TO: Denver Planning Board, Joel Noble, Chair  
FROM: Theresa Lucero, Senior City Planner  
DATE: July 11, 2018  
RE: Official Zoning Map Amendment Application #2018I-00008

Staff Report and Recommendation
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for application #2018I-00008.

Request for Rezoning

Application: #2018I-00008  
Address: 10353 East Mississippi Avenue  
RNOs: Rangeview Neighborhood Association; Inter-Neighborhood Cooperation  
Area of Property: 80,819 SF, 1.9 Acres  
Current Zoning: B-1 with a Condition  
Proposed Zoning: S-MX-3  
Property Owner: Bellco Credit Union  
Applicant/Owner: Stephen McGuirk, Owner Representative

Summary of Rezoning Request

- The subject property contains a one-story structure with multiple drive-up ATMs built in 1994. The property is located on the City boundary with the City of Aurora and is one-half block west of South Havana Street. The requested map amendment is being sought to allow the property owner to demolish the existing structure and develop commercial structures.

- The S-MX-3, Suburban, Mixed Use, 3-story (45 feet maximum building height), zone district is intended for use in the Suburban Neighborhood Context which is characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks. Multi-unit residential buildings are typically separated from single-unit residential and typically are Duplex or Town House building forms and occasional mid- and high-rise Apartment building forms. Commercial buildings are typically separated from residential and are usually Shopfront and General building forms. Multi-unit residential and commercial land uses are primarily located along arterial and collector streets. The block patterns in the Suburban Neighborhood Context are irregular and shaped by curvilinear streets and modified grid streets. The S-MX-3 zone district is a mixed use zone district intended to promote safe, active, pedestrian-scaled, diverse areas along corridors, for larger sites and at major intersections. The mixed use zoning standards are intended to ensure new development contributes positively to established residential neighborhoods and character and improves the transition between commercial development and adjacent residential neighborhoods. In the S-MX-3 zone district the General, Shopfront, Drive-thru Services and Drive-thru Restaurant are allowed primary building forms, though neither Drive-thru forms are allowed within ¼ mile of the outer boundary of a Rail Transit Station Platform. Further details of the zone district can be found in Article 3 of the Denver Zoning Code.
General Location

Zone Map Amendment 18I-00008
10353 E. Mississippi Ave.
Council District 5
Windsor Neighborhood
1. Existing Context

The subject property is on the boundary between Denver and Aurora. In the general vicinity are:

- South Havana Street, 1/2 block east,
- East Alameda Avenue, 5 blocks north,
- Ben Bezoff Park, 4 blocks north,
- Common Ground Golf Course, 5 blocks north,
- Aurora’s Expo Park, 5 blocks northeast,
- Aurora’s Challenge School, 5 blocks west, and
- Windsor Lake, about 8 blocks west.

The subject property is surrounded on two sides by one-story commercial/retail land uses, and on two sides by single-family residential land uses. Area building heights range from 14 feet for single-family residences to 45 feet for multi-unit residential buildings.

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

<table>
<thead>
<tr>
<th>Site</th>
<th>Existing Zoning</th>
<th>Existing Land Use</th>
<th>Existing Building Form, Scale</th>
<th>Existing Block, Lot, Street Pattern</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>B-4 (Aurora)</td>
<td>Commercial</td>
<td>1-story Structures</td>
<td></td>
</tr>
<tr>
<td>West</td>
<td>S-SU-I</td>
<td>Single-unit Residential</td>
<td>1-story Structures</td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>PUD 24</td>
<td>Commercial/Multi-unit Residential</td>
<td>1-3-story Structures</td>
<td></td>
</tr>
</tbody>
</table>
2. Existing Zoning

The current zoning of the subject property B-1 with a condition approved in 1994. The condition approved requires the site to only be developed according to a 1993 recorded site plan. B-1 is a Former Chapter 59 zone district, a low intensity commercial district often with office land uses that form a transition between more intense commercial and lower intensity residential land uses. The maximum allowable floor area ratio in B-1 is 1:1.

Adjacent zoning to the east is S-MX-5, a mixed-use zone district with a five-story height limit, or a maximum of 70 feet. Allowed primary building forms in the S-MX-5 district are Shopfront, General and Drive-thru Services and Restaurants. Adjacent zoning on the north and west is S-SU-I, a single-unit residential zone district allowing only a Suburban House primary building form on a minimum 12,000 square feet lot with a maximum allowed height of 30 feet. Adjacent to the subject property on the south, across Mississippi Avenue is B-4 zoning in the City of Aurora. This is the highest intensity business and commercial zone district with a maximum allowed height of 75 feet.
3. Existing Land Use
4. **Existing Building Form and Scale**
Summary of City Agency Referral Comments
This rezoning has been reviewed concurrently within the context of the Denver Zoning Code and other applicable City Codes as utilized by the referral agencies listed below.

Development Services – Transportation: Approve Rezoning Only - Will require additional information at Site Plan Review.

Development Services – Wastewater: Approve Rezoning Only - Will require additional information at Site Plan Review

Public Health and Environment: Approve, see comments below. Notes. Denver Department of Public Health and Environment is not aware of environmental concerns on the Property and concurs with the rezoning request.

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 Review Process

<table>
<thead>
<tr>
<th>Event Description</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>CPD informational notice of receipt of the rezoning application to all affected members of City Council and Registered Neighborhood Organizations:</td>
<td>05/29/18</td>
</tr>
<tr>
<td>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 within 200 feet of the subject property:</td>
<td>07/02/18</td>
</tr>
<tr>
<td>Planning Board public hearing:</td>
<td>07/18/18</td>
</tr>
<tr>
<td>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:</td>
<td>07/24/18 (tentative)</td>
</tr>
<tr>
<td>Land Use, Transportation and Infrastructure Committee of the City Council:</td>
<td>08/07/18 (tentative)</td>
</tr>
<tr>
<td>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:</td>
<td>09/02/18 (tentative)</td>
</tr>
<tr>
<td>City Council Public Hearing:</td>
<td>09/24/18 (tentative)</td>
</tr>
</tbody>
</table>

Registered Neighborhood Associations (RNOs)
To date, staff has received no comment letters from Registered Neighborhood Organizations.

Other Public Comment
To date staff has received no other public comment.
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 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 criteria for review of this rezoning application include conformance with adopted regulations, and with the Comprehensive Plan and applicable supplements. Applicable documents are:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)

Denver Comprehensive Plan 2000

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

- Land Use Strategy 3-B to “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).
- Economic Activity Strategy 3-B to “Support retention and expansion of businesses in industries historically important to Denver, including small business, health care, manufacturing, and federal and state government” (p. 133).
- Economic Activity Strategy 4-B to “Enhance existing business centers and establish new business centers in a manner that offers a variety of high-quality uses that support Denver’s business environment, complements neighboring residential areas, generates public revenue, and creates jobs” (p. 134).
- Legacies Strategy 3-A to “Identify areas in which increased density and new uses are desirable and can be accommodated” (p. 99).

The proposed map amendment will enable the redevelopment of an existing commercial site with new development that is in character with the surrounding properties. The proposed 3-story height may serve as a transition between the single-family residential land uses to the north and west of the subject property and the commercial property east of the subject property where 5-story heights are allowed. With the redevelopment, the new commercial structure will be limited to a maximum 45 feet and the adjacent residential properties are limited to a maximum height of 30 feet. Where adjacent to the single-family protected zone districts, greater setbacks are required. The rezoning is consistent with the Comprehensive Plan policies that encourage development that is consistent with the character of the neighborhood, and support increasing business opportunities. The S-MX-3 zone district will allow redevelopment of an existing commercial structure that is in character with the surrounding development.
Blueprint Denver

Blueprint Denver, the City’s Land Use and Transportation Plan identifies the subject property as being within an Area of Stability with a land use recommendation of Single Family Residential.

Future Land Use

The Single Family Residential land use concept is described in Blueprint Denver as areas where "single-family homes are the predominate residential type… and the employment base is significantly smaller than the housing base" (p. 42). “A city should contain neighborhoods that offer a variety of housing types, as well as complementary land-use types such as stores, parks and schools that provide the basic needs of nearby residents…Neighborhoods are primarily residential but vary in density, size and adjacency of non-residential uses” (p. 41). The existing commercial structure on the subject property was built in 1994, prior to the adoption of Blueprint Denver. The proposed rezoning is consistent with Single Family Residential land use concept which includes the concept of an employment base or commercial services existing within residential areas. The redevelopment of an existing commercial land use provides the opportunity to add complimentary commercial land uses to the area. Given that Blueprint Denver is a citywide plan, the request is generally consistent with Blueprint Denver’s land use building block recommendations. The S-MX-3 zone district will ensure that the scale of the redevelopment and the allowed land uses are compatible with the existing neighborhood.
Area of Change / Area of Stability

As noted, the subject site is in an Area of Stability. These are areas where “preserving and revitalizing neighborhood character is the prevailing concern…Limiting overall development in the Areas of Stability helps achieve many growth management goals, while preserving the valued quality of life that is characteristic of Denver’s neighborhoods” (p. 23-25). Blueprint Denver discusses two categories of Area of Stability, Committed Areas and Reinvestment Areas (p. 122). Though the Blueprint Denver Map specifically doesn’t assign Committed or Reinvestment areas, both types of areas are described as benefiting from some level of redevelopment and reinvestment. The subject property has had a commercial land use since 1994. The mixed use zone district will update the existing commercial zone district and the zoning standards within the S-MX-3 zone district will allow reinvestment in the property. The newer zoning standards represent no change in the commercial land use of the subject property, but they will limit new development to a compatible scale with the surrounding properties, and they will allow the opportunity for new neighborhood-serving land uses.

Street Classifications

The subject property is on East Mississippi Avenue, a Commercial Arterial Street, and south Geneva Street, the adjacent side street, is an Undesignated Local Street. Commercial Arterial Streets types “are designed to balance traffic mobility and access to nearby businesses” (p. 58) and Undesignated Local Streets are tailored more to providing local access. The S-MX-3 zone district standards are geared primarily toward pedestrian-scaled, diverse mixed-use areas within neighborhoods and local or collector streets. This zone district will allow a transition between the Commercial Arterials on both East Mississippi Avenue and South Havana Street and the single family residential land uses to the north and west of the subject property.

2. Uniformity of District Regulations and Restrictions: Rezoning the site to S-MX-3 will further the uniform application of district regulations in the City. The same regulations will apply to the subject site as to all other similar areas zoned S-MX-3 in the city.

3. Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily by allowing the re-development of the property that is in character with the neighborhood in scale and intensity, and by allowing additional commercial services to be accessed by the existing neighborhood.

4. Justifying Circumstances

The applicable justifying circumstance is that since 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. For the subject property the changes include changed conditions in the surrounding area with the redevelopment of the Lowry area and surrounding area properties, and the adoption of the 2010 Denver Zoning Code and the retention of a Former Chapter 59 zone district on the subject property. The applicant cites the zoning requiring adherence to a 1994 site plan as an impediment to redevelopment of the property and the need to transition from a Former Chapter 59 zone district as the justifying changed circumstances. Recognizing the changed character of the area and the need to rezone from a Chapter 59 zone district are appropriate changed circumstances.
5. **Consistency with Neighborhood 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 which is characterized by single-unit, and multi-unit residential, commercial strips and centers, and office parks. Multi-unit building forms are typically separated from single-unit residential and consist of Duplex or Town House and occasional mid- and high-rise Apartment building forms. Commercial buildings are typically separated from residential and consist of Shopfront and General forms. Multi-unit and commercial uses are primarily located along arterial and collector streets. The 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. The Mixed Use districts are appropriate along corridors, for larger sites and at major intersections. The building form standards of the Mixed Use zone districts balance the importance of street presence and provision of adequate parking through build-to requirements, Street Level activation and parking lot screening along the right-of-way. The Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character and improves the transition between commercial development and adjacent residential neighborhoods.” The S-MX-3 zone district is a mixed use zone district intended for areas served by local or collector streets where a building scale of 1-3 stories is desired. In the S-MX-3 zone district the General and Shopfront primary building forms are allowed, as are the Drive Thru Services and Drive Thru Restaurants primary building forms subject to geographic locations.

The proposed map amendment is consistent with the mixed-use intent described in the Suburban Neighborhood Context. The proposed development will be limited to a moderate scale, will contain multiple structures on the zone lot and will be separated from single-unit residential. The mixed-use development will complement the character of existing surrounding development. The S-MX-3 zone district is consistent with both the general and specific purpose and intent of the Suburban Context and the S-MX-3 zone district description.

**Attachments:**

1. Application
2. Legal Description