



TO: Denver City Council
FROM: Libby Kaiser, AICP, Senior City Planner
DATE: January 27, 2021
RE: Official Zoning Map Amendment Application #2020I-00064

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2020I-00064.

Request for Rezoning

Address: 3217 E. Yale Way
Neighborhood/Council District: University Park / Council District 6 – Paul Kashman
RNOs: Wellshire Homeowners Association, Southside Unified, University Park Community Council, Inter-Neighborhood Cooperation (INC)
Area of Property: 9,740 square feet or 0.22 acres
Current Zoning: E-SU-D
Proposed Zoning: E-SU-D1
Property Owner(s): Brett Houston
Owner Representative: None

Summary of Rezoning Request

- The subject property contains a single-story, single-unit dwelling originally built in 1952. The property is located between S. Steele and S. Adams streets on E. Yale Way.
- The property owner is proposing to rezone the property to build an accessory dwelling unit.
- The proposed E-SU-D1, Urban Edge, Single-Unit, D1 district allows urban houses as well as detached accessory dwelling units in the rear yard with a minimum zone lot area of 6,000 square feet. The district is intended for use in the Urban Edge Neighborhood Context, which is characterized by a mix of elements from both the Urban and Suburban Neighborhood Contexts. The Urban Edge Neighborhood Context is primarily single-unit and two-unit residential uses. The maximum height of the Urban House building form is 30 to 35 feet for the front 65 percent of the zone lot and 17 to 19 feet in the rear 35 percent of the zone lot. The Detached Accessory Dwelling Unit form can be a maximum height of 24 feet. Single and two-unit residential uses are primarily located along local and residential arterial streets. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 4 of the Denver Zoning Code (DZC).
- The site was rezoned to the current E-SU-D zone district in June 2019. Previously it was zoned E-SU-Dx. Rezoning to E-SU-D was sponsored by Councilman Kashmann at the behest of neighborhood residents to remove the previously allowed Suburban House primary building form and affirm the neighborhood's Urban Edge neighborhood context.

Existing Context



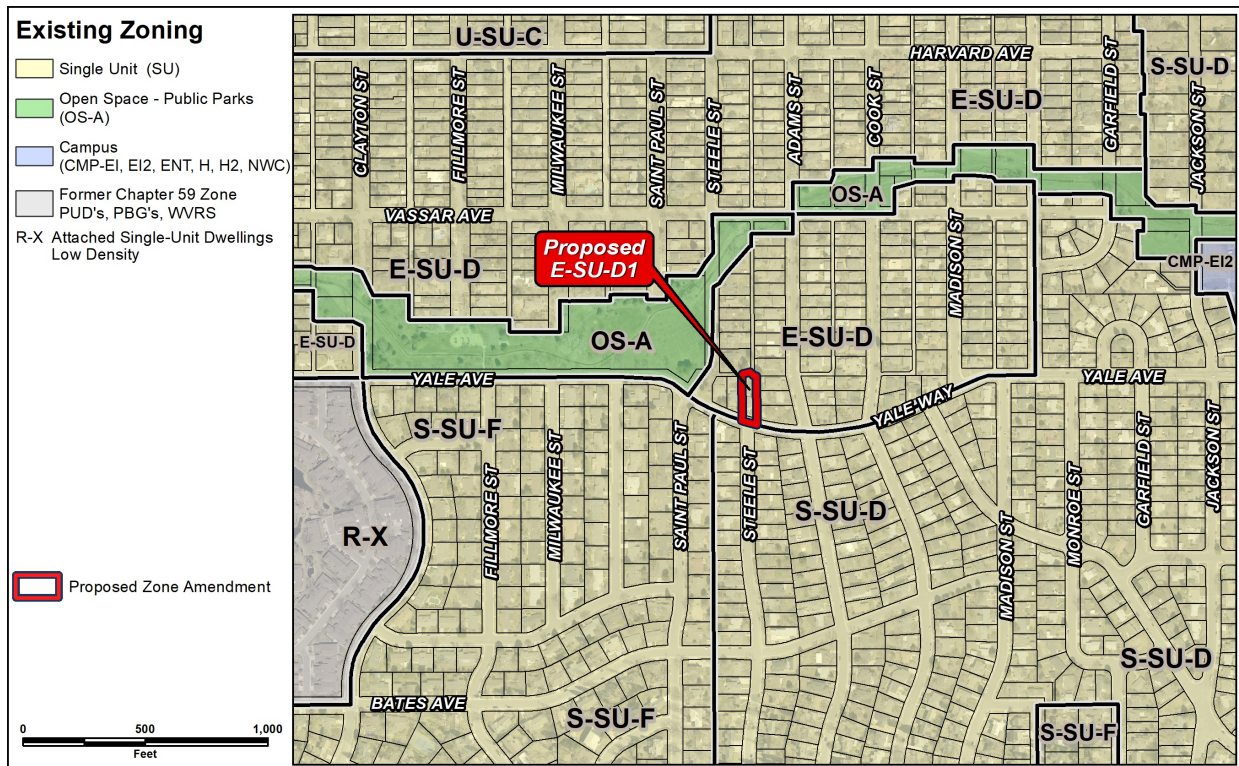
The subject property is located on the southern edge of the University Park statistical neighborhood, where the predominant land use is single-unit residential. The McWilliams Park, which contains a multi-use trail along Harvard Gulch, is one-half block to the northeast. A bike lane runs east-west along E. Yale Way and a north-south neighborhood bikeway is proposed along S. Steele and S. Saint Paul streets. The property is approximately one-half mile from the commercial, mixed-use corridors of University Boulevard, served by bus route 24, and Colorado Boulevard, served by bus route 40.

The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-SU-D	Single-unit Residential	1-story Residence	North of E. Yale Way, there is generally a regular grid of blocks oriented north/south with alleys and rear-loaded garages. South of E. Yale Way, streets are more curvilinear with a variety of block shapes
North	E-SU-D	Single-unit Residential	1-story and 2-story Residences	
South	S-SU-D	Single-unit Residential	1-story Residences	
East	E-SU-D	Single-unit Residential	1-story and 2-story Residences	

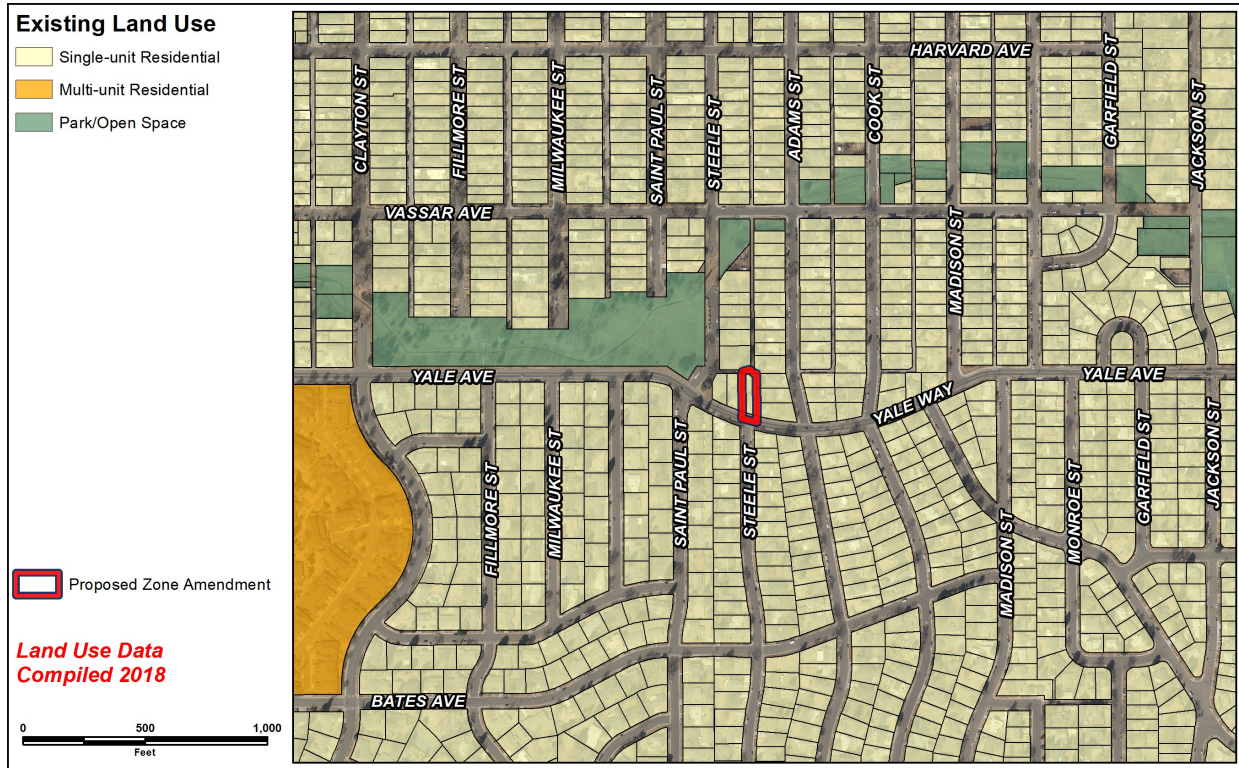
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
West	E-SU-D	Single-unit Residential	1-story Residence	and orientations, and no alleys. Throughout the area, sidewalks are generally attached with on-street vehicular parking.

1. Existing Zoning



The E-SU-D is a single unit district allowing the Urban House primary building form on a minimum zone lot area of 6,000 square feet and a minimum width of 50 feet. The maximum allowed height of the Urban House building form is 30 to 35 feet for the front 65 percent of the zone lot and 17 to 19 feet in the rear 35 percent of the zone lot. The maximum building coverage per zone lot, including all accessory structures, is 37.5 percent with allowed exceptions. The district allows two accessory structure forms, including the Detached Garage and Other Detached Accessory Structure with a maximum height of 15 to 17 feet. No vehicular parking is required for single-unit dwellings.

2. Existing Land Use Map



3. Existing Building Form and Scale (source: Google Earth and Google Maps)



Aerial view of the site looking north.



View of subject property, looking north.



View of property to the west, looking north.



View of property to the northwest, looking east.



View of property to the south, looking east.



View of property to the east, looking west.

Proposed Zoning

The applicant is requesting to rezone to E-SU-D1, which allows the Urban House building form on a zone lot with a minimum area of 6,000 square feet. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context. The district allows a variety of residential and civic uses including the accessory dwelling unit use and Detached

Accessory Dwelling Unit (DADU) building form, to be located in the rear 35 percent of the lot. The DADU building form has a maximum height of 1.5 stories or 24 feet. A bulk plane that rises 10 feet vertically from the side interior or side street zone lot line, then slopes 45 degrees, also applies to the DADU building form. This building form allows an exemption from the 37.5 percent building coverage standard, allowing the lesser of 50 percent or 500 square feet. For zone lots greater than 7,000 square feet the DADU building footprint may be a maximum of 1,000 square feet. The district does not require any off-street vehicular parking for single-unit dwellings, but if provided, parking for the DADU must be accessed from the alley; street access is allowed when no alley is present.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below, and in general, there are no differences except for the allowance of a DADU.

Design Standards	E-SU-D (Existing)	E-SU-D1 (Proposed)
Primary Building Forms Allowed	Urban House	Urban House
Height in Stories / Feet, Front 65% of Zone Lot (max.)	2.5 stories / 30 to 35 feet	2.5 stories / 30 to 35 feet
Height in Stories / Feet, Rear 35% of Zone Lot (max.)	Urban House: 1 story / 19 feet	Urban House: 1 story / 19 feet
Height in Stories / Feet, Detached Accessory Dwelling Unit, (max.)	1.5 stories / 24 feet	1.5 stories / 24 feet
Bulk Plane Vertical Height / Slope	Urban House: 17' in front 65%, 10' in rear 35% of zone lot / 45 degrees at side interior and side street zone lot line	Urban House: 17' in front 65%, 10' in rear 35% of zone lot / 45 degrees at side interior and side street zone lot line
Zone Lot Size (Min.)	6,000 SF	6,000 SF
Zone Lot Width (Min.)	50 feet	50 feet
Primary Street Block Sensitive Setback Required / If not	Yes / 20 feet	Yes / 20 feet
Side Street Setback (Min.)	5 feet	5 feet
Side Interior Setback (Min.)	5 feet	5 feet
Rear Setback, Alley / No Alley	12 feet / 20 feet	12 feet / 20 feet
Building Coverage per Zone Lot including all accessory structures (Max.), not including exceptions	37.5%	37.5%
Detached Accessory Building Forms Allowed	Detached Garage, Other Detached Accessory Structures	Detached Accessory Dwelling Unit, Detached Garage, Other Detached Accessory Structures

Summary of City Agency Referral Comments

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

Assessor: Approved – no comments.

Asset Management: Approved – no comments.

Denver Parks and Recreation: Approved – no comments.

Denver Public Schools: Approved – no comments.

Department of Public Health and Environment: Approved – no comments.

Development Services – Fire Protection: Approved – no comments.

Development Services – Project Coordination: Approved – no comments.

Development Services – Transportation: Approved – no comments.

Development Services – Wastewater: Approved – no comments.

Transportation and Infrastructure – Surveyor: Approved – no comments.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	10/13/2020
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	11/17/2020
Planning Board voted unanimously to recommend the rezoning:	12/2/2020
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	12/1/2020
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward:	12/15/2020
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	1/11/2021
City Council Public Hearing:	2/1/2021

- **Registered Neighborhood Organizations (RNOs)**
 - The University Park Community Council provided a letter supporting the rezoning request, stating it will help prevent the scrape and redevelopment of this lot. However, 4 of 10 members

of the RNO opposed the rezoning, stating it could set a precedent for short term rentals and segmented long houses.

- **Other Public Comment**

- To date, staff has received five letters from nearby property owners who support the rezoning request, stating it will add space for residing and visiting family members and add value to the subject and adjacent properties.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

DZC Section 12.4.10.7

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

DZC Section 12.4.10.8

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

1. Consistency with Adopted Plans

The following adopted plans apply to this application:

- *Denver Comprehensive Plan 2040 (2019)*
- *Blueprint Denver (2019)*
- *University Park Neighborhood Plan (2008)*

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The proposed rezoning would allow for an additional housing option near transit and a mix of uses within an established neighborhood, consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive: Goal 1, Strategy A – Increase development of units close to transit and mixed-use developments (p. 28).
- Equitable, Affordable and Inclusive: Goal 2, Strategy A – Create a greater mix of housing options in every neighborhood for all individuals and families (p. 28).

The proposed rezoning would allow infill development appropriate for the surrounding neighborhood that broadens the range of housing types available, consistent with the following strategy in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy B.: Ensure neighborhoods offer a mix of housing types and services for a diverse population (p. 34).

The proposed rezoning would allow for compatible infill development in an established neighborhood, consistent with the following strategy from the Environmentally Resilient vision element:

- Environmentally Resilient: Goal 8, Strategy A – Promote infill development where infrastructure and services are already in place (p. 54).

In summary, the proposed E-SU-D1 zone district is consistent with the goals of *Comprehensive Plan 2040*.

Blueprint Denver

Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* defines future neighborhood contexts, future place types, and future street types to understand differences between land use, built form, and mobility at a high scale, between neighborhoods. The maps below help illustrate how a rezoning request for the E-SU-D1 zone district is appropriate for this lot and the surrounding area.

Blueprint Denver Future Neighborhood Context



The subject property is shown on the above map in the Suburban Neighborhood Context, in which *Blueprint Denver* says “all intensities of residential development can be found, though generally are separated from other types... Block patterns are generally irregular with curvilinear streets and no alley access. The intensity and scale of uses are dependent upon the surrounding character...” (p. 190).

The subject property is located on the boundary between the Suburban and Urban Edge neighborhood contexts, both of which are intended to promote and protect residential neighborhoods within their surrounding character. The property exhibits characteristics of each context, located in a transitional zone between a rectilinear street grid with alleys and a curvilinear street network without alleys. Lots in the immediate vicinity are of a similar size and homes are of a similar scale. The lot does have alley access and the block is generally rectangular with mostly orthogonal streets, whereas south of E. Yale Way lots do not have alleys and blocks are defined by curvilinear streets.

Blueprint Denver provides the following guidance for interpreting the boundaries of contexts (p. 66):

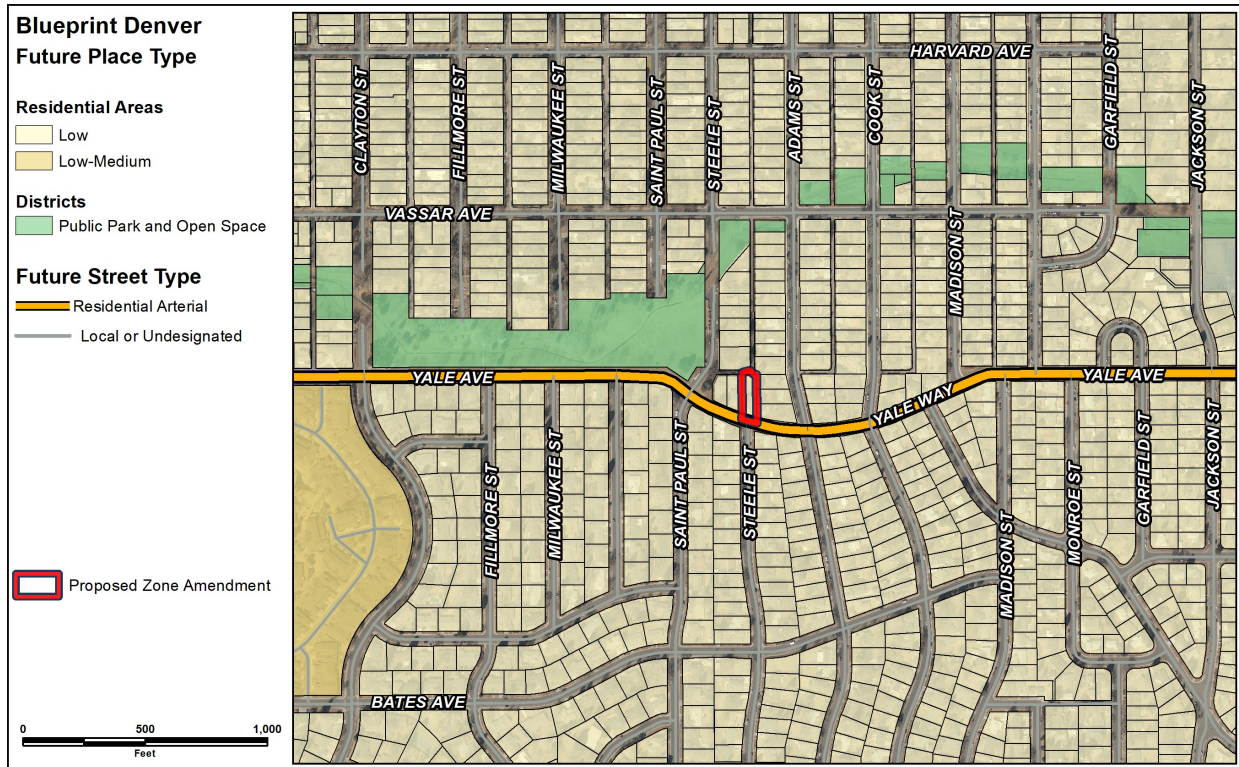
“When a new zone district is proposed for a site, the neighborhood contexts map and description should be used to guide which zone districts are appropriate. The mapping of neighborhood context is at the citywide scale, so the boundaries of the contexts may be interpreted with limited flexibility if the request furthers the goals of *Blueprint Denver* and is consistent with the overall intent of the neighborhood contexts map. However, neighborhood context should be consistent across an area and should generally not vary at the parcel level.”

Here, the mapped context boundary cuts through the block and does not follow the curve of E. Yale Way. The boundary leaves a fragment of this block with a different recommended context (Suburban) than the recommended context for most of the block (Urban Edge). This also occurs on the two blocks immediately east, where E. Yale Way curves south of the alignment of Yale Avenue. As a result, these three block fragments have a different mapped context than most of the University Park Neighborhood, which is in the Urban Edge Context.

When City Council rezoned this site and much of the neighborhood from E-SU-Dx to E-SU-D in June 2019 to remove the Suburban House primary building form, an Urban Edge neighborhood context zone district was selected. Extensive community outreach by the registered neighborhood organization and the City Council district office determined that E-SU-D was the appropriate zone district even though the context was mapped Suburban for this small area along the north side of E. Yale Way. Considering all these factors, and in accordance with the guidance cited above from page 66 of *Blueprint Denver*, the boundary between Urban Edge and Suburban could be interpreted to follow Yale Avenue instead of cutting north of the subject site.

The Urban Edge Neighborhood Context is described as “single-unit and two-unit uses, with some low-scale multi-unit embedded throughout... Block patterns are generally a mix of suburban and urban elements – streets may be rectangular or curved and alleys are sometimes present...” (p. 206). The proposed E-SU-D1 district is consistent with the recommended Urban Edge neighborhood context and will help preserve the existing residential character of the neighborhood while allowing a small-scale ADU in the rear yard.

Blueprint Denver Future Places and Streets



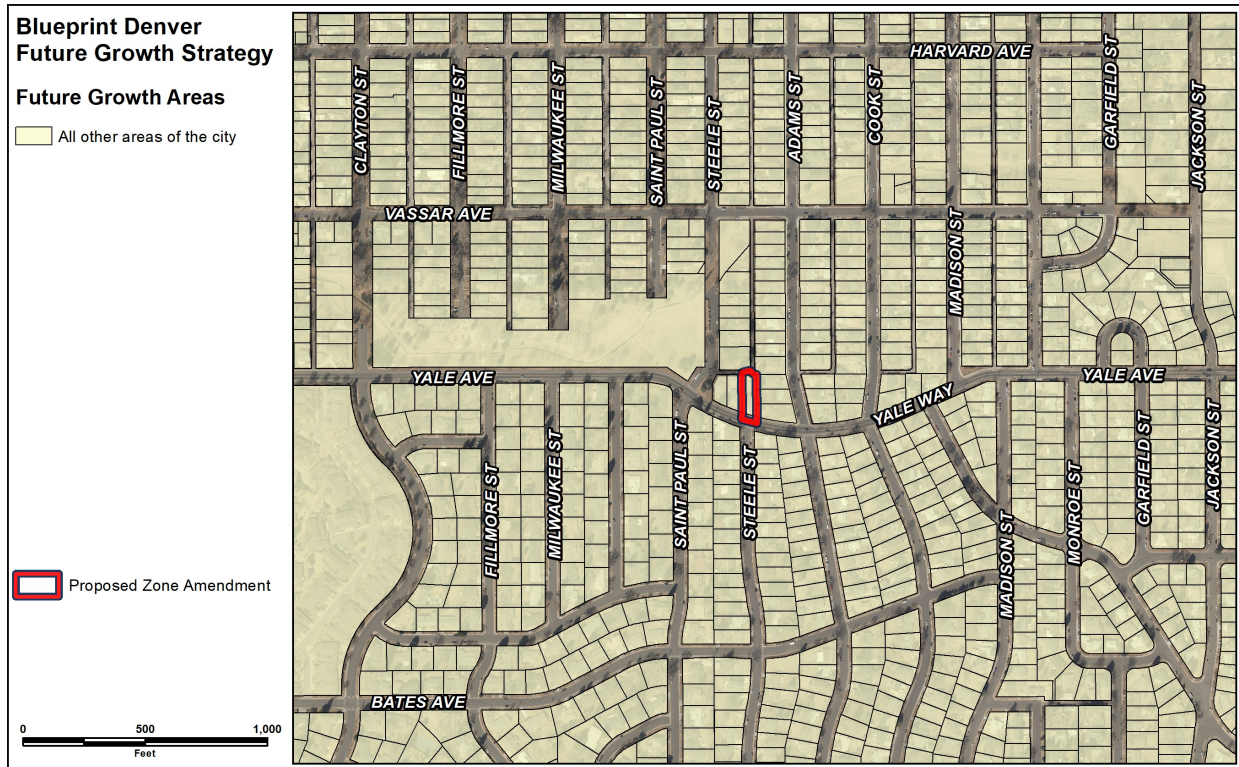
Future Places

The proposed E-SU-D1 zone district allowing a 1.5-story detached ADU on the rear of a 9,740-square-foot lot is compatible with the Residential Low Future Place type defined by the Suburban and Urban Edge neighborhood contexts. Within the Urban Edge Neighborhood Context, the land use and built form are defined by *Blueprint Denver* as “predominately single- and two-unit uses on small or medium lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible... Low to medium building coverage. Buildings are generally up to 2.5 stories in height” (p. 214).

Future Street Types

In *Blueprint Denver*, Future Street Types work in concert with the Future Places to evaluate the appropriate intensity of adjacent development (p. 67). *Blueprint Denver* classifies E. Yale Way as a Residential Arterial. Residential streets contain “primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modest setback. The depth of the setback varies by neighborhood context.” (p. 160). The proposed E-SU-D1 district is consistent with this street type because it allows for residential uses. The description of this street type isn’t affected by neighborhood context.

Blueprint Denver Growth Strategy



Blueprint Denver's growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of the "All other areas of the city" growth area. These areas anticipate experiencing around 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). This growth area contains "mostly residential areas with embedded local centers and corridors (that) take a smaller amount of growth intended to strengthen the existing character of our neighborhoods" (p. 49). The proposed E-SU-D1 zone district allowing an ADU is appropriate in this growth area as it will minimally contribute to development intensity in the neighborhood while maintaining the area's single-family residential character.

Blueprint Denver Strategies

Blueprint Denver supports rezonings to allow for ADU's via two key policies:

- **Land Use and Built Form, Housing Policy 4, Strategy E:** "A citywide approach to enable ADUs is preferred. Until a holistic approach is in place, individual rezonings to enable ADUs in all residential areas, specifically where proximate to transit, are appropriate. Unless there is a neighborhood plan supporting ADUs, rezonings should be small in area in order to minimize impacts to the surrounding residential area." (p. 84).
- **Land Use and Built Form: Housing Policy 5:** "Remove barriers to constructing accessory dwelling units and create context-sensitive form standards." (p. 84).

In this case, the requested rezoning applies to a single lot in a residential area approximately one-half mile from two bus routes. This rezoning to an ADU zone district will have minimal impacts on the character of the surrounding neighborhood and is consistent with *Blueprint Denver* recommendations. In addition, the rezoning of the subject property will remove the prohibition on the construction of an accessory dwelling unit.

Small Area Plan: University Park Neighborhood Plan

The subject property is within the Single-Family Residential Neighborhood as defined in the *University Park Neighborhood Plan*, adopted in 2008, and the rezoning request supports the following recommendation:

- **Recommendation 1.1: Single-Family Residential Neighborhood:** “A consistent pattern of development defines Single-Family Residential Neighborhood areas. Housing options are appropriate for a central city location. Single-family predominates; occasional duplexes may be interspersed. Buildings of one to two stories characterize the prevailing degree of development... Limited redevelopment or additions reflect prevailing, desired patterns of development... As an Area of Stability, deviation from the single family nature should happen only after sufficient community input to justify some redevelopment. Such redevelopment should encourage revitalization and reinvestment that is aligned with market demand and smart growth best practices in a manner that sensitively integrates new development with the stable single-family context.” (p. 63).

The proposed ADU zone district would maintain the existing, desired pattern of development in the single-family neighborhood while allowing limited reinvestment and housing that is sensitive to the scale and character of surrounding homes.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to E-SU-D1 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed rezoning furthers the public health, safety, and general welfare of the City by allowing a moderate level of reinvestment in the area consistent with the desired character and recommendations of the city’s adopted land use plans. The proposed rezoning would also facilitate minimal increased housing density within one-half mile of two commercial corridors served by transit.

4. Justifying Circumstance

Per the DZC Section 12.4.10.8, City Council may approve a rezoning if it meets one of several Justifying Circumstances, which include the following circumstances applicable to this particular request: “Since the date of the approval of the existing Zone District, there has been a change to such as degree that the proposed rezoning is in the public interest. Such a change may include: Changed or changing conditions in a particular area, or in the city generally; or a city adopted plan; or that the city adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.”

In this case, a city adopted plan is the most applicable justifying circumstance. A formal application requesting the rezoning of the previous E-SU-Dx zone district to the current E-SU-D zone district was

received in December 2018 and adopted in June 2019 after significant public outreach that overlapped the public processes for the *Comprehensive Plan* and *Blueprint Denver*, which were adopted in April 2019. Although these citywide plans were ultimately adopted before the approval of the existing zone district, plan goals promoting accessory dwelling units, a greater mix of housing options, and infill development near a mix of uses and transit are supportive of the rezoning request to E-SU-D1. As stated throughout this report, the proposed rezoning meets the intent of these plans as well as recent neighborhood input and is in the public interest.

5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

As mentioned previously, the subject property and rezoning request should be considered within the Urban Edge Neighborhood Context. According to the Denver Zoning Code Urban Edge Neighborhood Context description (DZC Division 4.1), the context is primarily single-unit and two-unit residential uses. The context consists of a regular pattern of block shapes surrounded by orthogonal streets within a grid or modified grid with a mixed presence of alleys. Building height is mostly low scale. The requested E-SU-D1 zone district is consistent with this context because the lot and block have the characteristics described in this context description.

The general purpose of residential zone districts in this context is to promote and protect residential neighborhoods (DZC Section 4.2.2.1). The building form standards, design standards, and uses work together to promote desirable residential areas. Common residential characteristics are recognized but variation is accommodated. The proposed E-SU-D1 district is consistent with the context description and the zone district general purpose because it will help preserve the existing single-unit use, form, and streetscape of the immediate area while allowing a small-scale ADU in the rear yard.

The specific intent of the E-SU-D1 zone district “is a single unit district allowing only urban houses and detached accessory dwelling units with a minimum zone lot area of 6,000 square feet” (DZC Section 4.2.2.2.F.). The subject property at 3217 E. Yale Way contains a single-unit dwelling on a lot of 9,740 square feet. Adopted plans recommend allowing detached accessory dwelling units and limited growth in this area compatible with the existing character. Therefore, rezoning this site would be consistent with the specific intent of the zone district.

Attachments

1. Application
2. Public and RNO Comments