



MEMORANDUM

To: Mayor Huseman and City Councilors

From: Jim Tolbert, Community Development Director
Stacy Wasinger, Planner III

Date: October 17 2022

Subject: Z-983-22: An Ordinance Rezoning Approximately 8.79 acres from Agricultural (AG) to Medium-Intensity Industrial (I-2)

Title

FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF COMMERCE CITY, COLORADO BY REZONING THE PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF E. 48th AVENUE AND IVY STREET FROM AGRICULTURAL DISTRICT (AG) TO MEDIUM INTENSITY INDUSTRIAL DISTRICT (I-2).

Summary and Background Information

The Agricultural zoning for this site was established through Commerce Town incorporation in 1955 and remained Agricultural with incorporation into Commerce City in 1962 through present. The property west of Ivy Street, encompassing 56.5 acres, was rezoned from AG to I-3 with conditions in 1975. This 8.79-acre triangle piece east of Ivy St. was not rezoned at that time. No development on either side has occurred since the Sand Creek landfill ceased operation. Environmental concerns were previously raised and remediation has been implemented. This will be updated with the Environmental Protection Agency (EPA) and Colorado Department of Public Health and Environment (CDPHE) with the proposed development.

48th and Ivy LLC requests a zone change on the property from AG to Medium-Intensity Industrial (I-2). A concurrent development plan and subdivision plat have been submitted for this parcel as well as the approximately 56.5-acre parcel west across Ivy Street. The overall development is proposed to contain six (6) warehousing and logistics buildings totaling

approximately 839,500 square feet in the Triangle Logistics Park development. The larger parcel is zoned I-3 with conditions, which will allow this use but this approximately 8.79 acre parcel requires a zone change to allow the use.

The applicant narrative states "*The property has been dormant for over 30 years as a vacant landfill with remediation operation and maintenance performed by the RPs. As a result of such remediation, methane gas level has declined, and the EPA upgraded the site into the agency's Superfund Redevelopment Program. This nationally coordinated effort provides EPA with a process to return Superfund sites to productive use.*" The applicant has worked with both EPA and CDPHE to ensure all appropriate and required remediation is implemented. The rezone from AG to I-2 for a portion of the site will allow the full development to proceed.

Formerly known as the Sand Creek Industrial Superfund site, this is the location of a former landfill, which created environmental hazards such as methane gas and soil contamination. The site was placed on the National Priority List in the 1980s due to high levels of contamination. The responsible parties implemented a Landfill Gas Extraction System and a Clean Soil Cap to provide needed remediation. The previous remediation of the site led to its removal from the National Priority List in 1996; the site has had continued monitoring from the EPA and remediation since that time. A use-restrictive environmental covenant was placed on portions of the overall site and required modification. The site was moved to the Superfund Redevelopment Initiative, in coordination with the EPA, due to the success of remediation efforts. Both the work plan and the environmental covenant, known as a Notice of Environmental Use Restriction (NEUR), have been approved and signed by the EPA and CDPHE. The NEURs amend the previous environmental covenant, which did not allow for the proposed use. In conjunction with the approved work plan, the NEURs allow this use and provide for on-going monitoring and remediation of the site. The NEURs will be recorded with the closing of the property to the new purchaser/developer. The work plan does not require recordation and is finalized.

The current zoning district allows limited land uses and has been sufficient for the remediation phase of the site. The Comprehensive Plan and Future Land Use Map call for this area to be industrial, and the rezone will be compliant with that document. The new allowed uses are typical to medium intensity industrial, including distribution and logistics to accommodate the full development east and west of Ivy St. This is compatible with the overall area and surrounding industrial development.

A concurrent development plan (D-539-22) and subdivision plat (S-829-22) are under administrative review. Review of those submittals is concurrent; the rezoning of the 8.79 acres is required to finalize those reviews. In addition, the approval criteria for a development plan and plat will require that the NEURs be recorded prior to final approval of those applications. The proposed development is compatible with the existing uses and industrial development in the area.

Staff Responsible (Department Head)

Jim Tolbert, Community Development

Staff Member Presenting

Stacy Wasinger, City Planner

Financial Impact

N/A

Funding Source

N/A

Planning Commission Recommendation

On September 6, 2022, the Planning Commission held a public hearing, took testimony, and voted (5 to 0) to forward the zone change request to remove the zoning conditions to City Council with a recommendation for approval, subject to the findings of fact.

Alternative:

One option would be for City Council to approve the request subject to conditions; a second option would be for City Council to deny the request.

Suggested Motion

I move that the City Council enter a finding that the requested Zoning for the subject properties contained in case Z-983-22 meets the criteria of the Land Development Code and, based upon such finding, approve the zone change of approximately 8.79 acres to I-2.