



# Z-945-17-19-20

---

Location:	South East Corner of East 88 <sup>th</sup> Avenue and Buckley Road
Applicant:	Schuck DIA, LLC
Request:	Amend PUD (Planned Unit Development) Zone Document

# Purpose

- Public hearing on Planned Unit Development (PUD) zoning amendment (or rezoning)
- Rezoning is a quasi-judicial action:
  - Apply existing legal standards (here, LDC 21-3251); prejudgment or policy-making not proper
  - Rely solely on facts developed at hearing/on record
    - facts outside hearing not relevant
    - use hearing to develop facts, not to express opinion
  - Potential conflict, bias, ex parte contact must be disclosed and recusal may be appropriate
  - Burden is on the applicant to establish that criteria are satisfied

# Procedure

---

- Application reviewed by staff (DRT) and Planning Commission
- Hearing (Council Policy 22)
  - Staff presentation & Council questions
  - Applicant presentation & Council questions
  - Public comment & further questions
  - Applicant rebuttal
- Council discussion and action
- Legal advice in executive sessions available at any time

# Legal Standard – LDC 21-3251

---

## Rezoning “may” be approved if:

- a) The PUD zone document is consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city, or reflects conditions that have changed since the adoption of the comprehensive plan;
- b) The PUD zone document is consistent with any previously reviewed PUD concept schematic;
- c) The PUD: (i) Addresses a unique situation, confers a substantial benefit to the city, or incorporates creative site design such that it achieves the purposes set out in section 21-4370 (PUD Zone District) and represents an improvement in quality over what could have been accomplished through strict applications of the otherwise applicable district or development standards. This may include but is not limited to improvements in open space; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; unique architecture or design, or increased choice of living and housing environments; or (ii) the PUD is required to avoid completely prohibiting a legal, permitted business use within the city;

(Continued)

# Legal Standard – LDC 21-3251

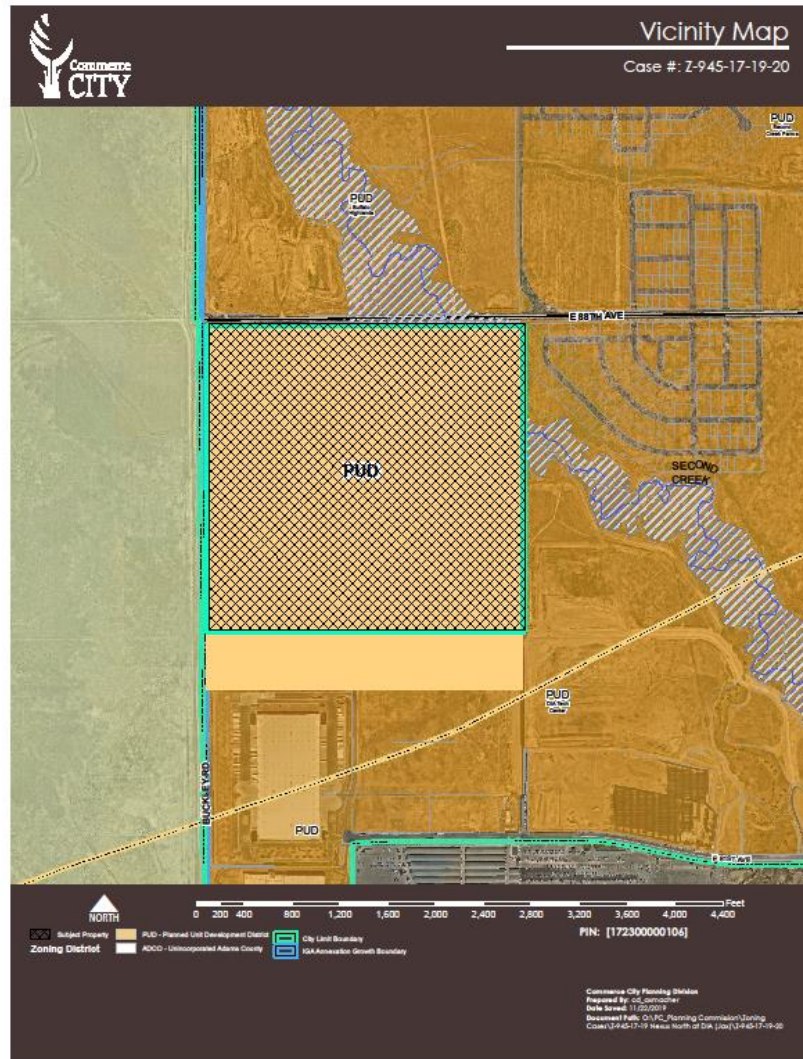
---

## Rezoning “may” be approved if:

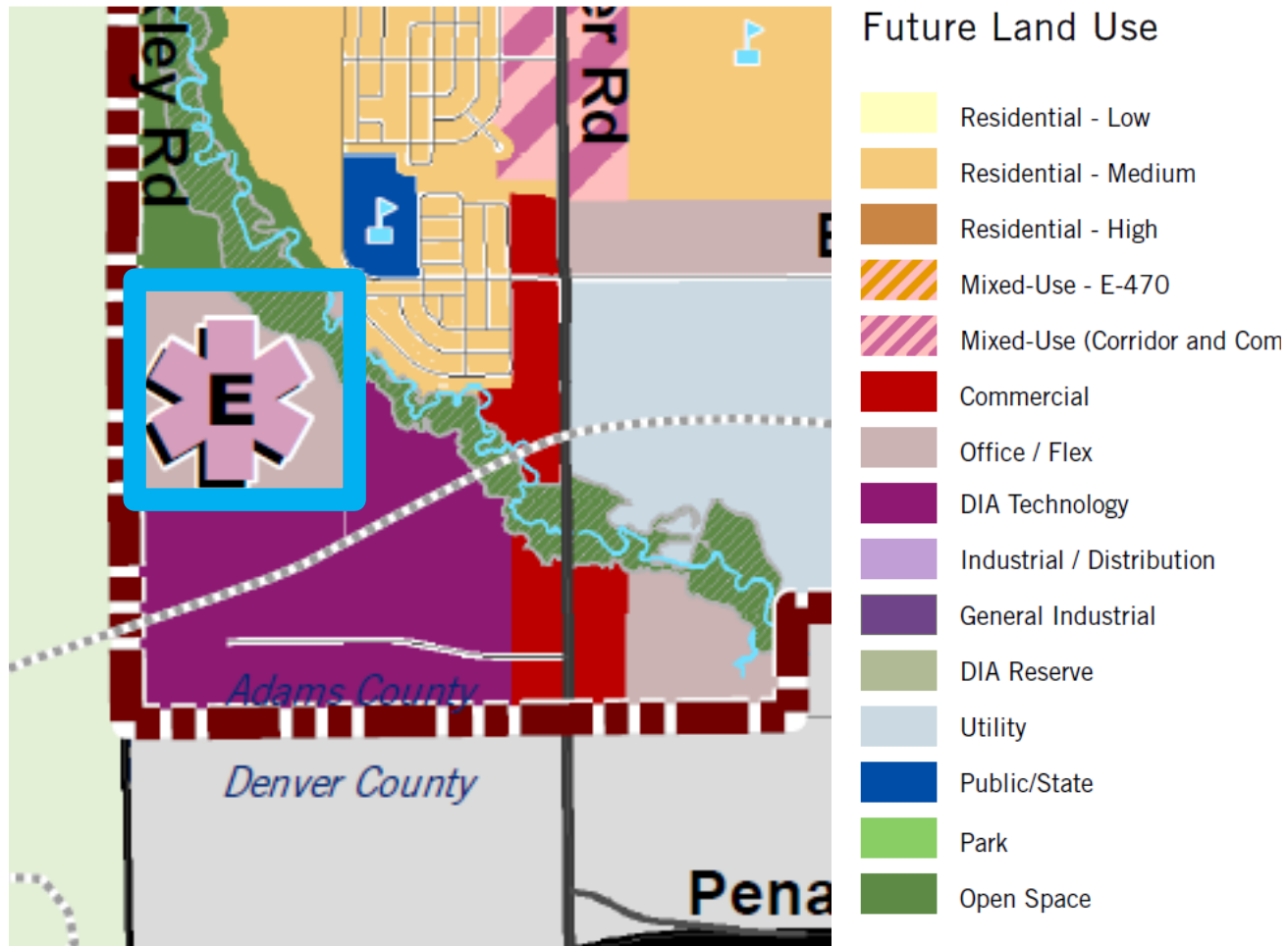
- d) The PUD complies with all applicable city standards not otherwise modified or waived by the city;
- e) The PUD is integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features;
- f) To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community;
- g) 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;
- h) As applicable, the proposed phasing plan for development of the PUD is rational in terms of available infrastructure, capacity, and financing; and
- i) The same development could not be accomplished through the use of other techniques, such as height exceptions, variances, or minor modifications.



# Vicinity Map

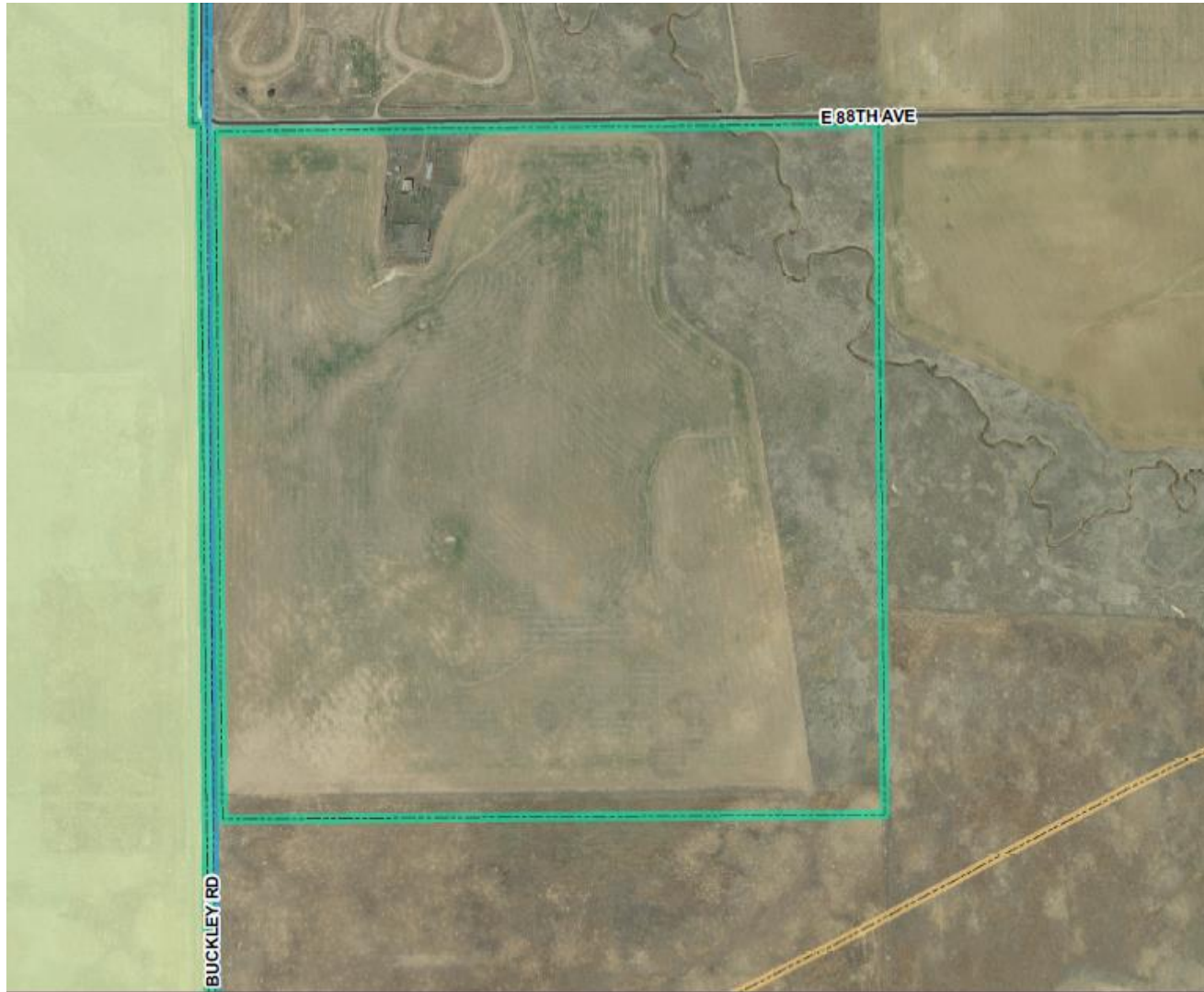


# Comprehensive Plan





# Aerial





# Case History

---

- In April of 2018, the Planning Commission reviewed and provided feedback on a PUD Concept Schematic for this property submitted by the same applicant.
- In April of 2019, Council approved the Nexus North PUD Zone Document and PUD zoning designation for the newly annexed site.



# Request

---

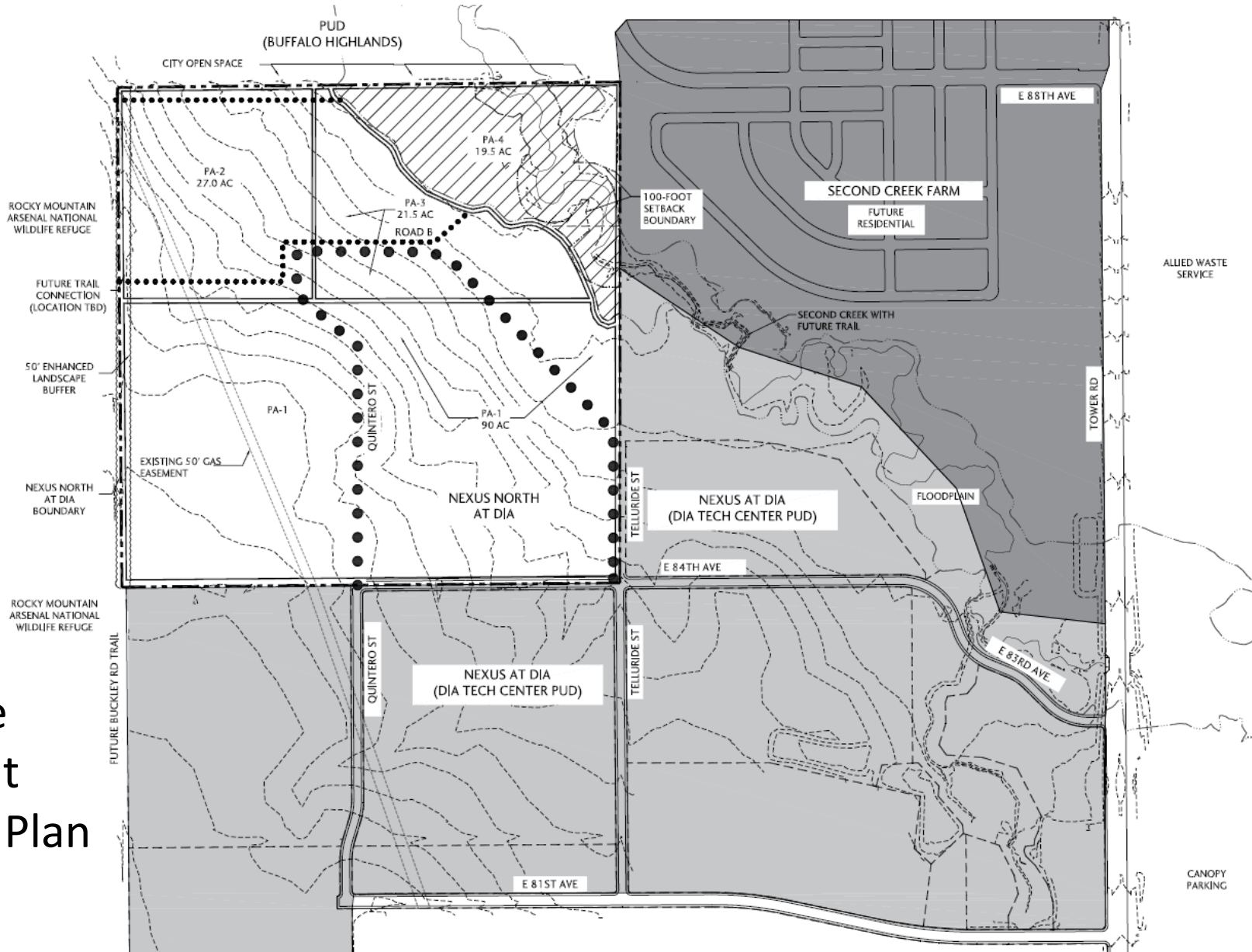
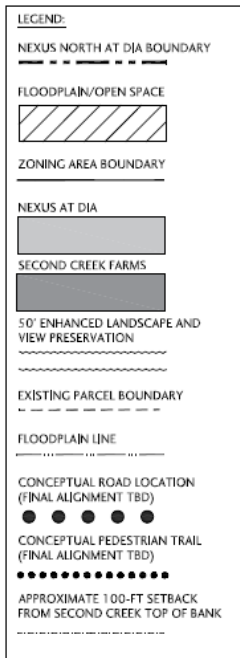
- Amend approved PUD Zone Document to provide the ability to administratively accommodate larger distribution/warehouse facilities within the planning areas.



# Applicant's Request

---

- The applicant states that based on feedback from potential users, there is an unmet need in Commerce City for new very large warehouse/distribution facilities, from 750,000 to 1,000,000 + sq. ft. (commonly known as "Amazon-sized" warehouse facilities).
- Without such availability in desired locations within Commerce City, such large facility users have had to search elsewhere in the Denver-metro area for these facilities, primarily in Aurora.



# PUD Zone Document Land Use Plan

# Current Language

---

- ADMINISTRATIVE APPROVAL OF AN INCREASE IN THE ACREAGE OF PA-1 IS LIMITED TO A MAXIMUM 6% OF THE TOTAL PA-1 AREA SHOWN ON THE PUD. ADMINISTRATIVE APPROVAL OF AN INCREASE IN THE ACREAGE OF PA-2 AND PA-3 IS LIMITED TO A MAXIMUM 15% OF THE TOTAL PA-2 AND PA-3 AREAS, RESPECTIVELY, SHOWN ON THE PUD.



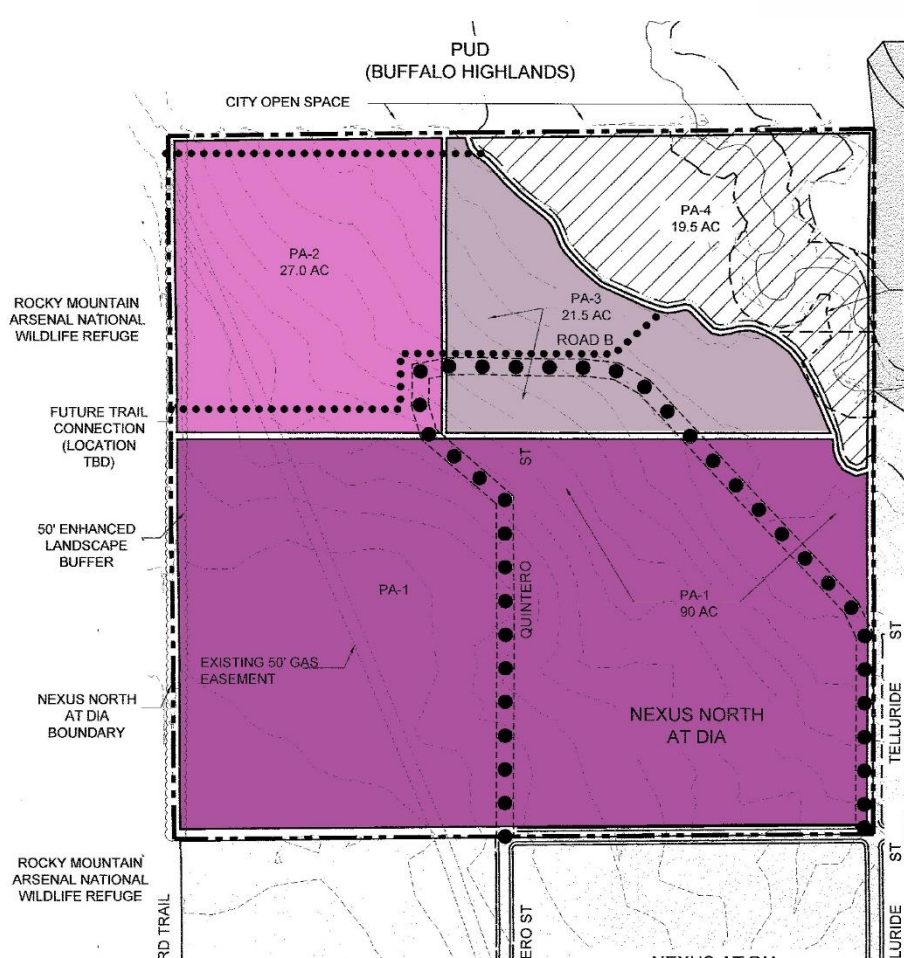
# Proposed Amendment

1. A MODIFICATION IN THE ACREAGE OF THE PLANNING AREAS MAY BE ADMINISTRATIVELY APPROVED IN THE DISCRETION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT IF DETERMINED TO BE CONSISTENT WITH THE PURPOSES AND INTENT OF THIS PUD AS STATED HEREIN, AND ONLY AS DESIGNATED AND LIMITED AS FOLLOWS:
  - a) PA-1 MAY BE INCREASED BY UP TO 6% OF ITS ACREAGE AS DESIGNATED HEREIN. PA-1 MAY BE DECREASED BY UP TO 6% OF ITS ACREAGE AS DESIGNATED HEREIN.
  - b) PA-2 MAY BE INCREASED BY UP TO 15% OF ITS ACREAGE AS DESIGNATED HEREIN. PA-2 MAY BE DECREASED BY UP TO 15% OF ITS ACREAGE AS DESIGNATED HEREIN.
  - c) PA-3 MAY BE INCREASED BY UP TO 15% OF ITS ACREAGE AS DESIGNATED HEREIN. PA-3 MAY BE DECREASED BY UP TO 15% OF ITS ACREAGE AS DESIGNATED HEREIN.
  - d) IF, IN ORDER TO ALLOW FOR THE ACTUAL CONSTRUCTION OF A STRUCTURE GREATER THAN 750,000 SQUARE FEET IN PA-1, THEN PA-1 MAY BE INCREASED UP TO 50% OF ITS ACREAGE AS DESIGNATED HEREIN, AND (1) PA-3, SHALL BE MODIFIED BY MOVING ITS BORDERS SO AS TO PRESERVE THE OVERALL ACREAGE OF PA-3 AS DESIGNATED HEREIN WITH A MINIMUM LOT DEPTH OF 290 FEET, AND (2) THE ACREAGE OF PA-2 MAY BE DECREASED IN PART OR IN ITS ENTIRETY TO ALLOW FOR THE MODIFICATION TO PA-3 AND PA-1, PROVIDED HOWEVER, THAT SAID STRUCTURE'S LOCATION WITHIN PA-1 IS LOCATED AS FAR TO THE SOUTHEAST AS IS REASONABLY PRACTICABLE TO MINIMIZE MODIFICATIONS TO PA-3.

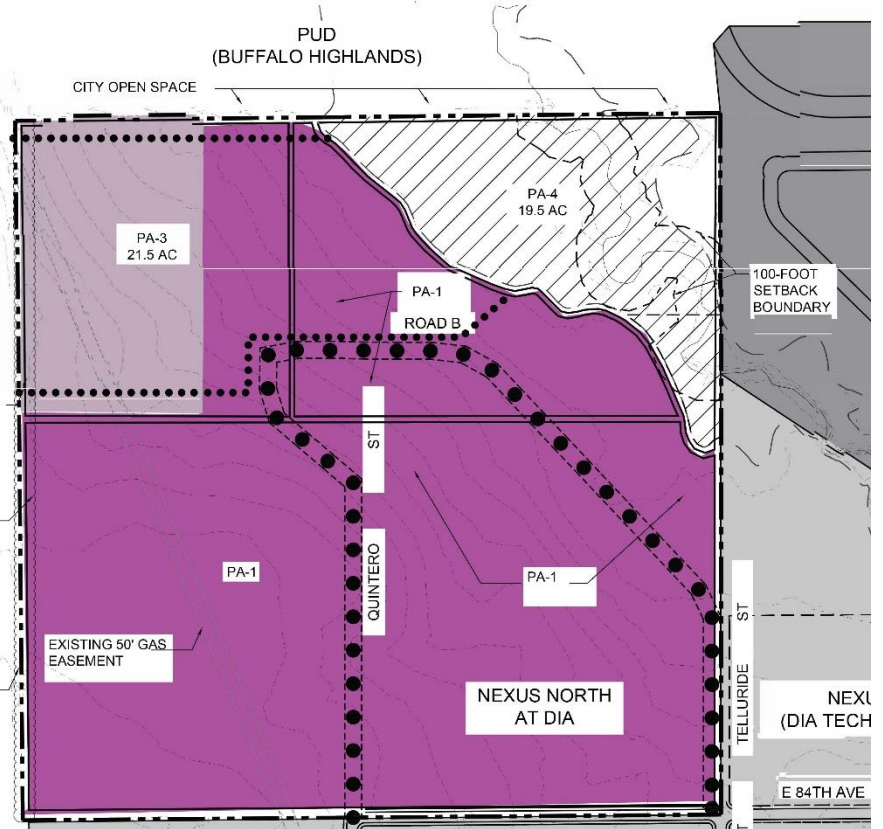
ANY ADMINISTRATIVE APPROVAL OF A PLANNING AREA ACREAGE MODIFICATION SHALL NOT RESULT IN A DECREASE TO THE BUFFERING ALONG THE RMANWR OR ALLOW ANY STRUCTURES TO BE LOCATED WITHIN THE FLOODPLAIN.



# Proposed Amendment



Current



Amendment

# Proposed Amendment

---

- The proposed amendment does not change any of the approved uses, bulk standards, or design standards for the project.
- Changes to Planning Areas could only be made for a project greater than 750,000 sf.



# PUD Zone Doc. Amend. Criteria

## LDC, Sec. 21-3251. PUD Zone Documents

- Of the 8 criteria, this application meets all of the criteria that are applicable

Criteria Met?	Sec. 21-3251. PUD Zone Documents	Rationale
Yes	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 Office/Flex. The proposed PUD and Amendment are designed to provide this type of development.
Yes	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 2018 and takes into account the feedback provided by the Planning Commission.
Yes	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 an employment center development that is sensitive to adjacent property as identified in the Comprehensive Plan.
Yes	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.
Yes	The PUD is integrated and connected with adjacent development	The property has been integrated with adjacent property as outlined above in the land use section.
Yes	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 and incorporates elevated design standards.
Yes	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.
Yes	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 comprehensively planned employment and commercial center with a cohesive appearance. This could not be achieved through a straight zoning designation and would not guarantee a uniformity to the development and higher quality building materials.

# Required Public Notification

(Pursuant to LDC Sec. 21-3285)

Type of Notification	Code Required	Code Required Minimum Met	Notification Provided
Mail/Postcard to Adjacent Property Owners	Mailed Notification to property owners within 300 feet	✓	11 Adjacent Property Owners Notified
Publication/ Newspaper Notice	Notice in local newspaper	✓	Notice in Commerce City Sentinel-Express
Placard/Sign on Property	At least one sign on subject property	✓	One Sign Posted

# Public Comment

---

- As of this date, staff has received no requests for additional information.



# PC Recommendation

---

- On December 3, 2019, the Planning Commission held a public hearing, took testimony, and voted (5-0) to forward the PUD Amendment request to City Council with a recommendation for **approval**, subject to the findings of fact.





**City staff and the applicant are  
available to answer questions.**

