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TO: Denver Planning Board
FROM: Brandon Shaver, Senior City Planner
DATE: November 10, 2021; revised November 17, 2021
RE: Official Zoning Map Amendment Application #2021I-00104
4151 N. Fillmore St.
Rezoning from E-SU-B to U-RH-2.5

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2021I-00104.

Request for Rezoning

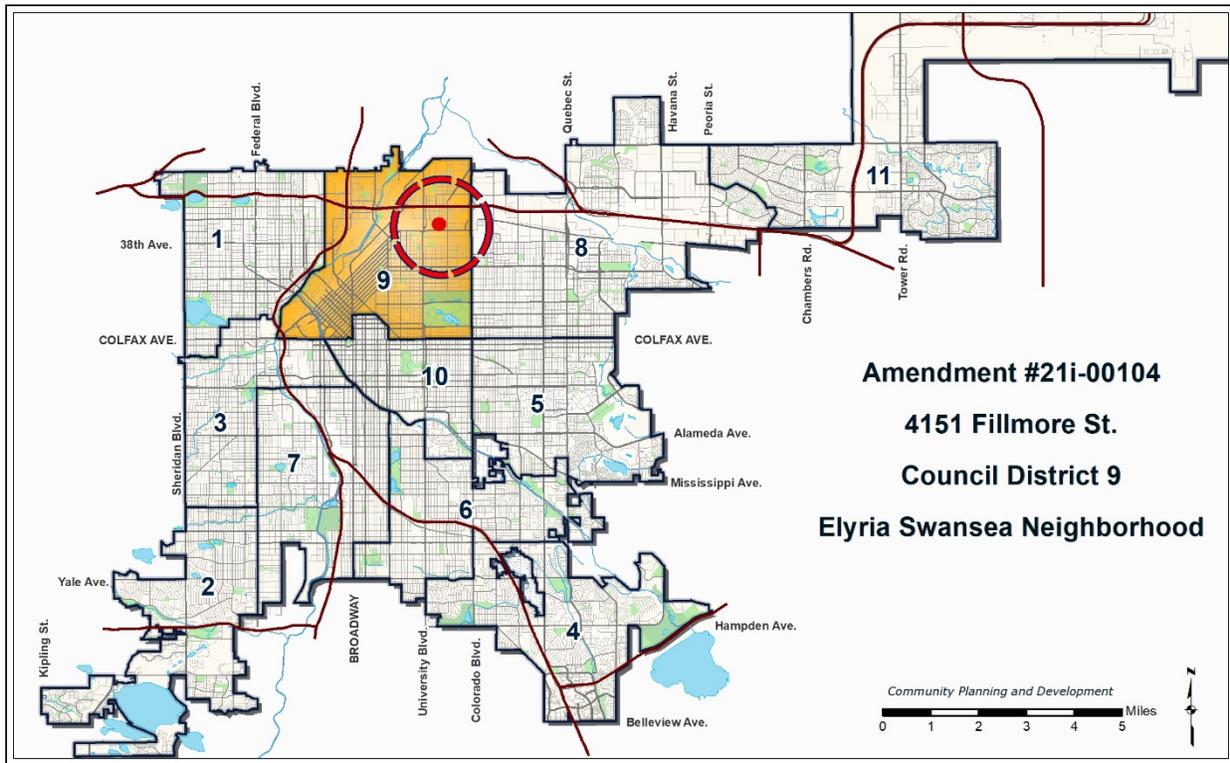
Address: 4151 North Fillmore Street
Neighborhood/Council District: Elyria Swansea / Council District 9
RNOs: Inter-Neighborhood Cooperation (INC), Elyria Swansea/Globeville Business Association, Cross Community Coalition, Denver Arts and Culture Initiative, Northeast Denver Friends and Neighbors (NEDFANS), Reclaim the East Side, UCAN, Elyria and Swansea Neighborhood Association, Opportunity Corridor Coalition of United Residents
Area of Property: 8,770 square feet or 0.20 acres
Current Zoning: E-SU-B
Proposed Zoning: U-RH-2.5
Property Owner(s): Brothers Redevelopment Inc.
Owner Representative: Councilwoman Candi CdeBaca

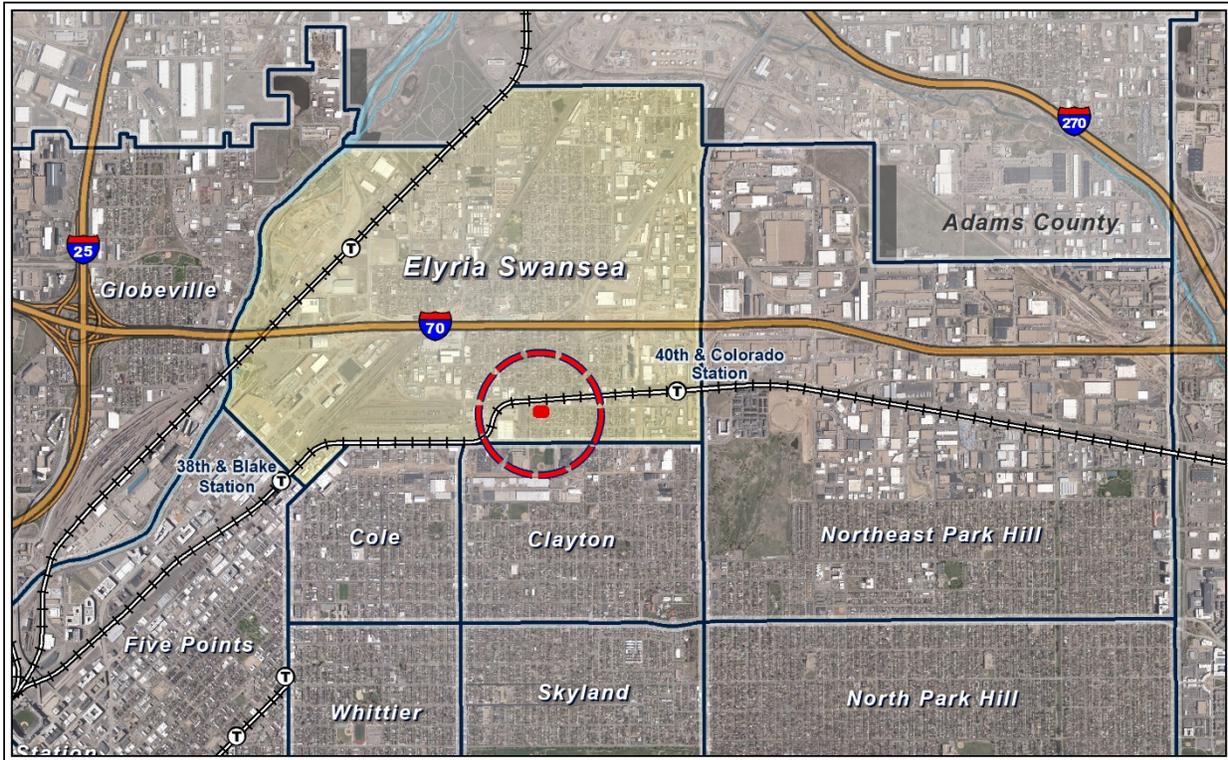
Summary of Rezoning Request

- The subject property contains a vacant single-story, single-unit dwelling built in 1927. It is located within the Elyria Swansea statistical neighborhood near the southwest corner of East 42nd Avenue and North Fillmore Street.
- The property owner, with Councilwoman CdeBaca as the sponsor, is proposing to rezone the property to allow for the development of three affordable homes for sale.
- A previous version of the Planning Board agenda described this rezoning as legislative. The City Attorney has determined that this rezoning is not legislative; therefore, the agenda was corrected and the report was updated to include additional criteria that apply to non-legislative rezonings.
- The proposed U-RH-2.5, **Urban, Row House, 2.5** stories, zone district allows the urban house, duplex, tandem house and row house primary building forms as well as detached accessory dwelling units (only allowed as accessory to a primary single-unit residential use). The maximum height of the allowed primary building forms ranges from 30 to 35 feet for the front 65% of the zone lot and 17 to 24 feet in the rear 35% of the zone lot. The Detached Accessory Dwelling Unit

form can be a maximum height of 24 feet. This district is intended for use in the Urban Neighborhood Context, which is characterized by single and two-unit uses and allows for some multi-unit districts. Further details of the zone district can be found in the proposed zone district of this staff report (below) and in Article 5 of the Denver Zoning Code.

Existing Context



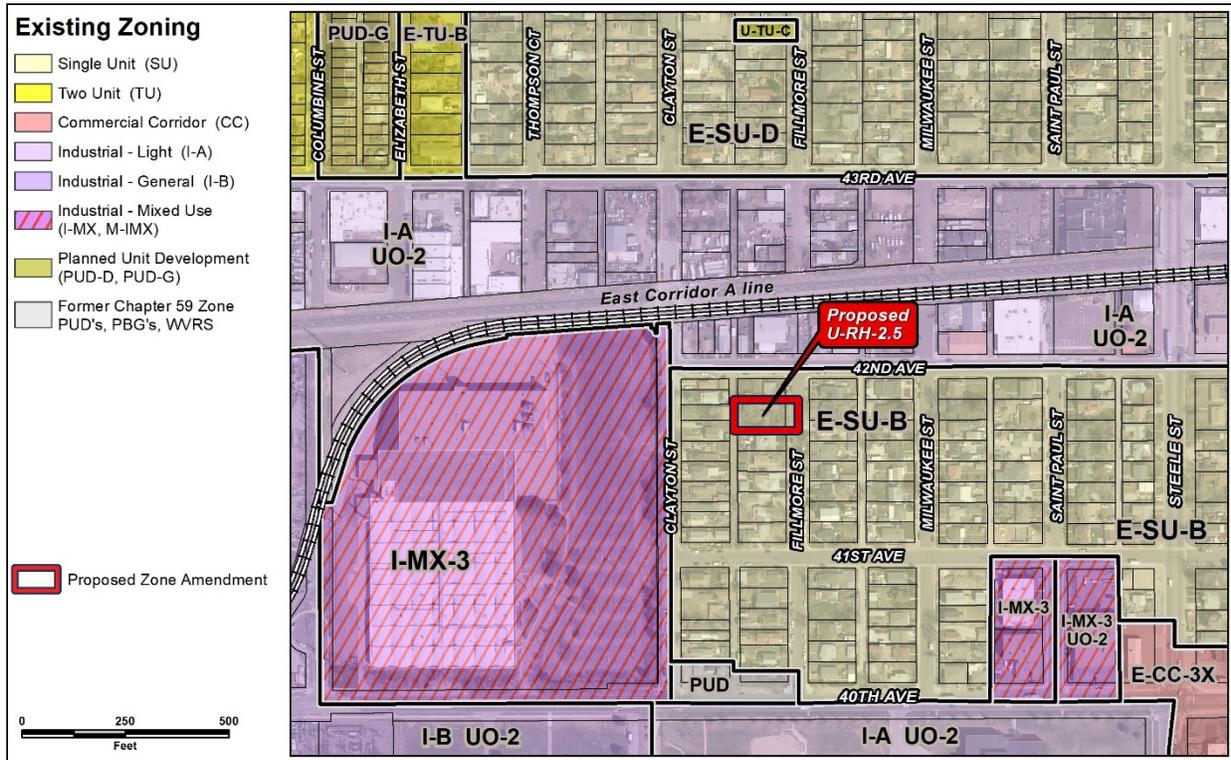


The subject property is located within the Elyria Swansea statistical neighborhood, near the southwest corner of East 42nd Avenue and North Fillmore Street. Bruce Randolph School and the associated playing fields are located two blocks south. The subject property is approximately 75 feet wide and 117 feet deep. The subject site is just over one-half mile from the 40th and Colorado commuter rail station and is also served by RTD bus route 44 along the Josephine/York couplet five blocks to the west.

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

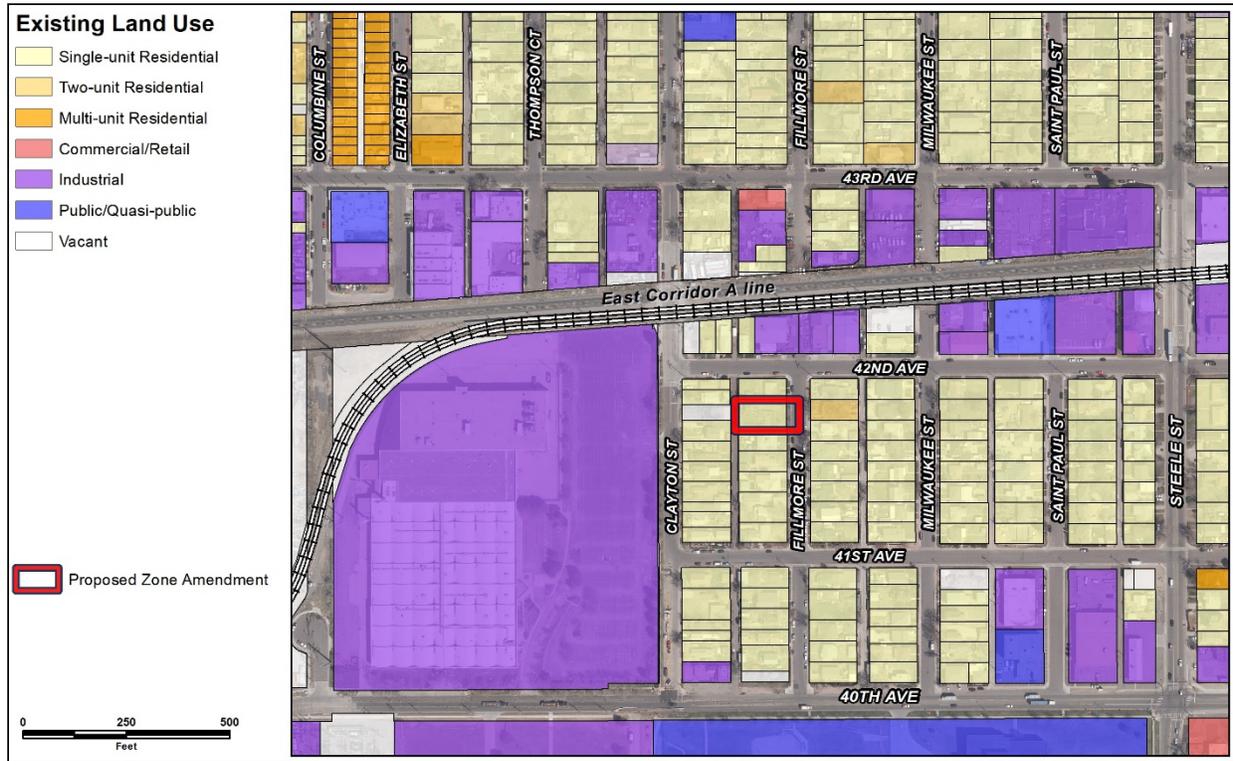
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-SU-B	Single-unit Residential	1-story vacant and deteriorating residence	Block sizes and shapes are consistent and rectangular and shaped by a grid street pattern. A mixture of attached and detached sidewalks exists. Driveways with front-loaded garages are present and alleys exist on most blocks.
North	E-SU-B	Single-unit Residential	1-story brick residence with narrow front driveway	
East	E-SU-B	Two-unit Residential	1-story wood-framed residence with narrow front driveway	
South	E-SU-B	Single-unit Residential	2-story residence with narrow front driveway	
West	E-SU-B	Single-unit Residential	1-story residence with deep front setback	

1. Existing Zoning



The existing zoning on the subject property is E-SU-B. This is a single-unit zone district in the Urban Edge neighborhood context allowing the urban house form with a minimum zone lot area of 4,500 square feet and minimum zone lot width of 35 feet. The subject property is surrounded by E-SU-B zoning with light industrial and industrial mixed-use zoning to the north and west along the Union Pacific and RTD A-Line railroad tracks.

2. Existing Land Use Map



3. Existing Building Form and Scale



Site - Aerial view, looking west (Source: Google Maps)



Site - from North Fillmore Street (Source: Google Maps)



North – from North Fillmore Street (Source: Google Maps)



East – from North Fillmore Street (Source: Google Maps)



South – from North Fillmore Street (Source: Google Maps)



West – from East 42nd Avenue & North Fillmore Street (Source: Google Maps)



Southwest – from East 42nd Avenue & North Fillmore Street (Source: Google Maps)

Proposed Zoning

U-RH-2.5 Zone District

The applicant is requesting to rezone to U-RH-2.5, which allows the Urban House, Duplex, Tandem House and Row House primary building forms. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context. The U-RH-2.5 district also permits the accessory dwelling unit use and Detached Accessory Dwelling Unit (DADU) building form, to be located in the rear 35 percent of the lot, only allowed as accessory to a primary single-unit residential use. 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 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 ADU 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 minimum parking requirement for a dwelling, multi-unit residential use is one space per unit.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below.

Design Standards	E-SU-B (Existing)	U-RH-2.5 (Proposed)
Primary Building Forms Allowed	Urban House	Urban House, Duplex, Tandem House, Row House
Height in Stories / Feet, Front 65% of Zone Lot, Urban House, (max.)	2.5 stories / 35 feet	2.5 stories / 35 feet**
Height in Stories / Feet, Rear 35% of Zone Lot, Urban House, (max.)	1 story / 19 feet	2.5 stories / 24 feet**
Height in Stories / Feet, Detached Accessory Dwelling Unit, (max.)	N/A	1.5 stories / 24 feet
Zone Lot Size (min.)	4,500 sf	6,000 sf**
Zone Lot Width (min.)	35 feet	50 feet**
Primary Street Block Sensitive Setback Required / If not	Yes / 20 feet	Yes / 20 feet
Side Street Setback (min.) *	7.5 feet	5 feet**
Side Interior Setback (min.) *	10 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%	N/A
Detached Accessory Building Forms Allowed	Detached Garage, Other Detached Accessory Structures	Detached Accessory Dwelling Unit, Detached Garage, Other Detached Accessory Structures

*Based on subject property width of 75 feet

**Standard varies depending on building form

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 response

Asset Management: Approved – No comments

Denver Public Schools: Approved – No response

Department of Public Health and Environment: Approved – No response

Denver Parks and Recreation: Approved – No comments

Public Works – R.O.W. - City Surveyor: Approved – See comments below

Revise the legal description to reference the plat name "First Addition to Swansea" as shown in the revised included word document attached with this form.

Development Services - Transportation: Approved – No response

Development Services – Wastewater: Approved – No response

Development Services – Project Coordination: Approve Rezoning Only – Will require additional information at Site Plan Review

- 1) Future development is subject to zoning and building permit review. Projects with two units or less will be reviewed by the Residential Team. Projects with three units or more will require a Site Development Plan and building permit review.
- 2) Future development on the site will need to comply with the chosen building form standards for the new zone district. The U-RH-2.5 zone district allows multiple building form choices.

Development Services – Fire Prevention: 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:	8/5/21
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:	11/2/21
Planning Board Public Hearing:	11/17/21
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 (tentative):	11/16/21
Land Use, Transportation and Infrastructure Committee of the City Council meeting (tentative):	11/30/21
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 (tentative):	12/20/21
City Council Public Hearing (tentative):	1/10/22

Public Outreach and Input

- **Registered Neighborhood Organizations (RNOs)**
 As of the date of this report, staff has not received written comment from an RNO pertaining to this application.
- **Other Public Comment**
 As of the date of this report, staff has not received written public comments pertaining to this application.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC Section 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

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

1. Consistency with Adopted Plans

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *Elyria & Swansea Neighborhoods Plan (2015)*

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 unit within an established neighborhood, consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- 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).
- Equitable, Affordable and Inclusive Goal 3, Strategy B – *Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit* (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).

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies in the Environmentally Resilient vision element:

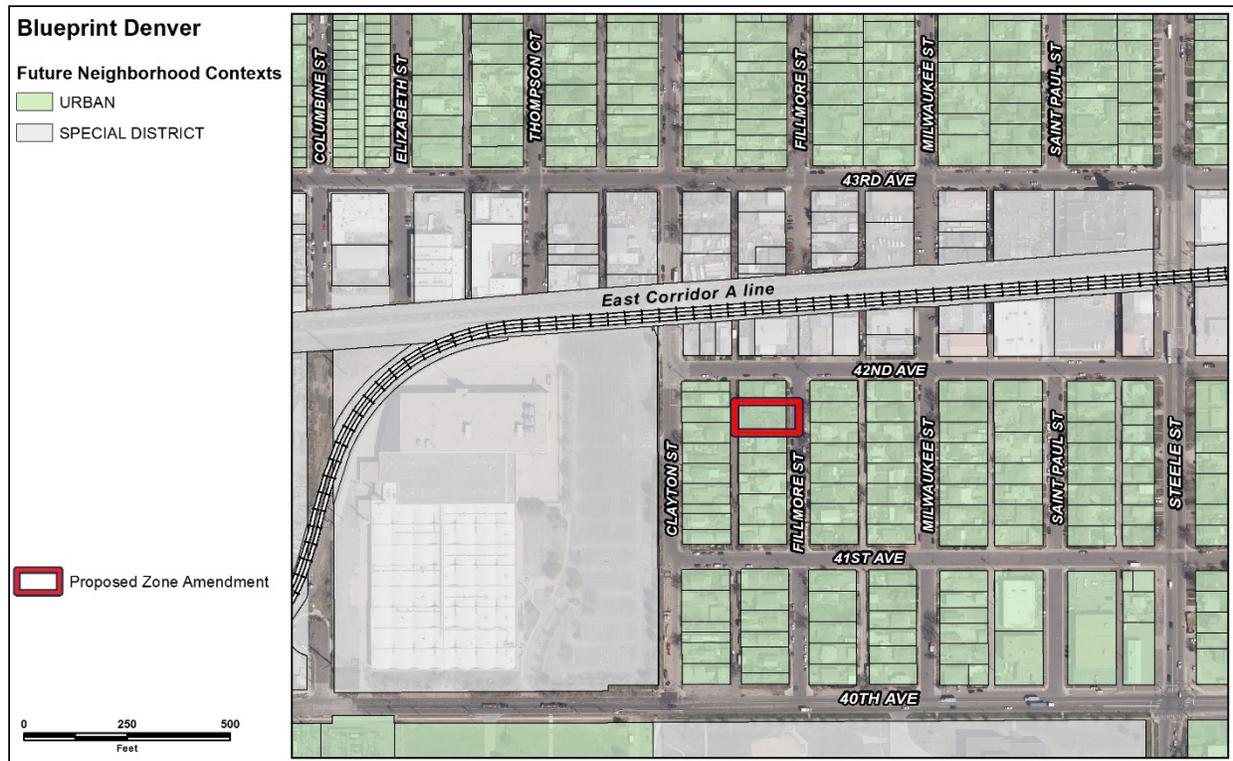
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place* (p. 54).

The requested map amendment will allow an additional residential unit at an infill location where infrastructure is already in place. The requested zone district enables a building form and use which can provide residents with a mixture of housing types. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

Blueprint Denver (2019)

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* identifies the subject property as part of a Residential Low place within the Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

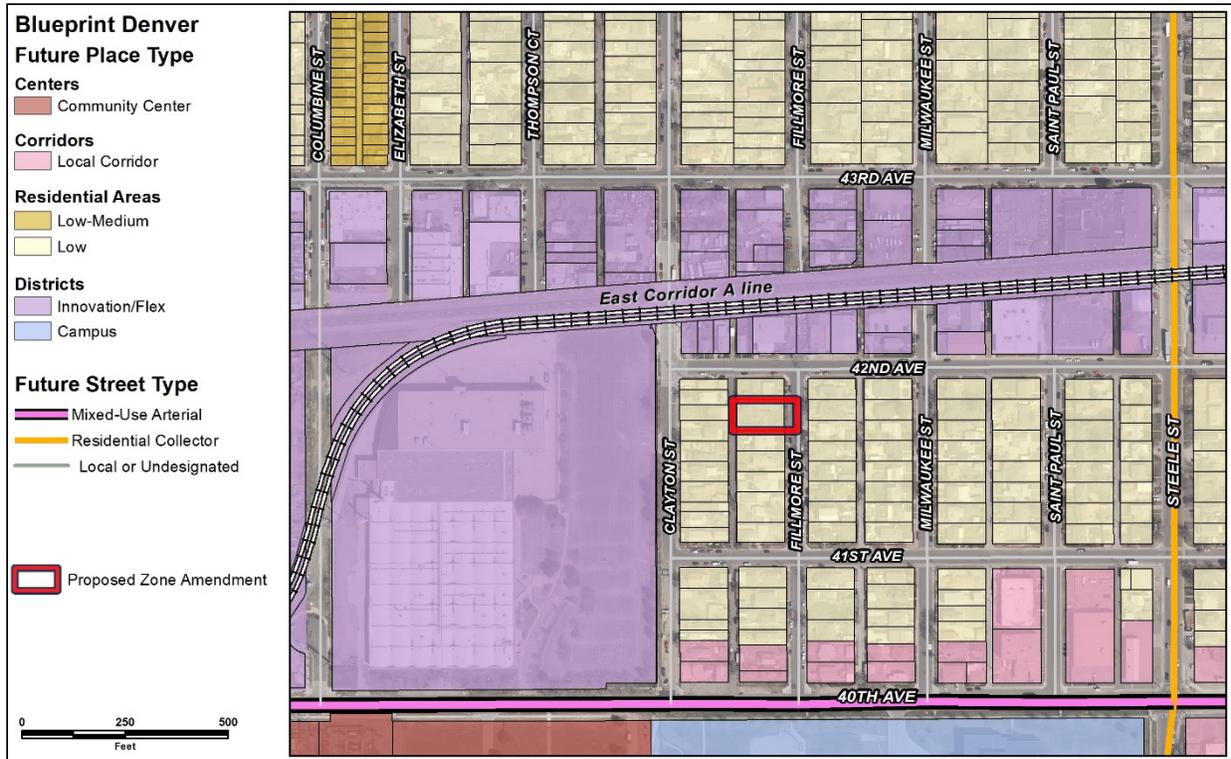
Blueprint Denver Future Neighborhood Context



The subject property is shown on the context map as an Urban Neighborhood Context, the description of which is used to guide appropriate zone districts. “Small multi-unit residential and low-intensity mixed-use buildings are typically embedded in single-unit and two-unit residential areas. Block patterns are a regular grid with consistent alley access. Where they occur, multi-unit buildings are low scale. Mixed-use buildings are sited in a pedestrian-friendly manner near the street” (p. 222).

U-RH-2.5 is a zone district within the Urban Neighborhood Context and is intended “to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context” and “the building form standards, design standards and uses work together to promote desirable residential areas” (DZC Section 5.2.2.1). U-RH-2.5 is consistent with Blueprint Denver’s future neighborhood context of Urban because it will promote the residential character of the neighborhood by allowing a low-scale multi-unit residential building that will be compatible with the existing residential area.

Blueprint Denver Future Places

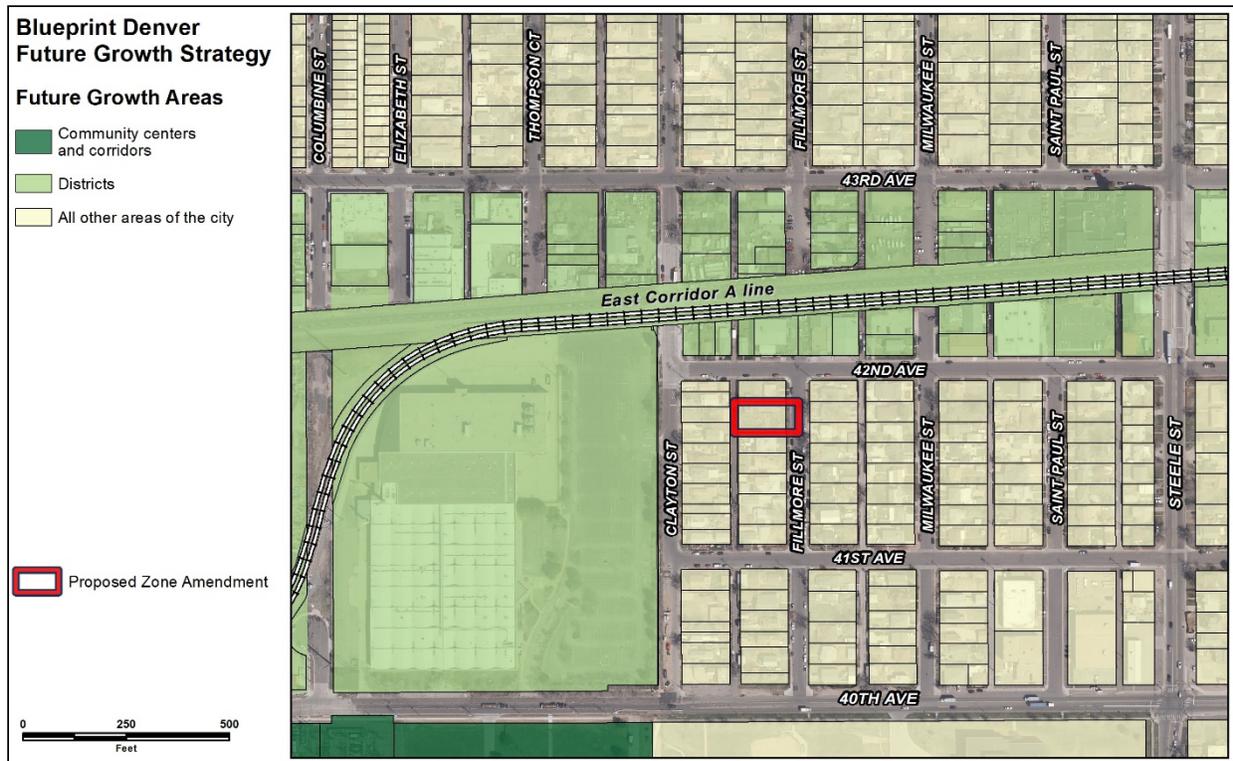


Within the Urban Neighborhood Context, the subject property is categorized as a Residential Low Future Place with a land use and built form defined by Blueprint Denver as “predominately single- and two-unit uses on small or medium lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible... Low to medium building coverage. Buildings are generally up to 2.5 stories in height” (p. 214). Additionally, Blueprint Denver states “some higher-intensity residential uses may be mixed throughout” (p. 148). The proposed U-RH-2.5 zone district, allowing multiple building forms up to 2.5 stories in height on a medium lot, is compatible with this Future Place type.

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 North Fillmore Street and East 42nd Avenue as Local or Undesignated Future Street Types, which “can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p. 161). The proposed U-RH-2.5 district is consistent with this street type because it allows for residential uses only.

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 percent of new housing growth and 10 percent 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 U-RH-2.5 zone district is appropriate in this growth area as it will minimally contribute to development intensity in the neighborhood while maintaining the area’s single-unit residential character. Therefore, the proposed rezoning is consistent with the Blueprint Denver growth strategy.

Additional Applicable Strategies

The proposed rezoning is also consistent with the following strategies from *Blueprint Denver*:

- Land Use & Built Form – Housing Goal 2: *Diversify housing options by exploring opportunities to integrate missing middle housing into low and low-medium residential areas (p. 82).*
- Land Use & Built Form – Housing Goal 2: *Integrate missing middle housing into low and low-medium residential areas, especially those that score low in housing diversity. This allowance should advance goals for affordability, such as including a requirement to provide affordability in exchange for increased density (p. 82).*

This rezoning to a row house zone district will have minimal impacts on the character of the surrounding neighborhood and is consistent with Blueprint Denver recommendations. Additionally, the rezoning of the subject property will provide affordable missing middle housing options for residents in the neighborhood. The proposed map amendment is therefore consistent with the above strategies.

Blueprint Denver Equity Concepts

Blueprint Denver organizes recommendations around three equity concepts: improving access to opportunity; reducing vulnerability to displacement; and expanding housing and jobs diversity. While these concepts are consistently used to evaluate large area rezonings, CPD has expanded analysis of these concepts to also apply to rezonings in NEST neighborhoods. As the subject property is within the Elyria Swansea statistical neighborhood, an equity analysis is applicable to this rezoning application.

Access to Opportunity

Elyria Swansea is indicated as an area with less access to opportunity, defined as access to basic goods, services and amenities to improve quality-of-life. While the proposed allowance of a multi-unit residential development does not directly increase access to opportunity, an increase in residents may increase the likelihood that more goods, services and amenities will locate in the commercial and mixed-use zoned areas of the neighborhood.

Vulnerability to Displacement

Elyria Swansea is indicated as an area with high vulnerability to displacement. The neighborhood has lower education rates, lower median household incomes and a lower percentage of owner-occupied units than the Denver average. The proposed rezoning to allow for a multi-unit residential development, intended to offer for-sale units, will provide opportunities for home ownership and help keep existing residents in the neighborhood.

Housing Diversity

Elyria Swansea is indicated as an area with moderate housing diversity. Adding missing middle housing is a strategy to add needed housing diversity. The neighborhood lacks in housing developments containing 2 to 19 units and does not offer a diversity of housing costs when compared to the Denver average. The proposed rezoning will help diversify the housing stock and encourage of mix of development types available for ownership.

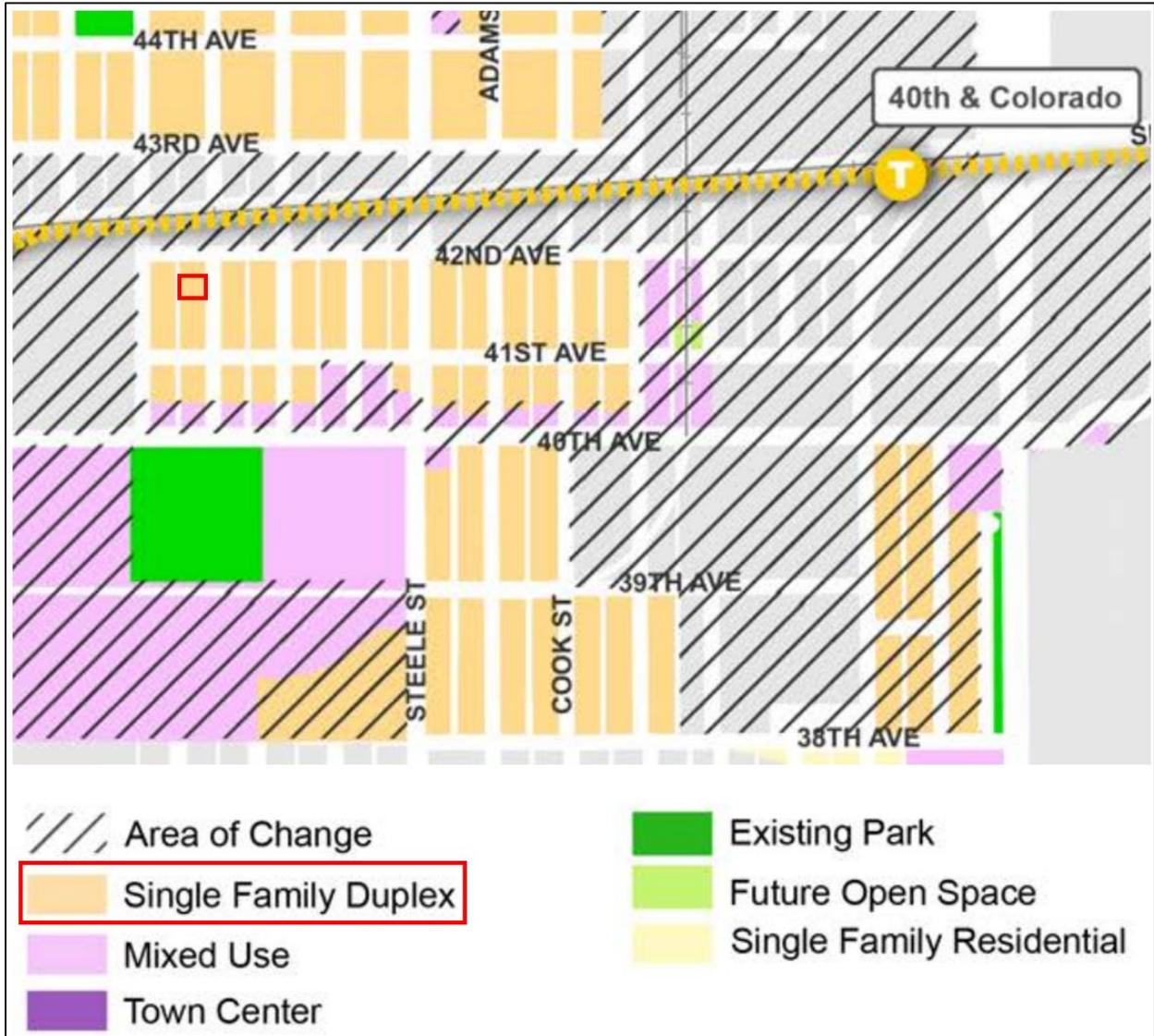
Jobs Diversity

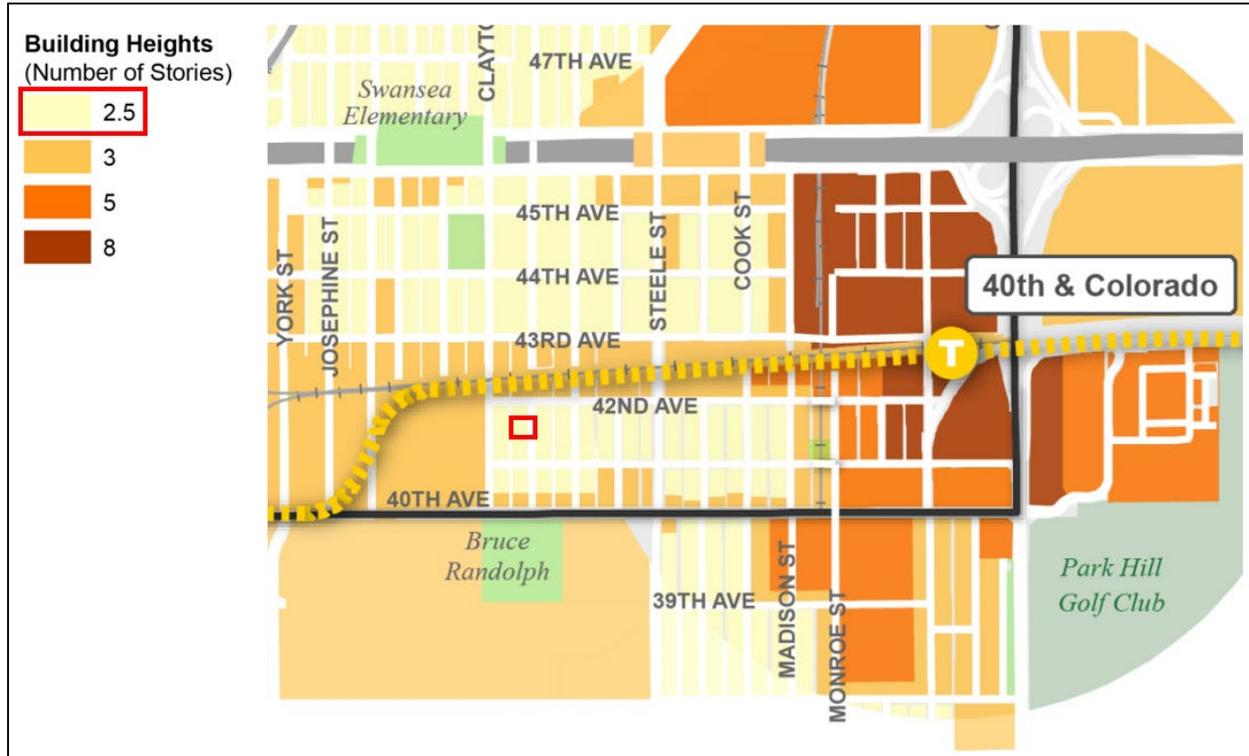
Elyria Swansea has a mix of jobs that skew higher in innovation than the city average, primarily located along East 40th Avenue. The proposed rezoning to a residential zone district will not have a direct impact on job diversity in the neighborhood.

Elyria & Swansea Neighborhoods Plan (2015)

This neighborhood plan was adopted by City Council in 2015 and applies to the subject property. It designates the subject property as being within a traditional residential area with a single-family duplex concept land use and a maximum building height of 2.5 stories. "Single family duplex residential areas are moderately dense areas that are primarily residential" (p. 26). The subject property is also

within the traditional residential area and outside the area of change, suggesting it should remain residential in use and at a similar development intensity.





The request is consistent with several Elyria and Swansea Neighborhoods Plan policies, including:

- Establish a Balance Land Use Strategy Recommendations, B.2 Establish a Strong Compilation of Land Uses That Balances the Needs of Residents, Commerce, and Industry: *Single Family Duplex residential areas are moderately dense areas that are primarily residential. There is a mixture of housing types, including single-family houses, duplexes, rowhouses, and small apartment buildings* (p. 26).
- Establish a Balance Land Use Strategy Recommendations, B.3 Increase Housing Choices: *Encourage investment in new housing to expand the total number of residences and to provide for a diversity of housing types to bring more people of all ages and income levels into the neighborhood* (p. 29).
- Improve Access to Housing, Jobs, Services & Education Recommendations, B.23 Increase Access to Housing: *Provide a broad range of housing types by allowing for moderate increases in density and household economic stabilization by allowing options that supplement an existing single family home, including accessory dwelling units, duplexes and tandem houses* (p. 46).
- Traditional Residential Areas: *Reverse the trend of a declining population and expand housing throughout the neighborhood* (p. 88).
- E.1 Update the Neighborhood Context as *the Denver Zoning Code's Urban Neighborhood Context, as opposed to the currently mapped Urban Edge Context, better reflects the use of alley, limiting or prohibiting curb cuts for street access, and the continuation of detached sidewalks where possible* (p 88).

- E.2 Encourage Investment in Residential Areas of Stability: *Explore opportunities to introduce building forms, consistent with the single-family duplex land designation, such as accessory dwelling units, duplex or tandem houses and rowhouses (p. 88).*
- Increase the local supply of relatively affordable housing units in the neighborhood. *A modest increase in housing density could add more people to the limited neighborhood population and support commercial retail and other desired services in the neighborhood (p. 89).*

The proposed U-RH-2.5 zone district would allow for the opportunity to introduce additional building forms, increasing the variety of housing types in the neighborhood, consistent with the recommendations of the Elyria Swansea Neighborhood Plan. The maximum allowed height of 2.5 stories is consistent with the plan's height recommendations, and the Urban context complies with the plan's goal of shifting the area into Urban context zoning. The proposed rezoning would facilitate residential investment in the neighborhood, increasing the supply of available housing, consistent with the policies and goals of the Elyria & Swansea Neighborhoods Plan.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-RH-2.5 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare through implementation of the city's adopted land use plans. The proposed rezoning would also facilitate increased housing density near services and amenities and promote a walkable, urban neighborhood within walking distance to public transit. Additionally, this property has been a nuisance to neighbors in this area for at least 15 years while it has been vacant. By re-activating this property with homeowners, this rezoning would help increase safety by fostering additional eyes and ears of neighbors that care about their home and neighborhood.

4. Justifying Circumstances

Changed or changing conditions in the area and city adopted plans serve as the Justifying Circumstances under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a 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...."

The Elyria Swansea neighborhood has seen significant change over the last few years including major construction projects like the National Western Complex and the Interstate 70 expansion. The I-70 project, in particular, has resulted in the loss of housing units in the neighborhood, justifying this rezoning to help add some of those units back to stabilize the neighborhood. In addition, the city adopted the Elyria & Swansea Neighborhoods Plan in 2015 and Blueprint Denver in 2019, both of which included new plan direction for the subject property to allow more types of housing and change the zoning context to Urban. The combination of changes in the neighborhood and new neighborhood plan

direction justify the proposed rezoning with the map amendment to U-RH-2.5 being in the public interest.

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

The proposed U-RH-2.5 zone district is within the Urban Neighborhood Context. The neighborhood context generally consists of primarily single-unit and two-unit residential uses, and small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas. The Urban Neighborhood Context consists of a regular pattern of block shapes surrounded by an orthogonal street grid, providing a pattern of pedestrian and vehicular connections and a consistent presence of alleys. Block sizes and shapes are consistent and include detached sidewalks, tree lawns, street and surface parking, and landscaping in the front setback. Residential buildings typically have consistent, moderate front setbacks, shallow side setbacks and consistent orientation. The Urban Neighborhood Context is characterized by low-scale buildings except for some mid-rise commercial and mixed-use structures, particularly at nodes or along arterial streets. There is a balance of pedestrian, bicycle and vehicle reliance with greater access to the multi-modal transportation system (DZC, Division 5.1). It is appropriate to apply zoning within the Urban Neighborhood Context at this location through the adopted plan vision described earlier as well as the existing context. The proposed rezoning to U-RH-2.5 will enable development that is consistent with the neighborhood context description.

According to DZC 5.2.2.1.A, the general purpose of the Residential zone districts is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context. The building form standards, design standards, and uses work together to promote desirable residential areas. Lot sizes are consistent within an area, and lot coverage is typically medium to high accommodating a consistent front and side yard. The standards of the two unit and row house districts promote existing and future patterns of lower scale multi-unit building forms that address the street in the same manner as an urban house building form. The regulations provide certainty to property owners, developers, and neighborhoods about the limits of what is allowed in a residentially zoned area. These regulations are also intended to reinforce desired development patterns in existing neighborhoods while accommodating reinvestment. The rezoning to U-RH-2.5 is consistent with the zone district general purpose and recognizes the existing residential context.

Specifically, U-RH-2.5 is a multi-unit district that allows up to a two and a half story rowhouse building form. It also allows the urban house, detached accessory dwelling unit, duplex, and tandem house building forms. The proposed zone district recognizes both the subject site's existing condition and surrounding context, fulfilling this Specific Intent statement.

Attachments

1. Application