



STAFF REPORT

Planning Commission

CASE #Z-956-19

PC Date:	May 7, 2019	Case Planner:	Stacy Wasinger
CC Date:	June 3, 2019		
Location:	8705 Rosemary Street Commerce City, CO 80022		
Applicant:	Cadence Development	Owner:	Frank and Julia Agazio
Address:	6400 S. Fiddler's Green Circle STE 1820 Greenwood Village, CO 80111	Address:	8705 Rosemary Street Commerce City, CO 80022

Case Summary

Request:	Rezone from AG to I-1
Project Description:	The Rezone application proposes to rezone 2.33 acres from AG to I-1. A concurrent subdivision application has also been submitted and is in the administrative review process. The Subdivision Plat application proposes to divide the existing approximately 6.7 acre parcel into 2 lots and a tract. Proposed lot 1 and tract A, totaling approximately, 2.33 acres are requested to be rezoned to I-1. Proposed lot 2 would remain AG and the residential structures would remain. A Development Plan Permit has also been submitted and is in the review process for a 7-11 gas station and convenience store on the 2.33 acres proposed to be rezoned to I-1.
Issues/Concerns:	Consistency with Comprehensive Plan and Irondale Plan
Key Approval Criteria:	• Zone change approval criteria • Compatibility with Comprehensive Plan • Compatibility with surrounding area and need for I-1 zoned property
Staff Recommendation:	Approval with Conditions
Current Zone District:	I-1 (Light Intensity Industrial District)
Comp Plan Designation:	General Industrial

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

- | | |
|--|--|
| ☒ Applicant's Narrative Summary | ☒ Vicinity Map |
| ☒ Development Review Team Recommendation | ☒ Neighborhood Meeting Notes |
| ☒ Site Plan (Draft pages) | ☒ Proposed Subdivision Plat |
| ☒ Traffic Impact Study draft | |

Background Information

Site Information

Site Size:	6.6985 acres total subdivision, 2.33 acres of that to be rezoned
Current Conditions:	Residential and accessory uses on southern portion of parcel, portion to be rezoned is currently vacant
Existing Right-of-Way:	88th Avenue to the north, Rosemary Street to the east
Neighborhood:	Irondale
Existing Buildings:	Single-family detached house and accessory outbuildings on southern portion of parcel (to remain AG zoning)
Buildings to Remain?	☒ Yes ☐ No
Site in Floodplain	☐ Yes ☒ No

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Undeveloped	88 th Avenue, Union Pacific Railroad	PUBLIC
South	Residential	Current owner's residence	AG
East	Commercial	Rosemary Street, Drive-in movie theater	PUD
West	Undeveloped	Union Pacific Railroad	I-1

Case History

The entire approximately 6.7 acre parcel was zoned to Agricultural (AG) when it was annexed into the City in 1980. The southern portion of the property is currently developed as a single family residence with accessory structures and is not proposed to change use or zoning with this application. The northern portion of the parcel is currently undeveloped. The applicant proposes to subdivide and rezone this portion of the property (approximately 2.33 acres).

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
Z-256-80	December 15, 1980	Annexation rezone from A-1 Adams County to Agricultural (AG)	Approval

Applicant's Request

The applicant, Cadence Development, and the property owner are requesting the rezone of 2.33 acres of this property, shown as Lot 1 and Tract A on the attached proposed plat. The applicant intends to develop this property as a convenience store and fuel sales facility. The most recent draft development site plan is attached for reference; these reviews are ongoing and will have to meet all code requirements before final approval. The applicant requests this rezone to bring the property into closer conformance with the Future Land Use Plan of the Irondale Neighborhood and Infrastructure Plan and to develop the property with an appropriate use. The applicant's narrative states that the *"proposed Zoning Change contributes to the mix of uses by adding a complimentary service to the industrial, office and other surrounding businesses."* Further, the applicant's narrative contends that the *"project sits in the middle of the major transportation corridors that are more compatible with industrial and commercial uses."* The applicant concludes *"we respectfully request that the property located at 8705 Rosemary Street; parcel #: 0172128202002 be reclassified to I-1 Light Intensity Industrial. It is our belief that this reclassification will be in the benefit of the city, residential and businesses surrounding this area."*

Development Review Team Analysis

The Development Review Team (DRT) began by reviewing the request to rezone from AG to I-1 against the goals found in the City's Comprehensive Plan. That analysis is provided below:

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 1.1	Growth and Future Land Use Plan Consistency To implement this plan, ensure future development is consistent with the Future Land Use Plan and map.
<u>Analysis:</u>	In this case, the recently adopted Irondale Neighborhood and Infrastructure Plan provides an updated Future Land Use Plan for this area. The proposed I-1 zoning, with conditions, is consistent with the General Industrial designation. Rezoning this portion of the property will allow for future commercial and light industrial development that is more consistent with the Future Land Use map than the current AG zoning.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	LU 3.3	Compatible Uses in all Neighborhoods
<u>Analysis:</u>	The proposed I-1 zoning and fuel facility use is appropriate for this corner lot in an area that is developing to be primarily mixed industrial and commercial uses. The current residential use on the southern portion of the property is the current owner requesting this rezone. The property will be buffered as required and is compatible with the surrounding uses and location.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use	4.3	Irondale New Employment/Business Center
<u>Analysis:</u>	Rezoning the property to I-1 will allow new commercial or light industrial uses to develop on this property, as indicated in the Comprehensive Plan. The proposed fuel station will serve both the existing neighborhood and commuters on Rosemary Street and 88 th Avenue.	

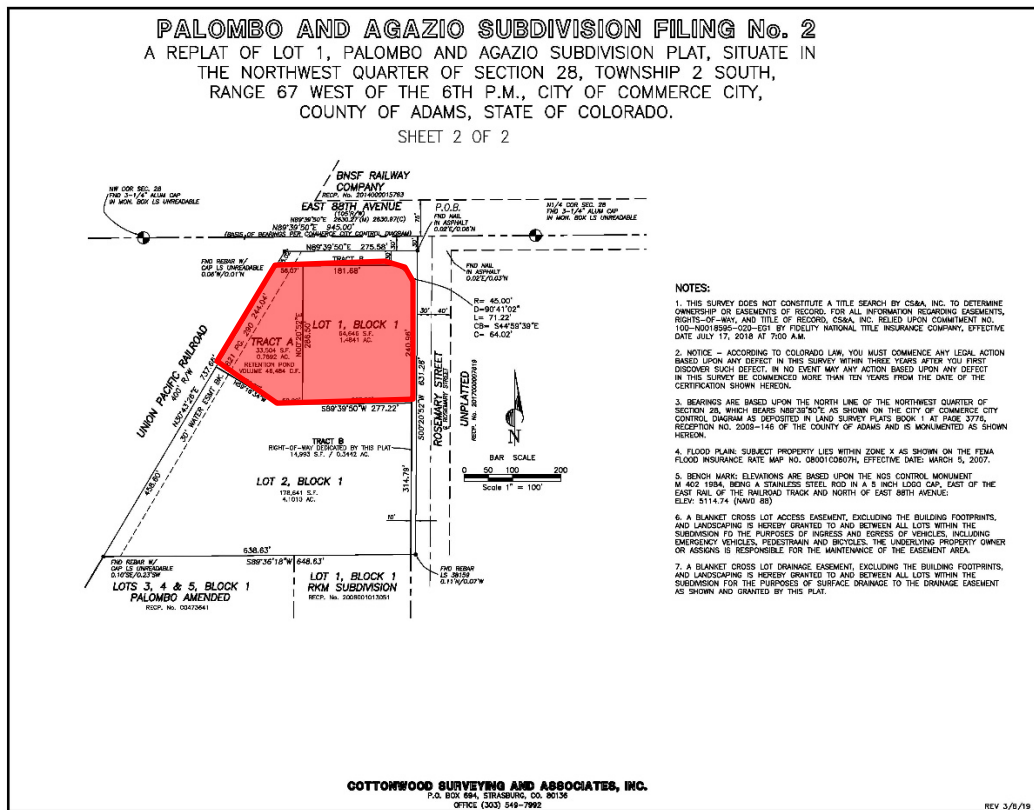
The subject property is located on the southwest corner of 88th Avenue and Rosemary Street. The Development Review Team (DRT) has reviewed the rezone request with the approval criteria for a zone change. The following analysis addresses the current conditions, requirements, approval criteria for a zone change, and the recommendation of city staff based upon the analysis.

Current conditions:

After determining that the proposal meets the Comprehensive Plan criteria above, DRT examined the history of this use at this site and why the rezoning was appropriate. The property has previously been used for residential and agricultural purposes. However, the 2.33 acres on the corner of Rosemary Street and 88th Avenue proposed to be rezoned is currently vacant and is in an ideal location for development at the intersection of two well-traveled roads. As the Irondale Neighborhood and Infrastructure Plan states, much of the residential left in this area has been transitioning due to the Union Pacific Rail Road (UPRR) buying property and future potential changes, including a potential future rail spur. This Plan also indicates most of the Irondale area should have a future land use of general industrial or mixed commercial and industrial. Additionally, 88th Avenue is currently undergoing a National Environmental Policy Act (NEPA) study to determine the best course of action to widen that road from Highway 2 on the east to I-76 on the west. The intersection of Rosemary Street and 88th Avenue will be important to planning the future road conditions of the area. The future proposal for 88th Avenue may also include a grade-separated railroad crossing that will impact this property and make I-1 zoning more appropriate for development. This property is also identified in the Urban Drainage and Flood Control District's (UDFCD) master plan as providing some regional drainage for the

Irondale neighborhood. Staff has met with both UDFCD and the applicant to discuss future conditions and the need for regional and on-site drainage. The Irondale Neighborhood and Infrastructure Plan indicates a preference for regional drainage solutions but acknowledges “[u]ntil such time as funding can be secured, Individual On-Site detention may be used to address drainage issues for development projects. Due to this interim approach, properties that may have the potential to site a regional detention pond as depicted in the Denver Urban Drainage Map will not be precluded from developing the site based on preservation of the regional drainage potential, causing issues later on should these sites not be purchased (by the City) before development occurs.” The applicant will be required to meet all current code requirements for drainage and on-site detention, but the regional drainage concerns will not halt the development. Staff and UDFCD will continue discussions regarding regional drainage and an implementation plan, outside of this particular application.

Figure 1: Proposed Subdivision Plat (area to be rezoned highlighted in red)



Requirements

The subject property to be rezoned is approximately 2.33 acres in size, from the overall approximately 6.7 acres currently zoned AG. Based on the applicant's request to rezone the property from AG to I-1, the property shall be in compliance with the I-1 bulk standards. The submitted subdivision plat proposes that the existing property be subdivided into two lots and a tract for drainage. Only proposed lot 1 and tract A are requested to be rezoned to I-1; proposed lot 2 will remain AG zoning (see Figure 1). Because the subdivision plat is still in development review and only a portion of the entire current property is proposed to be rezoned, Staff recommends a condition on the rezone that the final plat be recorded within 6 months of the rezone action. This will allow the zone change to move forward while the plat is processed but also ensure that there is not a split zone or other issue if the plat is not completed as intended.

The applicant has also submitted a concurrent development permit application for a convenience store and fuel facility. This is a permitted use in the I-1 zone. The proposed use would add a needed commercial use to serve the existing uses and traffic in this area, which does not have many commercial services available. If the zone change is approved, this development will still be required to meet all city standards and requirements prior to issuance of a development permit. These standards include adequate parking, circulation, emergency access, and land use. The submitted development plan application proposes an approximately 4,600 square foot convenience store, 2,000 square foot gasoline canopy, and 1,000 square foot diesel gas canopy. The convenience store is located on the corner of 88th Avenue and Rosemary Street, with the gasoline canopy south of the building and the diesel canopy to the west. Parking is proposed to the side and rear of the building. The proposed site layout includes right in/right out access from 88th Avenue and full access from Rosemary Street; Public Works is reviewing these proposed accesses and they will meet all code requirements. The proposed access onto Rosemary Street would allow shared access with lot 2 to the south, when that property is rezoned and redeveloped in the future.

The draft traffic impact study submitted with the development plan estimates an additional 2,875 average daily vehicle trips (ADT) will be generated by this use. Currently, 88th Avenue carries approximately 16,000 ADT on the west side of the intersection with Rosemary Street and 7,500 ADT on the east side of that intersection. Rosemary Street carries an estimated 11,000 ADT. The traffic study indicates that peak AM and PM are the heaviest use of the adjacent roads and that pass-by trips (i.e. cars entering and leaving the site traveling in the same direction) will account for approximately 56% of the trips generated by this use. The study states that the intersection of 88th Avenue and Rosemary Street currently operates at a level of service (LOS) E/D in the peak hours and the additional traffic will lower the level of service to F/D. It suggests that *“LOS D is generally the benchmark for acceptable signalized intersection operations during the weekday peak hours”* and *“LOS F at unsignalized intersections is often normal for the average weekday peak hour.”* With the proposed future widening of 88th Avenue that is currently being studied, the future conditions at the intersection will be addressed as well. This traffic study proposes a right turn lane for acceleration/deceleration on 88th Avenue for the approach to the site access and continuing to the intersection with Rosemary Street as a mitigation measure for the additional traffic. It also suggests that the right turn lane continue on Rosemary Street into the site access and a left turn lane on Rosemary Street into the site access. With these improvements, the study concludes that the adjacent roads can absorb the additional traffic and operate at an acceptable level of service.

A neighborhood meeting was held by the applicant on March 20, 2019 (applicant's summary attached), with 3 attendees in addition to the applicant, property owners, and staff. The owners of the drive-in theater across Rosemary Street attended the meeting. Their primary concerns were about the operation of the future use, including lighting and traffic. In regards to lighting, they wanted to be sure that no light would be directed at their property or interfere with the theater operations; the applicant assured them that the operations would not create lighting issues. City code also contains standards to address this concern that will be required to be met. In terms of traffic, they stated their property sometimes creates backed-up traffic and wanted to be sure that the future conditions would not be worse or unsafe. The applicant addressed those concerns and will be required to meet city code requirements. The drive-in owners also indicated that sometimes people park on the current vacant lot when the theater is full to watch the movies and hoped the new development would prevent that from occurring. The final issue of concern was drainage, and ensuring that the new development will not create worse conditions for the theater. In order to meet code requirements, the new development will have to address on-site drainage and accommodation of current and future drainage conditions; in

part, this is addressed with swales around the building and a detention pond to the west of the proposed development. One other attendee identifying herself as a community member was present, but did not provide an accurate address or state any concerns with the rezone or project.

The DRT concludes that the rezoning is appropriate for the subject property due to the requested zone district's alignment with the Comprehensive Plan and Irondale Neighborhood and Infrastructure Plan. The Comprehensive Plan, specifically for the Irondale neighborhood, identifies light industrial uses along major thoroughfares, such as Rosemary Street, with more intense industrial use for properties setback from major thoroughfares. The subject property is located along Rosemary Street and is identified for General Industrial, which is consistent with the I-1 zone designation.

Approval Criteria for Zone Change

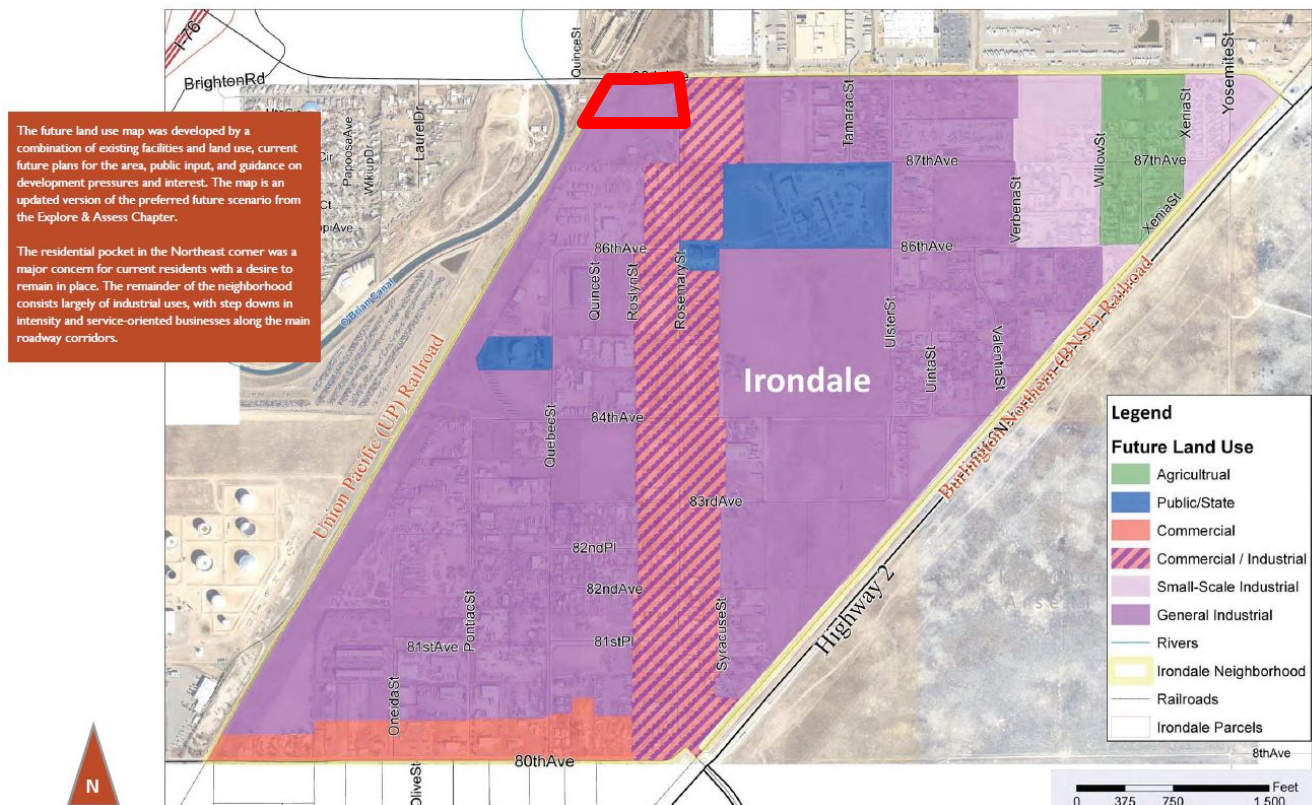
The portion of the subject property proposed to be rezoned is zoned AG. The requested I-1 zone district has been reviewed against the approval criteria within the city's Land Development Code. All of the approval criteria for the zone change request have been met and the DRT is recommending approval based on the rationale below.

Criteria Met?	Sec. 21-3232. Rezoning or Zone Changes	Rationale
☐	The change corrects a technical mistake by the city.	N/A
	<i>OR</i>	
☒	The change is consistent with any City adopted plans for the area;	This area is identified as General Industrial future land use in the Irondale Neighborhood and Infrastructure Plan. The proposed I-1 zoning is consistent with this land use designation.
☒	The change is compatible with proposed development, surrounding land uses and the natural environment;	The proposed I-1 zoning is compatible with the surrounding area. Several of the adjacent and surrounding properties are zoned or used for industrial or commercial purposes.
☒	There is, or will be, adequate public services, (water, sewerage, streets, drainage, etc.);	There are adequate public services provided for the subject property. In conjunction with the proposed subdivision plat, a Public Infrastructure Agreement will be required for any improvements.
☒	There is, or will be, adequate public uses (parks, schools, and open space);	There are adequate parks, schools, and open space for the subject property. No additional public uses will be required due to this zone change.
☒	The change is needed to provide/maintain a proper mix of uses in the area/City;	The requested zone change will bring the existing property into alignment with the Comprehensive Plan and provide the ability to develop into a new commercial or light industrial business, reinforcing the industrial character of the surrounding area, and ensuring a proper mix of uses in the City.

Criteria Met?	Sec. 21-3232. Rezoning or Zone Changes	Rationale
☒	The area for which the change is requested has changed/is changing and it is in the public interest to allow a new use or density.	The surrounding area has changed and continues to change toward a strong industrial character. The proposed zone district will align the property with the Comprehensive Plan and will ensure future development is compatible with the surrounding uses.

The Irondale Neighborhood and Infrastructure Plan, developed in 2017 and 2018 with extensive input from residents and property owners, adopted a variety of changes to the future land uses in the Irondale neighborhood. It indicates the future land use designation for the subject property as General Industrial, which is defined as a variety of light to medium industrial uses (see Figure 2). This plan also encourages the rezoning of properties to better align with the Future Land Use Plan map, acknowledging that much of the Irondale area is moving towards more industrial type development. The rezone to I-1 would bring this property into closer compliance with the future land use designation and allow future development of the property to a light industrial or commercial use allowed in the I-1 zone.

Figure 2: Irondale Neighborhood and Infrastructure Plan Future Land Use Map (approximate area to be rezoned highlighted in red)



Summary and Recommendation

The DRT has concluded that the zone change meets the approval criteria. Through the review, staff concludes that the proposed I-1 zone district is the most appropriate for the subject property. Although the applicant has concurrently submitted the subdivision plat for the subject property, the DRT is

recommending that a condition be placed on the requested zoning that the final subdivision plat and any applicable agreements be completed within 6 months to ensure the proposed zoning does not create a split zone or other concern if the plat is not completed.

The DRT has concluded that the zoning and intended development is appropriate for the subject property. This request aligns the subject property with the city's comprehensive plan and the Irondale Neighborhood and Infrastructure Plan. Any future development will still be required to meet all applicable codes and standards. Additionally, through the final subdivision plat, a Public Improvement Agreement that will address required improvements to 88th Avenue and Rosemary Street will be executed, ensuring improved infrastructure to accommodate the development. Given the intended future widening of 88th Avenue by the City, any in-lieu fees will also be enumerated in this agreement.

Development Review Team Recommendation

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

CONDITION:

- A. The final subdivision plat application shall be completed, approved, and recorded within 6 months of the date of rezone and prior to any development plan approval or prior to any building permits being issued for the property.

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 Zone Change for the property located at **8705 Rosemary Street** contained in case **Z-956-19** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change subject to the following condition:

- A. *The final subdivision plat application shall be completed, approved, and recorded within 6 months of the date of rezone and prior to any development plan approval or prior to any building permits being issued for the property.*

Alternative Motions

To recommend approval:

I move that the Planning Commission enter a finding that the requested Zone Change for the property located at **8705 Rosemary Street** contained in case **Z-956-19** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change.

To recommend denial:

I move that the Planning Commission enter a finding that the requested Zone Change for the property located at **8705 Rosemary Street** contained in case **Z-956-19** 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 Zone Change.

To continue the case:

I move that the Planning Commission continue the requested Zone Change for the property located at 8705 Rosemary Street contained in case Z-956-19 to a future Planning Commission agenda.