



TO: Land Use, Transportation, and Infrastructure Committee
FROM: Elizabeth Weigle, Senior City Planner
DATE: December 12, 2019
RE: Official Zoning Map Amendment Application #2019I-00087

Staff Report and Recommendation

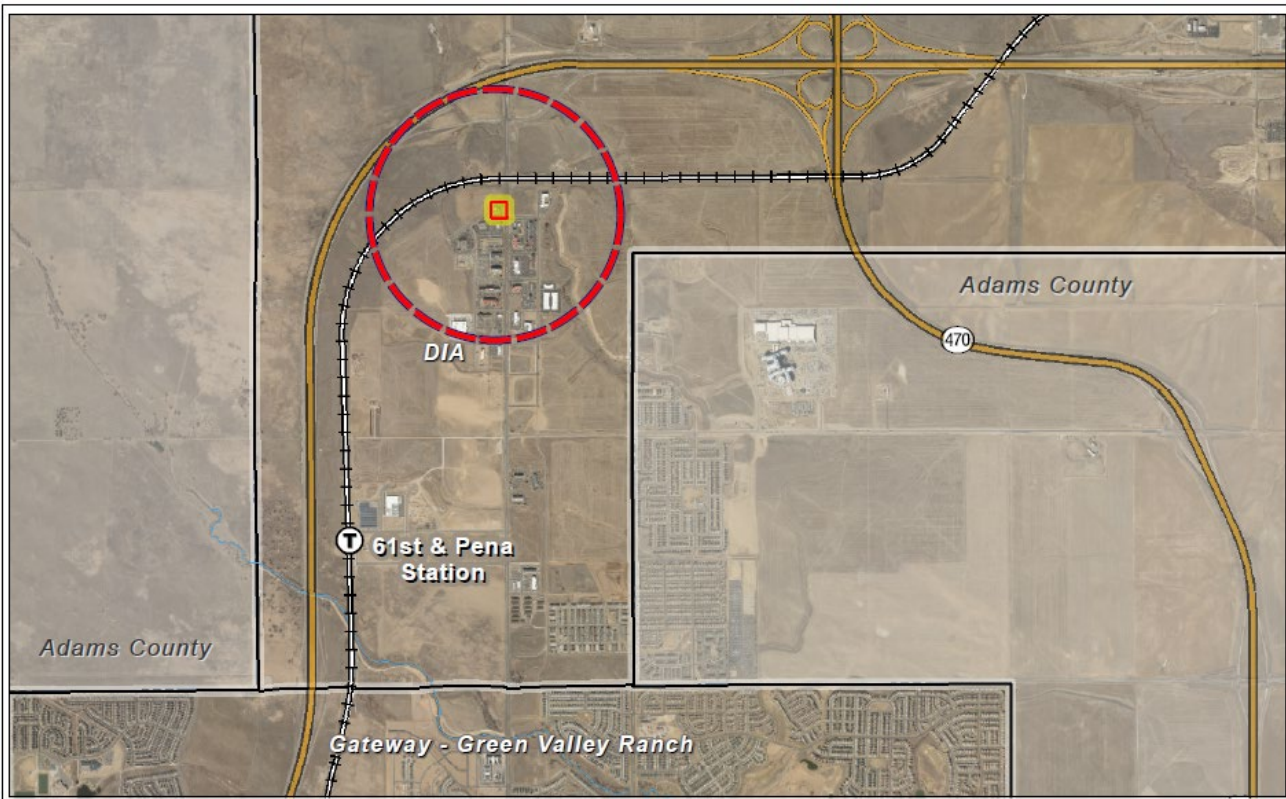
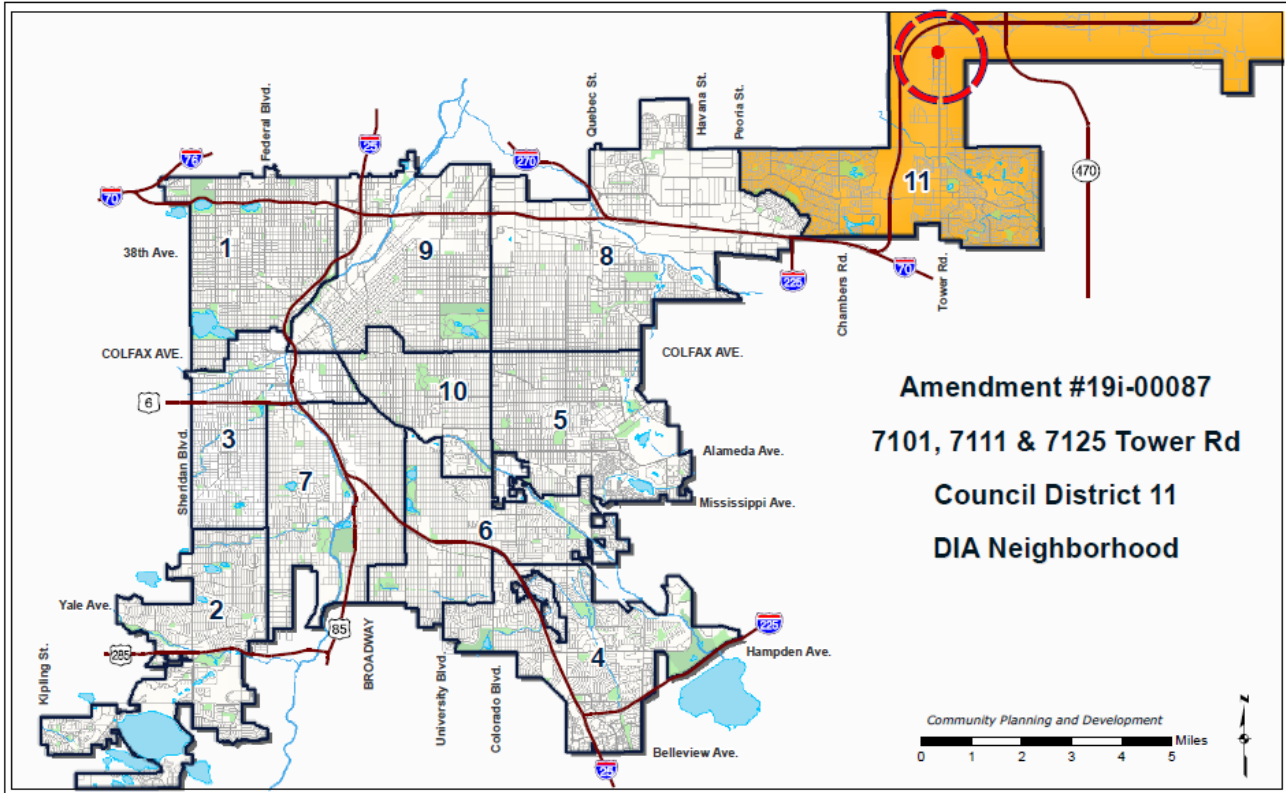
Based on the criteria for review in the Denver Zoning Code, Staff recommends that the Land Use, Transportation, & Infrastructure committee move Application #2019I-00087 forward for consideration by the full City Council.

Request for Rezoning

Address: 7101, 7111, 7125 N. Tower Road
Neighborhood/Council District: DIA Neighborhood / Council District 11
RNOs: Green Valley Ranch Citizen's Advisory Board; Master Homeowners Association for Green Valley Ranch; Montbello 20/20; Northern Corridor Coalition; Inter-Neighborhood Cooperation (INC)
Area of Property: 82,042 square feet or 1.883 acres
Current Zoning: C-MU-10 with waivers and conditions, AIO
Proposed Zoning: S-MX-8 AIO
Property Owner(s): Vinay K & Anita Sikka
Owner Representative: Jim Erwin-Svoboda

Summary of Rezoning Request

- The property is located in the DIA statistical neighborhood at the northwest corner of Tower Road and 71st Avenue.
- The property is occupied by a one-story commercial building.
- The applicant is requesting this rezoning to bring the property under the Denver Zoning Code and expand the allowable uses.
- The **S-MX-8, Suburban, Mixed Use, 8**, allows residential and non-residential uses in a building scale of up to 8 stories, or 110 feet. The **Airport Influence Overlay** is designed to ensure new development remains compatible with nearby airport operations, and, thereby, does not allow residential uses in this area. The Shopfront, General, Drive Thru Services, and Drive Thru Restaurant primary building forms are allowed. Further details of the S-MX-8 zone district can be found in Article 3 of the Denver Zoning Code and of the AIO overlay can be found in Article 9 of the Denver Zoning Code.
- The site is currently zoned C-MU-10 with waivers and conditions, AIO. C-MU-10 is a Former Chapter 59 commercial mixed use district, and the waivers and conditions prohibit residential uses and require an air rights covenant and avigation easement. The AIO is mapped but does not apply to Former Chapter 59 zoned properties.



1. Existing Context



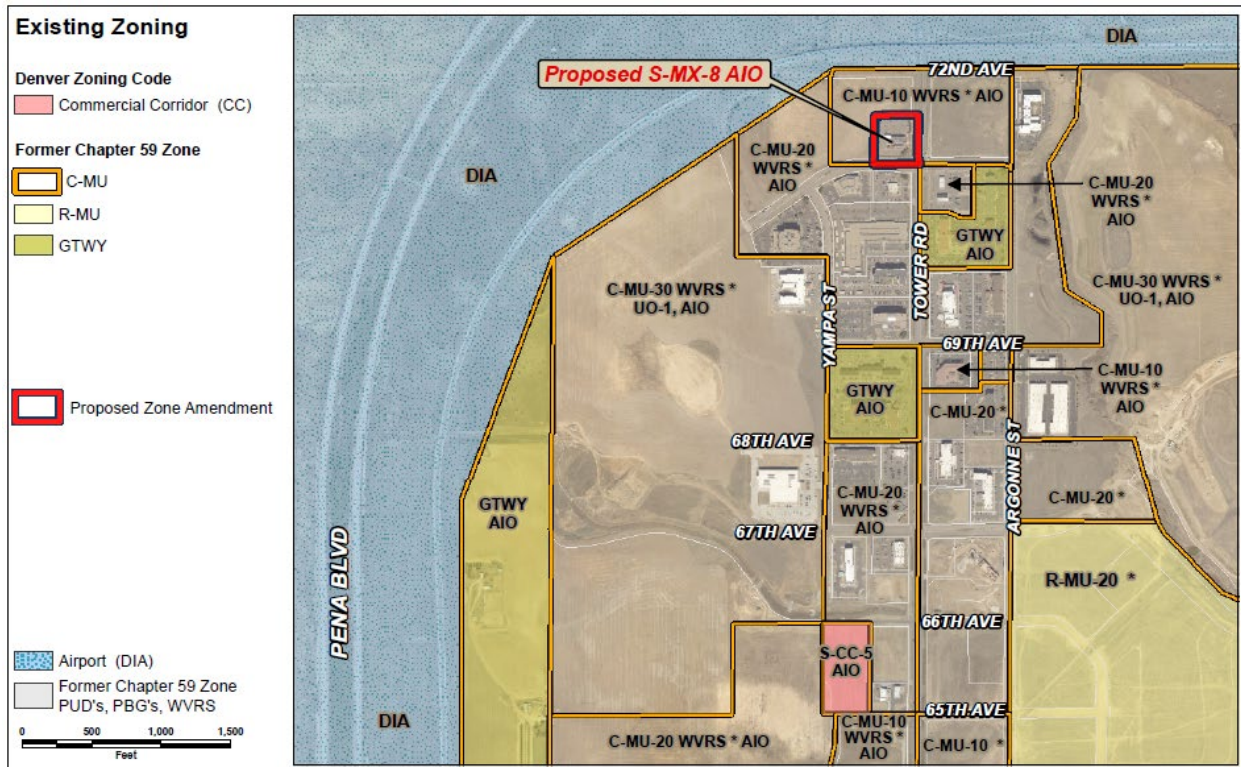
The subject property is located in the DIA statistical neighborhood at the northwest corner of 71st Avenue and Tower Road. In the general vicinity are other commercial uses and undeveloped land. Denver International Airport is approximately 7 miles northeast, Peña Boulevard is ¼ mile north, and the 61st & Peña Station on the University of Colorado A Line is 2 miles southwest.

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	C-MU-10 with waivers & conditions, AIO	Commercial/Retail	1-story building with surface parking	Block sizes and street connections vary. Sidewalks are generally present on developed parcels, and there are no existing alleys. Surface parking is common.
North	C-MU-10 with waivers & conditions, AIO	Vacant	None	
South	C-MU-20 with waivers & conditions, AIO	Commercial/Retail	1-story building with surface parking	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	C-MU-10 with waivers & conditions, AIO	Vacant	None	
West	C-MU-10 with waivers & conditions, AIO	Vacant	None	

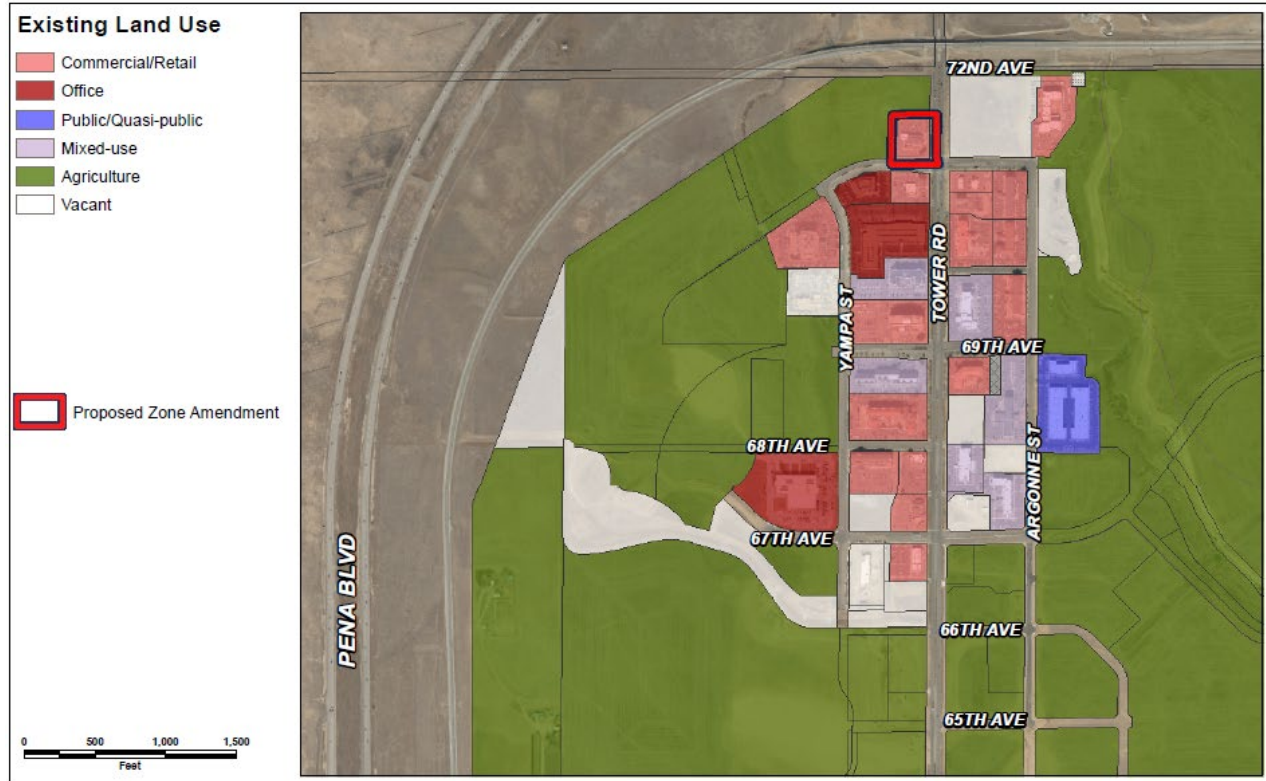
2. Existing Zoning



The existing zoning is C-MU-10 with waivers and conditions and AIO, DIA Influence Area Overlay Zone. C-MU-10 is a Former Chapter 59 commercial mixed-use zone district that allows limited commercial uses appropriate for high-visibility locations such as employment centers and the intersections of arterial streets. The purpose of the district is to concentrate higher intensity commercial uses, spatially define streets, encourage higher site standards, and create a more attractive pedestrian environment. The waivers and conditions prohibit residential uses and require an air rights covenant and avigation easement.

The AIO is a Denver Zoning Code zone district. It does not currently apply to the site because the site retains Former Chapter 59 zoning. It will apply to the site when rezoned to the Denver Zoning Code.

3. Existing Land Use Map



Land Use Data Compiled 2018

4. Existing Building Form and Scale



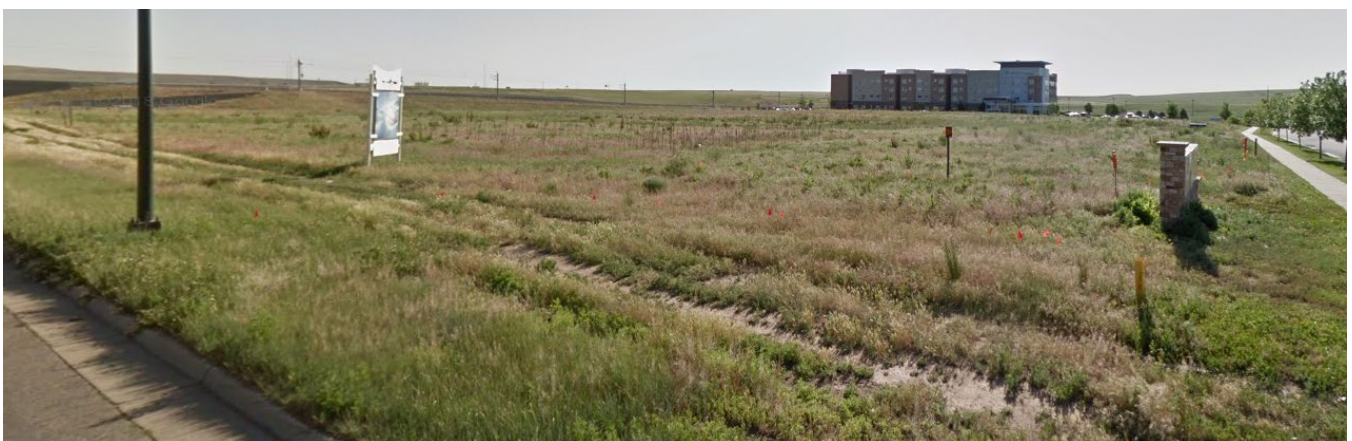
Aerial view of subject property, looking north. (Source: Google Maps)



View of the subject property on Tower Road, looking west. (Source: Google Maps)



View of property to the south of site of 71st Avenue, looking south. (Source: Google Maps)



View of property to the east of site of Tower Road, looking northeast. (Source: Google Maps)



View of property to the southeast of the subject site on Tower Road, looking east. (Source: Google Maps)

5. Design Guidelines for Denver Gateway, 1999, updated 2013

The site is subject to the Design Guidelines for Denver Gateway adopted in 1999 and updated in 2013. It is also located in the Gateway Development Impact Fee area which provides for financing of infrastructure improvements in the area.

Proposed Zoning

The requested S-MX-8 has a maximum height of 110 feet and allows the General, Shopfront, Drive Thru Services, and Drive Thru Restaurant primary building forms. A variety of residential, civic, commercial and industrial land uses are allowed. The Denver International Airport Influence Overlay Zone (AIO) is intended to reduce exposure of residential and other sensitive land uses to airport operations and to minimize noise impacts of the airport on residential or sensitive land uses in the DIA Influence Area. The proposed AIO overlay will prohibit residential uses, hospitals, beds and breakfasts, and surface parking as a primary use on the subject site.

Design Standards	Existing C-MU-10 Waiver & Conditions, AIO	Proposed S-MX-8, AIO*
Primary Building Forms Allowed	N/A	General, Shopfront, Drive Thru Services, Drive Thru Restaurant
Stories/Heights (max)	N/A; Basic maximum gross floor area is equal to two (2) times the area of the zone lot on which the structures are located (2:1)	General, Shopfront: 8 stories, 110 feet
Primary Build-to Percentages (min)	N/A	50% for General 75% for Shopfront
Primary Street Setback (min)	0 feet (For ground floor commercial with 4 or more stories)	0 feet
Surface Parking Between Building and Primary Street/Side Street	Allowed	Allowed/Allowed for General Not Allowed/Not Allowed for Shopfront

Transparency, Primary Street	N/A	40% for General 60% for Shopfront
AIO	Yes, but does not apply to Former Chapter 59 zoned properties. Waivers limit residential uses	Yes

*Standards vary by primary building form

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:

Assessor: Approved – No Response.

Asset Management: Approved – No Comments.

Denver Public Schools: Approved – No Response.

Department of Public Health and Environment: - Approved - See Comments Below.

Notes. DDPHE concurs with the rezoning and has no information to suggest that current environmental conditions would impact the proposed rezoning.

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, DDPHE 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 DDPHE 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.

Development Services – Fire Prevention: Approved – No Response.

Development Services – Project Coordination: Approved – No Response.

Development Services – Transportation: Approved – No Response.

Development Services – Wastewater: Approved – No Response.

Parks and Recreation: Approved – See comments below. Development subject to park dedication requirements and discussions over streetscape improvements and maintenance with this application.

Public Works – City Surveyor: Approved – No comments.

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:	09/15/19
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:	11/19/19
Planning Board public hearing:	12/04/19
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:	12/03/19
Land Use, Transportation and Infrastructure Committee of the City Council:	12/17/19
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all	TBD

affected members of City Council and registered neighborhood organizations:	
City Council Public Hearing:	2/3/20 (Tentative)

- **Registered Neighborhood Organizations (RNOs)**
 - The RNOs identified on page 1 were notified of this application. To date, staff has received no comment letters from RNOs.
- **Planning Board**
 - Planning Board voted unanimously (8-0) to recommend approval of the map amendment.
 - There were no public speakers.
- **Other Public Comment**
 - To date, staff has received no other public comments.

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*
- *Blueprint Denver (2019)*
- *Far Northeast Area Plan (2019)*
- *Denver International Business Center General Development Plan No. 1 (1995)*

Denver Comprehensive Plan 2040

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

The proposed rezoning will allow for more commercial amenities and employment opportunities in the DIA neighborhood. It is therefore consistent with the following strategy in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable, and Inclusive Goal 1, Strategy C: *“Improve equitable access to resources that improve quality of life, including cultural and natural amenities, health care, education, parks, recreation, nutritious food and the arts”* (p. 28).

The proposed rezoning would enable infill development at a location where infrastructure is already in place. The requested S-MX-8 zone district broadens the mix of retail services and employment at an intensity consistent with the desire for dense and pedestrian-friendly destinations, and it is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy A – *“Build a network of well-connected, vibrant, mixed-use centers and corridors”* (p.34).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *“Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities”* (p. 34).

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

- Environmentally Resilient Goal 8, Strategy A - *“Promote infill development where infrastructure and services are already in place”* (p. 54).

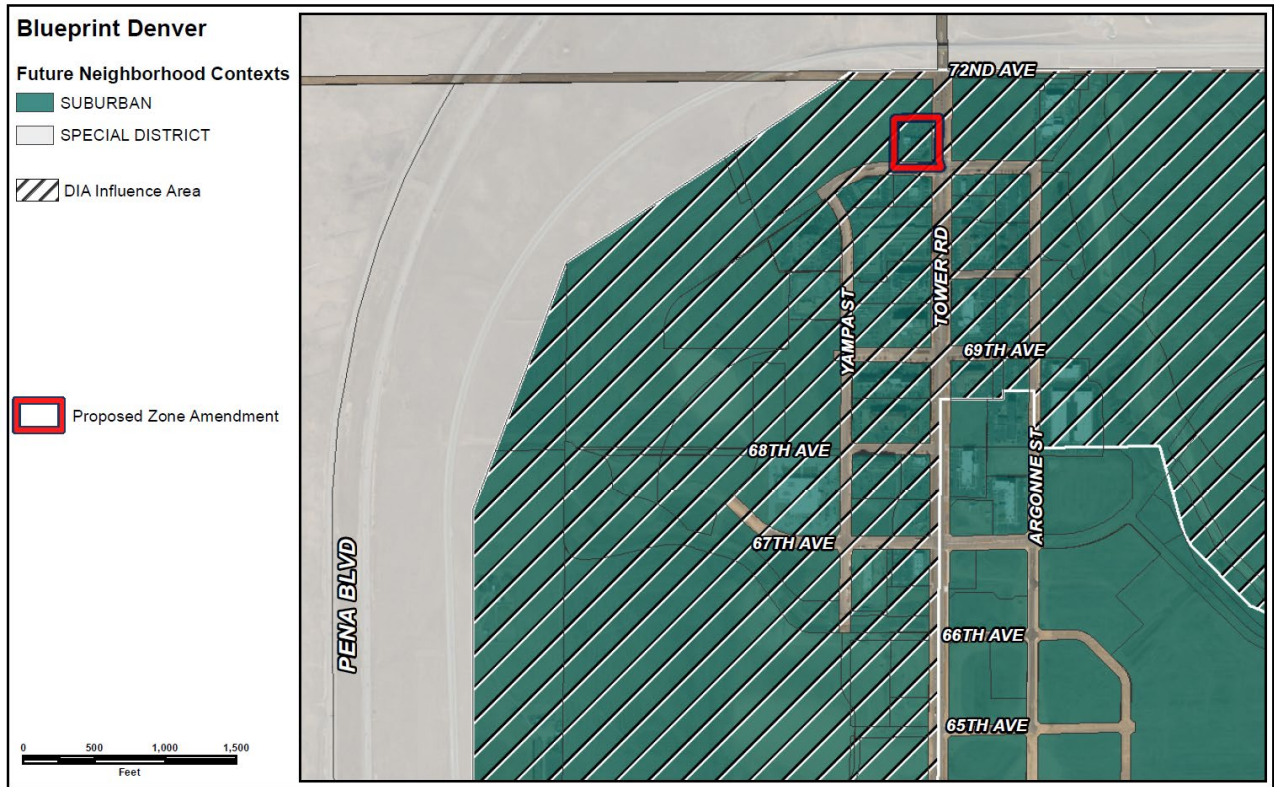
The proposed rezoning will allow for development of commercial and employment uses that are compatible with airport operations. Therefore, it is consistent with the following strategies in the Economically Diverse and Vibrant vision element:

- Economically Diverse and Vibrant Goal 2, Strategy B – *“Facilitate the growth of a diverse business sector that serves as the foundation for a global, innovative economy”* (p. 46).
- Economically Diverse and Vibrant Goal 5, Strategy C – *“Promote Denver International Airport as the gateway between Denver and the world”* (p. 47).

Blueprint Denver (2019)

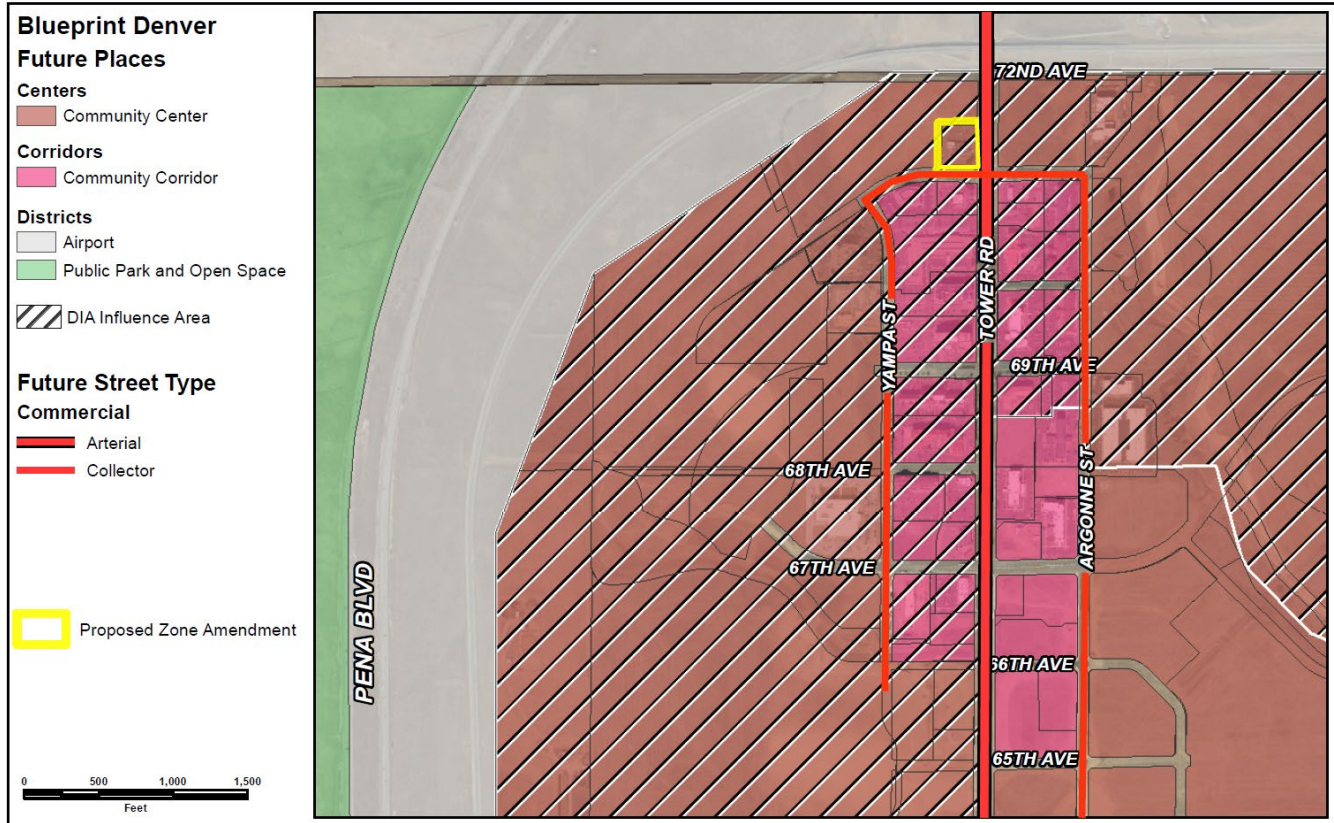
Blueprint Denver identifies the subject property as a Community Center within the Suburban Neighborhood Context and the DIA Influence Area. The plan also provides guidance from the future growth strategy for the City.

Future Neighborhood Context



The subject property is within the Suburban Neighborhood Context. “The suburban context represents the most varied development in Denver’s neighborhoods. Homes in this context are largely single-unit, but can also include higher intensity residential. Commercial development is focused along main corridors and centers bordering residential areas. Although this context is more auto-oriented than others, there should still be quality multimodal connectivity” (p. 185). The proposed rezoning is consistent with the neighborhood context guidance in *Blueprint Denver*.

Future Places



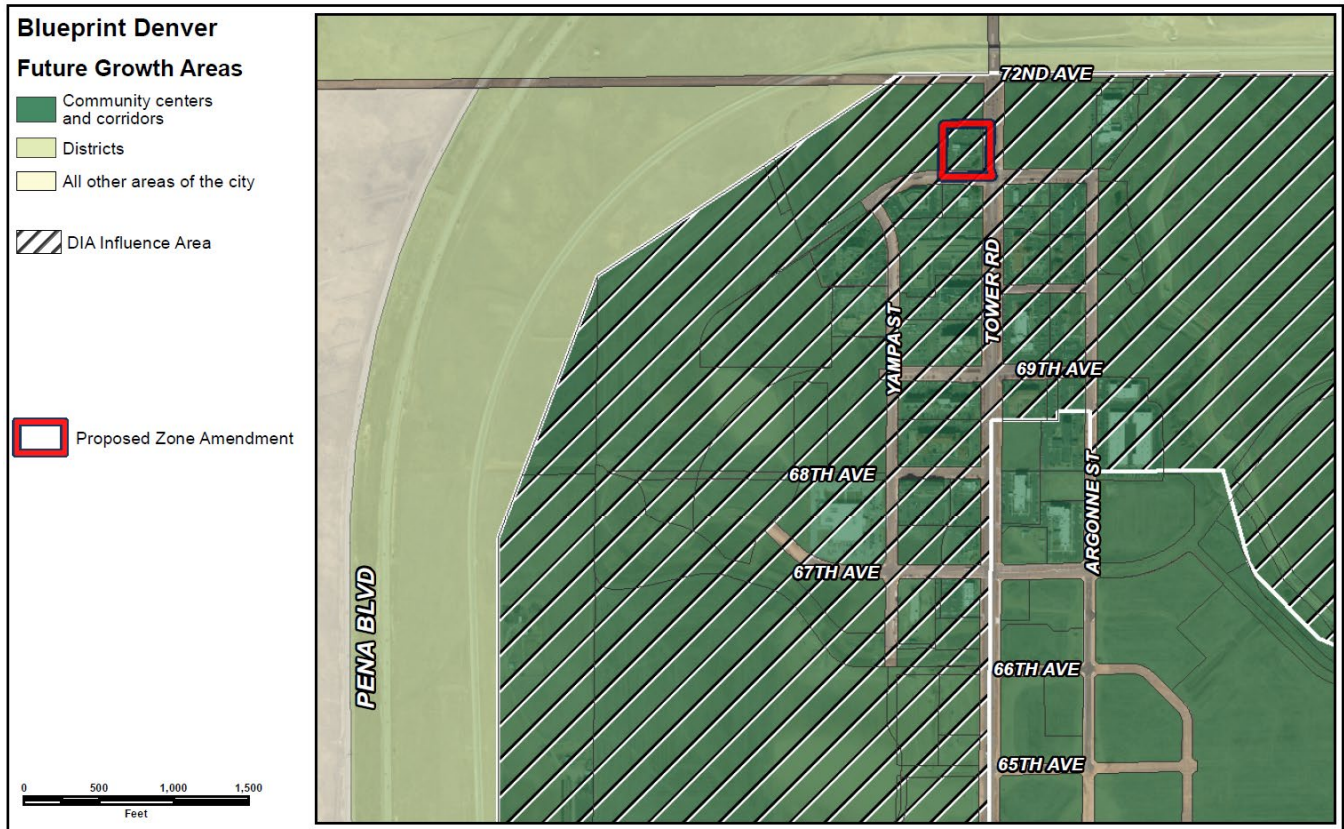
The Future Places map designates the subject property as a Community Center. A Community Center “typically provides some medium mix of office, commercial and residential uses. A wide customer draw both of local residents from surrounding neighborhoods and from other parts of the city. Activity levels vary depending on the type and mix of uses. A mix of larger and smaller scale buildings, some setback from the street to accommodate parking. Heights are generally up to 5 stories. Transitions gradually within the center out to the surrounding residential uses” (p. 194). The S-MX-8 AIO zone district standards allow a mix of office, commercial and limited industrial land uses appropriate for a commercial corridor near an airport and a maximum allowed height of 8 stories. Although Blueprint recommends 5 stories, Blueprint’s height guidance suggests that “small area plans will provide more certain height guidance through maps of proposed building height” (p. 66). The *Far Northeast Area Plan*, as described later in this report, provides guidance that heights up to 8 stories are appropriate in this area. The proposed zone district will allow for development consistent with the place description, while the AIO district will ensure that development is compatible with the airport.

Street Types

Blueprint Denver classifies 71st Avenue as a Commercial Collector Street and Tower Road as a Commercial Arterial street. Arterial streets are designed for the highest amount of through movement and the lowest degree of property access. Collector streets are in between as they collect movement from local streets and convey it to arterial streets. Commercial streets “typically contain commercial uses including shopping centers, auto services and offices. Buildings are often set back with on-site parking” (p. 159). The proposed S-MX-8 zone

district is intended to apply to areas served primarily by arterial streets. Therefore, it is consistent with *Blueprint Denver* street type guidance.

Growth Strategy



The subject property is shown on the Growth Strategy map as within “Community centers and corridors.” These types of places are anticipated to see around 25% of new housing growth and 20% of new employment growth by 2040 (p. 51). “The future growth area percentages indicate the projected amount of new jobs or new housing across all areas of the city with that place designation. Each place may have a unique ratio of jobs and housing different than what the place designation captures across the entire city. For example, some centers and corridors may only have new jobs – and no new housing – due to market conditions or existing land use regulations, such as the airport influence overlay zone near DEN” (p. 51). This site is located with DIA Influence Area, where *Blueprint Denver* notes that additional regulatory restrictions apply. The proposed AIO overlay will restrict residential uses. By allowing building height and additional uses, the proposed map amendment to S-MX-8 AIO will allow for job growth in a Community Center in character with the existing area.

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 proposed rezoning from Former Chapter 59 zone district to a DZC zone district is consistent with *Blueprint Denver’s* recommendations.

Far Northeast Area Plan (2019)

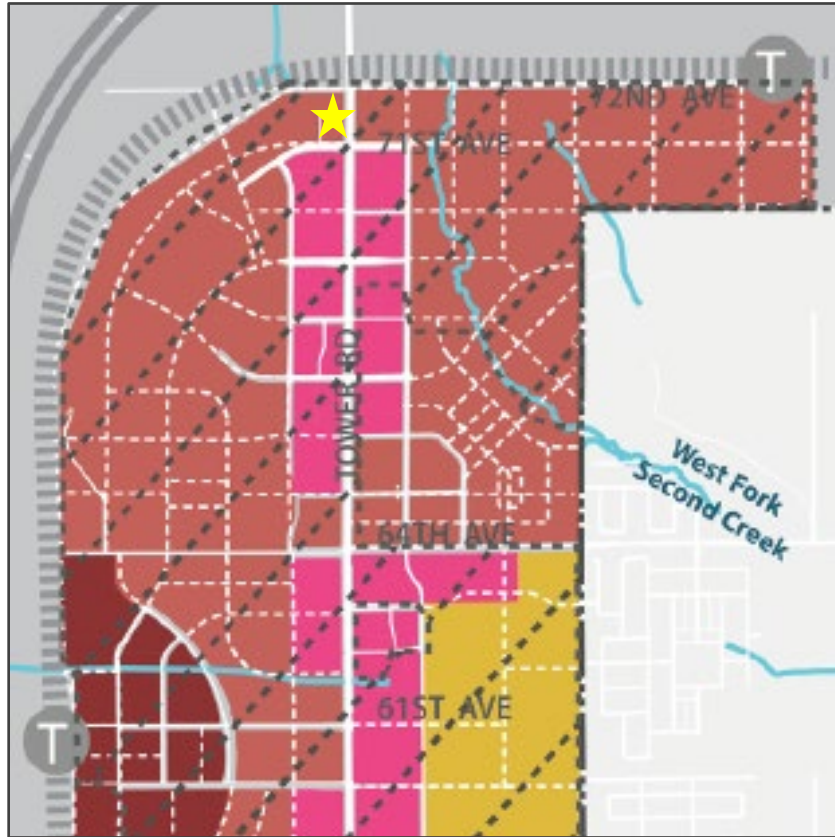
The *Far Northeast Area Plan* contains a framework plan for the entire plan area and recommendations for smaller neighborhood areas. Within the *Far Northeast Area Plan* the subject property is within the Suburban Neighborhood Context, is in a Community Center future place, and is recommended for a maximum building height of 8 stories. See the Future Neighborhood Context map, the Future Places map, the Growth Strategy map and the Recommended Maximum Building Heights Maps below.

Far Northeast Area Plan Neighborhood Context



The *Far Northeast Area Plan* designates the subject property as within the Suburban Neighborhood context and describes the context as “largely single-unit but can also include higher intensity residential. Commercial development is focused along main corridors and centers bordering residential areas. Although this context is more auto-oriented than others, there should still be quality multi-modal connectivity” (p. 31). The proposed S-MX-8 AIO district will allow mixed-use development on the Tower Road corridor in conformance with the Suburban Neighborhood Context.

Far Northeast Area Plan Future Places



FUTURE PLACES

- City & County of Denver Boundary
- Park or Open Space
- Lake or Pond
- Stream, Creek or River
- Existing Street Network
- Future Street Network

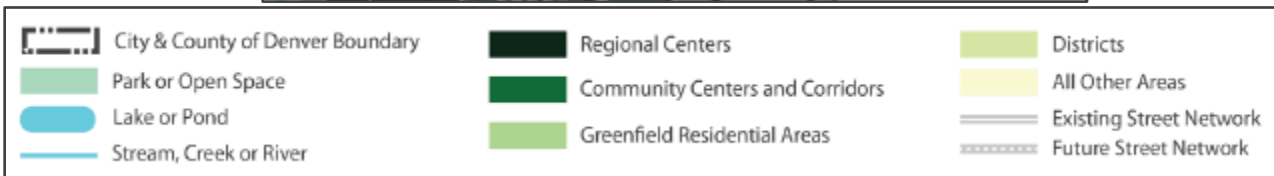
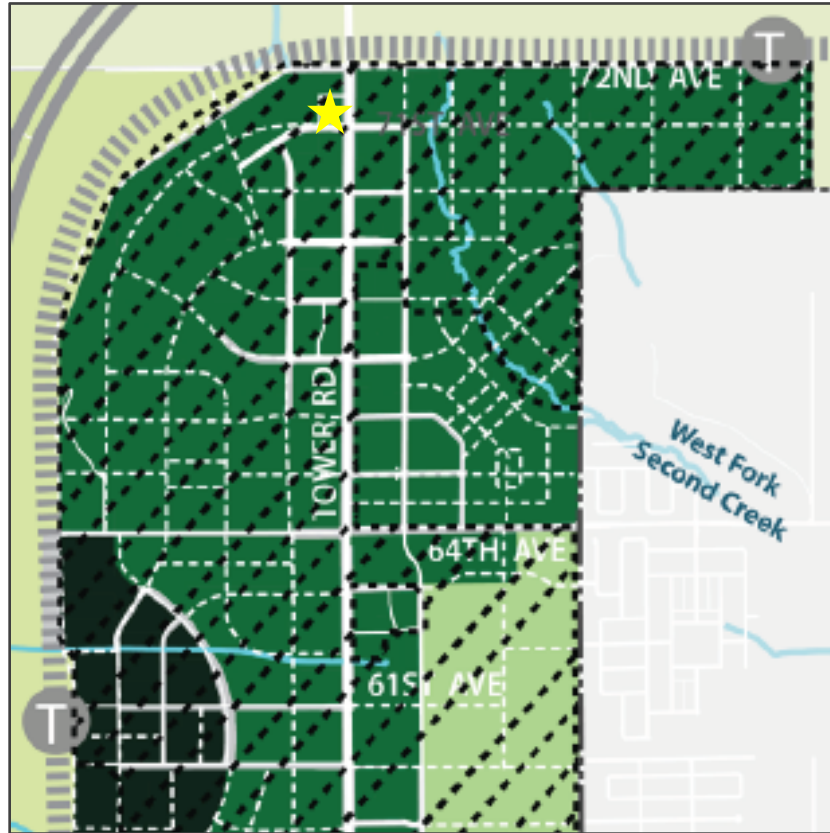
- CENTERS & CORRIDORS**
- Local Center
 - Community Center
 - Regional Center
 - Community Corridor

- RESIDENTIAL AREAS**
- Low: Single Unit
 - Low
 - Low-Medium: Row House
 - Low-Medium
 - High-Medium

- DIA Influence Area
Land Use and other regulatory restrictions apply within the DIA Influence Area. Refer to Section 3.3.3 for more details

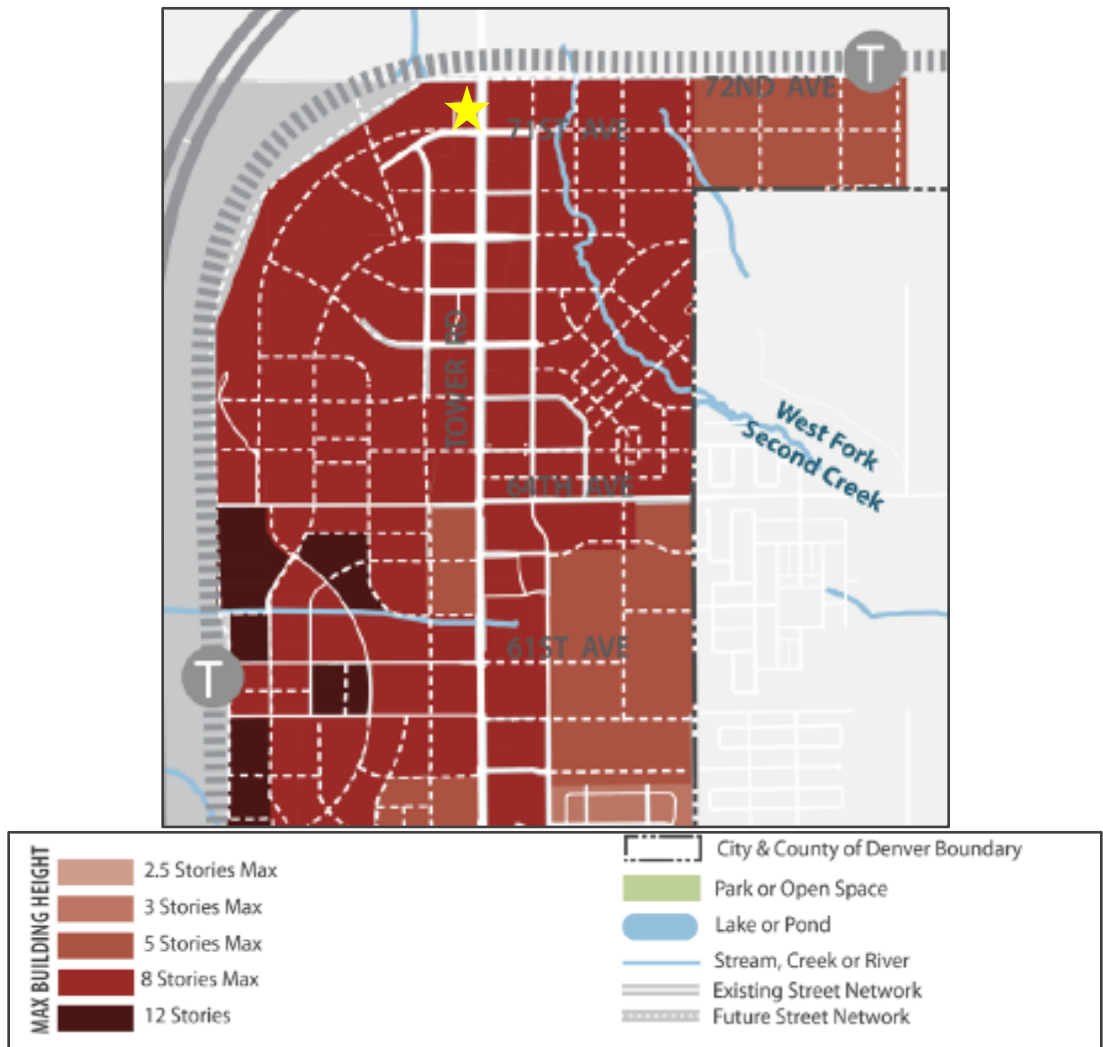
The *Far Northeast Area Plan* designates the subject property as within a Community Center future place. The plan describes centers as “a mix of office, retail, eating and drinking establishments, commercial services, and multi-unit residential uses” (p. 35). The plan recommends that community centers provide community serving amenities and pedestrian-friendly designs. Land Use and Built Form Policy LU.4.c states that community centers should include community-serving amenities, minimize setbacks, and include pedestrian-friendly elements, such as ground story activation, transparency and pedestrian entrances (p. 38). The S-MX-8 zone district allows for a mix of uses and is intended to promote safe, active, pedestrian-scaled areas with building form standards that balance the importance of street presence and the provision of adequate parking. The proposed S-MX-8 AIO zone district is consistent with the Community Center place description.

Far Northeast Area Plan Growth Strategy



Within the *Far Northeast Area Plan* the growth strategy for the subject property is “Community Centers and Corridors.” The plan states that “most change is expected to occur in greenfield areas, that are currently underdeveloped...In addition to the significant growth opportunity on undeveloped land, growth is also expected in existing community centers and corridors through reinvestment and redevelopment” (p. 41). The S-MX-8 zone district will allow the property to be redeveloped with commercial development while the AIO will ensure the land uses are compatible with DEN airport operations.

Far Northeast Area Plan Recommended Maximum Building Heights



The *Far Northeast Area Plan* also recommends maximum building heights. For the subject property the recommended maximum building height is 8 stories. The S-MX-8 proposed zone district is consistent with the height guidance.

Far Northeast Area Plan Denver International Airport Neighborhood Guidance

The *Far Northeast Area Plan* includes additional guidance for individual neighborhoods. The subject property is within the DIA neighborhood where the plan identifies various character areas. The plan states that “because the vast majority of this area consists of undeveloped land, these character areas are broad and will take shape over the course of many years as the DIA neighborhood develops according to the guidance of this plan” (p. 183). The plan also recognizes the existing land use regulations that are in place to ensure development is compatible with airport operations, and that the plan guidance largely reflects adopted General Development Plans in this area. Recommendations for the area include the following:

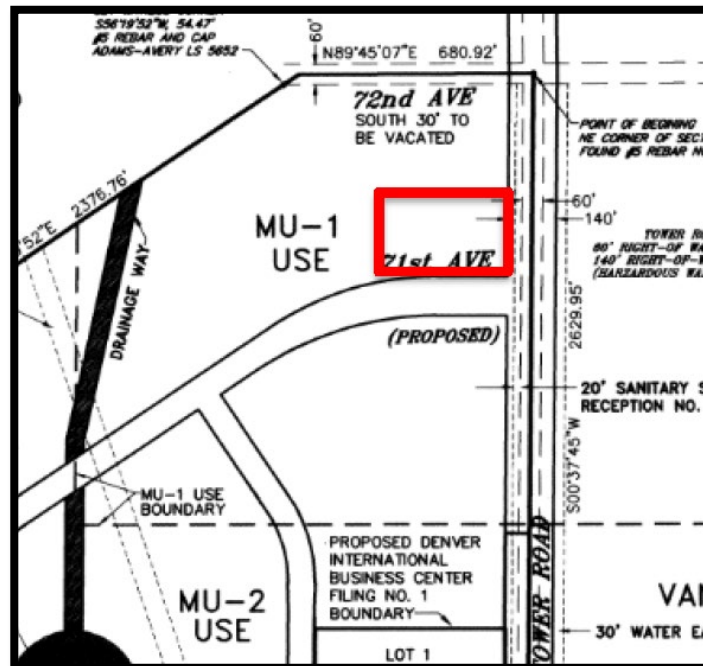
- “Create a variety of centers throughout the DIA neighborhood:

- North of 64th Avenue at Peña Station North (west of Tower Road) and High Point (east of Tower Road). This area has the capacity to support an additional 1,180,000 square feet of commercial development which would generate over 3,800 new jobs” (p. 187).
- “Consider tools to achieve the denser development vision for this area, including encouraging properties with Former Chapter 59 zoning to rezone into the Denver Zoning Code as a strategy to promote design outcomes” (p. 188).

The proposed rezoning to S-MX-8 of the subject property implements these recommendations directly by rezoning to a DZC zone district which will enable more jobs with better design outcomes, so the application is consistent with the guidance for the DIA neighborhood.

Denver International Business Center General Development Plan No. 1 (1995)

The subject property is governed by a General Development Plan (GDP), the Denver International Business Center General Development Plan No. 1, which was approved in 1995. Under the Denver Zoning Code, “City Council may approve an official map amendment (rezoning) application for property located within an approved LDF (Large Development Framework) or GDP area, taking into consideration the approved LDF or GDP” (DZC Section 12.4.12.15.B). The GDP states that “the general land use concept for the portions of the Denver International Business Center contained within the boundaries of this General Development Plan is to develop a business and hospitality community integrating hotel and office uses with a possible conference center, developed around a Town Square Use area. The plan will utilize common design elements in landscape and building design to create distinctive and unified character within the area of the General Development Plan.” The GDP designates use areas and shows the conceptual street network and proposed stormwater management areas. The GDP designates this area as “MU-1 Use.” MU-1 refers to the MU-1 Gateway zone district in Former Chapter 59, which allowed a variety of mixed uses. The proposed S-MX-8 zone district is consistent with the MU-1 use designation and would allow for the business and hospitality uses envisioned in the GDP.



Denver International Business Center General Development Plan No. 1 (1995)

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to S-MX-8 AIO 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 development consistent with the desired character as described by the city's adopted land use plans. Further, the proposed S-MX-8 district will provide more predictable and modern building form standards than the current Former Chapter 59 zone district. The AIO district promotes the public welfare by ensuring new development does not impact the operations of the airport.

4. Justifying Circumstance

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4.c., "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: A city adopted plan, and that the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning." 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. Further, the Far Northeast Area Plan was adopted after the existing zone district was put in place. The plan recommends more intense uses and better design outcomes than the current district. Therefore, the adoption of the *Far Northeast Area Plan* is also an appropriate justifying circumstance.

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

The fifth review criterion in the Denver Zoning Code is that the proposed official map amendment must be consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district. Overall, the proposed map amendment is consistent with the Suburban Neighborhood Context. The Denver Zoning Code describes the Suburban Context as characterized by single-unit, and multi-unit residential, commercial strips and centers, and office parks. Commercial buildings are typically separated from residential and consist of Shopfront and General forms. Multi-unit residential and commercial uses are primarily located along arterial and collector streets. Block patterns in the Suburban Context are irregular and shaped by curvilinear streets and modified grid streets.

The Suburban mixed use zone districts are intended to "promote safe, active, pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city's neighborhoods." They are "appropriate along corridors, for larger sites and at major intersections." They include "building form standards that balance the importance of street presence and provision of adequate parking through build-to requirements, street level activation and parking lot screening" (DZC Section 3.2.4.1). The S-MX-8 zone district intent is that "it applies to areas or intersections served primarily by arterial streets where a building scale of 1 to 8 stories is desired." (DZC Section 3.2.4.2.H). The proposed zone district will provide predictable building forms, allow for reinvestment, and accommodate future development that furthers the district's purpose and intent.

The intent of the AIO is to reduce exposure of residential and other sensitive land uses to airport operations and to minimize noise impacts of the airport on residential or sensitive land uses in the DIA Influence Area. The inclusion of the AIO will allow a mix of non-residential land uses that are compatible with the airport.

Attachments

1. Application
2. Current waivers and conditions