



TO: Land Use, Transportation, and Infrastructure Committee
FROM: Jason Morrison, Senior City Planner
DATE: February 6th, 2020
RE: Official Zoning Map Amendment Application #2019I-00061

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00061.

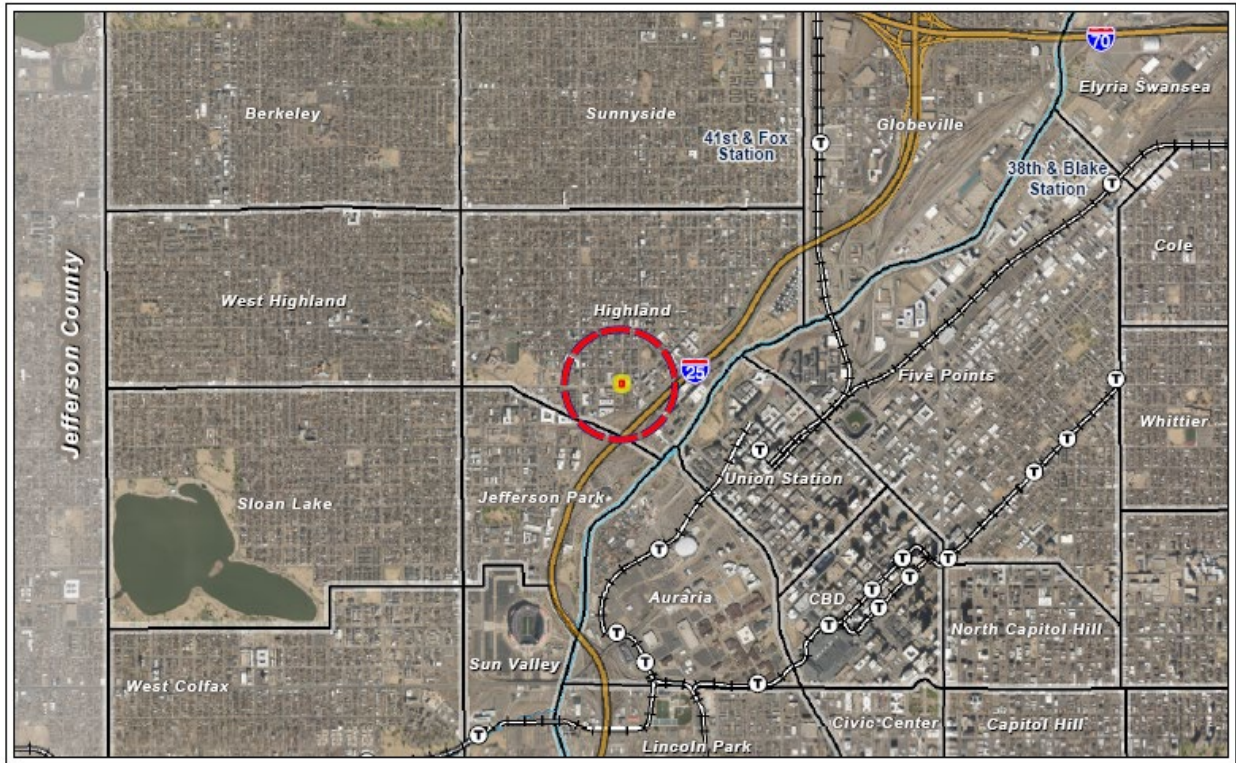
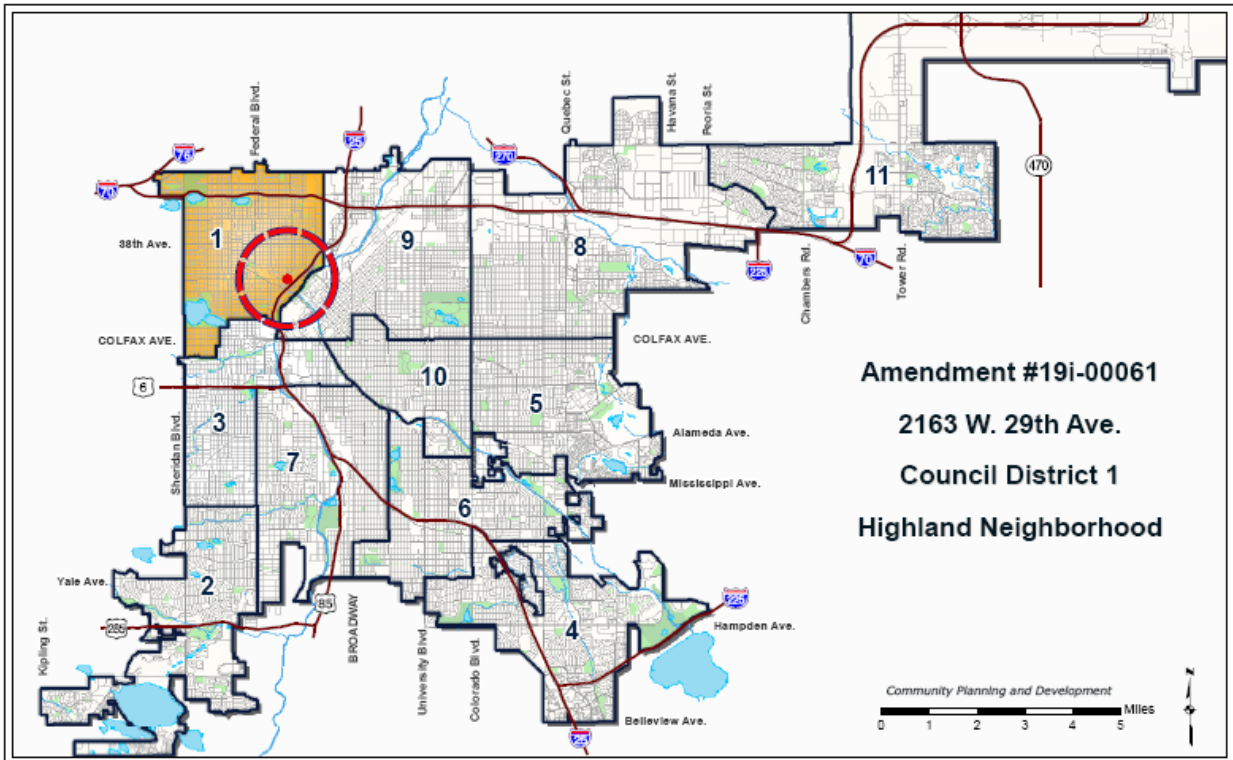
Request for Rezoning

Address:	2163 W. 29 th Avenue
Neighborhood/Council District:	Highland Neighborhood / Council District 1
RNOs:	Highland United Neighbors, Inc.; Center City Denver Residents Organization; Inter-Neighborhood Cooperation (INC)
Area of Property:	6,090 square feet or 0.139 acres
Current Zoning:	PUD 76
Proposed Zoning:	G-MU-3
Property Owner(s):	Wheeler Block Investments, LLC.
Owner Representative:	Kevin Anderson, ArcWest Architects

Summary of Rezoning Request

- The property is located in the Highland neighborhood on the north side of W. 29th Avenue between N. Vallejo Street and Umatilla Street.
- The subject property is a surface parking lot that provides parking for an office building located across W. 29th Avenue at 2150 W. 29th Avenue. Both properties are under the same ownership.
- The applicant is requesting this rezoning to develop the site under the city's current zoning code which is more sensitive to the existing neighborhood character and zoning.
- The G-MU-3 (**G**eneral Urban, **M**ulti **U**nit, **3** stories) zone district is a multi-unit district allowing urban house, duplex, garden court, town house, and apartment building forms. The tallest building form has a maximum height of three stories. Further details of the G-MU-3 zone district can be found in Article 6 of the Denver Zoning Code (DZC).
- The proposed G-MU-3 zone district is an extension of the existing G-MU-3 zone district to the west, north and east. However, the surrounding zoning includes the Use Overlay 3 (UO-3) and the applicant does not propose to rezone to UO-3.
- The site is currently zoned PUD 76, which is a custom zone district from Former Chapter 59 allowing uses within the R-3 zone district with a maximum height of 40 feet.

Existing Context





The subject property is located in the Highland Neighborhood on W. 29th Avenue between N. Vallejo Street and Umatilla Street. The area is primarily composed of single-unit, two-unit, and multi-unit residential buildings with commercial and mixed-use buildings scattered throughout the area. The property sits between residential uses along W. 29th Avenue with a mix of office to the south.

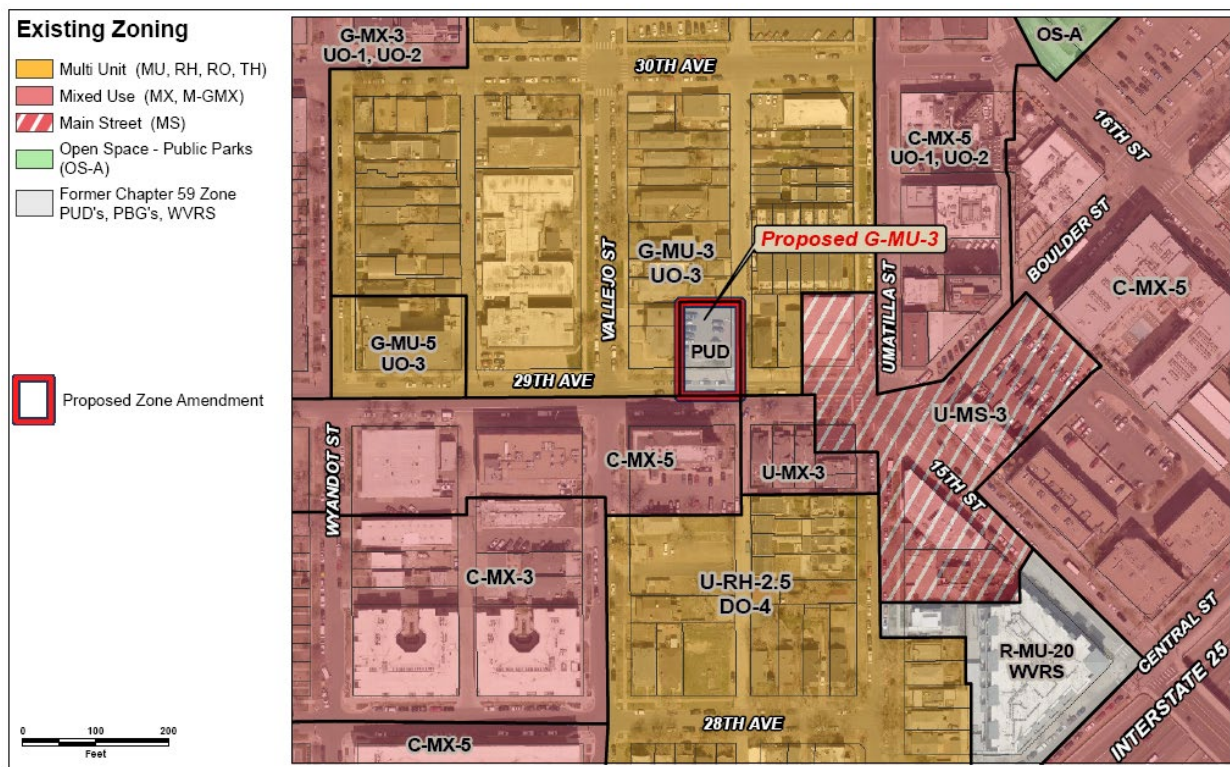
Hirshorn Park is approximately three blocks north of the site and the subject property is located within ¼ mile of Valdez Elementary School and within ½ mile of North High School. The subject property is also within one mile of Federal Boulevard to the west, which has high-capacity transit service. The applicant is requesting the G-MU-3 zone district which is consistent with the adjacent surrounding zone districts to the west, north, and east of the subject property.

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	PUD 76	Parking	Parking with a moderate setback from W. 29 th Avenue	Generally regular grid of streets interrupted to the south and east by Interstate 25.
North	G-MU-3, UO-3	Single-Unit Residential	A 2-story house with a moderate setback and parking along the street and with alley access. Front porch and front lawn	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
South	U-MX-3	Office	4-story office building with a minimal setback and parking along the street with a parking lot behind the building	Block sizes and shapes are generally consistent and rectangular.
East	G-MU-3, UO-3	Single-Unit Residential	2-story house with a minimal setback with parking along the street and garage access through alley	
West	G-MU-3, UO-3	Multi-Unit Residential	2-story house with a moderate setback on primary and side streets with parking in the driveway along N. Vallejo Street and along streets	Vehicle parking in front of buildings (with alley access).

1. Existing Zoning



The existing zoning is PUD 76, which is a Former Chapter 59 custom zone district that allows for a surface parking lot of up to 13 vehicle spaces, as well as all uses within the R-3 zone district with a maximum height of 40 feet. The R-3 zone district is a multi-unit, high density district where building size is controlled by bulk standards, off-street parking and open space requirements.

2. View Plane

The subject property is within the *Park at 51st Avenue and Zuni Street View Plane*. The intent of this view plane is to preserve the view of the Central Business District (south of the subject property) from 51st and Zuni Park (north of the subject property). No part of any structure within the view plane may exceed an elevation of 5,347 feet above mean sea level. Therefore, the site is subject to a maximum height restriction of 86-90 feet. However, the proposed zone district of G-MU-3 has a lower height restriction of 40 feet maximum height for primary structures.

3. Existing Land Use Map



4. Existing Building Form and Scale

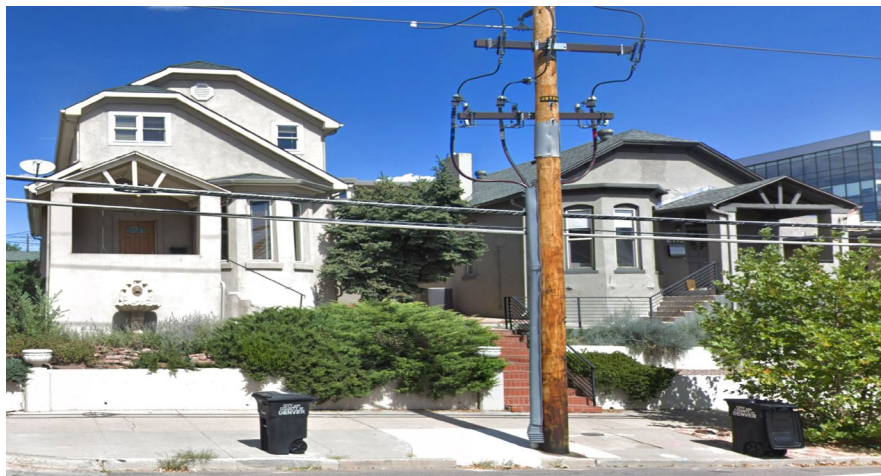
All images are from Google Street View.



Subject site facing north from W. 29th Avenue



Single-unit residential (1 & 2 story) north of the subject site, facing east from N. Vallejo Street.



Two-story house east of the subject property (across from alley), facing north from W. 29th Avenue.



Five-story office building directly south of the subject site, facing southeast from W. 29th Avenue



Four-story mixed-use development southwest of the subject site, facing southwest on W. 29th Avenue.



Two-story house directly west of the subject site, facing east from N. Vallejo Street.

Proposed Zoning

The requested G-MU-3 zone district has a maximum height of 40 feet with allowable encroachments. The G-MU-3 zone district is a multi-unit district allowing urban house, duplex, garden court, town house, and apartment building forms. Block sensitive setback apply to all building forms in the G-MU-3 zone district. A variety of residential uses, including multi-unit, are allowed. Minimum vehicle parking requirements in the G-MU-3 zone district are generally the same or lower than the minimum vehicle parking requirements in the existing PUD 76 zone district. For additional details of the requested zone district, see Denver Zoning Code Article 6.

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

Design Standards	Existing PUD 76 (R-3)	Proposed G-MU-3
Primary Building Forms Allowed	N/A	Urban house, duplex, garden court, townhouse, apartment
Height in Stories / Feet (max)	3 stories / 40'	3 stories / 30-40'*
Primary Street Build-To Percentages (min)	N/A	0-70%**
Primary Street Build-To Ranges	N/A	10' to 20'***
Minimum Zone Lot Size/Width	N/A	25'-75'***
Primary Street Setbacks (min)	10'	5'-20'***
Building Coverages (max)	N/A	50%-N/A**

*Standard varies between building forms

**Standard varies between building forms

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 Response

Denver Public Schools: Approved – No Response

Department of Public Health and Environment: Approved – See Comments Below

- Notes. DDPHE concurs with this proposed rezoning and is unaware 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 be effective in the control of fugitive particulate emissions at all times 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 Response

Public Works – R.O.W.- City Surveyor: Approved – No Comments

Development Services – Project Coordination: Approved – No Response

Development Services - Fire Protection: Approved – No Response

Development Services – Transportation: Approved – No Response

Development Services- Wastewater: 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:	10/7/19
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:	1/21/20
Planning Board voted unanimously to recommend support:	2/5/20
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:	1/31/20
Land Use, Transportation and Infrastructure Committee of the City Council:	2/11/20
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 (tentative):	3/22/19
City Council Public Hearing (tentative):	3/23/20

- **Registered Neighborhood Organizations (RNOs):** To date, staff has received no comment letters from Registered Neighborhood Organizations.
- **Other Public Comment:** To date, staff has received no other public comment letters.

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)*
- *Highland Neighborhood Plan (1986)*

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies. The following strategies apply from the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy A – *Increase development of housing 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* (p. 28).

The requested G-MU-3 zone district will create a mix of housing options, including urban house, duplex, and garden court building forms, close to the high-capacity transit along Federal Boulevard as well as provide future residential near a mix of uses along 15th Street and within the Highland Neighborhood. It is therefore consistent with the above strategies in the Equitable, Affordable and Inclusive 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).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).

This site is an infill location where infrastructure is already in place allowing residents to live, work and play in the area. The zone district will also apply current, form-based zoning code standards, ensuring quality development appropriate for the neighborhood. It is therefore consistent with the strategies in the Strong and Authentic Neighborhoods vision element.

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).
- *Environmentally Resilient Goal 8, Strategy B – Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).

Compact infill mixed-use development near transportation options and existing infrastructure assists in improving public health indicators while reducing water usage. Therefore, rezoning to facilitate redevelopment of this site advances the strategies 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-Medium Residential" area within the Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

Blueprint Denver Future Neighborhood Context

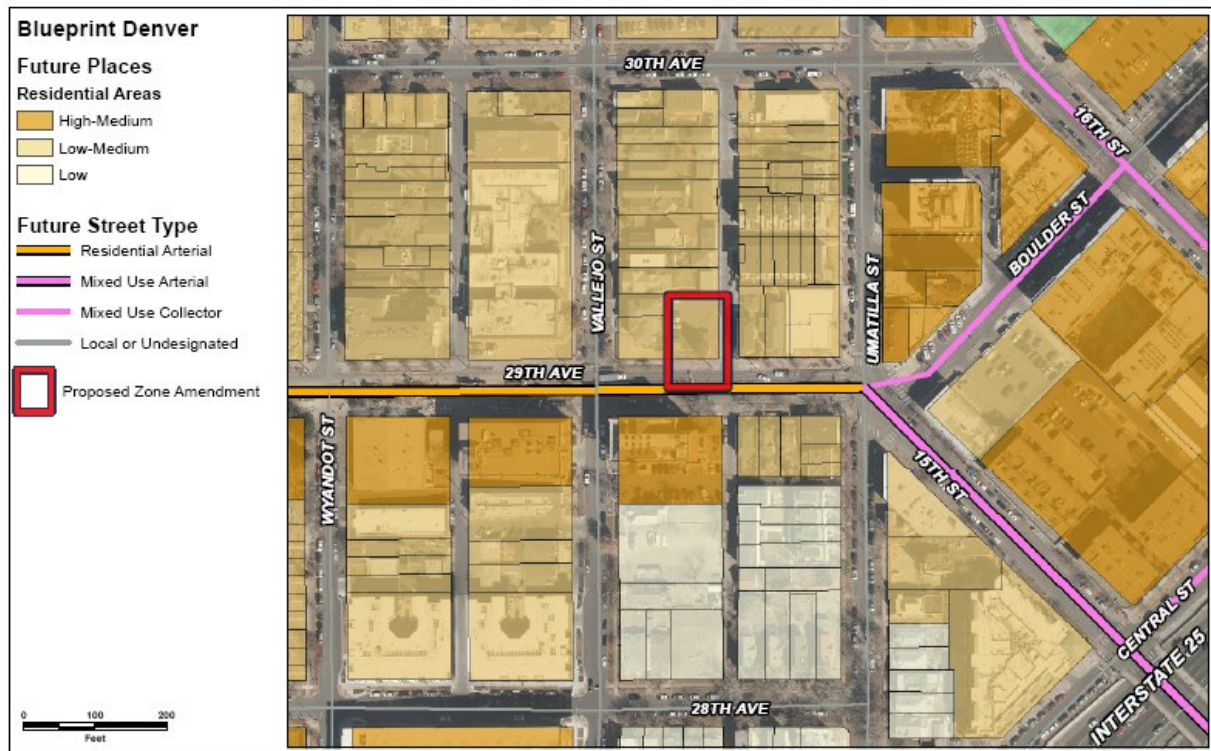


The requested rezoning is shown on the context map as Urban Context. However, the requested G-MU-3 zone district falls within the General Urban Context. *Blueprint Denver* provides additional guidance on how to apply plan direction on neighborhood context to a rezoning stating, "the mapping of neighborhood context is at the citywide scale, so the boundaries of the context 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 context map" (p.66). Furthermore, the context map is "aspirational in nature intended to provide a high-level of understanding as to the differences in land use and built form, mobility options and quality-of-life infrastructure between different neighborhoods" (p.139).

Within the Urban Neighborhood Context, “homes vary from multi-unit developments to compact single-unit homes.” Furthermore, “development in this context should be sensitive to the existing neighborhood character and offer residents a mix of uses, with good street activation and connectivity...these areas offer access to neighboring areas and commercial nodes, with some small mixed-use nodes within the neighborhood” (p.221). Similarly, within the General Urban Context, which consists of “vibrant places with proximity to Denver’s major centers like Downtown”, homes vary from multi-unit complexes to compact single-unit homes. Development should be sensitive to the existing neighborhood character and offer residents a mix of uses, with good street activation and connectivity” (p. 237).

The G-MU-3 zone district is “a multi-unit district allowing urban house, duplex, garden court, town house, and apartment building forms” (DZC 6.2.2.2.B). In addition, the G-MU-3 zone district contains a block sensitive setback application, “to maintain an established context or pattern” (DZC 6.3.7.2.C.1) found within the neighborhood. Building form standards such as this, along with design standards, and uses work together to promote safe, active, pedestrian-scaled residential areas within the G-MU-3 zone district. The proposed rezoning is appropriate as the surrounding area is already mapped G-MU-3 and the rezoning is consistent with the goals of *Blueprint Denver* and the intent of the existing neighborhood context map.

Blueprint Denver Future Places



The Future Places Map shows the subject property as part of a “Low-Medium Residential” area within the Urban Context. *Blueprint Denver* describes these areas as, “a mix of mid-scale multi-unit residential

options. Some neighborhood-serving mixed-use may be appropriate, especially along arterial streets or at non-local street intersections. Buildings are generally up to 3 stories in height. Building heights and scaling help provide transitions to adjacent places.” (p. 233). While the G-MU-3 zone district is within the General Urban context, it is consistent with the Low-Medium Residential area within the Urban Context because it is a multi-unit district allowing a variety of building forms which is consistent with this future places designation. The residential emphasis and the three-story heights of the proposed G-MU-3 zone district are consistent with this plan direction as well. The building form standards, design standards and uses of the G-MU districts, “work together to promote safe, active, pedestrian-scaled residential areas” (DZC 6.2.2.1.B).

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 W. 29th Avenue as a Residential Arterial street. An arterial street in a residential part of the city contains traffic calming measures to help, “encourage slower speeds and promote safety for all users of the roadway.” Streets within the urban context usually have high degrees of pedestrian and bicycle activity. *Blueprint Denver* classifies N. Vallejo Street and Umatilla Street as local streets. Local streets “are designed for the highest degree of property access and the lowest amount of through movement” (p. 154).

The proposed G-MU-3 district is consistent with this plan direction for this location as, “residential uses are primarily located along local and residential arterial streets” (DZC 6.1.1). In addition, block sizes and shapes within the G-MU-3 district are consistent and include detached sidewalks, tree lawns, and landscaping in the front setback to promote pedestrian and bicycle activity.

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 located within "All other areas of the city, which are anticipated to see around 20% of new housing growth and 10% of new employment growth by 2040" (p. 51). The proposed map amendment to G-MU-3 will enable compatible growth for this location.

Strategies

Blueprint Denver provides recommendations related to properties that retained zoning from the Former Chapter 59 zoning code. Land Use & Built Form: General Policy 3, Strategy B, says, "Rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code" (p. 73). That same policy also speaks to custom zoning such as PUDs; Strategy B says, "Limit the use of site-specific, customized zoning tools—such as Planned Unit Developments (PUDs) and waivers/conditions—to unique and extraordinary circumstances. The zoning code offers a wide variety of zone districts that cover the diverse contexts and places of Denver. Custom zoning tools are most effective when a standard zone district does not exist to implement the adopted plans for an area" (p. 73). Therefore, the proposed rezoning to come from custom zoning under Former Chapter 59 to a standard zone district under the DZC is consistent with *Blueprint Denver*.

Small Area Plan: *Highland Neighborhood Plan (1986)*

The Highland Neighborhood Plan was adopted by City Council in April 1986 and applies to the subject property. The format of the Highland Neighborhood Plan includes framework plan recommendations that apply throughout the planning area and subarea recommendations that apply in smaller subareas.

Vision

The overall vision for the Highland neighborhood is “to create a stable low-density residential neighborhood which offers a variety of housing opportunities for low, moderate and middle income residential where housing is available in a balanced mix of types and costs which enhance the existing socioeconomic mix of people living in the neighborhood” (p. 5). The plan further mentions that any current zoning must be changed to match and encourage compatible land uses to create a strong residential base.

The intent of the G-MU-3 zone district is to allow for a variety of mixed-residential housing options. In addition to providing a future residential use, the proposed zone district is compatible with the existing zone district in the neighborhood and it will apply modern zoning code standards which will ensure quality infill development that is appropriate for the surrounding context. Therefore, this rezoning is consistent with the vision of the Highland Neighborhood Plan.

General Recommendations

General recommendations of the Highland Neighborhood Plan include:

- Rezone areas where predominant land use is low, moderate density residential but current zoning allows more permissive density and/or uses (p. 6a)
- Create more housing opportunities (p. 10)
- Encourage a mixture of residential types and costs as part of new development (p. 11)
- Improve and stabilize the condition of housing in Highland (p. 15)

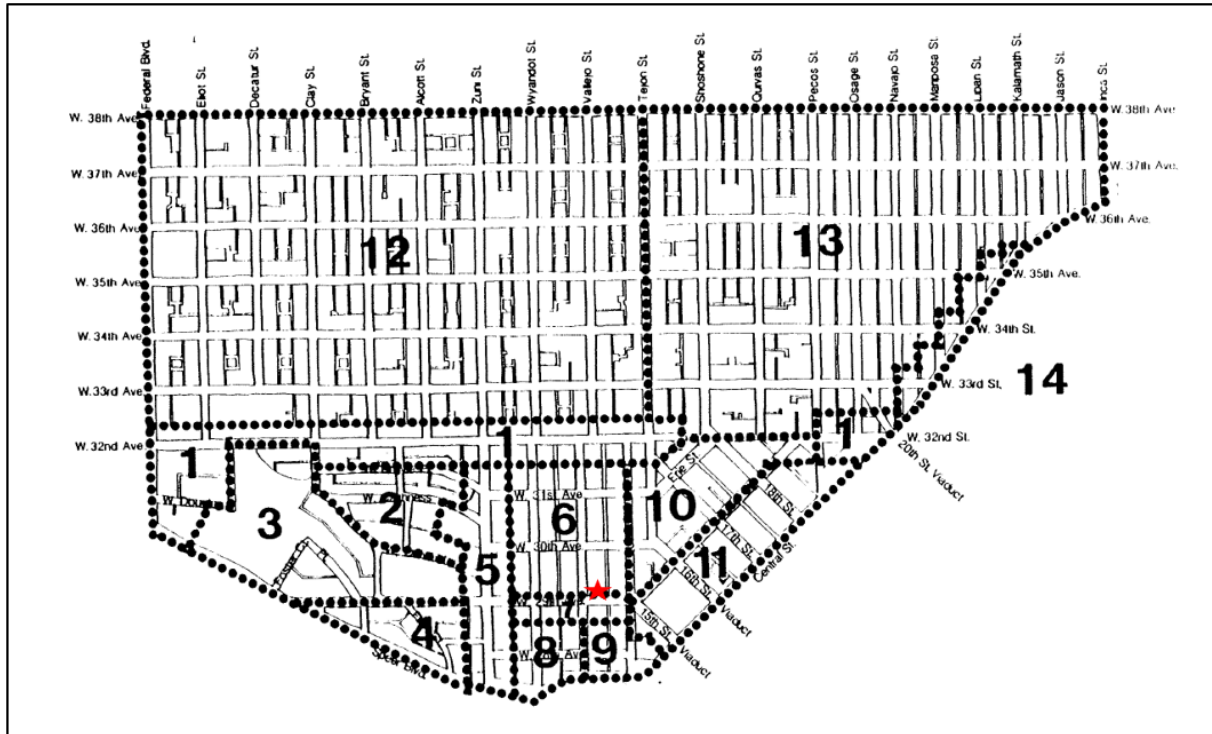
The plan also recommends that infill development should be compatible in character and materials and provide appropriate buffering to the surrounding properties, should be low traffic generators, should not create parking, noise, or pollution problems, and examples of acceptable uses are senior citizen housing, mom and pop shops, and low-density multi-family housing” (p. 14). The proposed rezoning meets all of the above criteria because it removes the currently more-permissive allowance for a primary surface parking use while allowing moderate density residential. Therefore, the rezoning is consistent with the general recommendations of the Highland Neighborhood Plan.

Subarea Recommendations

The subject property falls within Subarea 6 of the Highland Neighborhood Plan. According to the plan, this area is predominately residential with some vacant and public and quasi-public sites and the current zoning allows for primarily low-to-moderate density. Recommendations for Subarea 6 include:

- Support any rezoning to a zone district which would be consistent with present land use and desirable development (p. 39)
- Encourage more homeownership and cooperatives (p. 39)
- Promote infill housing which is compatible with existing low-moderate density and scale (p. 39)

The proposed rezoning meets all of the above criteria and is consistent with the subarea recommendations of the Highland Neighborhood Plan.



2. Uniformity of District Regulations and Restrictions

The proposed rezoning to G-MU-3 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. Additionally, the proposed G-MU-3 fosters neighborhood-supportive reinvestment on a site that has limited potential under the existing PUD zoning. The proposed zone district also ensures development will create a more pedestrian-friendly sidewalk environment.

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 change may include changes or changing conditions in an area, or in the city generally. Over the years, the Highland

Neighborhood has seen substantial redevelopment and reinvestment, including significant streetscape improvements along mixed-use corridors. As a result, there has been additional residential development in the area. The application also identifies a change in zoning as a Justifying Circumstance, “That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.” The zoning on the subject property is Former Chapter 59 PUD. Rezoning from Former Chapter 59 zoning into the Denver Zoning Code is an appropriate justifying circumstance.

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

The requested G-MU-3 zone district is within the General Urban Neighborhood Context which is primarily characterized by multi-unit residential uses in a variety of building forms. Single-unit and two-unit residential uses are also found in a mix of residential building forms. Residential uses are primarily located along local and residential arterial streets which consist of a regular pattern of block shapes surrounded by an orthogonal street grid (Denver Zoning Code Division 6.1). Within the Urban Neighborhood Context homes vary from multi-unit development to compact single-unit homes.

The proposed G-MU-3 zone district is consistent with the neighborhood context description and appropriate for this location because it is a multi-unit district allowing a variety of building forms, compatible height and building form/design standards. The building form standards, and uses work together to promote safe, active, pedestrian-scaled residential areas. The standards accommodate the pattern of urban house, duplex, garden court, and apartment building forms.

In addition to allowing the above building forms, the specific intent of the G-MU-3 zone district is to provide certainty to property owners and neighborhoods about the limits of what is allowed in a residentially-zoned area and reinforce desired patterns in existing neighborhoods. The proposed G-MU-3 zone district is consistent with the zone district purpose and is an extension of the surrounding context and existing G-MU-3 zone district. The street classifications and desired building heights in this area are consistent with the zone district purpose and intent, therefore, it is appropriate for this location.

Attachments

1. Application
2. Existing PUD