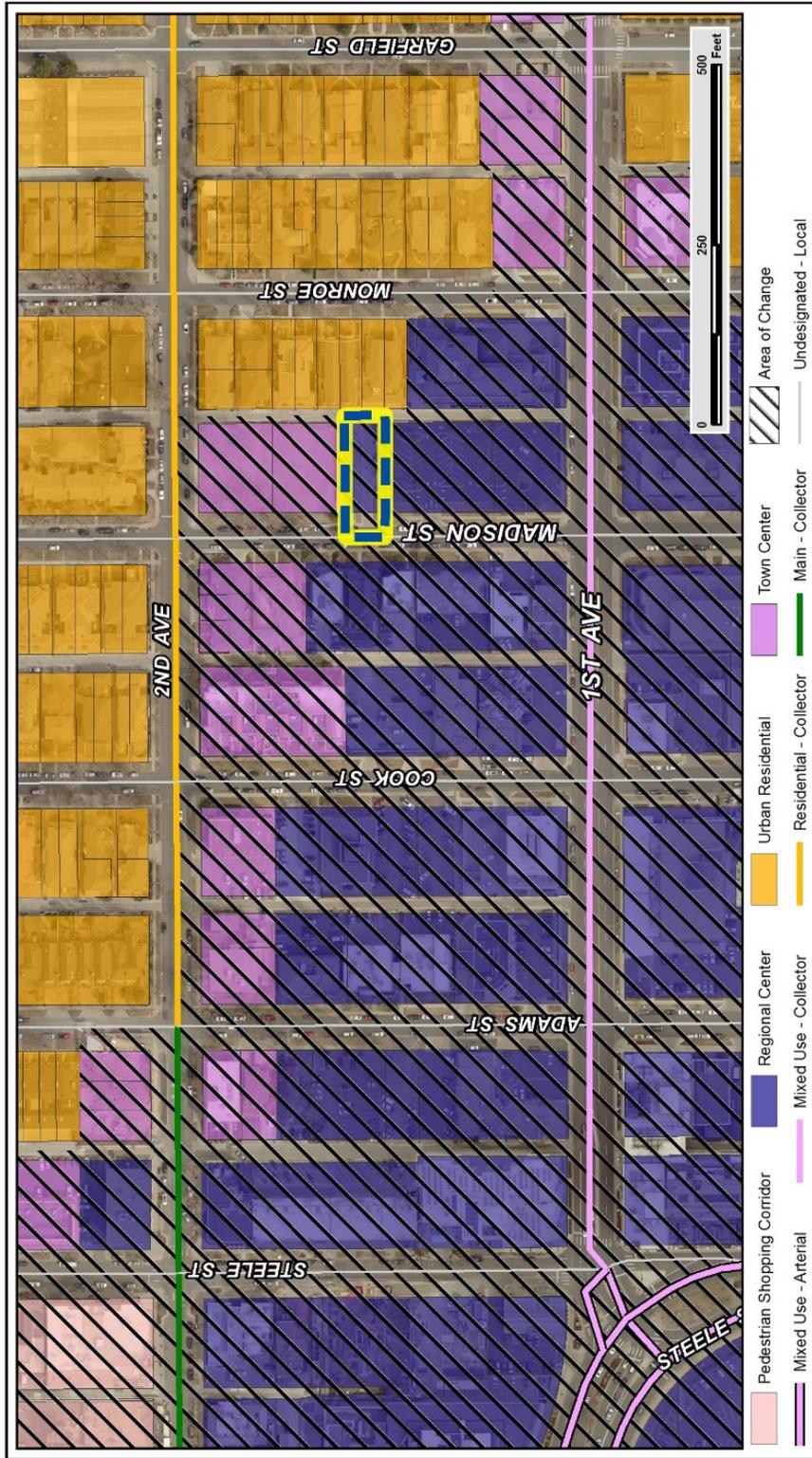
- **Environmental Sustainability** Strategy 2-F – “**Conserve land by promoting infill development within Denver at sites where services and infrastructure are already in place**” (p. 39).
- **Land Use** Strategy 3-B – “**Encourage quality infill development that is consistent with the character of the 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).
- **Economic Activity** 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. Maintain the Cherry Creek Shopping Center, Cherry Creek North and other nearby areas as the premier retail destination in the Denver metro area and the Rocky Mountain region**” (p. 135).

The rezoning is consistent with these Plan recommendations. The proposed C-MX-5 zone district allows a variety of residential and commercial land uses. The map amendment will enable the redevelopment of the property.

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Blueprint Denver

According to the 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of Regional Center and is in an Area of Change.



Blueprint Denver Future Land Use Map (2002)

Future Land Use

The Blueprint Denver Regional Center concept land use designation is described in the Plan as containing “a balance of retail, employment and residential uses” and “covering a fairly large area and 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). The proposed rezoning of the existing office is consistent with this land use concept because additional commercial land uses contribute to the vitality of the regional center.

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). For the Cherry Creek Area of Change Blueprint Denver states “The neighborhood vision is to continue redeveloping the area in a manner that focuses on livability and produces a well-integrated blend of residential, regional and neighborhood retail, office, hotel, open space, and public uses in a pedestrian-friendly environment” (p. 134).

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

Street Classifications

Blueprint Denver classifies Madison Street as an Undesignated Local street, 1st Avenue as a Mixed-Use Collector, and 2nd Avenue as a Residential Collector street. According to Blueprint Denver, local streets are “tailored more to providing local access” and “collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas.” When the subject property is joined with the northern vacant property for redevelopment the entire property will have access to 2nd Avenue, a Residential Collector street. The C-MX-5 zone district allows the higher-intensity mixed uses envisioned for areas served by collector or arterial streets in a Regional Center/Area of Change.

Small Area Plan: 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.

Framework Plan

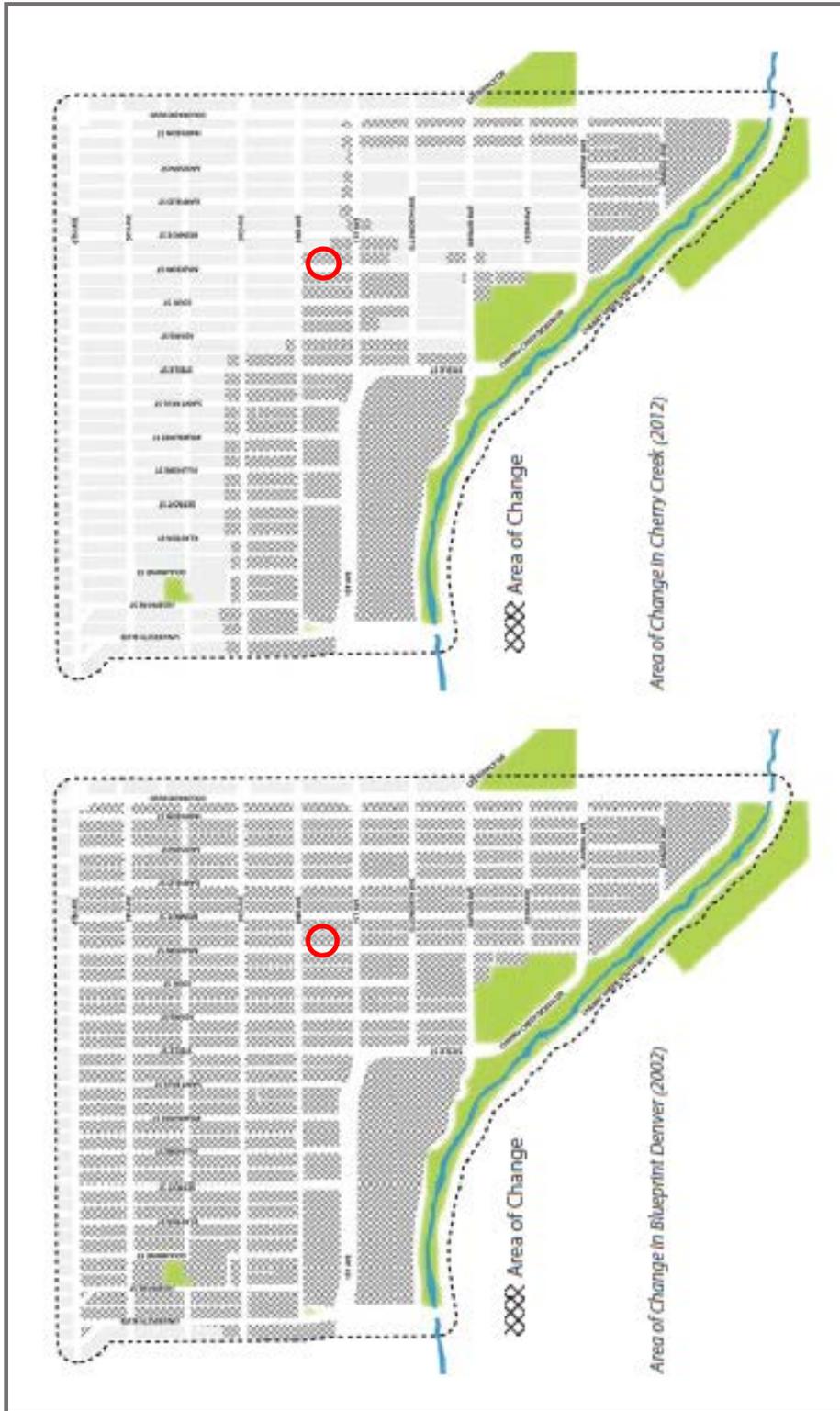
The Framework Plan discusses the mixed-use character of the Cherry Creek Neighborhood. “Part of the character of Cherry Creek is its mixture of land uses. Retail and service uses appealing to both local and regional shoppers, office and established residential neighborhoods weave an interdependent mixed-use 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).

The Framework Plan recommends that growth be targeted appropriately, and economic activity be concentrated. The Plan 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 these recommendations for targeting growth in these Cherry Creek Areas of Change:

- *“Acknowledge that to remain prosperous, Cherry Creek must continue to grow and change. 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 updated Cherry Creek Areas of Change map below.



Blueprint Denver Area of Change and Cherry Creek Plan Area of Change

Further, to concentrate economic activity, the Plan recommends encouraging moderate scale development in mixed use areas of change. *“Areas of Change which are not adjacent to higher intensity locational criteria [multi-modal streets, major intersections and major public open spaces] are appropriate for mid-rise buildings to accommodate continued growth. General locations include the Shopping District and 1st Avenue (east of Steele), and some existing mixed-use areas within Cherry Creek North Residential and Cherry Creek East.”* Plan recommendation include: *“Encourage mid-rise buildings to promote reinvestment and to help transition development intensity and buffer stable residential areas from higher intensity locations”* (p. 32).

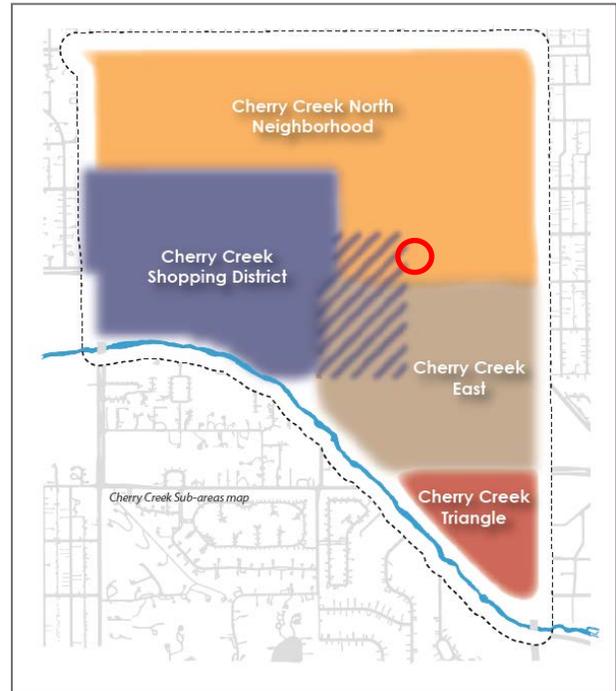
Finally, the Plan recommends a prosperous Cherry Creek and continued reinvestment. *“The Cherry Creek area has thrived with its diverse mix of uses. From its origins as a residential neighborhood, shopping district and mall, expanded uses have included office, hotels and higher density residential. The area has proven to be very attractive to all of these development types, so Plan recommendations focus on enhancing amenities and removing public policy impediments...Cherry Creek is increasingly a regional hub for financial services. It also attracts smaller advertising, creative media, architectural and design firms as well as boutique medical offices. Medium and small office buildings in Cherry Creek North are increasingly in demand”* (p. 46). The proposed C-MX-5 zone district implements the Cherry Creek Plan concept of reinvestment and moderately scaled development in a location that the Plan has designated an Area of Change.

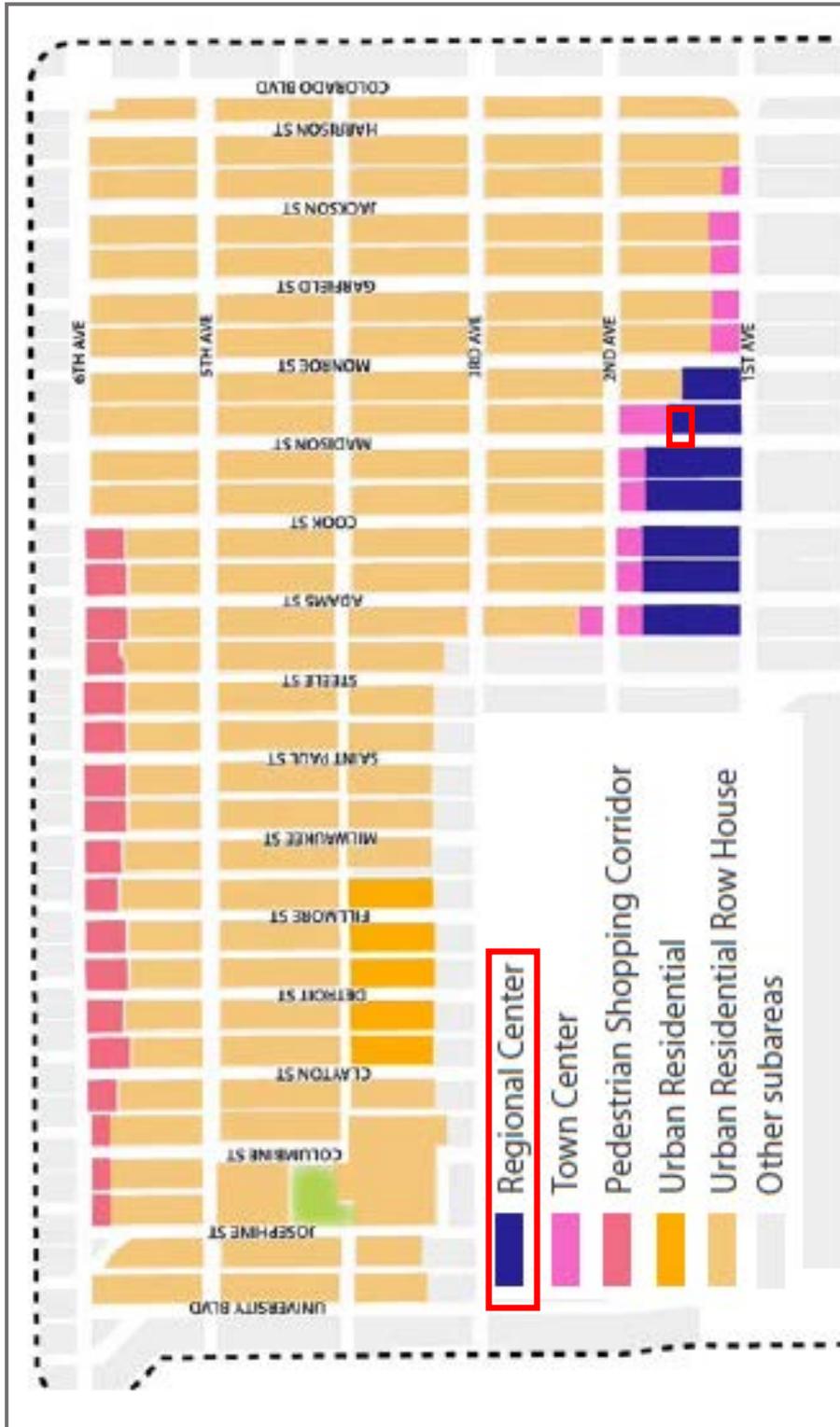
Cherry Creek Subareas

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 North Neighborhood subarea (see the circled area on the subarea map). The subarea is described by the Plan as predominately residential with some exceptions. One of those excepted areas is specifically the “Mixed-use area consisting of condo building, banks, offices, and retail between 1st and 2nd on Adams, Cook and Madison and continuing east along the north side of 1st Avenue to Colorado” (p. 68). On the subarea map this area is designated a Regional Center and Town Center. The subject property is in an area designated as a Regional Center. For this portion of the Cherry Creek North Neighborhood subarea the Plan recommends:

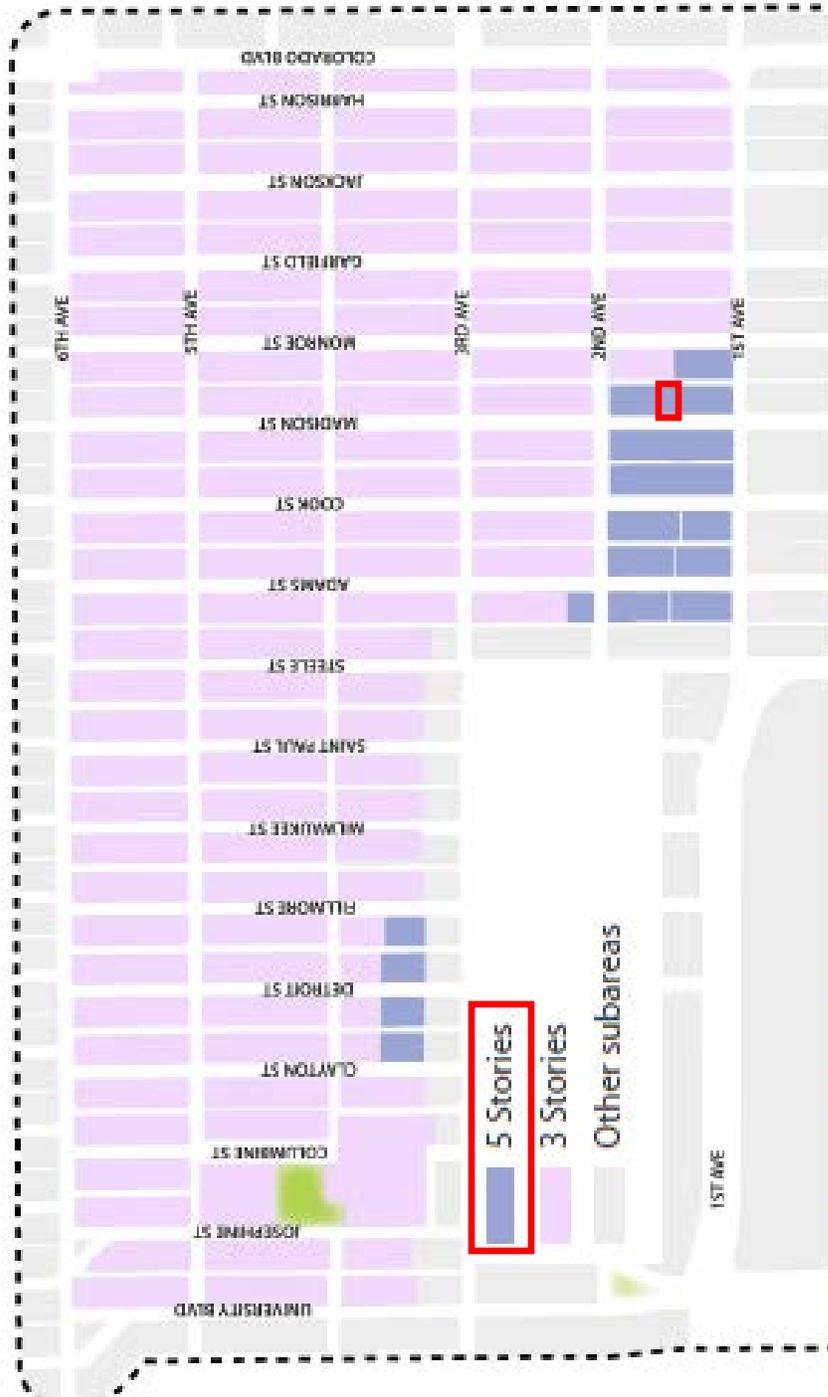
- “Regional Center and Town Center. Continue to support a mix of uses including office, retail, commercial and multifamily residential. Support compact development patterns and an enhanced public realm including landscaping, wayfinding signage, pedestrian lighting, public art and inviting building entries. The Town Center areas act as an important transition between Regional Center and residential areas in scale and/or use” (p. 68).
- “Respect the Existing Scale. Retain the existing pattern of development intensity with low scale buildings in the residential areas and mid-rise buildings in the transition between 1st and 2nd Avenue and Steele and Monroe Street, per the Maximum Building Heights map” (p.68).

The proposed 5 story height conforms to the maximum building height recommended in the Cherry Creek Area Plan and provides an appropriate transition between the Regional Center and Town Center and the residential portions of the neighborhood. See the Future Land Use Map and the Maximum Building Heights Map below.





Future Land Use Map – Cherry Creek North Neighborhood Subarea



Maximum Building Heights in Cherry Creek North

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-5 zone district 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 allowing reinvestment in an underutilized property and by implementing the City's adopted plans for the area.

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. 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 zone district is 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 zone district is 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 zoning is consistent with the Urban Center Context and the specific intent of the C-MX-5 zone district.

Attachments

1. Application
2. Approved Legal Description

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> | <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.</p> <p>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.</p> <p><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.</p> <p><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> |
| <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> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><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.</p> <p><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.</p> <p><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.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><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.</p> <p>Please provide an attachment describing how the above criterion is met.</p> |

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)
- Review Criteria

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 |
| Roy Kline | 200 Fillmore St Suite 400 Denver, CO 80206 (303) 321-5700 rkline@westdevgrp.com | 100% |  | 02/22/18 | (B) | YES |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

MADISON STREET ASSOCIATES, LLC

April 6, 2018

City & County of Denver
Community Planning and Development
Rezoning / Map Amendments
201 West Colfax Avenue, Dept 201
Denver, CO 80202

To Whom It May Concern,

This letter is to serve as authorization for Gregg Johnson of Western Development Group, LLC to act on behalf Madison Street Associates, LLC in regard to the Zone Map Amendment for 146 Madison Street.

Regards,



Roy Kline
Executive Vice President

Madison Street Associates, LLC - 200 Fillmore Street, Suite 400, Denver CO 80206
phone: 303.321.5700

REZONING APPLICATION REVIEW CRITERIA

PROPERTY ADDRESS: 146 Madison Street
NEIGHBORHOOD: Cherry Creek North
CITY COUNCIL DISTRICT: 10
CURRENT ZONING: B-1 with waivers
REQUESTED ZONING: **CMX-5**

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1. Proof of Ownership – Special Warranty Deed
2. Individual Authorization to Sign on Behalf of Corporate Entity – Operating Agreement of Madison Street Associates, LLC
3. Review Criteria
4. Copy of Current Zoning – B-1 with waivers



10/27/2017 12:56 PM
City & County of Denver
Electronically Recorded

R \$28.00

WD

D \$920.00

SPECIAL WARRANTY DEED

Recording requested by
and when recorded please return to:

Madison Street Associates LLC
200 Fillmore Street, Suite 400
Denver, Colorado 80206
Attention: Roy Kline

THIS SPECIAL WARRANTY DEED is made this 27 day of October, 2017, by Plaza, LLC, a Colorado limited liability company ("Grantor"), in favor of Madison Street Associates LLC, a Colorado limited liability company ("Grantee"), which has an office at 200 Fillmore Street, Suite 400, Denver, Colorado 80206.

WITNESSETH, that Grantor, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto Grantee, its successors and assigns forever, all the real property, together with improvements, located in the City and County of Denver, State of Colorado, more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments, easements, rights of way and appurtenances now or hereafter acquired under or above or used in connection with the property (collectively, the "Property").

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto Grantee, its successors and assigns forever. Grantor, for itself, and its successors and assigns, does covenant, grant, bargain and agree to and with the Grantee, its successors and assigns, that at the time of the ensembling and delivery of these presents, Grantor is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature whatsoever, except those matters set forth on Exhibit B, attached hereto and incorporated herein by this reference.

4845-9171-6433.3

Recording Requested by:
FNTG-NCS Colorado

N0014075

Doc fee 920.00

EXHIBIT A
LEGAL DESCRIPTION

Parcel A:

Plot 1, Block 76, Harmans Sub-Division, EXCEPT the South 42 feet of said Plot, City and County of Denver, State of Colorado.

Parcel B:

Plot 2, Block 76, Harmans Sub-Division, City and County of Denver, State of Colorado.

Parcel C:

Plot 3, Block 76, Harmans Sub-Division, City and County of Denver, State of Colorado.

A-1

4845-9171-6433.3

EXHIBIT B

PERMITTED EXCEPTIONS

1. Taxes and assessments for the year 2017 and subsequent years, a lien not yet due and payable.
2. Terms, conditions, provisions, agreements and obligations contained in the Ordinance No. 60, Series of 1968 as set forth below:

Recording Date: March 14, 1968
Recording No.: Book 9854 Page 231

Ordinance No. 436, Series of 1968:
Recording Date: January 6, 1969
Recording No.: Book 9975 Page 351

Ordinance No. 442, Series of 1973:
Recording Date: July 30, 1973
Recording No.: Book 738 Page 127

3. Affecting Parcel A only, terms, conditions, provisions, agreements and obligations contained in the Ordinance No. 64, Series of 1995 as set forth below:

Recording Date: February 7, 1995
Recording No.: Reception No. 9500015156

4. Affecting Parcel A only, Terms, conditions, provisions, agreements and obligations contained in the Recording of Waivers of Certain Rights and/or Reasonable Conditions in Accordance with Article IX of the Revised Municipal Code of the City and County of Denver (Zoning Chapter) as set forth below:

Recording Date: February 16, 1995
Recording No.: Reception No. 9500018458

5. Affecting Parcel C only, terms, conditions, provisions, agreements and obligations contained in the Madison Street Office Building Planned Development as set forth below:

Recording Date: August 9, 2006
Recording No.: Reception No. 2006127669

B-1

4845-9171-6433.3

OPERATING AGREEMENT

OF

MADISON STREET ASSOCIATES LLC

4824-8293-9216.2

**OPERATING AGREEMENT
OF
MADISON STREET ASSOCIATES LLC**

THIS OPERATING AGREEMENT (this "Agreement"), dated effective as of the October 4, 2017, is made by Western Development Group, LLC, a Delaware limited liability company ("WDG") as the sole member of the Company. For purposes of this Agreement, the term "Member" shall refer only to WDG.

**ARTICLE 1
THE LIMITED LIABILITY COMPANY**

1.1 Formation. The Member hereby forms a limited liability company upon the terms and conditions provided in this Agreement, subject to the provisions of the Colorado Limited Liability Company Act (the "Act").

1.2 Name. The name of the limited liability company shall be Madison Street Associates LLC (the "Company").

1.3 Articles of Organization. The Manager shall cause articles of organization that comply with the requirements of the Act to be properly filed with the Colorado Secretary of State. In the future, the Manager shall execute such further documents (including amendments to the articles of organization) and take such further action as shall be appropriate or necessary to comply with the requirements of law for the formation and operation of a limited liability company in all states and counties where the Company elects to carry on its business.

1.4 Business. The business of the Company shall be to: (i) acquire real property and engage in the construction of and alterations to real property, (ii) engage in such other lawful activities as the Member deems desirable, and (iii) to do any and all other things necessary, desirable or incidental to the foregoing purposes. The Company may lease, sell, trade, auction or otherwise dispose of all or substantially all of its assets and any such transaction shall be considered to be within the scope of the Company's business.

1.5 Principal Place of Business; Registered Office and Agent. The Company's principal place of business shall be at 200 Fillmore Street, Suite 400, Denver, CO 80206, or such other place either within or without Colorado as may be selected from time to time by the Manager. The registered agent and office of the Company shall be as determined by the Manager.

**ARTICLE 2
CAPITAL CONTRIBUTIONS**

2.1 Capital Contributions. If from time to time in the reasonable judgment of the Member the Company requires capital for the operations of the Company, the Member may, in its discretion contribute the capital required by the Company.

2.2 Right to Enforce. No person shall have the right to enforce any obligation of the Member to contribute capital to the Company, and specifically no lender or other third party shall have such rights.

2.3 Return of Capital Contributions. Capital contributions shall be expended in furtherance of the business of the Company. All costs and expenses of the Company shall be paid from its funds. No interest shall be paid on capital contributions.

ARTICLE 3 DISTRIBUTIONS

The Company shall make distributions of available cash (not otherwise required for the operations of the Company) to the Member at such times and in such amounts as the Manager shall determine.

ARTICLE 4 ALLOCATION OF PROFIT AND LOSS

The profit or loss of the Company shall be determined on an annual basis and for such other periods as may be required. All profit and loss of the Company shall be allocated to the Member. For federal income tax purposes, the Company shall be disregarded as an entity separate from the Member and each item of income, gain, loss and deduction of the Company shall be taxable to the Member as if the Company was taxable as a division of the Member. Notwithstanding the classification of the Company as a division of the Member for federal income tax purposes, the Manager and Member shall not be liable under a judgment, decree, or order of a court, or in any other manner, for a debt, obligation, or liability of the Company.

ARTICLE 5 MANAGEMENT

5.1 Management Authority.

5.1.1 Management of the Company shall be vested exclusively in the Manager. The Manager shall have the power and authority to conduct the business of the Company. The Manager is hereby expressly authorized on behalf of the Company to make all decisions with respect to the Company's business and to take all actions necessary to carry out such decisions.

5.1.2 The Manager may from time to time appoint and delegate its authority to individuals designated as officers of the Company, which officers shall have only the power and authority granted to them by the Manager. The Manager may also from time to time remove any such officer or officers so appointed. No delegation of authority by the Manager under this Section 5.1.2 shall relieve the Manager of its responsibilities.

5.1.3 All documents executed on behalf of the Company need only be signed by the Manager. An officer appointed pursuant to Section 5.1.2 may sign those documents that relate to the power and authority granted to such officer by the Manager.

5.2 Duties. The Manager and any duly appointed officer shall carry out their duties in good faith, in a manner they believe to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. A Manager or duly appointed officer who so performs their duties shall not have any liability by reason of being or having been a Manager or officer of the Company.

5.3 Time Devoted to Business. The Manager shall devote such time to the business of the Company as it, in its discretion, deems necessary for the efficient carrying on of the Company's business.

5.4 Tenure, Removal and Qualifications.

5.4.1 The initial Manager of the Company shall be WDG. A Manager shall hold office until it resigns, dissolves, dies (in the case of a person), becomes bankrupt or incompetent, or is removed by the Member. If a Manager or its successor resigns, dissolves, dies (in the case of a person), becomes bankrupt or incompetent, or is removed by the Member, the Member may elect someone else to fill the vacancy and serve as Manager. A Manager may be removed at any time, with or without cause, by the Member.

5.4.2 Unless otherwise stated in a written employment agreement, an officer of the Company shall hold office until he or she resigns, dies, becomes bankrupt or incompetent, is removed by the Manager, or the Company dissolves. An officer of the Company may be removed at any time, with or without cause, by the Manager.

5.4.3 Reliance by Third Parties. No third party dealing with the Company shall be required to ascertain whether a Manager or duly appointed officer of the Company is acting in accordance with the provisions of this Agreement. All third parties may rely on a document executed by a Manager or duly appointed officer as binding the Company. A Manager or officer of the Company acting without authority shall be liable for any damages arising out of its, or his or her unauthorized actions.

5.4.4 Transactions Between Company and Manager. A Manager may cause the Company to contract and deal with the Manager, or any person or entity affiliated with the Manager.

5.4.5 Management Fees and Reimbursements. The Manager and officers of the Company shall be entitled to such management fee or salary for managing the operations of the Company as authorized by the Member. A Manager or officer of the Company shall be reimbursed by the Company for any reasonable out-of-pocket costs incurred on behalf of the Company.

5.4.6 Other Activities.

(a) Manager and the officers may engage in or possess any interest in other business ventures of every nature and description, independently or with others, and neither the Company nor its Member shall have any right in or to any such independent ventures or to the income or profits derived there from.

(b) The Manager and the officers, with the consent of the Member, shall at all times be free to engage for their own account in any business that competes with the business of the Company. It is specifically understood and agreed that nothing in this Agreement shall be construed to constitute any Manager or officer of the Company the agent or partner of the Member for purposes beyond this Company, nor in any manner to limit the Manager or any officer in the carrying on of their respective businesses or activities, provided that the Manager has consented to such businesses or activities engaged in by an officer that compete directly with the business of the Company. Any claims based on any such activities or conflicts of interest of the Manager is hereby expressly waived by the Member.

5.4.7 Insurance. The Company shall maintain for the protection of the Company and its Member such insurance as the Manager, in its sole discretion, deems necessary for the operations being conducted.

5.4.8 Exculpation.

(a) The doing of any act or the failure to do any act, the effect of which may cause or result in loss or damage to the Company or the Member, if done in good faith to promote the best interests of the Company shall not subject the Manager or any officer to any liability. The Company shall indemnify and hold harmless the Manager and any officers as to third parties against and from any personal loss, liability or damage incurred as a result of any act or omission of the Manager or such officers. Indemnification under this Section 5.4.8 shall be provided only out of and to the extent of the assets of the Company. In no event shall the Company or any Member be liable to a third party as a result of any indemnification

(b) Notwithstanding anything to the contrary in this Section 5.4.8, no Member, Manager, employee or agent of the Company shall be indemnified for any liability for fraud, bad faith, willful misconduct, or gross negligence.

(c) Notwithstanding anything to the contrary in this Section 5.4.8, in the event that any provision in any of Section 5.4.8 (a) is determined to be invalid in whole or in part, such Section 5.4.8(a) shall be enforced to the maximum extent permitted by law.

ARTICLE 6

MEMBER

6.1 Action by the Member. The Member, in its capacity as a Member, shall take no part in the control, management, direction or operation of the affairs of the Company and shall have no power to bind the Company. The decision of the Member shall constitute the act of the Company with respect to matters the approval of which are reserved to the Member under this Agreement or the Act.

6.2 Informal Action. Any action required or permitted to be taken at a Member meeting may be taken without a meeting if the action is evidenced by a written consent describing the action taken, signed by the Member. Action taken under this section is effective when the Member has signed the consent, unless the consent specifies a different effective date.

6.3 Meetings. Member meetings for any purpose or purposes may be called by the Manager or by the Member.

6.4 Place of Meeting. The Manager or Member calling the meeting shall designate the place of meeting. If no designation is made, the place of meeting shall be the principal office of the Company.

6.5 Notice of Meeting. Written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered either personally or by mail, by or at the direction of the Manager or Member calling the meeting, to the Manager and the Member. If mailed, such notice shall be deemed delivered as provided in Section 9.3. Member meetings may be called upon four days' written notice.

6.6 Conduct of Meeting. At each Member meeting, the Manager or another person appointed by the Manager shall serve as chairman of the meeting. The chairman shall preside over and conduct the meeting and shall appoint someone in attendance to make accurate minutes of the meeting. Following each meeting, the minutes of the meeting shall be sent to the Manager and the Member.

6.7 Limitation of Liability. The Member's liability shall be limited as set forth herein and in the Act and other applicable law.

6.8 Company Debt Liability. The Member will not personally be liable for any debts or losses of the Company, except as provided in the Act.

6.9 Loans by Member or Manager to Company. The Member or Manager may loan money to, act as surety for, or transact other business with the Company, and, subject to other applicable laws, shall have the same rights and obligations with respect thereto as a person who is not a Member or Manager, but no such transaction shall be deemed to constitute a Capital Contribution to the Company.

ARTICLE 7

ACCOUNTING AND REPORTING

The Company shall maintain complete and accurate books of account. The Company shall provide the Member any information relating to the business of the Company. During ordinary business hours the Member or its authorized representative shall have access to all books, records and materials regarding the Company and its activities. The books of account shall be closed promptly after the end of each fiscal year. Prior to March 15 of each year, the Manager shall prepare a written report which shall include a statement of receipts, expenditures, profits and losses for the year and such additional statements with respect to the status of the Company's assets and the distribution of Company funds as are necessary to advise the Member properly about his investment in the Company.

ARTICLE 8

DISSOLUTION AND TERMINATION

8.1 Term. The Company shall have perpetual existence and continue until dissolved by the written consent of the Member. If the Member consents to discontinue the Company, the Manager or other person selected as liquidator shall file a statement of dissolution, and the Company's affairs shall be wound up as provided in this Article 8.

8.2 Final Accounting. In case of the dissolution of the Company, a proper accounting shall be made as provided in Article 7 from the date of the last previous accounting to the date of dissolution.

8.3 Liquidation. Upon the dissolution of the Company, the Manager or some other person selected by the Member shall act as liquidator to wind up the Company. The liquidator shall have full power and authority to sell, assign and encumber any or all of the Company's assets and to wind up and liquidate the affairs of the Company in an orderly and businesslike manner. All proceeds from liquidation shall be distributed in the following order of priority: (i) to the payment of debts and liabilities of the Company and the expenses of liquidation; (ii) to the setting up of such reserves as the liquidator may reasonably deem necessary for any contingent liabilities of the Company; and (iii) to the Member.

8.4 Distribution in Kind. The liquidator, in its sole discretion, may distribute any asset in kind to the Member.

8.5 Requirements of Law. The Company shall comply with all requirements of applicable law pertaining to the winding up of the Company's affairs and the final distribution of assets.

ARTICLE 9

GENERAL PROVISIONS

9.1 Entire Agreement. This Agreement embodies the entire understanding of the Member concerning the Company.

9.2 Amendment. This Agreement may only be amended with the written consent of the Member.

9.3 Notices. All notices required or permitted by this Agreement shall be in writing and shall be hand delivered, sent by registered or certified mail, postage prepaid, or by facsimile (and confirmed in writing delivered or sent by one of the other methods described herein), and shall be effective upon delivery if hand delivered or, if mailed, on the date set forth on the receipt of registered or certified mail, or on the fifth day after mailing, whichever is earlier, or, if by facsimile, on the first business day after receipt of such facsimile. In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

9.4 Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Colorado.

9.5 Pronouns. References to a Member, including by use of a pronoun, shall be deemed to include masculine, feminine, singular, plural, individuals, trusts, partnerships, limited liability companies or corporations where applicable.

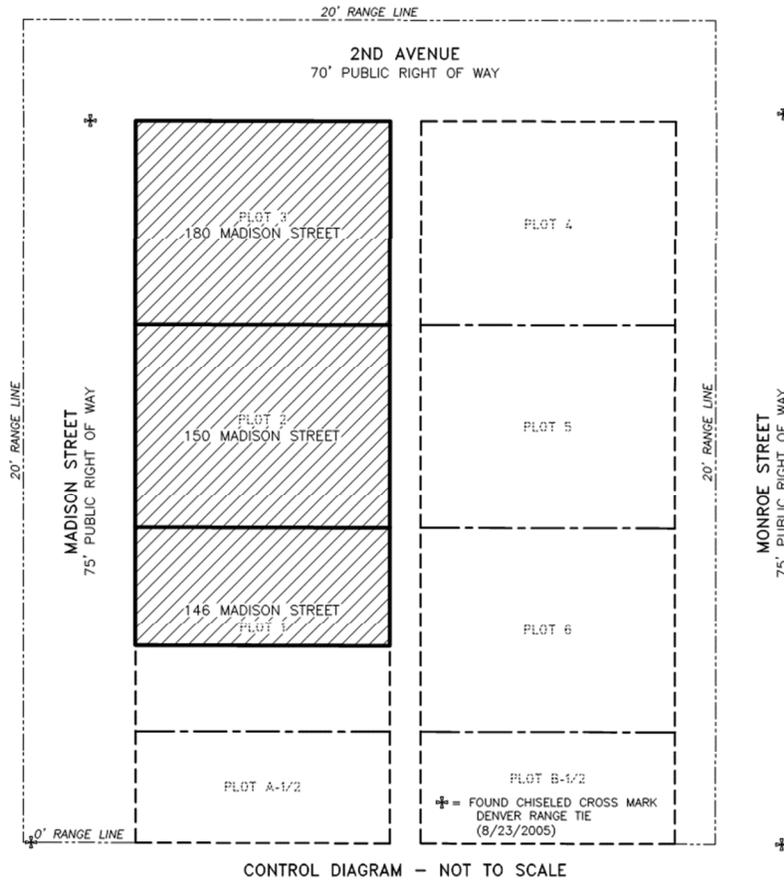
IN WITNESS WHEREOF the Member has executed this Agreement to be effective as of the date first above written.

MEMBER:

WESTERN DEVELOPMENT GROUP, LLC,
a Delaware limited liability company

By: 
Name: Roy KLINE
Title: EVP

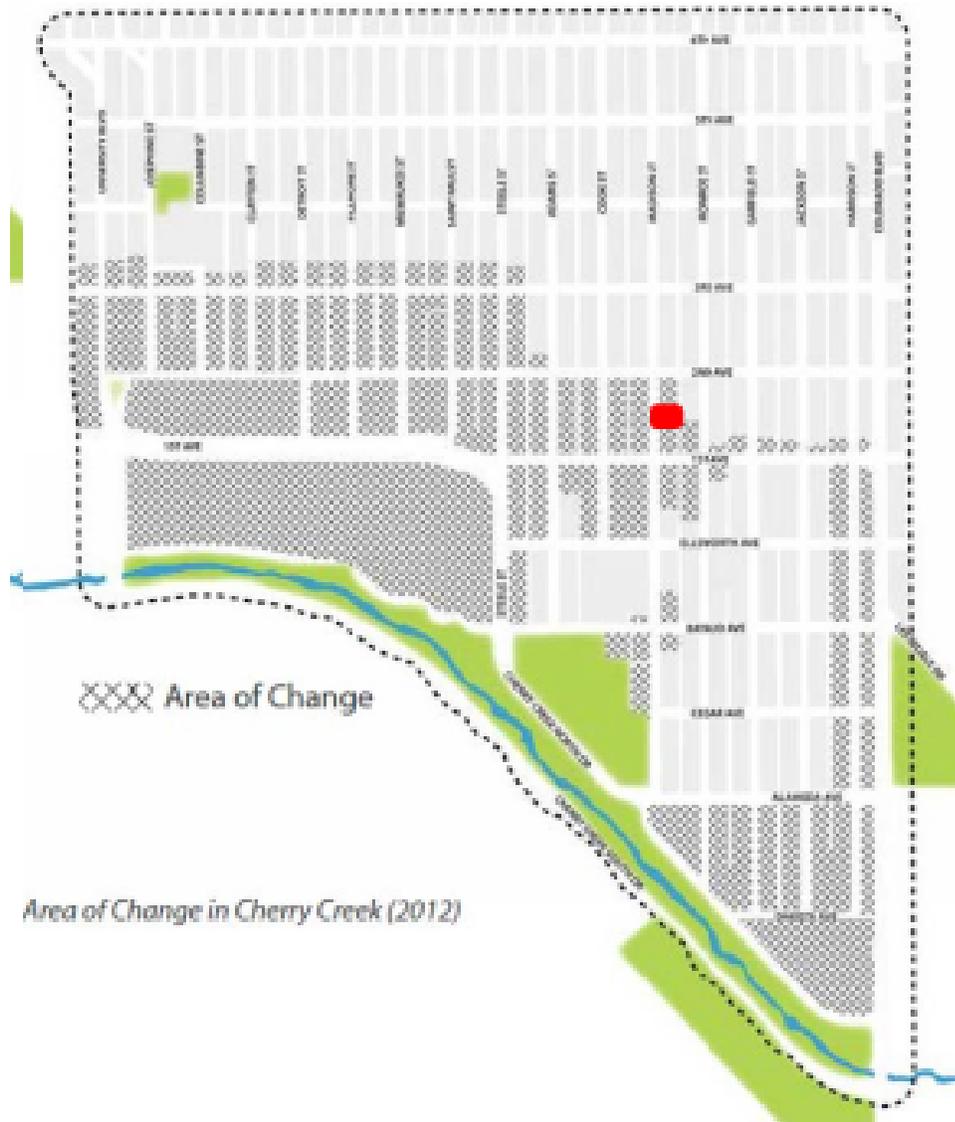
146 Madison Street is owned by Madison Street Associates, LLC, which is a managed subsidiary of Western Development Group, LLC. In addition to 146 Madison Street, Madison Street Associates, LLC also owns the adjacent lots to the north at 150 Madison and 180 Madison (see control diagram below).

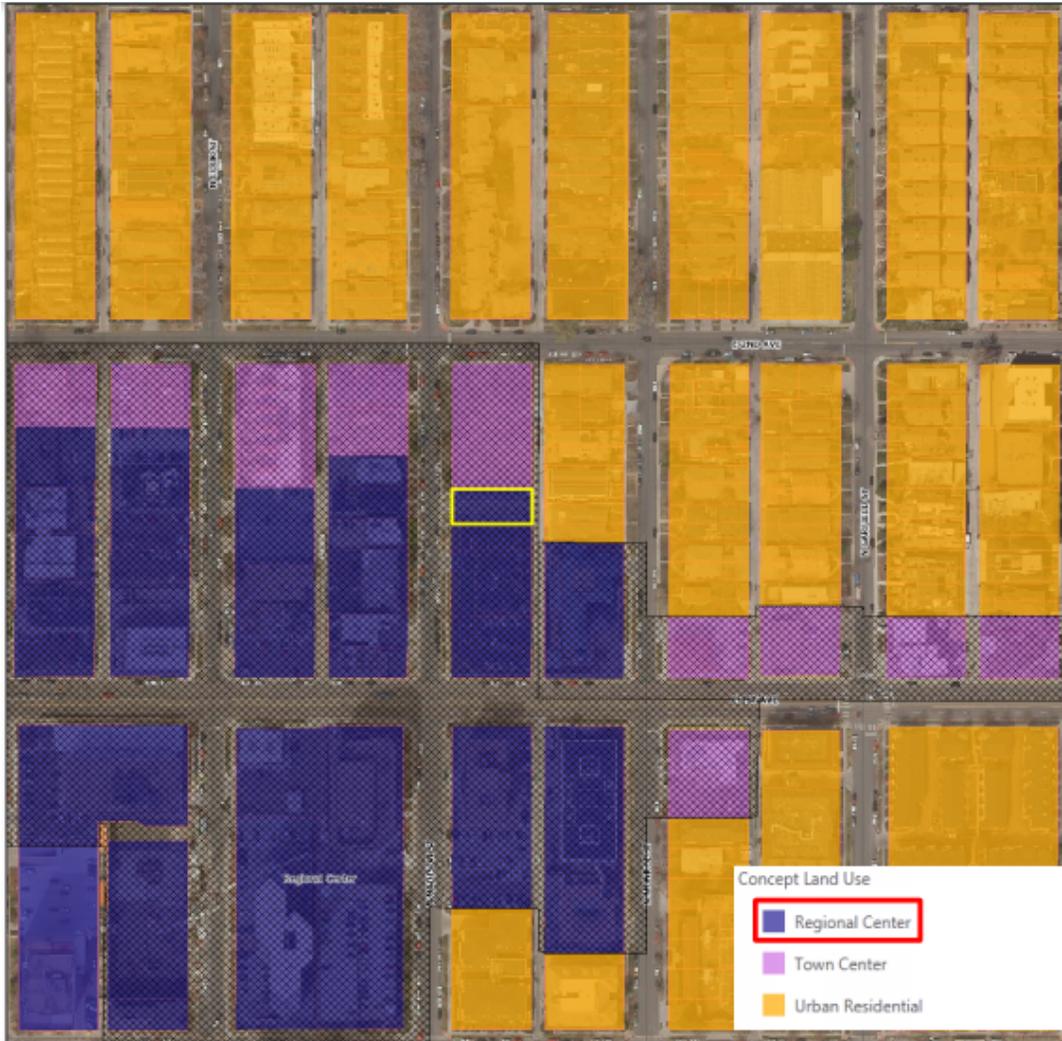


CONSISTENCY WITH ADOPTED PLANS

The request to rezone this property is made with careful consideration for the neighborhood and the recent planning and zoning efforts conducted by the City. Blueprint Denver (2002), a new form-based zoning code (2010), and the Cherry Creek Area Plan (2012) were all adopted and implemented more recently than the current zoning for 146 Madison Street. All of these standards provide a long range vision and guiding principles for the development of the Cherry Creek area. The goals of the plans are to create a connected, distinctive, and prosperous Cherry Creek North neighborhood.

Blueprint Denver (2002) and the Cherry Creek Area Plan (2012) designate 146 Madison Street as both an Area or Change and a Regional Center. This request to rezone 146 Madison Street from B-1 with waivers to CMX-5 is consistent with these established designations. As an Area of Change, the City’s strategic plan for this site is to encourage new development and activity. As a Regional Center, the Cherry Creek North neighborhood attracts people from other areas in the city because it features such a large number and diverse variety of shopping, entertainment, service and employment options. By encouraging new development in a Regional Center close to existing and planned transit corridors, the City of Denver is able to achieve a higher level of sustainability.





With the exception of 146 Madison, the Cherry Creek Area Plan established the zoning for all of the property on the east side of Madison Street between 1st and 2nd Avenues as CMX-5. Rezoning 146 Madison will create a uniform zoning condition of CMX-5 for the entire east side of Madison Street between 1st and 2nd Avenues. This consistent zoning condition will allow for responsible, new mixed-use development that will enable people to shop, live and work in the Cherry Creek North neighborhood.

The City encourages owners of obsolete zoning conditions to rezone into current, standard zoning districts when supported by adopted plans. This request to rezone 146 Madison to CMX-5 is consistent with these policy goals. Blueprint Denver states, “The unsatisfactory performance of the current regulations has led to the use of unique zoning conditions and waivers applied to re-zonings. 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.”

UNIFORMITY OF DISTRICT REGULATIONS

The block between 1st and 2nd Avenues on the east side of Madison Street is designated for growth and mid-rise, mixed-use development. The requested mixed-use zoning designation of CMX-5 will contribute positively to the surrounding neighborhood character and enhance the convenience, ease and enjoyment of transit, walking, and shopping in the Cherry Creek North neighborhood.



PUBLIC HEALTH, SAFETY AND GENERAL WELFARE

The proposed official map amendment furthers the public health, safety, and general welfare of the City.

The proposed zone map amendment furthers the public health, safety, and general welfare of the city by helping the City to grow and invest in the Cherry Creek North neighborhood. In order to continue to grow and prosper, the Cherry Creek North neighborhood must promote development that benefits the long term sustainability and health of the City by encouraging walking, biking, and the use of public transportation. The rezoning of 146 Madison Street from B-1 with waivers to CMX-5 encourages development that promotes the variety of uses within Cherry Creek North that continue to make it a safe, walkable, and desirable community.

JUSTIFYING CIRCUMSTANCES

The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area to recognize the changed character of the area.

The proposed CMX-5 zone district map amendment is in response to changed and changing conditions. The Cherry Creek Area has changed significantly since the original B-1 with waivers zoning condition was approved in 1995. Multiple plans have been adopted for this area since 1995, including Blueprint Denver, the Cherry Creek Area Plan, and the new, form-based zoning code. Given this property’s designation as both an Area of Change and Regional Center, the proposed map amendment is reasonable and necessary for the promotion of health, safety and general welfare of neighbors and residents of the city.

1 BY AUTHORITY

2 ORDINANCE NO. 64

COUNCIL BILL NO. 1141 1-3
SERIES 1994
COMMITTEE OF REFERENCE:

3 SERIES OF 1995

9500015156 1995/02/07 13:08:33 1/ 3 ORD
ARIE P. TAYLOR - DENVER COUNTY .00 .00 SMD

ZONING, PLANNING,
AND LAND USE.

5
6 A BILL

7 FOR AN ORDINANCE RELATING TO ZONING, CHANGING THE ZONING
8 CLASSIFICATION FOR A SPECIFICALLY DESCRIBED AREA, GENERALLY
9 LOCATED AT 146 MADISON STREET, RECITING CERTAIN WAIVERS
10 PROPOSED BY THE OWNERS AND THE APPLICANT FOR THE ZONING
11 CLASSIFICATION, RECITING CERTAIN REASONABLE CONDITIONS
12 APPROVED BY THE OWNERS AND THE APPLICANT FOR THE ZONING
13 CLASSIFICATION AND PROVIDING FOR A RECORDATION OF THIS
14 ORDINANCE.

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

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

18 1. That the land area hereinafter described is presently classified
19 as a part of the R-2 District;

20 2. That the owners and the applicant propose that the land area
21 hereinafter described be changed to B-1 with certain waivers and with
22 certain reasonable conditions which the owners and applicant have
23 approved;

24 3. That in their application the owners and the applicant have
25 represented that if the zoning classification is changed pursuant to
26 their application, the owners and the applicant will and hereby do waive
27 the right to use or occupy the land area hereinafter described or to use,
28 occupy or erect thereon any structure or structures designed, erected,
29 altered, used or occupied for any use by right except:

30 (a) Office building (no employment agencies, medical/dental
31 office building or telephone soliciting);

32 (b) Fine arts gallery (no other type of retail allowed); and

1 (c) Photographic studio.

2 4. That in their application, the owners and the applicant have
3 represented that if the zoning classification is changed pursuant to
4 their application, the owners and the applicant will and hereby do waive
5 the right to have building heights over 35 feet above finish grade on the
6 land area hereinafter described.

7 5. That the owners and the applicant approve and agree to the
8 following reasonable conditions related to the development, operation and
9 maintenance of the land area hereinafter described:

10 (a) The site plan restricts the site development as shown for
11 parking quantity (and location), site access, 4,200 S.F.
12 of building and building set backs, and the land area
13 hereinafter described shall be developed according to the
14 site plan filed in the Office of the Clerk and Recorder,
15 Ex-Officio Clerk of the City and County of Denver, on the
16 22nd day of November, 1994, Filing No. 94-1051.

17 (b) Right turn only signs from parking lot.

18 **Section 2.** That the zoning classification of the land area in the
19 City and County of Denver described as follows or included within the
20 following boundaries shall be and hereby is changed from R-2 to B-1 with
21 certain waivers, which waivers are set forth in subsections 3 and 4 of
22 Section 1 hereof, and with certain reasonable conditions approved by the
23 owners and the applicant, which reasonable conditions are set forth in
24 Subsection 5 of Section 1 hereof:

25 North 58.0 feet of Plot 1, Block 76, Harman's Subdivision,
26 City & County of Denver; in addition thereto those portions of
27 all abutting public rights-of-way, but only to the centerline
28 thereof, which are immediately adjacent to the aforesaid
29 specifically described area.

1 **Section 3.** That the foregoing change in zoning classification
 2 is based upon the representations by the owners and the applicant that
 3 they will waive a certain right available to them and, in lieu thereof,
 4 agree to a certain limitation which limitation is set forth in
 5 subsections 3 and 4 of Section 1 hereof, and is also based upon the
 6 reasonable conditions approved by the owners and the applicant which
 7 reasonable conditions are set forth in subsection 5 of Section 1 hereof;
 8 and no permit shall be issued except in strict compliance with the
 9 aforesaid waiver and the aforesaid reasonable conditions. Said waivers
 10 and said reasonable conditions shall be binding upon the owners and the
 11 applicant for the change in zoning classification and shall be binding
 12 upon all successors and assigns of said owners and said applicant, who
 13 along with said owners and said applicant shall be deemed to have waived
 14 all objections as to the constitutionality of the aforesaid waivers and
 15 the aforesaid reasonable conditions.

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

19 PASSED BY THE COUNCIL January 30 1995

20 Deborah L. Ortega - PRESIDENT

21 APPROVED: Will Ferrell - MAYOR Jan. 31, 1995

22 ATTEST: Arne R. Taylor - CLERK AND RECORDER,
 23 EX-OFFICIO CLERK OF THE
 24 CITY AND COUNTY OF DENVER

25 PUBLISHED IN THE DAILY JOURNAL Jan. 6, 1995 February 3, 1995

27 PREPARED BY: ROBERT M. KELLY, ASSISTANT CITY ATTORNEY 12/27/94

28 REVIEWED BY: [Signature] CITY ATTORNEY 1/27 1995

29 SPONSORED BY COUNCIL MEMBER(S) _____



146 MADISON STREET

LEGAL DESCRIPTION

Plot 1, Block 76, Harmans Sub-Division, EXCEPT the South 42 feet of said Plot, City and County of Denver, State of Colorado.