



**TO:** Denver City Council  
**FROM:** Elizabeth Weigle, Senior City Planner  
**DATE:** July 3, 2019  
**RE:** Official Zoning Map Amendment Application #2017i-00068

### Staff Report and Recommendation

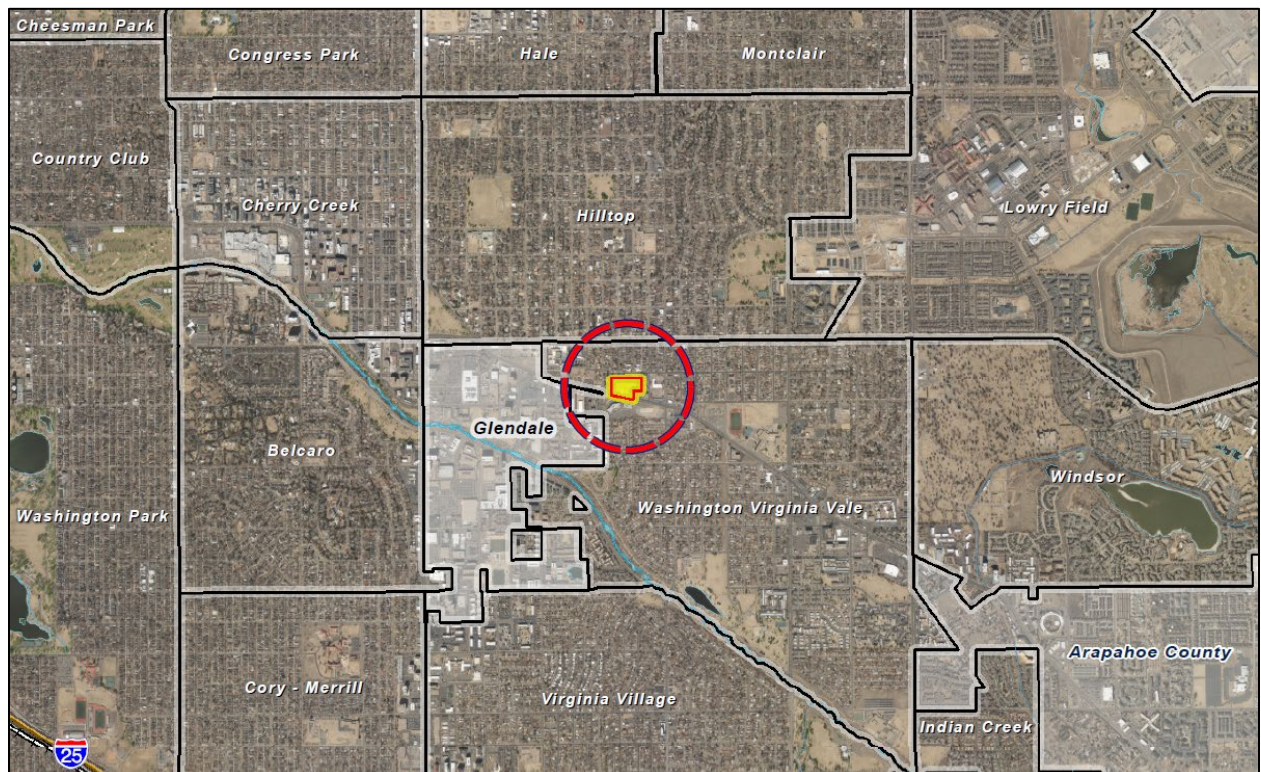
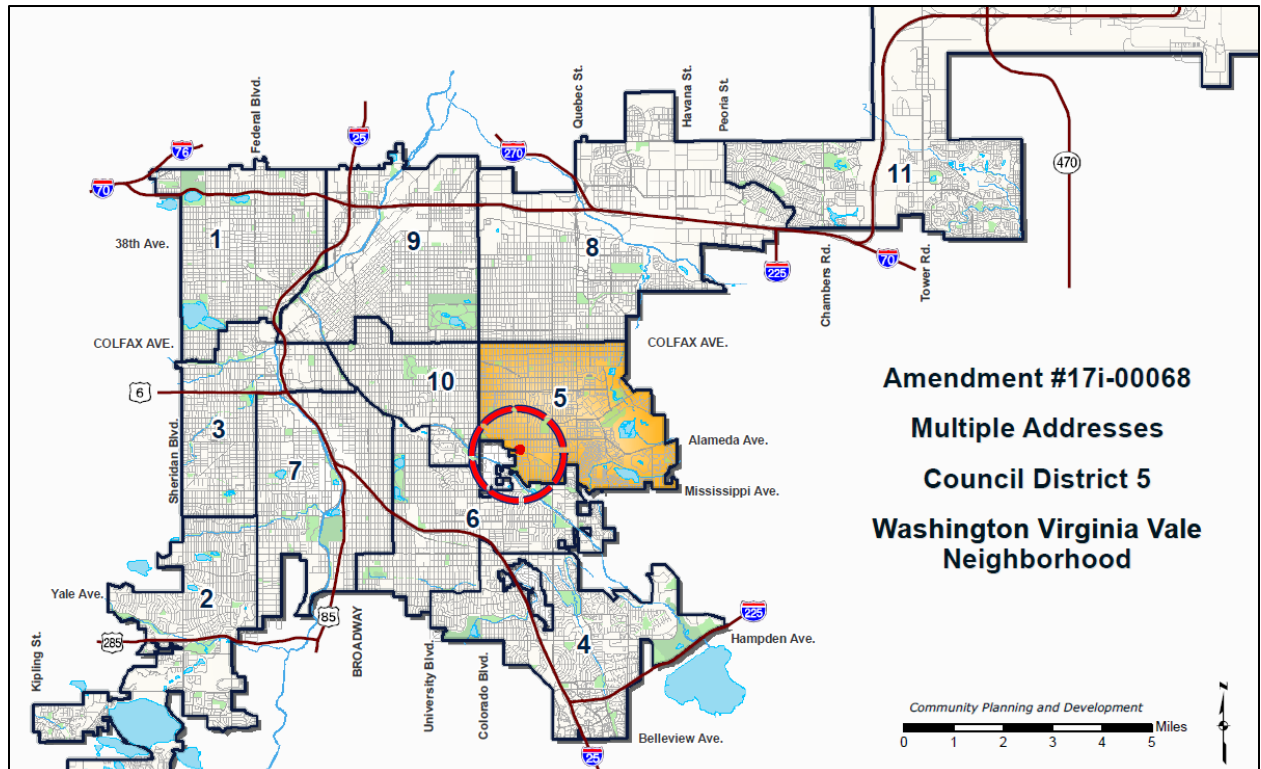
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2017i-00068.

### Request for Rezoning

Address:	5231, 5301-5307, 5335 Leetsdale Drive & 420, 450 S. Grape Street
Neighborhood/Council District:	Washington Virginia Vale / Council District 5
RNOs:	Dakota Hill Homeowners Association; Preservation of Residential South Hilltop Neighborhood Association; Virginia Vale Community Association; Inter-Neighborhood Cooperation
Area of Property:	5.0 acres
Current Zoning:	Planned Unit Development (PUD) 627; B-3 Waivers and Conditions
Proposed Zoning:	E-CC-3
Property Owner(s):	226 Monroe Street LLC
Owner Representative:	CRL Associates

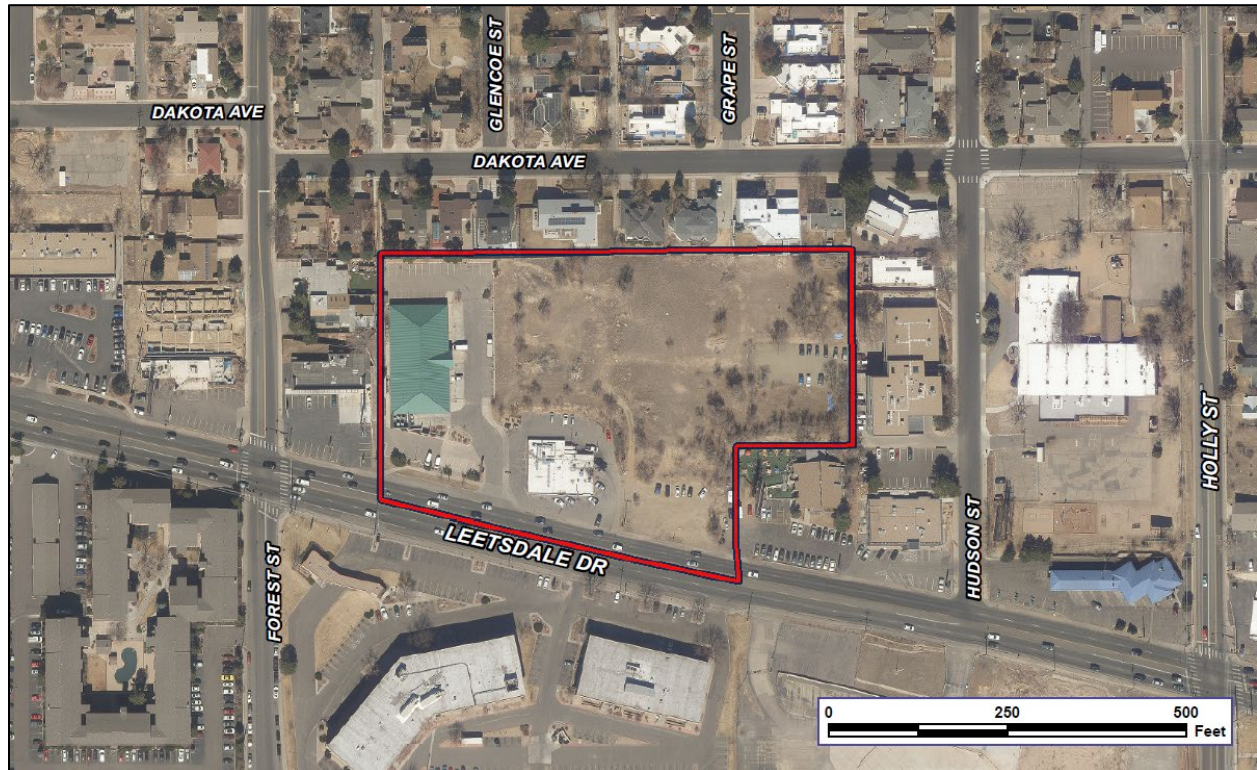
### Summary of Rezoning Request

- The subject property is in the Washington Virginia Vale statistical neighborhood on the north side of Leetsdale Drive between S. Forest Street and S. Hudson Street.
- The property is occupied by two retail buildings and undeveloped land.
- The applicant is requesting this rezoning to facilitate development of the site with a mix of residential and commercial uses.
- The proposed zone district, E-CC-3 (Urban Edge Commercial Corridor – 3 stories), allows for a mix of uses that are intended to balance the need for safe, active, and pedestrian-scaled, diverse areas with the need for convenient automobile access. Further details of the proposed zone district can be found in Article 4 of the Denver Zoning Code (DZC).
- The site is currently zoned B-3 with Waivers and Conditions and PUD 627. The Former Chapter 59 PUD 627 applies to both the subject property and four adjacent parcels at 5401, 5409, 5411 and 5413 Leetsdale Drive, owned By Priddy's Auction Galleries Inc. and the City and County of Denver. Per Former Chapter 59 regulations, all property owners within the existing PUD must consent to rezoning. If this rezoning is approved, the adjacent properties will remain in PUD 627 while the subject property will be rezoned to E-CC-3.





## Existing Context



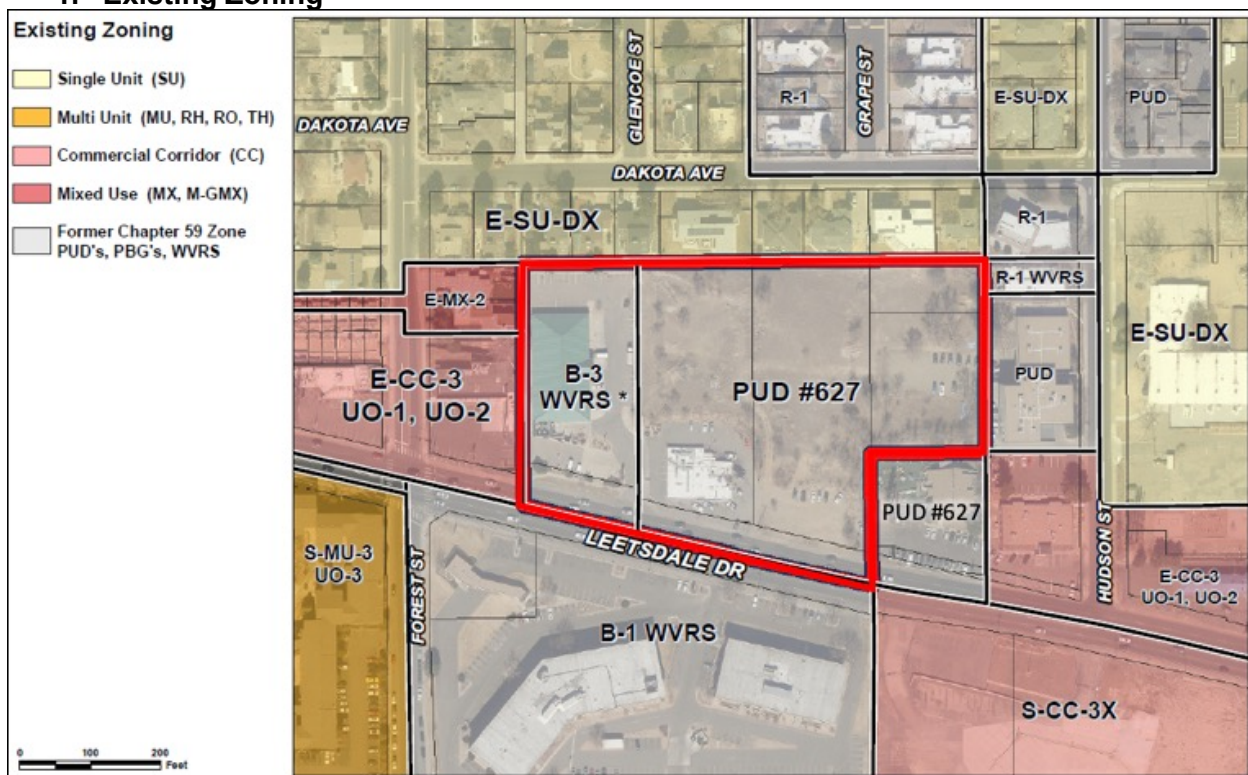
The subject property is located in the Washington Virginia Vale statistical neighborhood on the north side of Leetsdale Drive between S. Forest Street and S. Hudson Street. The neighborhood generally consists of low-scale residential uses to the north and predominantly commercial, office, institutional and multi-unit residential uses to the west, east, and south along Leetsdale Drive. The site is served by the 83 bus route on Leetsdale Drive. There is a significant grade change between Leetsdale Drive and Dakota Avenue to the north.

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	B-3 Waivers and Conditions; PUD 627	Retail and undeveloped land	Two one-story retail buildings; open parking	Generally regular grid of streets, interrupted by Leetsdale Drive, which runs from the northwest to the southeast through the area; large lots generally front Leetsdale; alleys are
North	E-SU-Dx	Single-unit residential	One- and two-story residential houses	
South	B-1 Waivers and S-CC-3x	Office and retail; vacant (planned food sales/grocery)	One-story bank building with drive-thru; two- and three-story office buildings; open parking	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	PUD 627; E-CC-3 UO-1, UO-2; PUD 88; R-1 Waivers	Restaurant, retail, office, single-unit residential	One-story retail buildings; three-story office building; one-story residential house	present on some blocks, with others served by driveway access from the street; vehicle parking at front or side of buildings
West	E-CC-3 UO-1, UO-2; E-MX-2	Retail, office, mixed-use	One-story retail and office buildings; two-story mixed use building	

## 1. Existing Zoning



The site is currently zoned PUD 627 and B-3 Waivers and Conditions, which are both Former Chapter 59 custom zone districts. The existing PUD 627, which governs the eastern portion of the subject property, was approved in 2009 and limits the allowable uses on the site to office, retail, eating place, and parking of vehicles. The PUD also includes setback requirements, a maximum height for all structures at an elevation of 5,422 feet, use limitations, and a landscaping buffer on the north and eastern portions of the site. The PUD does not allow residential uses. The remaining parcels in PUD 627 which are not included in this application will continue to be governed by PUD 627 should the rezoning be approved.

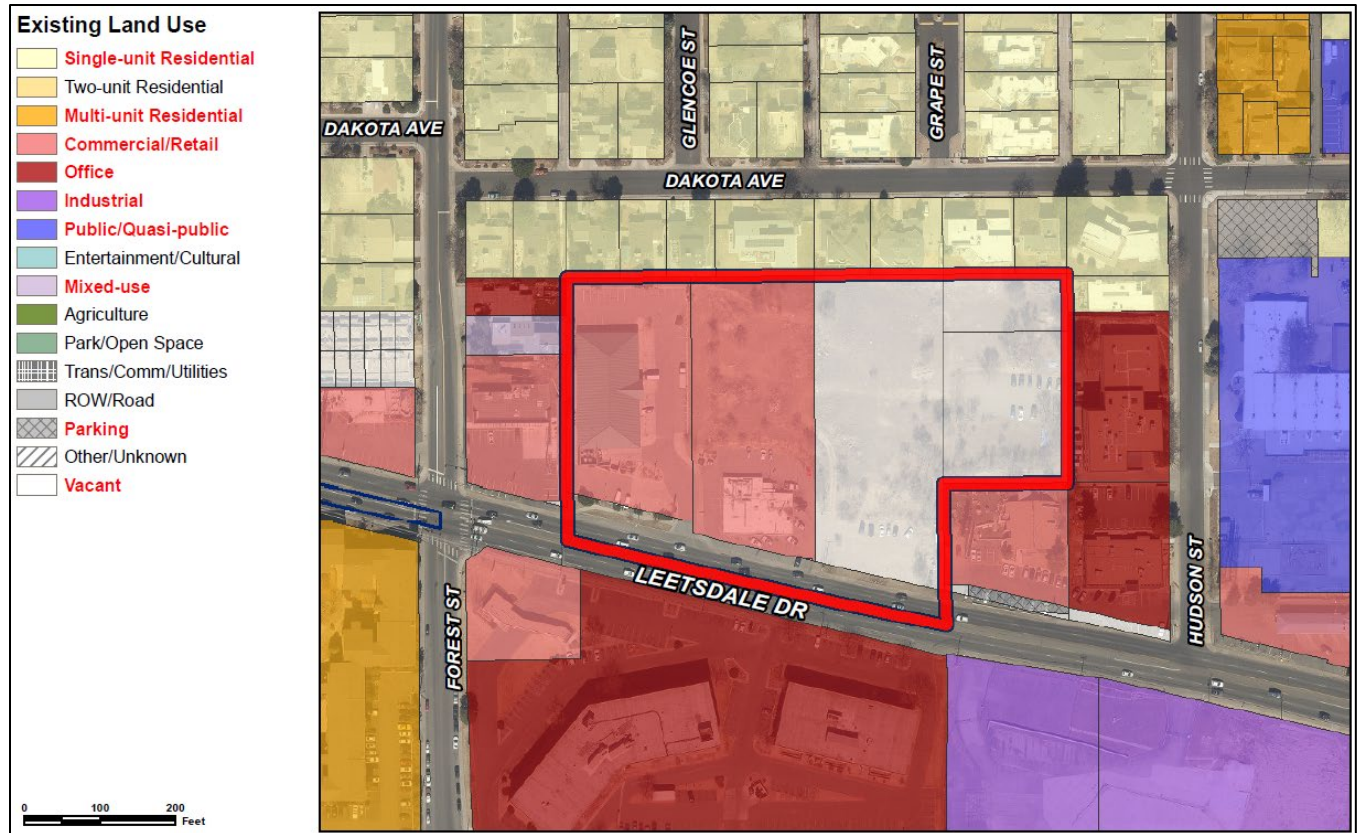
The western portion of the site is zoned B-3 with waivers and conditions, which has been in place since in 1998. B-3 is a shopping center district that is typically located on major arterial and collector streets and adjacent to low-scale residential districts. The waivers and conditions on the site generally allow



retail and commercial uses but do not allow residential uses. Additional use limitations, screening, and landscaping are also required. The waivers also limit the maximum height on the site to two stories above finished grade and approximately 39 feet (elevation of 5,403 feet).

## 2. Existing Land Use Map

The subject site is occupied by two one-story retail buildings and vacant land. The building in the center of the site is occupied by three retail businesses. The building on the western portion of the site was formerly a grocery store and is currently used as a floral shop. Surrounding uses in the neighborhood include single-unit residential to the north and retail, office, public/quasi-public, and multi-unit residential to the west, east, and south along Leetsdale Drive.



### 3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the images on the following pages.



Aerial view of subject property, looking north.





View of subject site on Leetsdale Drive, looking northwest.



View of subject site on Leetsdale Drive, looking north.

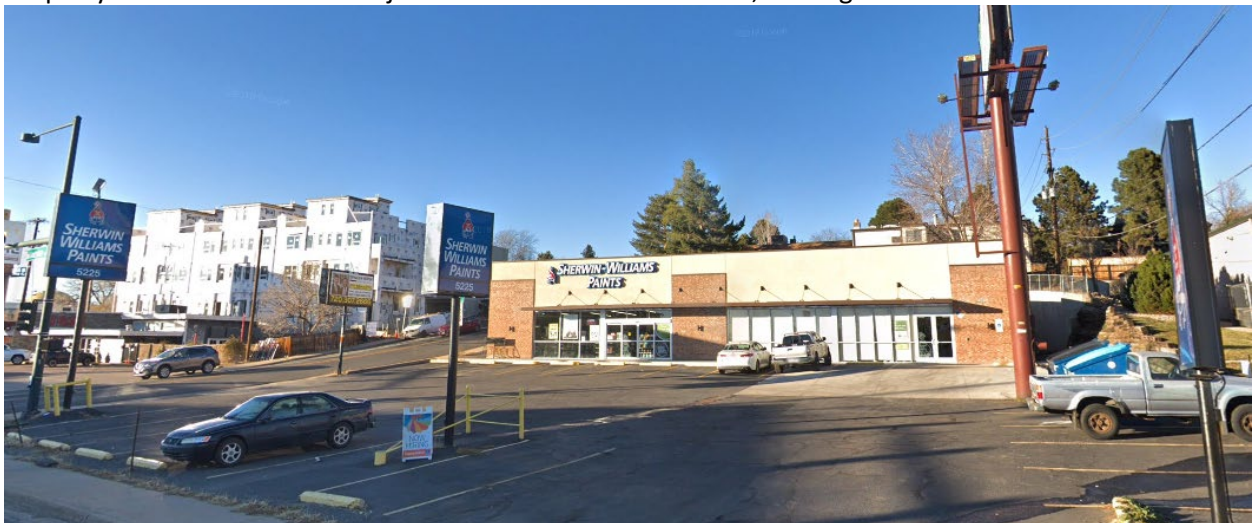


Property to the east of the subject site on Leetsdale Drive, looking northeast.





Property to the south of the subject site across Leetsdale Drive, looking south.



Property to the west of the subject site on Leetsdale Drive, looking northwest.



Property to the east of the subject site on S. Hudson Street, looking west.





Property to the north of the subject site on Dakota Avenue, looking south.



Property to the west of the subject site on S. Forest Street, looking east.

### 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:

#### Department of Public Health & Environment: Approved with comments

- Notes. DDPHE concurs with the rezoning request but is aware of potential environmental concerns at the site. A fill area likely exists under the northern half of the site; the fill is reported to consist of refuse, rock fragments and imported soil. This material may generate methane and may contain building debris including asbestos containing materials. If encountered during future soil disturbing activities the fill must be handled and disposed of following appropriate environmental regulations and policies.
- General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be

more cost effective to install a radon system during new construction rather than after construction is complete.

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

**Public Works – ROW - City Surveyor:** Approved – no comments

**Development Services – Wastewater:** Approved with comments

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



**Development Services – Transportation:** Approved with comments

- Leetsdale is an Arterial Street. Please note that as the properties along Leetsdale redevelop a 12 ft tree lawn and 8 ft sidewalk will be required. These elements will need to be located in the Public Right of Way. Land may need to be deeded to the City to meet these requirements.

**Development Services – Project Coordination:** Approved – no comments

**Real Estate:** Approved with comments

- The applicant should consult with appropriate city staff to determine if any additional right-of-way is needed along Leetsdale Drive at the time of redevelopment.

**Assessor:** Approved – no response

**Denver Public Schools:** Approved – no response

**Denver Parks and Recreation:** Approved – no response

**Development Services – Fire Prevention:** Approved – no response

**Public Review Process**

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	10/30/18; 4/15/19
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	4/15/19
Planning Board public hearing	5/1/19
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	5/7/19
Land Use, Transportation and Infrastructure Committee of the City Council:	5/21/19
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:	6/17/19
City Council Public Hearing:	7/8/19

- **Registered Neighborhood Organizations (RNOs)**
  - The RNOs identified on page 1 were notified of this application. Comments were received from the Preservation of Residential South Hilltop Neighborhood Association

(PRSHNA) and the Dakota Hills Homeowners Association (DHHA), both of which are attached to the staff report.

- DHHA's comments requested that Planning Board support the ongoing discussion with the applicant to establish a covenant agreement and expressed concerns with regard to density, parking, and traffic.
- PRSHNA provided an initial letter on April 30, 2019, which discussed its ongoing work with the applicant to establish a covenant agreement and highlighted the outstanding issues of rooftop mechanicals and density. In an updated letter on July 1, 2019, PRSHNA wrote in support of the proposed rezoning. The land use covenant agreement, separate from this rezoning application, was signed by the applicant and PRSHNA. The agreement between the two parties was recorded with the Office of the Clerk and Recorder. The agreement addresses height of structures, use limitations, vehicular access, setbacks and screening. A copy of the agreement is attached to PRSHNA's letter.

- **Other Public Comment**

- Staff received two emails in support for this application. The correspondence is attached to the staff report.

- **Planning Board**

- Planning Board voted unanimously (11-0) to recommend approval of the map amendment
- Three members of the public also spoke at the meeting and expressed concerns related to the outstanding discussions with the applicant on a covenant agreement.

## **Criteria for Review / Staff Evaluation**

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

### **DZC Section 12.4.10.7**

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

### **DZC Section 12.4.10.8**

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

## **1. Consistency with Adopted Plans**

The following adopted plans currently apply to this property if the rezoning:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*

### ***Denver Comprehensive Plan 2040***

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



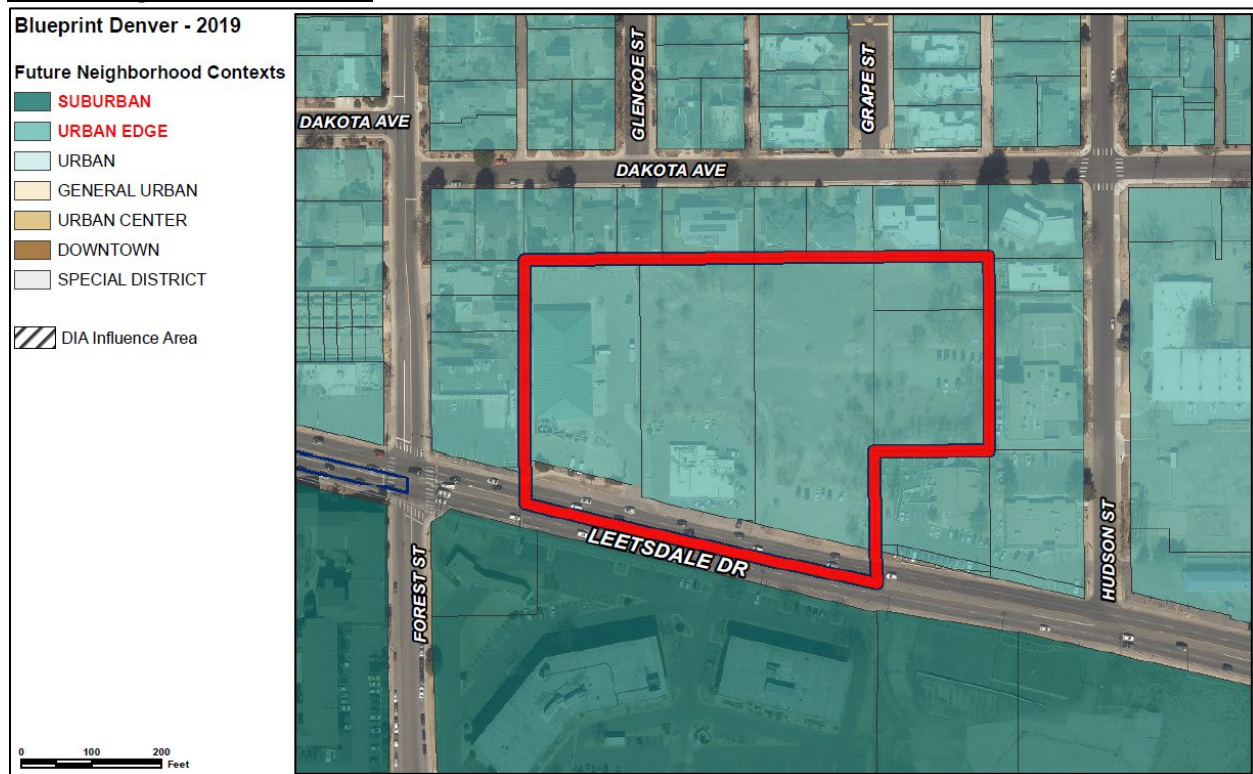
- *Environmentally Resilient Goal 8, Strategy A – Promote infill development where infrastructure and services are already in place (p. 54)*
- *Environmentally Resilient Goal 8, Strategy B – Encourage mixed-use communities where residents can live, work and play in their own neighborhoods (p. 54)*
- *Strong and Authentic Neighborhoods Goal 1, Strategy D – Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities (p. 34)*
- *Strong and Authentic Neighborhoods Goal 1, Strategy A – Build a network of well connected, vibrant, mixed-use centers and corridors (p. 34)*

The proposed map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested E-CC-3 zone district broadens the variety of uses, allowing residents to live, work and play in the area. The zone district will also apply modern zoning code standards, ensuring quality development appropriate for the neighborhood. The rezoning is consistent with Denver Comprehensive Plan 2040.

### **Blueprint Denver (2019)**

*Blueprint Denver* identifies the subject property as part of a Community Corridor place within the Urban Edge Neighborhood Context and provides guidance from the future growth strategy for the city.

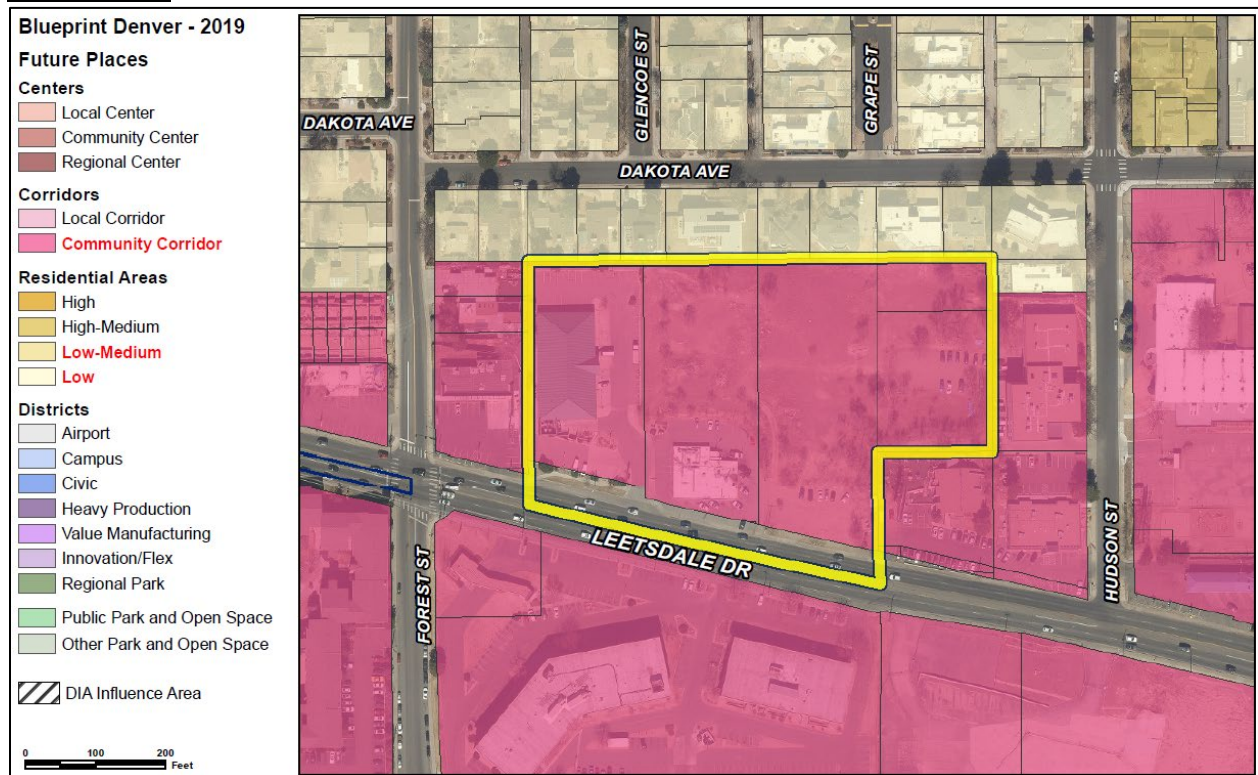
### **Future Neighborhood Context**



The subject property is within the Urban Edge Neighborhood Context. “The urban edge context areas are predominantly residential and tend to act as a transition between urban and suburban

areas....Commercial and mixed-use development in this context tends to be found along the main corridors bordering traditional residential areas, with some larger center development” (p. 205). The proposed E-CC-3 zone district is part of the Urban Edge context in the DZC. The Commercial Corridor zone districts are intended to “balance the need for safe, active, and pedestrian-scaled, diverse areas with the need for convenient automobile access” and “ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods” (DZC 4.2.3.1). The proposed E-CC-3 district will allow a mix of uses and building forms consistent with the surrounding Urban Edge character, which is appropriate and consistent with Blueprint Denver.

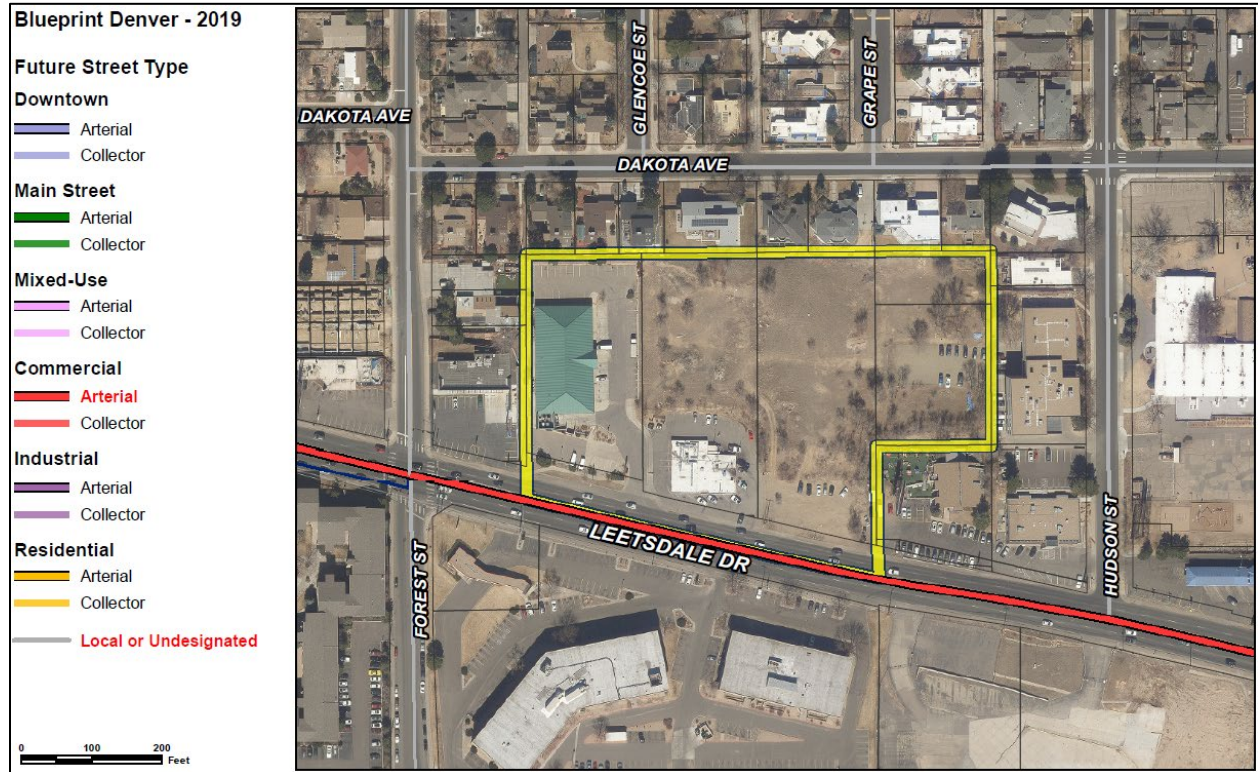
### **Future Places**



The Future Places map designates the subject property as Community Corridor. Blueprint Denver describes the aspirational characteristics of Community Corridors in the Urban Edge context as “provid[ing] some mix of office, commercial and residential... A mix of larger and smaller scale buildings, some being setback from the street to accommodate parking...Heights are generally up to 5 stories” (p. 212). Consistent with this guidance, the proposed E-CC-3 district provides for a mix of uses and flexible building form standards that allow for setbacks from the street to accommodate parking. The 3-story district height is consistent with the surrounding context and appropriate for the Community Corridor in this location.

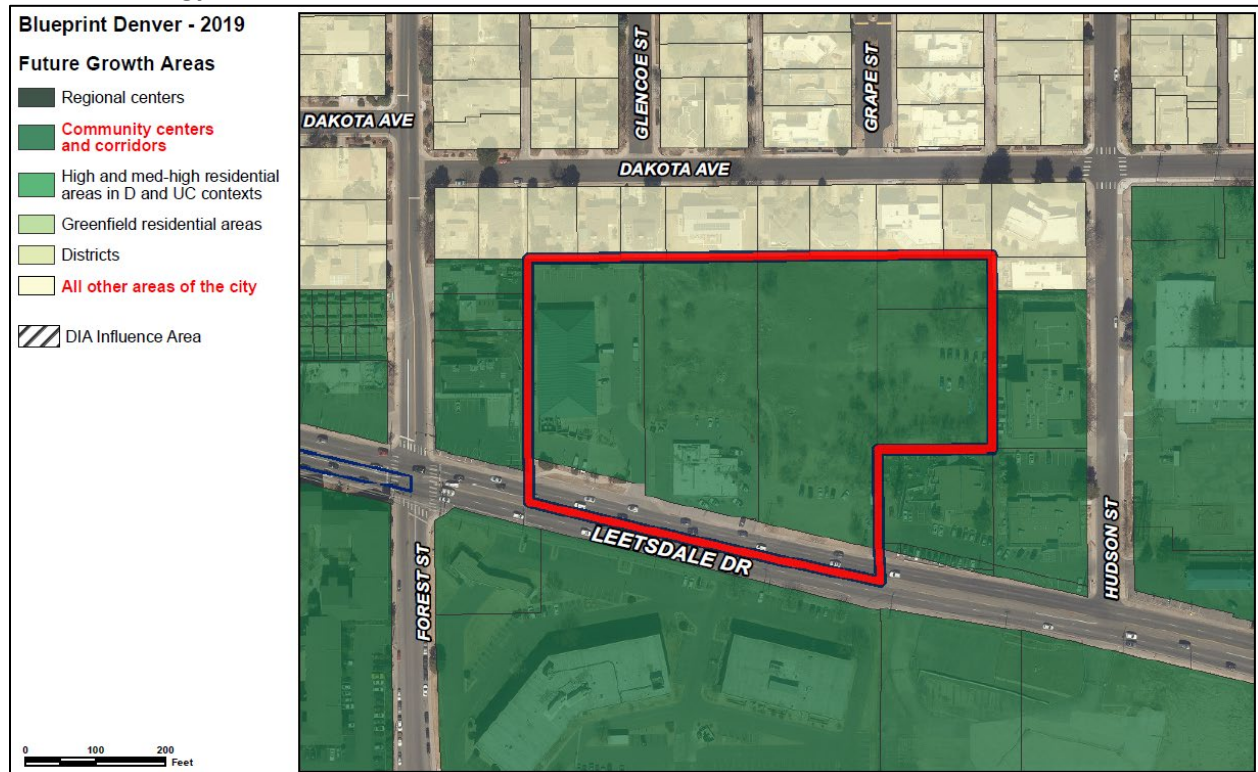


### Street Types



*Blueprint Denver* classifies Leetsdale Drive as a Commercial Arterial. “Arterial streets are designed for the highest amount of through movement and the lowest degree of property access” (p. 154). The use and built form characteristics of Commercial streets are described as follows: “Commercial streets typically contain commercial uses including shopping centers, auto services and offices. Buildings are often set back with onsite parking” (p. 159). The proposed E-CC-3 district is consistent with these descriptions as it is intended to be applied “primarily to auto-oriented arterial street corridors where a building scale of 1 to 3 stories is desired” (DZC 4.2.3.2).

## Growth Strategy



Blueprint Denver designates the subject property is part of a Community Corridor. Community Corridors are anticipated to see 25% of new housing growth and 20% of new employment growth by 2040 (p. 50-51). Focusing growth in centers and corridors helps to provide a variety of housing, jobs and entertainment options within a comfortable distance to all Denverites and is a key element of building complete neighborhoods throughout Denver” (p. 49). The proposed map amendment to E-CC-3 will allow for mixed-use growth in a Community Corridor where it has been determined to be most appropriate. Therefore, the proposed rezoning is consistent with the Blueprint Denver growth strategy.

### Former Chapter 59 and Custom Zoning

Blueprint Denver recommends “rezon[ing] properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC...” (p.73). The plan further recommends limiting the use of customized zoning tools only to circumstances “when a standard zone district does not exist to implement the adopted plans of an area” (p. 73). The proposed rezoning from custom Former Chapter 59 zone districts to a DZC zone district is consistent with Blueprint Denver’s recommendations.

## 2. Uniformity of District Regulations and Restrictions

The proposed rezoning to E-CC-3 will result in the uniform application of zone district building form, use and design regulations.



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

The proposed official map amendment furthers the public health, safety, and general welfare of the City through implementation of the city's adopted land use plan and applying the modern zoning regulations of the Denver Zoning Code to the subject property.

### **4. Justifying Circumstance**

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: Changed or changing conditions in a particular area, or in the city generally...." The subject property is currently zoned under Former Chapter 59. Rezoning from Former Chapter 59 zoning into the Denver Zoning Code is an appropriate justifying circumstance.

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

The requested E-CC-3 zone district is within the Urban Edge Neighborhood Context. This context is "characterized by a mix of elements from both the Urban and Suburban Neighborhood Contexts. The Urban Edge Neighborhood Context is primarily single-unit and two-unit residential uses...Commercial buildings are typically the Shopfront and General building forms that typically contain a single type of use...Multi-unit residential and commercial uses are located along local streets, arterials, and main streets" (DZC 4.1.1). The context has a regular block pattern and consistent street grid (DZC 4.1.2). "Single-, two-unit and multi-unit residential buildings typically have consistent moderate to deep front setbacks...Commercial buildings typically have consistent orientation and front setbacks deep enough to allow for a mix of landscaping and some parking" (DZC 4.1.3). The neighborhood context surrounding this site is consistent with the code's description of the Urban Edge Neighborhood Context. Therefore, the proposed E-CC-3 zone district is consistent with this neighborhood context description.

According to DZC 4.2.3.1, the general purpose of the urban edge commercial corridor zone districts is to address development opportunities adjacent the city's most auto-dominated corridors, balancing the need for safe, active, pedestrian-scaled, diverse areas with the need for convenient automobile access. The districts allow flexibility in building form standards. They "are intended to ensure new development contributes positively to established residential neighborhoods and character, and improve the transition between commercial development and adjacent residential neighborhoods." According to DZC 4.2.3.2, the specific intent of the E-CC-3 zone district is as follows: "E-CC-3 applies primarily to auto-oriented arterial street corridors where a building scale of 1 to 3 stories."

Leetsdale Drive is an auto-oriented arterial, both in terms of vehicular traffic and the orientation of buildings and uses along the corridor. The E-CC-3 zone district will provide a mix of uses and building forms appropriate for this corridor. The 3-story height is consistent with nearby development, and the height and required upper story setbacks adjacent to protected districts will ensure an appropriate transition to adjacent residential neighborhoods. The proposed E-CC-3 zone district is consistent with the zone district purpose and intent.

### **Attachments**

1. Application
2. PUD #627
3. B-3 with Waivers and Conditions
4. Public comments