



## Legislation Text

---

**File #:** Z-616-95-21, **Version:** 1

---

AN ORDINANCE AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF COMMERCE CITY, COLORADO BY REMOVING ZONING CONDITIONS ON APPROXIMATELY 28 ACRES FOR THE PROPERTY AT 9940 HAVANA ST TO REMAIN I-2 (MEDIUM INTENSITY INDUSTRIAL) AND TO REZONE APPROXIMATELY 1.87 ACRES OF THE PROPERTY AT 9940 HAVANA ST NORTH OF THE O'BRIEN CANAL FROM I-2 (MEDIUM INTENSITY INDUSTRIAL) TO PUBLIC ZONE.

### **Summary and Background Information:**

Scannell Properties, the applicant, on behalf of Timothy McManus, property owner, is requesting the removal of I-2 zoning conditions from the subject property and the rezone of an approximately 1.87 acre tract to PUBLIC. The property at 9940 Havana Street is approximately 28 acres in size and is currently zoned Medium Intensity Industrial (I-2) with four conditions. The property was rezoned from Agricultural (AG) to I-2 with four conditions in 1995. It has not been developed since that rezone. Based on a review and analysis of DRT and Planning Commission, the conditions have either been completed or are no longer needed because review processes and overall city standards have subsequently been implemented and greatly improved that resolve the issues the conditions were intended to address. The current request to remove the remaining conditions, would help streamline the process for future development and remove barriers to that development, allowing a more business friendly environment. The underlying I-2 zone is not proposed to change on this portion of the property. An approximately 1.87 acre tract north of the O'Brian Canal is proposed to be rezoned to PUBLIC. This portion of the property is mostly in the floodplain and is designated Open Space in the Future Land Use Map. The proposed rezone would bring this portion of the property into closer conformance with the Comprehensive Plan than the current underlying I-2 zone.

A concurrent development plan and subdivision plat are in the administrative review process. All current regulations and standards will be required to be met with these applications. The site is currently vacant and three industrial speculative warehouse buildings are proposed on the bulk of the property. These three buildings total approximately 302,500 square feet. The development will take access from Havana Street, with most traffic routed north to E. 104<sup>th</sup> Avenue or south to E. 96<sup>th</sup> Avenue. There is no direct vehicular access to Highway 2 from the site. No development other than utilities and drainage is proposed on the 1.87 acre portion of the property proposed to be zoned PUBLIC. The applicant held a neighborhood meeting on October 12, 2020. One neighbor attended, a resident of Eagle Creek to the east across Highway 2. The primary concern expressed was regarding the height of the buildings blocking views of the mountain. Under the current I-2 zoning with conditions, the maximum height for buildings would be 50 feet; this will not change with the removal of the zoning conditions. The applicant does not propose a maximum height building, but instead approximately 30 feet.

The Planning Commission has recognized that removing the zoning conditions and rezoning the approximately 1.87 acre tract north of the O'Brian Canal is consistent with the Comprehensive Plan, will not negatively impact surrounding properties, and will have the potential to positively improve the

character of the neighborhood.

Section 21-3232(5) of the Commerce City Land Development Code permits rezoning by ordinance if the following criteria are satisfied:

- (a)The zone change corrects a technical mistake on the part of the city in classifying a parcel within a specific zoning district; or
- (b)The zone change meets all of the following:
  - (i)The proposed zone district and allowed uses are consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city;
  - (ii)The proposed zone district and allowed uses are compatible with proposed development, surrounding land uses and the natural environment;
  - (iii)The proposed zone district will have, or future development can provide, efficient and adequate provision of public services, including but not limited to, water, sewerage, streets, and drainage;
  - (iv)The proposed zone district will have, or future development can provide, efficient and adequate provision of public uses including but not limited to, parks, schools, and open space;
  - (v)There is a community need for the zoning district in the proposed location, given need to provide or maintain a proper mix of uses both within the city and the immediate area of the proposed use; and
  - (vi)The area for which zone change is requested has changed or is changing to such a degree that it is in the public interest to allow a new use or density.

**Staff Responsible (Department Head):** Jason Rogers, Community Development Director

**Staff Member Presenting:** Stacy Wasinger, City Planner

**Financial Impact:** N/A

**Funding Source:** N/A

**Planning Commission Recommendation:**

On December 1, 2020, 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

**Suggested Motion:**

I move that the City Council enter a finding that the requested Zoning for the subject properties contained in case Z-616-95-21 meets the criteria of the Land Development Code and, based upon such finding, approve the removal of zoning conditions and zone change of approximately 1.87 acres to PUBLIC

**Alternative Motion(s):**

1. For City Council to approve the request subject to conditions;
2. For City Council to deny the request