



TO: Denver City Council
FROM: Scott Robinson, Senior City Planner
DATE: July 16, 2020
RE: Official Zoning Map Amendment Application #2019I-00199

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00199.

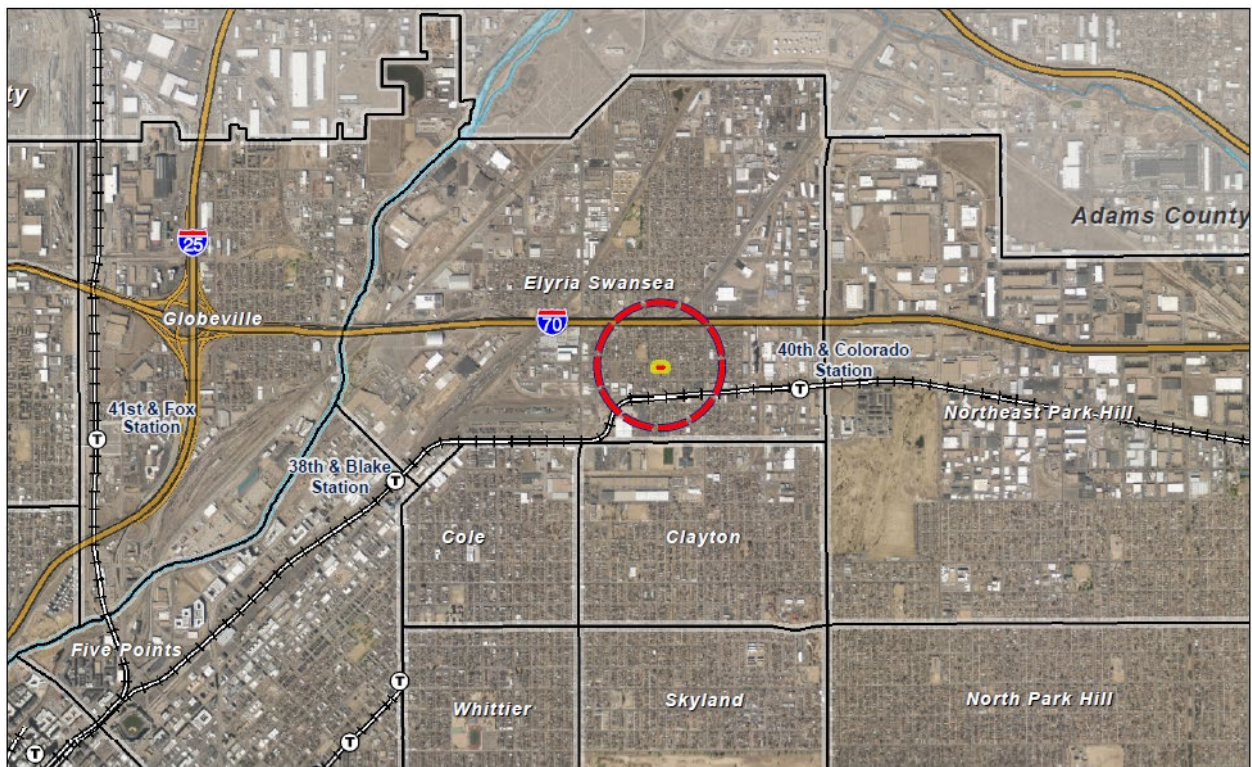
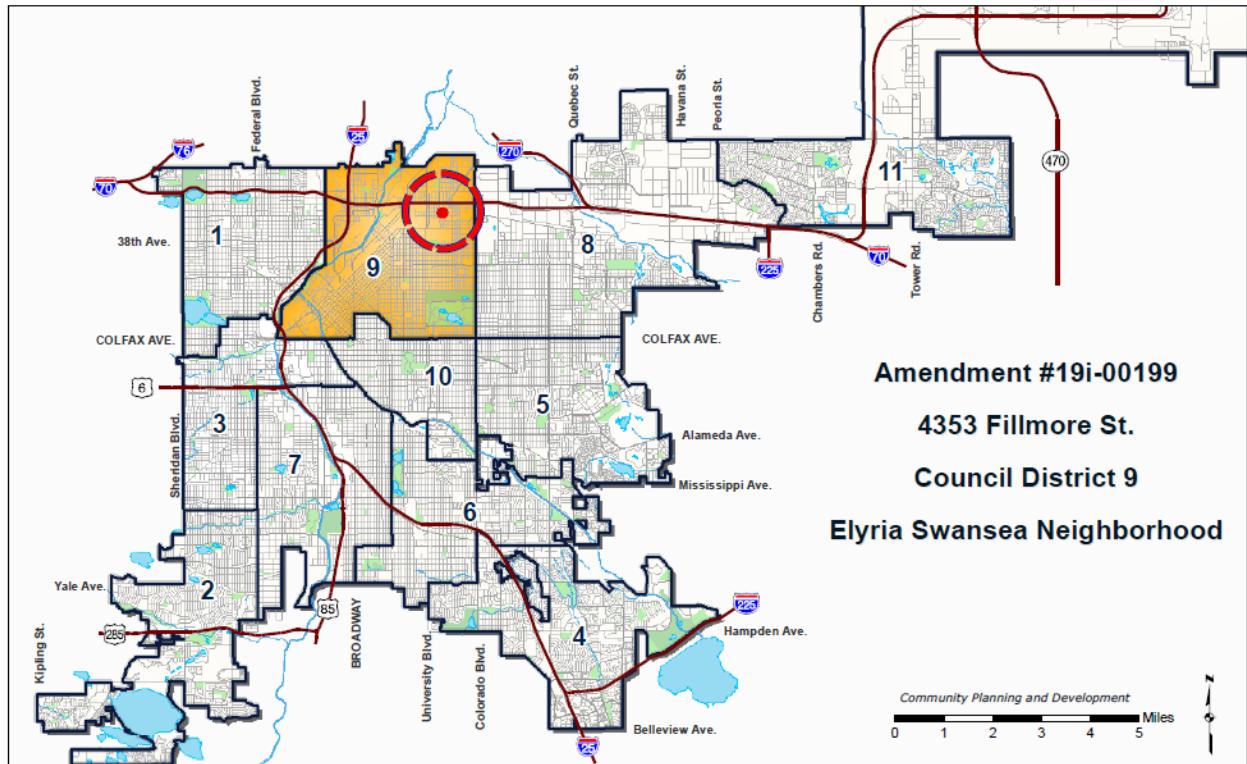
Request for Rezoning

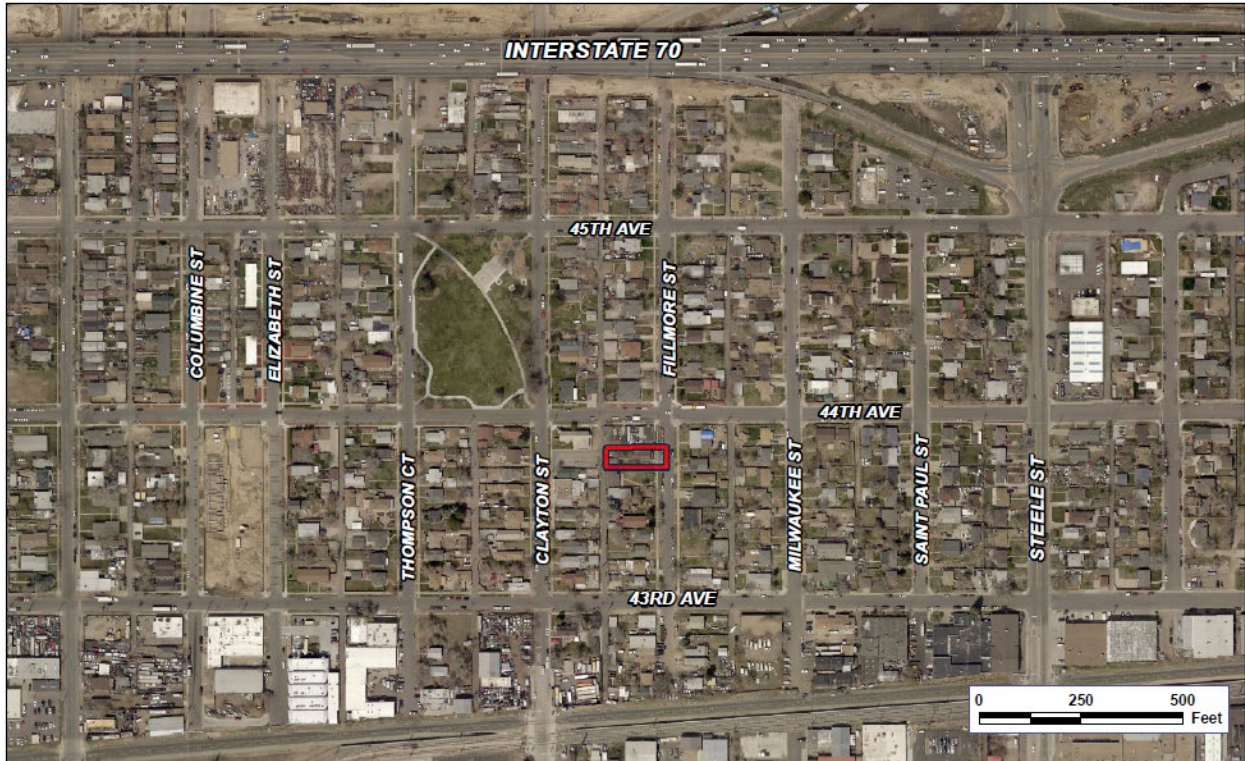
Address:	4353 Fillmore Street
Neighborhood/Council District:	Elyria Swansea / Council District 9
RNOs:	Elyria Swansea/Globeville Business Association; Cross Community Coalition; Northeast Denver Friends and Neighbors; Inter-Neighborhood Cooperation (INC); UCAN RNO; Elyria and Swansea Neighborhood Association; Opportunity Corridor Coalition of United Residents; Denver Arts and Culture Initiative
Area of Property:	6,250 square feet
Current Zoning:	E-SU-D
Proposed Zoning:	U-TU-C
Property Owner:	Anna Kariouk

Summary of Rezoning Request

- The subject property is in the Elyria Swansea neighborhood, south of Interstate 70 and north of the RTD A Line tracks, near the corner of Fillmore Street and 44th Avenue.
- The property currently has a single-unit house on it.
- The applicant is requesting the rezoning to allow the construction of a duplex on the property.
- The U-TU-C (**U**rban, **T**wo **U**nit, 5,500 square foot minimum lot size) zone district allows single-unit and two-unit household living uses in Urban House, Duplex, and Tandem House primary building forms. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 5 of the Denver Zoning Code (DZC).

Existing Context



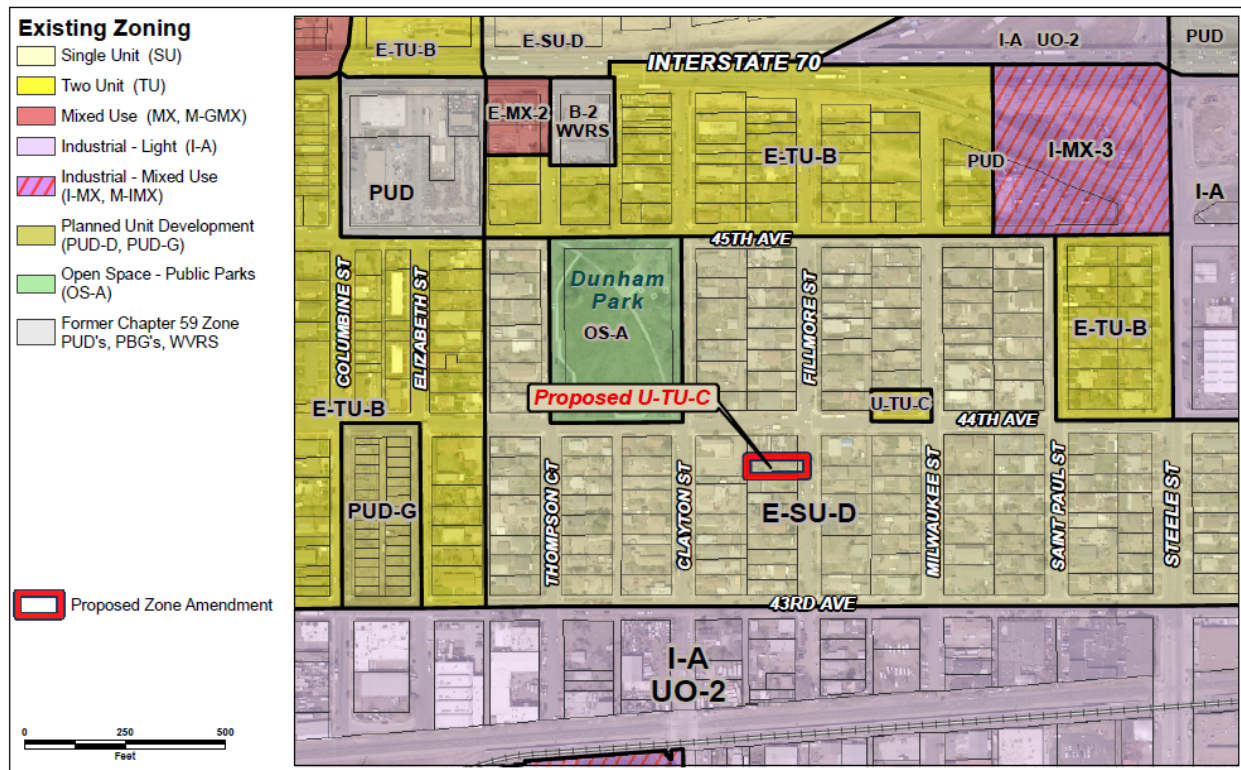


The subject property is located in the Elyria Swansea neighborhood, one lot south of the intersection of Fillmore Street and 44th Avenue. Interstate 70 is two blocks north, and the RTD A Line tracks are just over a block south. The 40th & Colorado station on the A Line is just over ½-mile to the east, and there is RTD bus service on York and Josephine Streets ¼-mile to the west and 40th Avenue about ¼-mile to the south. Dunham Park is one block to the west. There are commercial and industrial uses scattered around the edge of the immediate neighborhood.

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 front-gable house	Generally regular grid of streets interrupted to the north by I-70 and to the east, south, and west by industrial areas with larger blocks. Block sizes and shapes are consistent and rectangular. Vehicle parking to the side or rear of buildings (alley access).
North	E-SU-D	Single-unit residential	1-story houses	
South	E-SU-D	Single-unit residential	1-story houses set far back from the street	
East	E-SU-D	Single-unit residential	1-story houses	
West	E-SU-D	Church, parking lot, single-unit residential	1.5-story brick church building, surface parking lot, 1-story houses	

1. Existing Zoning

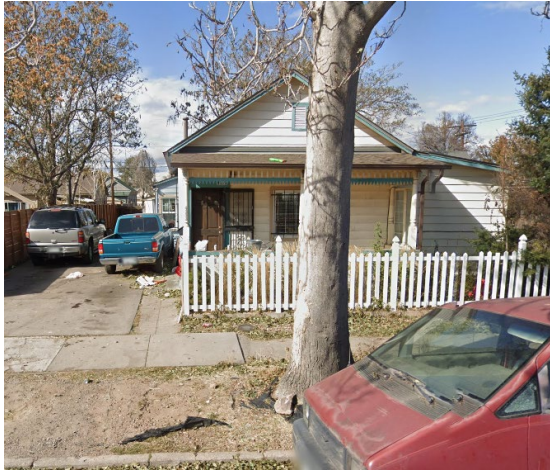


The current E-SU-D zone district allows the urban house building form with a minimum lot size of 6,000 square feet. The maximum building height is 30 feet and the maximum lot coverage is 37.5 percent. Front setbacks are block sensitive and, on this 50-foot-wide lot, side setbacks would be five feet and the rear setback would be 12 feet. Detached garages and other detached accessory structures are allowed. Single-unit dwelling and certain group living uses are allowed. There is no minimum parking requirement for single-unit dwelling uses.

2. Existing Land Use Map



3. Existing Building Form and Scale



Site – from Fillmore St.



North – from Fillmore St. & 44th Ave.



East – from Fillmore St.



South – from Fillmore St.



West – from Clayton St. & 44th Ave.
Source: Google Maps

Proposed Zoning

The requested U-TU-C zone district has a maximum height in feet of 30' with allowable encroachments. The minimum primary street front setback is block sensitive. Single-unit and two-unit residential uses are allowed, along with certain group living uses. There is no minimum vehicle parking requirement for single-unit dwellings, while two-unit dwellings require a minimum of one space per unit. For additional details of the requested zone district, see DZC Article 5.

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

Design Standards	E-SU-D (Existing)	U-TU-C (Proposed)
Primary Building Forms Allowed	Urban House	Urban House, Duplex, Tandem House
Height in Stories/Feet (max)	2.5/30'	2.5/30'
Primary Build-To Percentages (min)	N/A	N/A
Primary Build-To Ranges	N/A	N/A
Minimum Zone Lot Size/Width	6,000 SF/50'	5,500 SF/50'
Primary Setbacks (min)	Block sensitive	Block sensitive
Building Coverages (max)	37.5%	37.5%

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 – See comments:

- Notes. EQ concurs with the request and is not aware of environmental concerns that should be considered for this rezoning.
- General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DDPHE suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.
- If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-

based paint should be managed in accordance with applicable federal, state and local regulations.

- The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must, at all times, be effective in the control of fugitive particulate emissions on the site, including periods of inactivity such as evenings, weekends, and holidays.
- Denver’s Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).
- Scope & Limitations: DDPHE performed a limited search for information known to DDPHE regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Denver Parks and Recreation: Approved – No comments

Public Works – R.O.W. - City Surveyor: Approve rezoning only – Will require additional information at site plan review

Development Services - Transportation: Approved – No response

Development Services – Wastewater: Approved – No response

Development Services – Project Coordination: Approved – No response

Development Services – Fire Prevention: Approved – No response

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:	2/7/20
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:	5/18/20
Planning Board unanimously recommended approval:	6/3/20
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:	5/29/20
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward:	6/9/20
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:	6/26/20
City Council Public Hearing:	7/20/20

- **Registered Neighborhood Organizations (RNOs)**
 - To date, no comment letters have been received from Registered Neighborhood Organizations.
- **Other Public Comment**
 - To date, three letters of opposition have been received. The letters all object to the subject property potentially being redeveloped with a structure larger than what currently exists on the site.

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 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 additional housing options within an established neighborhood, consistent with the following strategy 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).*

The proposed rezoning would allow infill development appropriate for the surrounding neighborhood that broadens the range of housing types available, consistent with the following strategies 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 diverse populations (p. 34).*
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities (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:

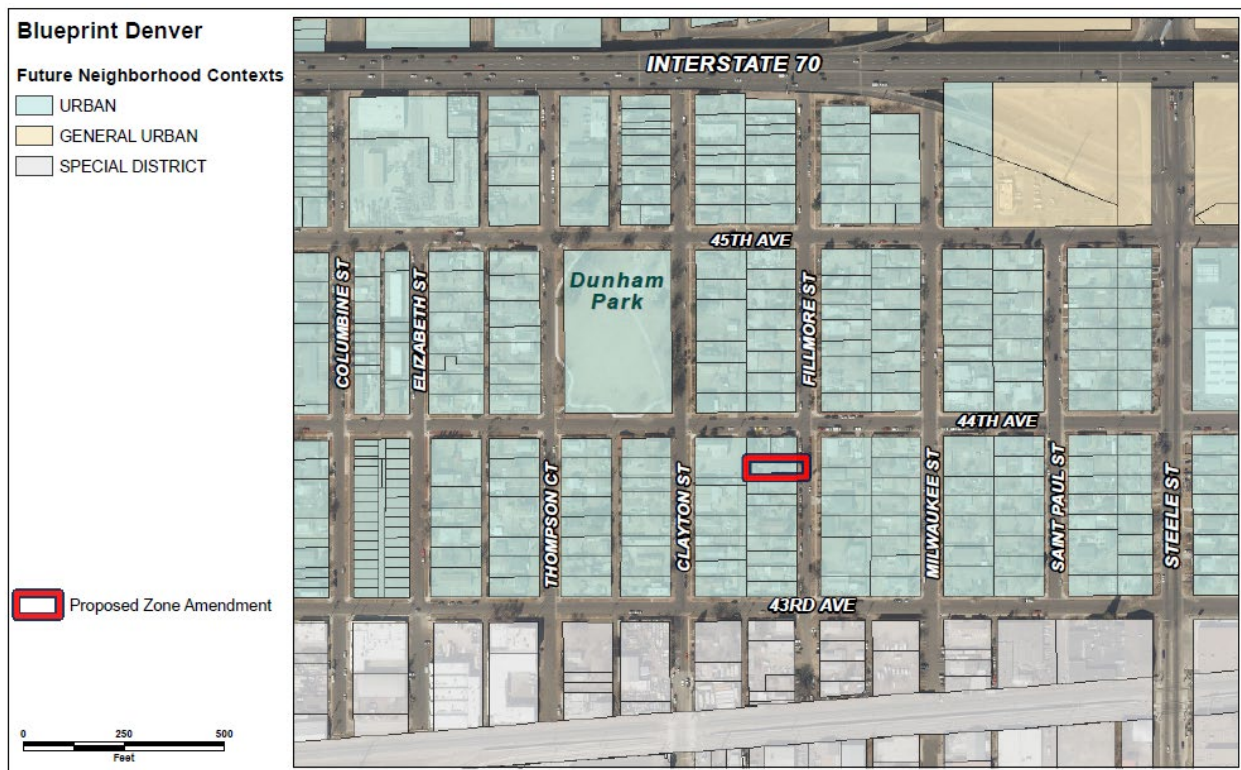
- Environmentally Resilient Goal 8, Strategy A- *Promote infill development where infrastructure and services are already in place* (p.54).

The proposed U-TU-C zone district would allow for additional housing options within the Elyria Swansea neighborhood, 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 identifies the subject property as part of a Low Residential place within the Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

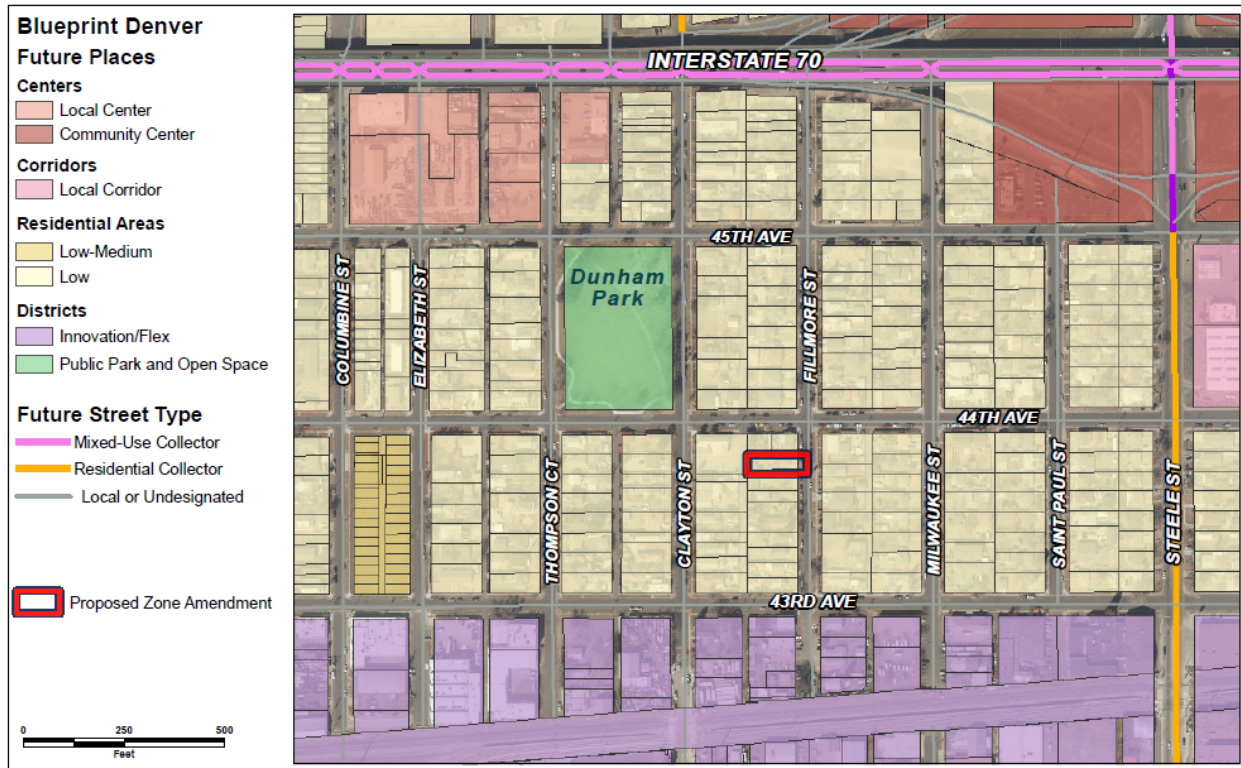
Blueprint Denver Future Neighborhood Context



In Blueprint Denver, future neighborhood contexts are used to help understand differences in things like land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is shown on the context map as Urban neighborhood context. The neighborhood context map and description help guide appropriate zone districts (p. 66). In the Urban neighborhood context, “homes vary from multi-unit developments to compact single-unit homes” (p. 221) and “small multi-unit and low-intensity mixed-use buildings are typically embedded in single-unit and two-unit residential areas” (p. 222). The proposed U-TU-C zone district is part of the Urban neighborhood context and would

allow single-unit and two-unit uses, consistent with the intent of the Urban neighborhood context in Blueprint Denver.

Blueprint Denver Future Places



The neighborhood context of Urban provides nuance to the aspirations of the individual places shown on the map. The Future Places Map shows the subject property as part of a Low Residential place. Blueprint Denver describes the aspirational characteristics of Low Residential places in the Urban context as, “Predominately single- and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible.... Medium building coverage. Building heights are generally up to 2.5 stories in height” (p. 230). The proposed district of U-TU-C would allow single-unit and two-unit residential uses at a scale consistent with this description.

Blueprint Denver provides further guidance for rezonings in Low Residential places regarding uses and minimum lot sizes. The plan states “when a rezoning request is made to change the zoning to allow two-unit uses, the appropriateness of the request depends upon adopted small area plan guidance, neighborhood input, and existing zoning patterns. A departure from the established zoning pattern may be appropriate if the intent is to set a new pattern for the area, as expressed by an adopted small area plan or significant neighborhood input” (p. 231). In this case, there is an intent to set a new pattern for the area as outlined in the Elyria Swansea Neighborhood Plan (see analysis of the plan below).

As described above, the proposed U-TU-C zone district has a minimum lot size of 5,500 square feet, compared to the minimum lot size of 6,000 square feet for the existing E-SU-D zone district. Blueprint Denver states “for applicant-driven requests that are individual sites or small assemblages, typically it is only appropriate to allow smaller lot sizes than the existing zone district if there is an established pattern in the surrounding blocks of smaller lots with similar uses that would be consistent with the zone district request” (p. 231). Staff has analyzed the existing pattern of lot sizes in the area and found there to be a variety of lot sizes, ranging from less than to greater than 5,500 square feet, such that the U-TU-C minimum lot size would be consistent with the existing pattern and therefore appropriate. In addition, there is no U-TU-D zone district, so to achieve the other plan goals of both Blueprint Denver and the Elyria Swansea Neighborhood Plan of shifting this area to the Urban neighborhood context and encouraging additional housing types, the U-TU-C zone district is appropriate.

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 a Low Residential place. Low Residential places fall under “all other areas of the city” on the growth strategy map, which are anticipated to see 20% of new housing and 10% of new jobs by 2040. The areas are designated to “take a smaller amount of growth intended to strengthen the existing character of our neighborhoods” (p. 49). The proposed map amendment to U-TU-C would allow additional housing options appropriate for the existing neighborhood, helping to accommodate the anticipated increase in housing in Low Residential places throughout the city.

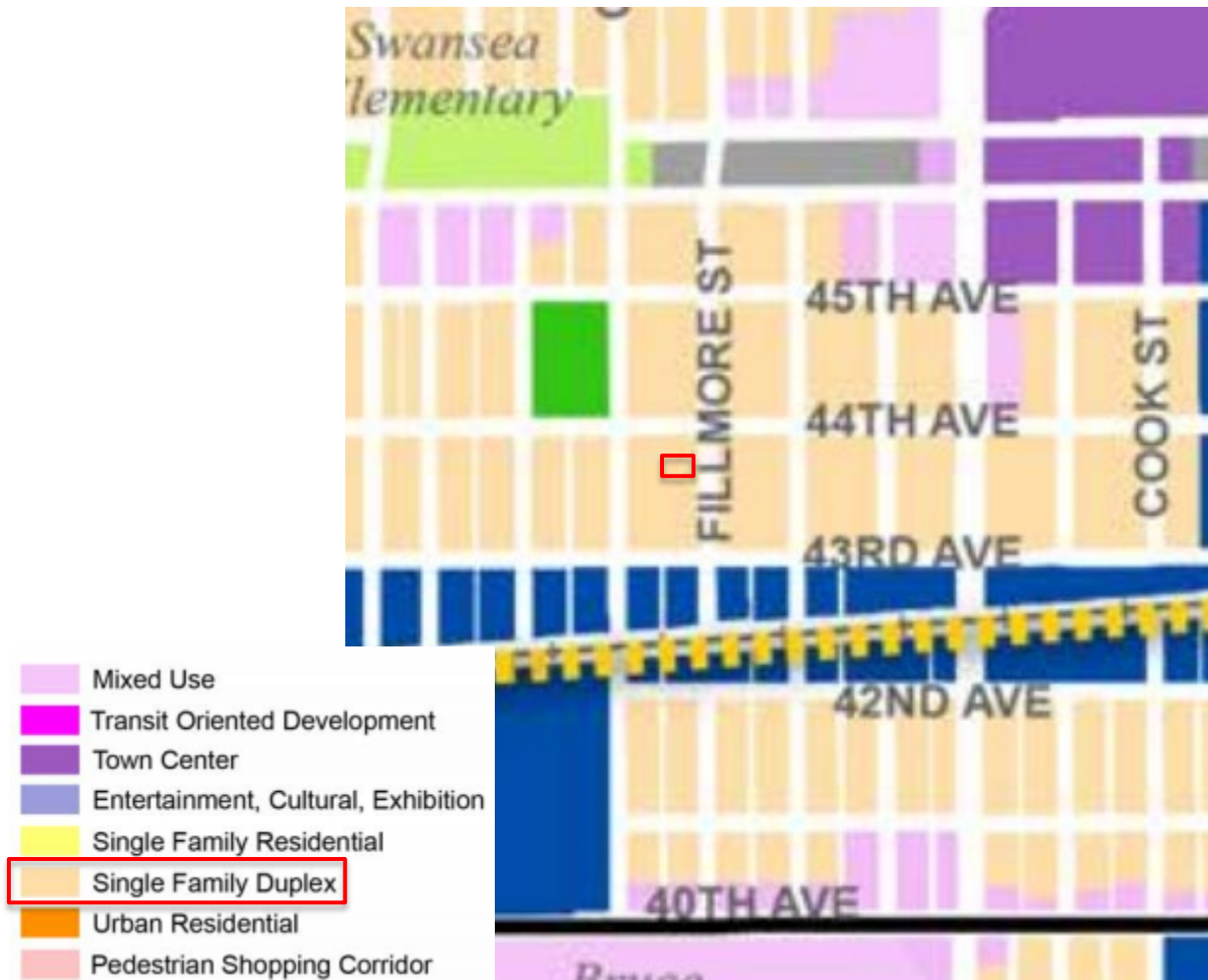
Street Types

In Blueprint Denver, street types work in concert with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). Blueprint Denver classifies Fillmore Street as a Local Street, 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-TU-C zone district would allow low-scale residential development consistent with the intent of the Local Street designation. Thus, the proposed map amendment is consistent with the context, place, growth strategy, and street type recommendations of Blueprint Denver.

Elyria & Swansea Neighborhoods Plan

The Elyria & Swansea Neighborhoods Plan was adopted by City Council in 2015 and applies to the subject property. The plan identifies four guiding principles: unique, strong, connected, and healthy (p. 9). The plan designates the subject property as part of the Single Family Duplex area, which “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). Recommendation B.3 calls for “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). The plan also includes a recommended maximum height for the subject property of 2.5 stories (p. 31). Recommendation B.23 says to “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).

The plan also designates character areas, of which the subject property is designated Traditional Residential. Recommendations for the Traditional Residential area include 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 alleys, limiting or prohibiting curb cuts for street access, and the continuation of detached sidewalks where possible” (p. 88). Recommendation E.2 says to “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” and “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. 88).



Elyria & Swansea Neighborhoods Plan Concept Land Use Map

The proposed U-TU-C zone district would allow duplex uses, 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-TU-C 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 of the City through implementation of the city's adopted land use plan and by facilitating the creating of additional housing options and housing types within an established neighborhood.

4. Justifying Circumstance

The application identifies several changed or changing conditions as the Justifying Circumstance 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, 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-TU-C being in the public interest.

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

The requested U-TU-C zone district is within the Urban Neighborhood Context. The neighborhood context generally consists of single-unit and two-unit residential uses in a regular pattern of blocks surrounded by an orthogonal street grid with alleys (DZC, Division 5.1). This portion of the Elyria Swansea neighborhood fits the general description of Urban neighborhoods and the proposed U-TU-C zone district would allow single-unit and two-unit residential uses consistent with the Urban Neighborhood Context general description.

The general purpose of the Urban residential zone districts is to "promote and protect residential neighborhoods within the Urban Neighborhood Context" and "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" (DZC Section 5.2.2.1). The proposed U-TU-C zone district would allow the urban house, tandem house, and duplex building forms, which have standards that would result in development consistent with the general purpose of the Urban residential districts.

The specific intent of the U-TU-C zone district is to allow "up to two units on a minimum zone lot area of 5,500 square feet. Urban houses are also allowed on certain smaller Zone Lots. Allowed building forms

are the urban house, detached accessory dwelling unit, duplex and tandem house building forms” (DZC Section 5.2.2.2.P). The proposed rezoning would facilitate single-unit or two-unit uses in appropriate building forms on the subject property, which meets the minimum lot size. The proposed U-TU-C zone district is consistent with the DZC context description and purpose and intent statements.

Attachments

1. Application
2. Public comment
3. Planning Board Public Notice Information