



STAFF REPORT

Planning Commission

CASE #Z-943-17

PC Date:	November 8, 2017	Case Planner:	Jenny Axmacher
CC Date:	November 20, 2017		
Location:	Property generally located on the north and south side of East 84th Avenue west of Ulster Street; the northeast of Ulster Street and East 83rd Avenue; and a portion of the adjacent property at Ulster Street and East 83rd Avenue		
Applicant:	Mid-Rail Real Estate, LLC	Owner:	Applicant and Elite Transport Services, Inc.
Address:	6000 Jensen Drive Houston, TX 77026	Address:	11829 Columbine St. Thornton, CO 80233

Case Summary

Request:	Annexation zoning of a portion of the property from ADCO A-1 to PUD (Planned Unit Development) as well as the rezoning of additional property from I-2 to PUD.
Project Description:	The applicant is proposing to rezone the subject property in order to develop a rail-served industrial park. The PUD will allow for the industrial development to be served by a rail spur off of the Burlington Northern Santa Fe Railroad that runs west of Highway 2 in this area. It will also allow the applicant to make slight alterations to the development's allowed uses, bulk standards, fencing and landscaping to facilitate a more comprehensive industrial development. The case is being processed concurrently with case V-87-17, a request to vacate a portion of Ulster Street between East 83rd Avenue and East 84th Avenue to eliminate a rail spur crossing of the public right-of-way in this area.
Issues/Concerns:	• Compliance with the Comprehensive Plan • Rail spur • Landscape requirements • Road connectivity
Key Approval Criteria:	• Compliance with the Comprehensive Plan • Compliance with the PUD approval criteria
Staff Recommendation:	Approval with Conditions
Current Zone District:	I-2 (Medium Intensity Industrial District) and ADCO A-1
Comp Plan Designation:	General Industrial and Industrial/Distribution

Attachments for Review: *Checked if applicable to case.*

- | | |
|---|---|
| ☒ Applicant's Narrative Summary | ☒ Vicinity Map |
| ☒ PUD Zone Document | ☒ Traffic Study |

Background Information

Site Information

Site Size:	54+/- acres
Current Conditions:	Intsel Steel warehouse under construction and undeveloped land.
Existing Right-of-Way:	Ulster Street, E. 84 th Avenue, and E. 83 rd Avenue
Neighborhood:	Irondale
Existing Buildings:	A steel warehouse is under construction on the northern portion of the site. There are existing storage buildings on the property being annexed known as the White property.
Buildings to Remain?	☒ Yes ☒ No Warehouse will remain. White property structures will be demolished.
Site in Floodplain	☐ Yes ☒ No

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Public	Commerce City Municipal Services Building	Public
South	N/A	Vacant	I-1
East	Residential & Industrial	Single-Family homes located in Adams County and the Burlington Northern Santa Fe Railroad	ADCO & I-2
West	Residential & Industrial	Single-Family homes located in Adams County, Single-Family homes in Commerce City, and industrial users	ADCO, I-1, & I-2

Case History

The relevant case history for the property is provided below.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
AN-20-79	5/7/79	Annex 15+/- acres, including the subject property of this application south of E. 84 th Avenue.	Approved
Z-205-79	9/10/79	Zoned the subject property in AN-20-79 Agricultural after its annexation.	Approved
AN-65-85	12/2/85	Annex 97+/- acres, including the subject property of this application north of E. 84 th Avenue.	Approved
Z-358-85	12/16/85	Zone the west half of the subject property north of E. 84 th Avenue to I-1.	Approved
Z-391-86	3/17/86	Zone the east half of the subject property north of E. 84 th Avenue to Agricultural.	Approved
Z-716-99	12/6/99	Rezone the subject property of this application south of E. 84 th Avenue from Agricultural to I-2.	Approved with Conditions
Z-716-99-01	8/6/01	Amend a previous condition of Z-716-99.	Approved with Conditions
Z-929-16	3/7/16	Rezone 55+/- acres to I-2.	Approved
AV-1735-16	5/10/16	A front setback variance to increase the front setback.	Approved

AN-20-79:

- In May of 1979, City Council voted to annex 15+/- acres in the Irondale neighborhood. The subject property located south of E. 84th Avenue was included in this annexation.

Z-205-79:

- In September of 1979, City Council voted to zone the annexed property in AN-20-79 to Commerce City Agricultural.

AN-65-85:

- In December of 1985, City Council voted to annex 97+/- acres in the Irondale neighborhood. The subject property located north of E. 84th Avenue was included in this annexation.

Z-358-85:

- In December of 1985, City Council approved the annexation zoning (via AN-65-85) for the west half of the subject property north of E. 84th Avenue to I-1.

Z-391-86:

- In March of 1986, City Council approved the annexation zoning (via AN-65-85) for the east half of the subject property north of E. 84th Avenue to Agricultural.

Z-716-99:

- In December of 1999, City Council approved the rezoning of the subject property located south of E. 84th Avenue from Agricultural to I-2, subject to conditions. The conditions of the rezoning were based on the proposed development of the property for Mini Storage.

Z-716-99-01:

- In August of 2001, City Council approved an amendment to one of the zoning conditions from Z-716-99.

Z-929-16:

- In March of 2016, City Council approved a rezoning of 55+/- acres of the subject property to I-2.

AV-1735-16:

- In May of 2016, the Board of Adjustment approved an increase to the maximum front setback from 75-feet to 100-feet because of the size of the drainage pond along the front property line.

Applicant's Request

The applicant states the purpose of the Intsel Properties PUD is to create a railroad served, multi-lot industrial project in the Irondale area of Commerce City, featuring large scale industrial manufacturing and distribution uses such as the INTSEL Steel West warehouse and distribution facility with outdoor storage and warehousing capabilities. Products are to be delivered and distributed by rail and by truck throughout the Denver Metropolitan area and the Colorado region. Use and development standards are as allowed by the City's I-2 Zoning classification with the additional allowance for rail service and other related uses as outlined in this document. Additionally, the PUD provides standards to facilitate a master planned multi-use industrial park with some flexibility in front setback, and building height. The Xeriscape landscape standards outlined in the PUD Zoning document shall apply for development occurring in the subject areas, in order to allow on-site storm water retention facilities and appropriate amounts of landscaping in the Irondale area.

In conjunction with the operation of the Intsel Steel facility, a railroad spur is planned to be constructed which will connect into the Burlington Northern Santa Fe Railroad. As shown on page two of the proposed PUD document, it is anticipated that the White parcel will be combined with the rail acquisition parcel via the City's Administrative Plat process. This minor plat will be submitted to the City, as soon the ultimate road section for 84th Avenue has been identified. When combined with the .25 acre parcel referred to as the rail acquisition parcel, the newly created lot will be used to provide a rail spur connection which will connect the 52 acre Intsel Steel development to the Burlington Northern Railroad.

Development Review Team Analysis

Project Details

The applicant describes the project as a rail-served multi-lot industrial project in the Irondale area of Commerce City that features large scale industrial, manufacturing, and distribution with outdoor storage and warehousing capabilities. Products are to be delivered and distributed by rail and by truck throughout the Denver Metropolitan area and the Colorado region.

Figure 1.1



Proposed Uses

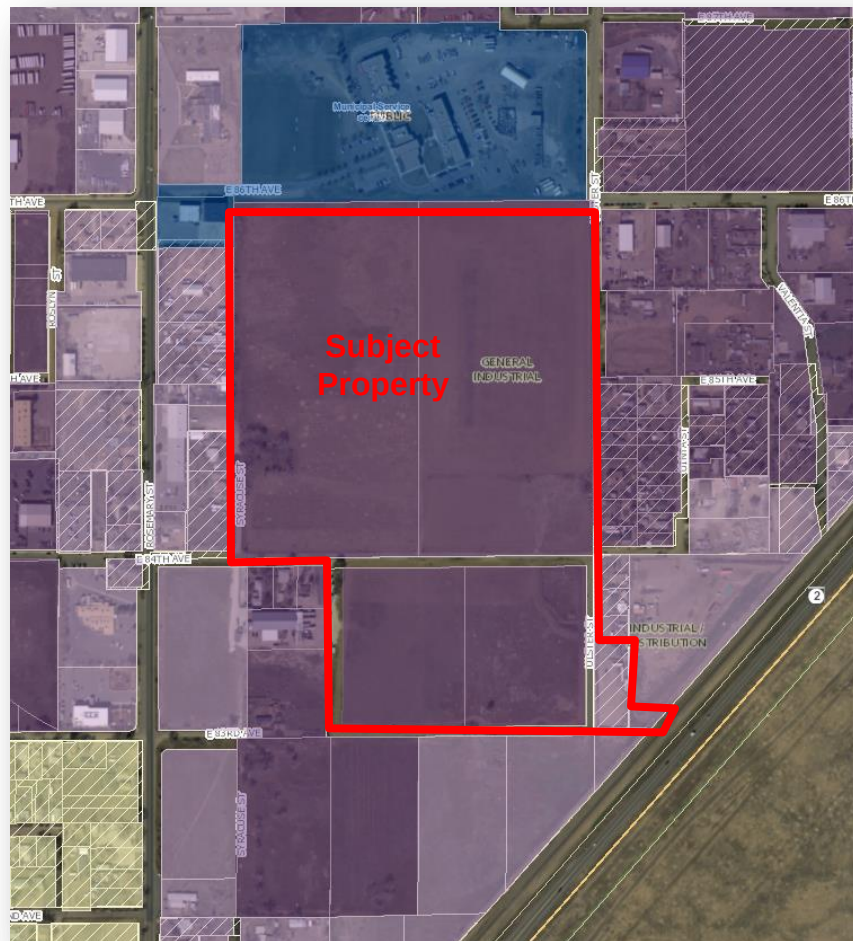
The applicant is proposing a modified version of the I-2 Medium Intensity Industrial Zone District. Specifically, the applicant is proposing to mirror the I-2 zoning designation found in the LDC, with the additional uses-by-right of fabricated metal product manufacturing; boiler tank and shipping container manufacturing; veneer, plywood, and engineering wood product manufacturing; railroad spur lines and rail transport support facilities not including rail yards. The applicant's intent is to create an industrial development that is attractive to the market while not going to the full extent of allowing I-3 Heavy Intensity Industrial Zone District uses.

Comprehensive Plan

The majority of the subject property is designated for General Industrial uses with a portion of the property designated for Industrial Distribution uses. The General Industrial classification is intended for medium to heavy industrial uses (I-2 and I-3 zoning designations) and is generally accessed off of collector or arterial streets or highways and may have railroad access (Table 3.1 of the Comprehensive Plan). The Industrial Distribution classification is intended for light industrial uses (I-1 zoning designation) and is generally accessed off of arterial streets or highways or collectors via truck routes (Table 3.1 of the Comprehensive Plan). The

request for I-2 type uses is consistent with the Future Land Use Plan for the areas designated for General Industrial uses and the areas with the Industrial Distribution designations will be where the rail spur is proposed and will not have other industrial uses. The DRT believes the request is consistent with the Future Land Use Plan.

Figure 1.2



Proposed Development Concept and PUD Concept Schematic

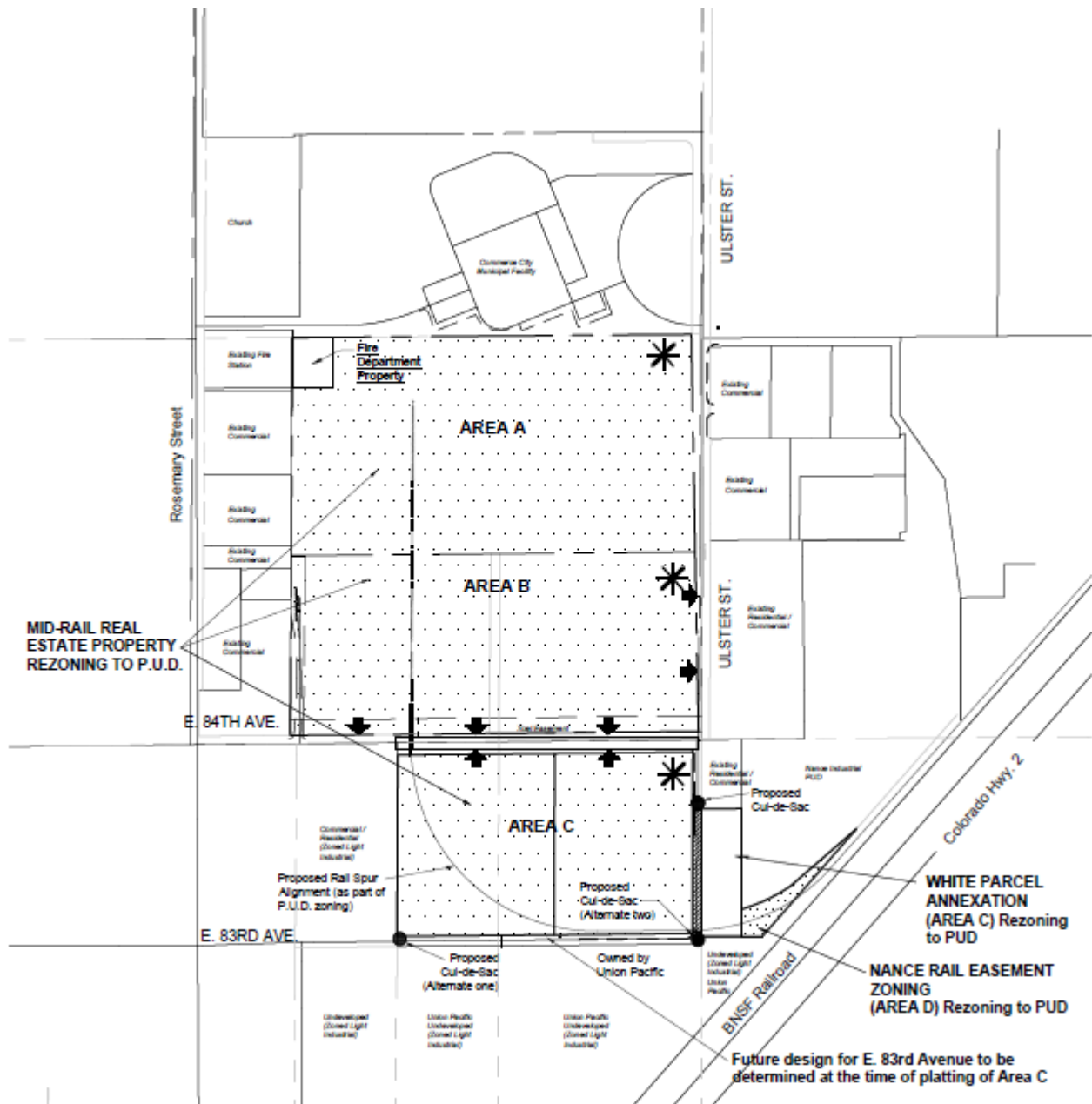
During the Planning Commission's review of the rezoning request in Z-929-16, the applicant provided a preliminary site plan for the subject property that provided the foundation for the PUD zone designation (Figure 1.3).

Figure 1.3



Since the approval of Z-929-16, the applicant has completed development plan and subdivision applications to begin construction on their new building at 8573 Ulster Street (Lot 1 in Figure 1.3), they have negotiated the purchase of the of the Unincorporated Adams County Parcel at the northeast corner of E. 83rd Avenue and Ulster Street, they have negotiated an easement agreement with the option to purchase the property at the southern end of Parcel 172100000025 (see *Easement Information* below for details), and they have begun design with the Burlington Northern and Santa Fe Rail Road (BNSFRR) to implement a rail spur on the subject properties. Through the acquisition of additional property and the design work with the BNSFRR the applicant has submitted the PUD Zone Document that is before the Planning Commission (Figure 1.4).

Figure 1.4



Planning Commission previously reviewed the PUD Concept Schematic for this site on April 4, 2017. Feedback from Planning Commission on the concept schematic helped to inform the final PUD Zone Document currently under consideration.

PUD Zone Document

As part of the PUD zoning, the applicant is proposing the following deviations from the City's I-2 Medium Intensity Industrial Zone District and general LDC (Land Development Code) standards.

Bulk Standards:

The applicant is proposing that the bulk standards within the development be the same as the I-2 bulk standards except that there would be no maximum front setback, the maximum building height will be 60-feet, the minimum side yard setback would be increased, and there would be no minimum lot size.

The DRT feedback regarding the modified bulk standards is that there is value in modifying the setback requirements because the development will need to account for regional drainage. As evidenced by the approved Variance in AV-1735-16, the size of the regional drainage ponds is so large that modifying the setback requirements has validity. Additionally, the development is envisioned to accommodate large warehouse operations which may require taller buildings than would be standard in the I-2 zone district. The DRT is supportive of the proposed modifications.

Landscaping:

As mentioned earlier, the applicant intends to develop the property for large scale industrial uses. Therefore, the applicant has proposed to modify the landscape standards for industrial properties. Of note, the applicant is proposing to modify the landscape requirements for the minimum plant counts based on the overall landscape square footage, and the landscape requirements for detention/retention ponds. Specifically, the applicant has proposed that the minimum plant counts based on the overall landscape area be 1 tree and 3 shrubs for every 1,200-square feet of landscape area (the LDC standard for lots over 5 acres is 1 tree per 1,200-square feet and 1 shrub for every 300-square feet), and that detention/retention ponds be required to have 1 tree and 7 shrubs per 100 linear feet of pond perimeter (the LDC standard is 1 tree and 10 shrubs per 50-feet of pond perimeter). The applicant has also proposed a graduated scale for the landscaping so the noted standards would apply to lots 1 acre in size or less while lots between 1 and 5 acres in size would require slightly less landscaping and lots greater in 5 acres would have the least amount of plantings required in the landscape areas. The applicant was originally proposing alterations to the tree lawns however this change was removed based on Planning Commission's feedback during the PUD Concept Schematic review.

The DRT understands that the applicant envisions large lot development for industrial users and is not opposed to tweaking the landscape requirements to accommodate large lots. Due to the infrastructure circumstances of the Irondale neighborhood and the associated costs for improvements, perhaps modified landscape standards in this neighborhood are appropriate when they may not be in other neighborhoods that do not have the same infrastructure challenges. The DRT believes the proposed standards strike a balance between providing enough landscaping to create a visually appealing site with tree-lined right-of-way while not creating a financial burden on the developer.

Fencing/Outdoor Storage:

The applicant is proposing an increased fencing height of 10-feet with the ability to have outdoor storage of 10-feet along interior property lines not adjacent to right-of-way. The applicant also includes the option to increase the fence height on the western perimeter fencing so long as the fencing would occur outside of the front setback of a building. The fencing requirements for front yard fences and side and rear yard fences along rights-of-way remain as allowed in the LDC (6-feet).

The DRT is not necessarily opposed to a fence height of 10-feet for interior side and rear property lines. The DRT also believes that the height of outdoor storage should not exceed the height of the screen style fence unless allowed by the LDC.

Connectivity:

The applicant has proposed to maintain the existing street network with one exception. That exception would be to vacate a portion of Ulster Street from E. 83rd Avenue to the north end of their property currently located in Unincorporated Adams County. The applicant has made this proposal in order to consolidate their property in this area and eliminate train impacts to the road network. The applicant is proposing to cul-de-sac E. 83rd Avenue in order to maintain access to the properties on the south side of E. 83rd Avenue and cul-de-sac Ulster Street at the north side of their property in Unincorporated Adams County in order to maintain access to the other property in Unincorporated Adams County. The rail spur will cross East 84th Avenue which will result in brief closures of the roadway to through traffic during the crossings.

The DRT is not opposed to the proposed vacation of Ulster Street. The proposal maintains access for all properties in the area and would allow the applicant to consolidate their property. Additional information regarding the Ulster Street vacation is contained in case V-87-17.

The applicant will need approval from the Public Utilities Commission (PUC) as well as the city for the railroad crossing across E. 84th Avenue. These approvals will occur through a separate process other than the PUD Zoning. The City's Public Works Department is reviewing quiet zone triggers for the crossing as well as the infrastructure improvements required to create a safe crossing.

Rail Spur:

As previously stated, the applicant intends to develop their property as a rail-served industrial park. The Land Development Code (LDC) requires any new rail spur to be approved through the CUP process. By having the rail spur approved as a use-by-right through a PUD Zone Document, the applicant and future users will have assurances that their need for rail will be accommodated. The rail spur will cross East 84th Avenue which will result in brief closures of the roadway to through traffic during the crossings. The applicant is proposing to eliminate the second roadway crossing by vacating a portion of Ulster Street through case V-87-17.

The DRT is not opposed to the proposed rail spur as a use-by-right in order to give the property owner and future users assurances of rail access because the future PUD Zone Document will allow the development to be planned comprehensively and ensure that any potential adverse impacts related to the rail spur will be mitigated to the maximum extent feasible. The final alignment and construction of the rail spur will be reviewed by staff prior to approval as well as the required crossing of East 84th Avenue noted above.

At this time, the applicant has negotiated an easement across the southern end of Parcel 172100000025 in order to plan for rail access for the development. The easement was negotiated with language that the applicant could purchase the easement property at a future date. The applicant intends to purchase the easement however the purchase could not be completed prior to the review and approval of the PUD Zone Document so the current property owner for this portion of the proposed spur, Elite Transport Services, Inc., is listed as a property owner for this case. Once the easement property is purchased, it must be consolidated into the adjacent property to the west known as the White Property, the portion of property being annexed and zoned concurrently in this case, in order to comply with the City's subdivision regulations. This requirement is proposed to be a condition of approval of this case.

Infrastructure:

As previously eluded to, the infrastructure in Irondale is inadequate to accommodate new development. As portions of the subject property are developed, improvements will be made to things like streets, water lines, power, and drainage. While existing conditions do not meet the current standards of the City or the needs of the neighborhood, future development will make improvements that will benefit the subject property as well as the general neighborhood.

Neighborhood Meeting

The applicant conducted a neighborhood meeting on August 15, 2017 at the City's Municipal Service Center. Approximately a dozen adjacent property owners attended. The proposed PUD zoning and Ulster Street vacation were discussed. Those in attendance were generally supportive of the street vacation and development. There were some concerns expressed about the noise and vibration of the trains using the proposed rail spur as well as the amount of time the trains would block East 84th Avenue during crossings.

Next Steps:

While obtaining the requested zoning is critical in the development process, there steps that the applicant will need to complete prior to installing the rail spur and developing additional buildings. The applicant will need to amend their existing approved development plan for their warehouse building to show plans for the rail spur. The rail spur must also be approved by the PUC. The easement property must be consolidated by plat into the

property to the west. Any further development on the site must go through administrative review in the PUD Development Permits process.

Outside Agency Review:

Staff referred this application to several departments in the city as well as outside agencies. All of the responses that were received indicated that the proposed PUD would not create conflicts with their regulations and no objections have been received. The applicant, the city, and the South Adams County Fire District (SACFD) have worked closely to ensure that the allowed uses, and bulk standards meet their requirements.

Summary:

In summary, the DRT has determined that the request meets the approval criteria for a PUD Zone Document outlined in the LDC as provided below, the proposal meets the Comprehensive Plan goals, and the proposal is appropriate given the surrounding Irondale Neighborhood. After performing this analysis, the DRT is recommending that the Planning Commission forward a recommendation for **approval, with one condition** to City Council.

Criteria Met?	Sec. 21-3251. PUD Zone Documents	Rationale
☒	The PUD zone document is consistent with all applicable City adopted plans or reflects conditions that have changed since the adoption of such plans	The City's plan for the subject property is General Industrial Development. The proposed PUD is designed to provide this type of development.
☒	The PUD zone document is consistent with the PUD concept schematic	The PUD is consistent with the concept plan that was done in the Spring of 2017.
☒	The PUD achieves the purposes set out in section 21-4370 and represents an improvement over what could have been accomplished through straight zoning.	The proposed PUD achieves the purposes identified in Section 21-4370. The customized zoning allows for a rail-served development that is sensitive to adjacent property as identified in the Comprehensive Plan.
☒	The PUD complies with all applicable city standards	The proposed PUD meets the applicable City standards and includes language that any item governed by the Land Development Code (LDC) and not addressed by the PUD shall default to the future Design Standards or LDC.
☒	The PUD is integrated and connected with adjacent development	The property has been integrated with adjacent property as outlined above.
☒	To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts	The PUD has been created to minimize impacts to adjacent property. The PUD Zoning allows for the site to be developed in a comprehensive manner that is considerate to the adjacent development.
☒	Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development	The development of the site will upgrade existing utilities and infrastructure on the site and have no impact to existing services.
☒	The objectives of the PUD could not be accomplished through height exceptions, variances, or minor modifications	The primary objective of this PUD is to create a rail-served industrial park. This could not be achieved through a straight zoning designation without additional approvals such as a conditional use permit and would not guarantee a uniformity to the development.

Comprehensive Plan

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 1a	<u>Future Land Use Plan (FLUP) as a Guide:</u> Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code (LDC).
<u>Analysis:</u>	The FLUP identifies the subject property for a General Industrial development. The proposed zoning is to create this type of development.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 1d	<u>Coordinated Rezoning:</u> Coordinate rezoning of multiple parcels together in key locations to implement the coordinated pattern on the FLUP.
<u>Analysis:</u>	The proposed PUD Zone Document will help the properties redevelop in alignment with the FLUP.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 2a	<u>Infill Incentives</u> Provide incentives for infill development and redevelopment (e.g., streamlined review process, rebated or reduced fees, or relaxed standards to allow for infill).
<u>Analysis:</u>	The PUD zoning and associated vacation case address issues that make this infill development feasible where without these tools, the project might not be able to move forward.	

The Comprehensive Plan supports the type of development proposed for this site by encouraging infill development that adheres to the Future Land Use Plan and incorporates the rezoning of multiple parcels.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a PUD Zone Document set forth in the Land Development Code and recommends that the Planning Commission forward the PUD Zone Document request to the City Council with a favorable recommendation, subject to the following condition(s):

CONDITIONS:

- A. The applicant must plat the property for the rail spur (Area D) and consolidate it into the White property (Area C) prior to the issuance of a building permit for a structure on either parcel.

Recommended Motion

To recommend approval subject to condition(s):

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested PUD Zone Document for the property located at **the north and south side of East 84th Avenue west of Ulster Street; the northeast of Ulster Street and East 83rd Avenue; and a portion of the adjacent property at Ulster Street and East 83rd Avenue** contained in case **Z-943-17** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the PUD Zone Document subject to the following conditions:

- A. The applicant must plat the property for the rail spur (Area D) and consolidate it into the White property (Area C) prior to the issuance of a building permit for a structure on either parcel.

Alternative Motions

To recommend approval:

I move that the Planning Commission enter a finding that the requested Zone Change for the property located at **the north and south side of East 84th Avenue west of Ulster Street; the northeast of Ulster Street and East 83rd Avenue; and a portion of the adjacent property at Ulster Street and East 83rd Avenue** contained in case **Z-943-17** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the PUD Zone Document.

To recommend denial:

I move that the Planning Commission enter a finding that the requested Zone Change for the property located at **the north and south side of East 84th Avenue west of Ulster Street; the northeast of Ulster Street and East 83rd Avenue; and a portion of the adjacent property at Ulster Street and East 83rd Avenue** contained in case **Z-943-17** fails to meet the following criteria of the Land Development Code:

List the criteria not met

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the PUD Zone Document.

To continue the case:

I move that the Planning Commission continue the requested Zone Change for the property located at the north and south side of East 84th Avenue west of Ulster Street; the northeast of Ulster Street and East 83rd Avenue; and a portion of the adjacent property at Ulster Street and East 83rd Avenue contained in case Z-943-17 to a future Planning Commission agenda.