



TO: Denver City Council
FROM: Libby Kaiser, Senior City Planner
DATE: September 16, 2021
RE: Official Zoning Map Amendment Application #2020I-00153

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2020I-00153.

Request for Rezoning

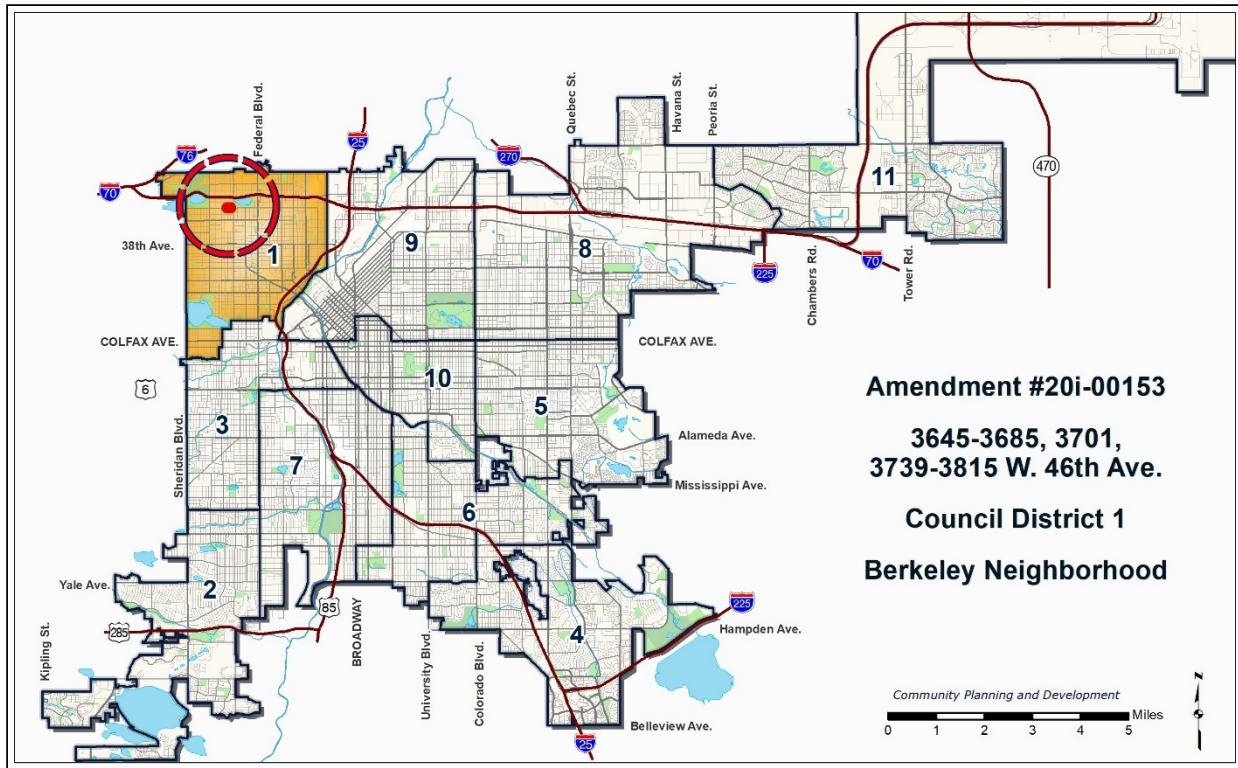
Address: 3645-3685, 3701, 3739-3815 W. 46th Ave.
Neighborhood/Council District: Berkeley/ Council District 1 – Amanda Sandoval
RNOs: Neighborhood Coalitions of Denver, Inter-Neighborhood Cooperation (INC), Grandview Neighborhood Association, Berkeley Neighborhood Association, Berkeley Regis United Neighbors, Unite North Metro Denver, District 1 Neighborhood Coalition, Inc.
Area of Property: 55,880 square feet or 1.28 acres
Current Zoning: U-SU-C
Proposed Zoning: U-SU-B1
Property Owner(s): Philip and Heather Phifer, Steve and Jennifer Moore, Fred and Lenore Pedroza, Keely and John Garrou, John and Leslie Hortal, David Marshall and Kasey Cordell, Chris Florman, Oscar Mata Carrillo and Anna Ohmes, Hannah Clayshulte, Kurt Bargas, Sadie and William Baker
Owner Representative: David Marshall

Summary of Rezoning Request

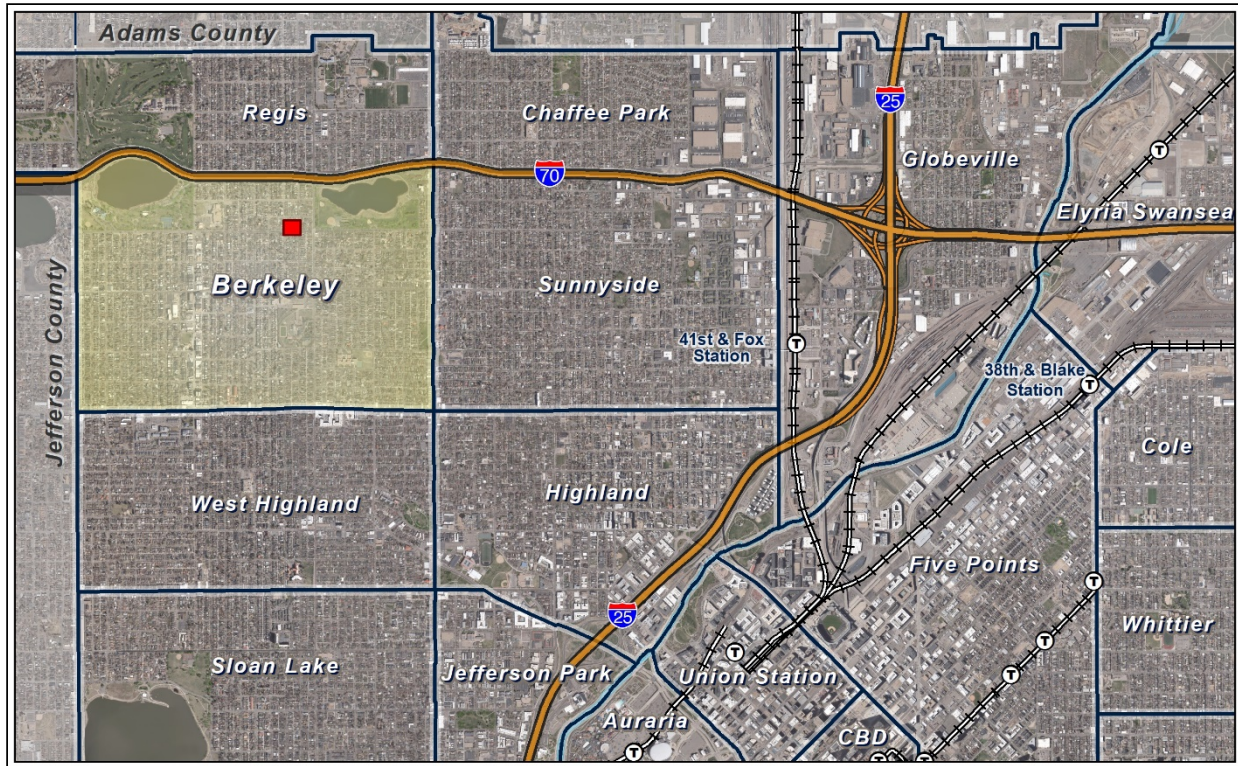
- The subject properties contain single-story, single-unit dwellings built between 1938 and 1940. The properties are located between Lowell Boulevard and Osceola Street, along West 46th Avenue.
- The owners are proposing to rezone their properties to allow a detached accessory dwelling unit.
- The proposed U-SU-B1, **Urban, Single-Unit, B1** district allows urban houses and detached accessory dwelling units in the rear yard with a minimum zone lot area of 4,500 square feet.
- The district is intended for use in the Urban Neighborhood Context which is characterized by single-unit and two-unit uses. Single-unit residential uses are typically located along local and residential arterial streets and structures are usually the Urban House building form. The maximum height of the Urban House building form is 30 to 35 feet for the front 65% of the zone lot, 17 to 19 feet in the rear 35% of the zone lot. The Detached Accessory Dwelling Unit form can be a maximum height of 24 feet. 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).

City Location



Neighborhood Location – Berkeley Neighborhood



Existing Context

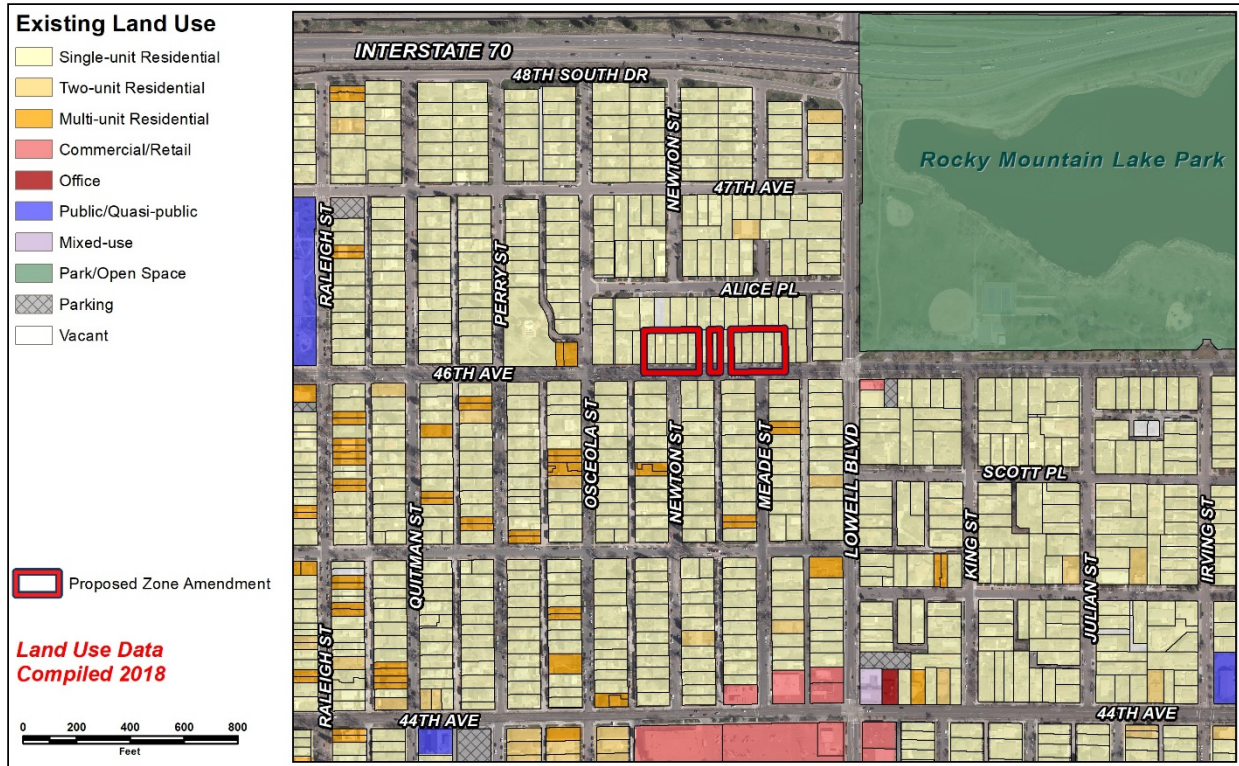


The subject property is in the Berkeley neighborhood, which is characterized primarily by single-unit and two-unit residences, with some commercial/retail uses along West 44th Avenue. The subject properties are located 3 blocks south from I-70, and less than 800 feet west from the Rocky Mountain Lake Park. The properties are two blocks north from West 44th Avenue, where bus route 44 runs west-east. There is a shared roadway on West 46th Avenue.

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

| | Existing Zoning | Existing Land Use | Existing Building Form/Scale | Existing Block, Lot, Street Pattern |
|-------|-----------------|-------------------------|---|---|
| Site | U-SU-C | Single-unit Residential | 1-story houses with detached garages and driveways | Generally regular grid of streets; Block sizes and shapes are consistent and rectangular with or without alleys. Detached sidewalks with tree lawns. Garages and on-street vehicle parking. |
| North | U-SU-C | Single-unit Residential | 1- and 2-story houses with detached garages and driveways | |
| South | U-SU-C1 | Single-unit Residential | 1- and 2-story houses with detached garages with alley access | |
| East | U-SU-C | Single-unit Residential | 1-story house with detached garage and driveway | |
| West | U-SU-C | Single-unit Residential | 1-story house with detached garage and driveway | |

2. Existing Land Use Map



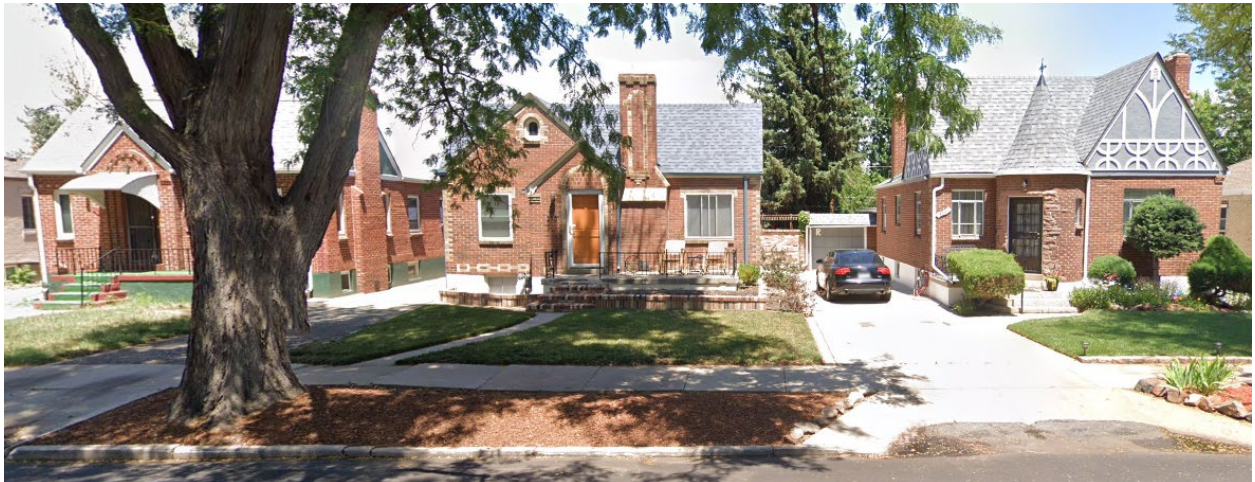
3. Existing Building Form and Scale (source: Google Maps)



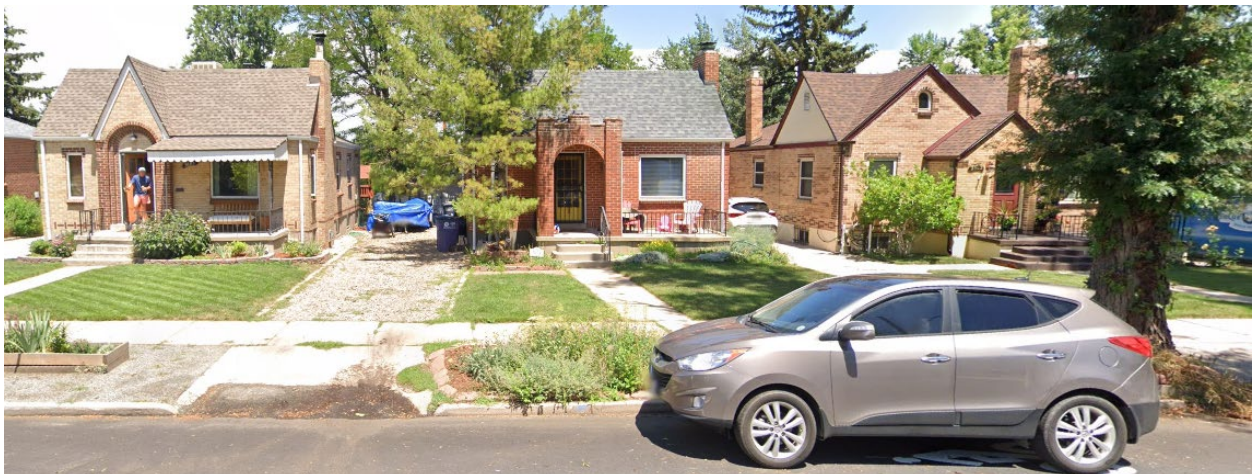
View of 3815 and 3811 W. 46th Ave. and the property to the west, looking north.



View of 3801, 3745 and 3739 W. 46th Ave., looking north.



View of 3701 W. 46th Ave. (center), looking north.



View of 3685, 3675 and 3665 W. 46th Ave., looking north.



View of 3655 and 3645 W. 46th Ave. and the property to the east, looking north

Proposed Zoning

The U-SU-B1 is a single unit zone district with a minimum zone lot size of 4,500 square feet that allows only an Urban House primary building form. A variety of residential and civic uses are permitted as primary uses in the U-SU-B1 district. Compared to the U-SU-C district, U-SU-B1 introduces the Accessory Dwelling Use (ADU) and Detached Accessory Dwelling Unit (DADU) building form. The DADU building form has a maximum height of 1.5 stories or 24 feet. A bulk plane that raises 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 also allows an exemption from the 37.5% building coverage standard allowing the lesser of 50% or 500 square feet. The subject properties are 5,080 square feet, allowing a maximum building footprint of 650 square feet for the DADUs.

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

| Design Standards | U-SU-C (Existing) | U-SU-B1 (Proposed) |
|---|-----------------------|-----------------------|
| Primary Building Forms Allowed | Urban House | Urban House |
| Maximum Height in Stories/Feet, Front 65% of Zone Lot* | 2.5 stories / 30 feet | 2.5 stories / 30 feet |
| Maximum Height in Stories/Feet, Rear 35% of Zone Lot* | 1 story / 17 feet | 1 story / 17 feet |
| DADU Maximum Height in Stories / Feet | DADUs not permitted | 1.5 stories / 24 feet |
| Zone Lot Size (Min.) | 5,500 square feet | 4,500 square feet |
| Zone Lot Width (Min.) | 50 feet | 35 feet |
| Primary Street Block Sensitive Setback Required / If not (Min.) | 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 (Min.) | 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 |

*Based on subject properties width of 40 feet

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.

Development Services - Fire: Approved – No Response.

Development Services - Project Coordination: Approved – No Comments.

Development Services - Transportation: Approved – See Comments Below.

Since all of these properties don't abut an alley (the usual location for ADUs), each proposed ADU will need to utilize the existing driveway to each property, i.e. no new driveways will be granted.

Development Services - Wastewater: Approved – See Comments Below.

There is no objection to the rezone. Upon rezoning applicant will need to obtain a building permit. Independent sanitary service lines may be required, historical drainage paths must be maintained. In some cases Denver Wastewater allows a Covenant to combine an ADU to a primary residences sanitary service line. Otherwise a new sanitary service line connection to the Denver public main in West 46th would be required and some properties may have side setback constraints. Denver requires sanitary services be installed equal to the depth from property line and structures, but can be discussed. Specific comments will be made with building submittal. Approval of this rezone on behalf of Wastewater does not state, or imply, public storm/sanitary infrastructure can, or cannot, support the proposed zoning. Commitment to serve proposed structure will be based on building permit issuance.

Parks and Recreation: Approved – No Comments.

Public Health and Environment: Approved – No Response.

Department of Transportation and Infrastructure – City 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: | 04/28/2021 |
| 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: | 07/06/2021 |
| Planning Board public hearing (recommendation of approval on consent): | 07/21/2021 |
| 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: | 07/20/2021 |
| Land Use, Transportation and Infrastructure Committee of the City Council: | 08/03/2021 |
| 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: | 08/30/2021 |
| City Council Public Hearing: | 09/20/2021 |

- **Registered Neighborhood Organizations (RNOs)**
 - The RNOs identified on page 1 were notified of this application. To date, Berkeley Regis United Neighbors, Inc. provided a letter summarizing outreach to 48 nearby property owners. According to the letter, the RNO received five comments in favor of the rezoning as it could enhance the neighborhood’s character. The RNO also received seven comments opposed to the rezoning due to concerns regarding parking, privacy, building height, and impacts to the neighborhood character.
- **Other Public Comment**
 - To date, staff has received three comment letters from the general public stating opposition for similar reasons as the RNO, as well as concerns regarding the parcel size, buildable area and lack of an alley.

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)

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, including:

- 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).

U-SU-B1 allows for an additional dwelling unit that is accessory to the primary single-unit dwelling use and introduces a new housing type to a largely single-unit neighborhood. Accessory dwelling units can provide housing for individuals or families with different incomes, ages, and needs compatible with the single-unit homes that currently dominate the Berkeley neighborhood.

- 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 infill development appropriate for the surrounding neighborhood that broadens the range of housing types available.

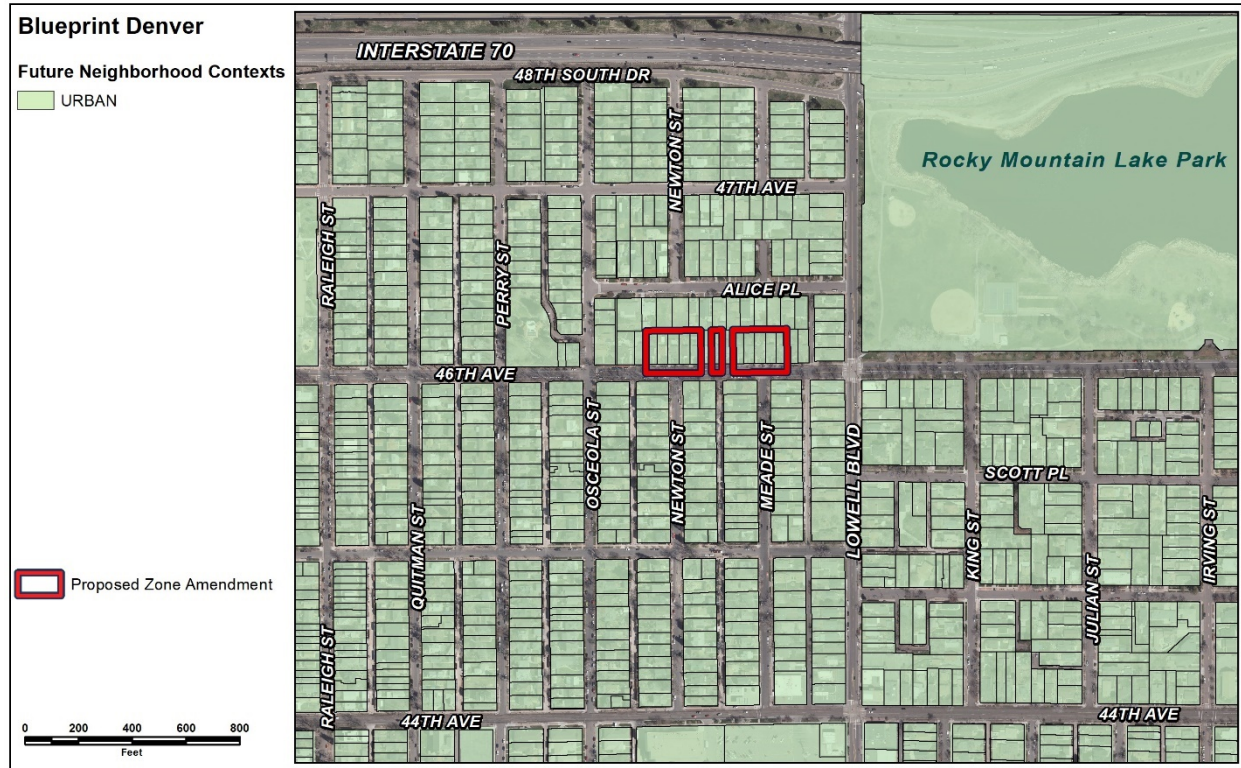
- Environmentally Resilient Goal 8, Strategy A – *Promote infill development where infrastructure and services are already in place* (p. 54).

The proposed map amendment will allow an additional housing unit on the sites of existing homes where infrastructure and services such as water, stormwater, and streets already exist. This allows Denver to grow responsibly and promotes land conservation.

Blueprint Denver

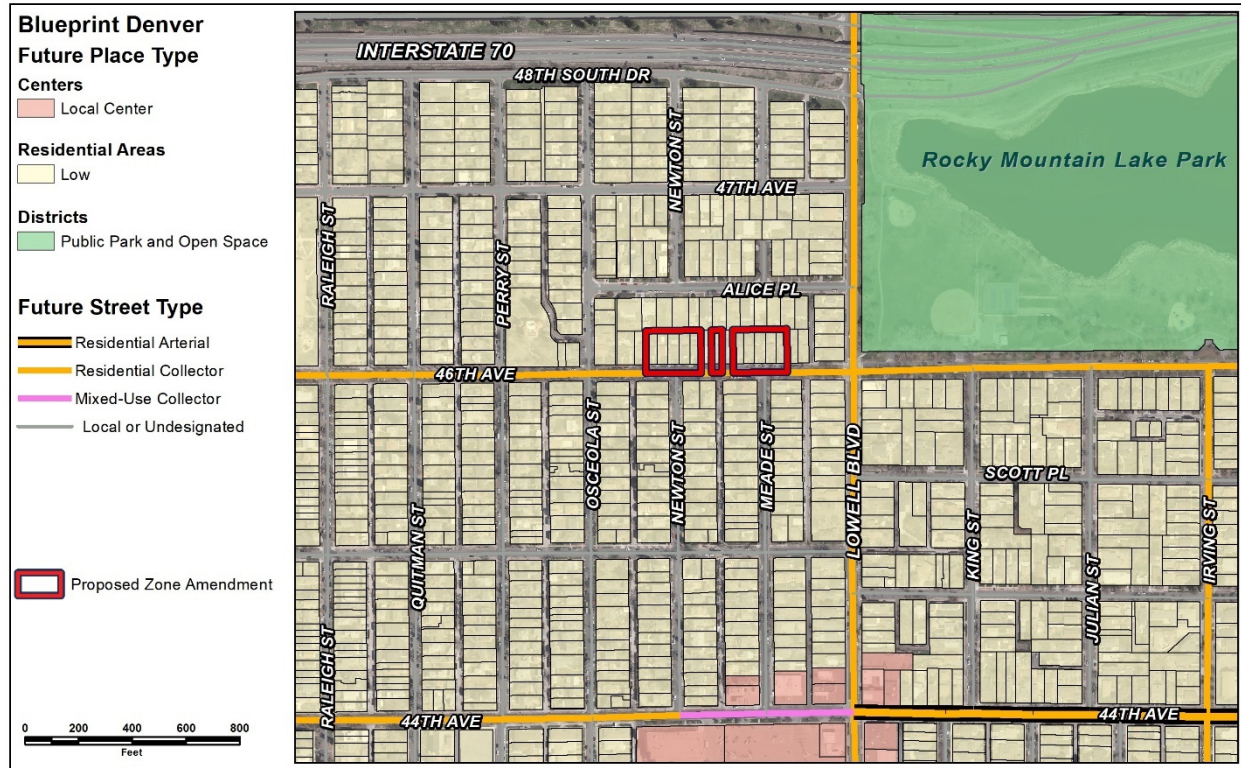
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Low Residential place within the Urban Neighborhood Context and provides guidance on the future growth strategy for the city.

Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences between land use, built form, and mobility at a high scale, between neighborhoods. The subject sites are shown on the context map as Urban Neighborhood Context, the description of which is used to guide appropriate zone districts (p. 66). The Urban Neighborhood Context is described as containing “small multi-unit residential and low-intensity mixed-use buildings typically embedded in single-unit and two-unit residential areas” with grid block patterns and, typically, alley access (p. 222). U-SU-B1 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-SU-B1 is consistent with the Blueprint future neighborhood context of Urban because it will promote the residential character by allowing single-unit residential uses with a low-scale accessory dwelling unit that will be compatible with the existing residential area.

Blueprint Denver Future Places

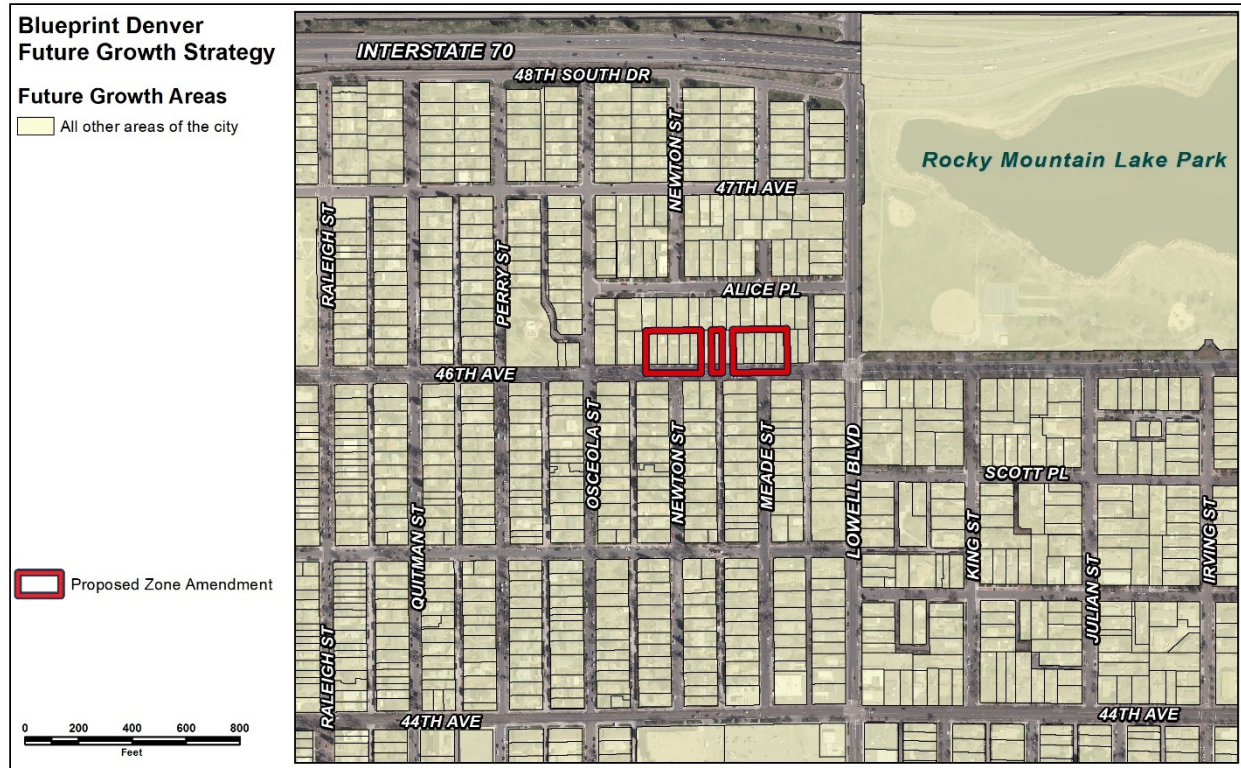


The subject site is designated within a Low Residential future place type on the *Blueprint Denver* Future Places map. This place type is “predominately single and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible,” and “building heights are generally up to 2.5 stories in height” (p. 230). The U-SU-B1 is a single unit residential district that allows for an additional dwelling unit accessory to an established single-unit home, which is consistent with the Low Residential future place type description. It allows the Urban House building form, which has a maximum height of 2.5 stories, also consistent with the future places map.

Blueprint Denver 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 West 46th Avenue as a Residential Collector Future Street Type, which has “Primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses.” (p. 160). The proposed U-SU-B1 district is consistent with this street type because it allows for residential and some civic uses.

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 U-SU-B1 zone district which would allow 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-unit residential character.

Blueprint Denver Strategies

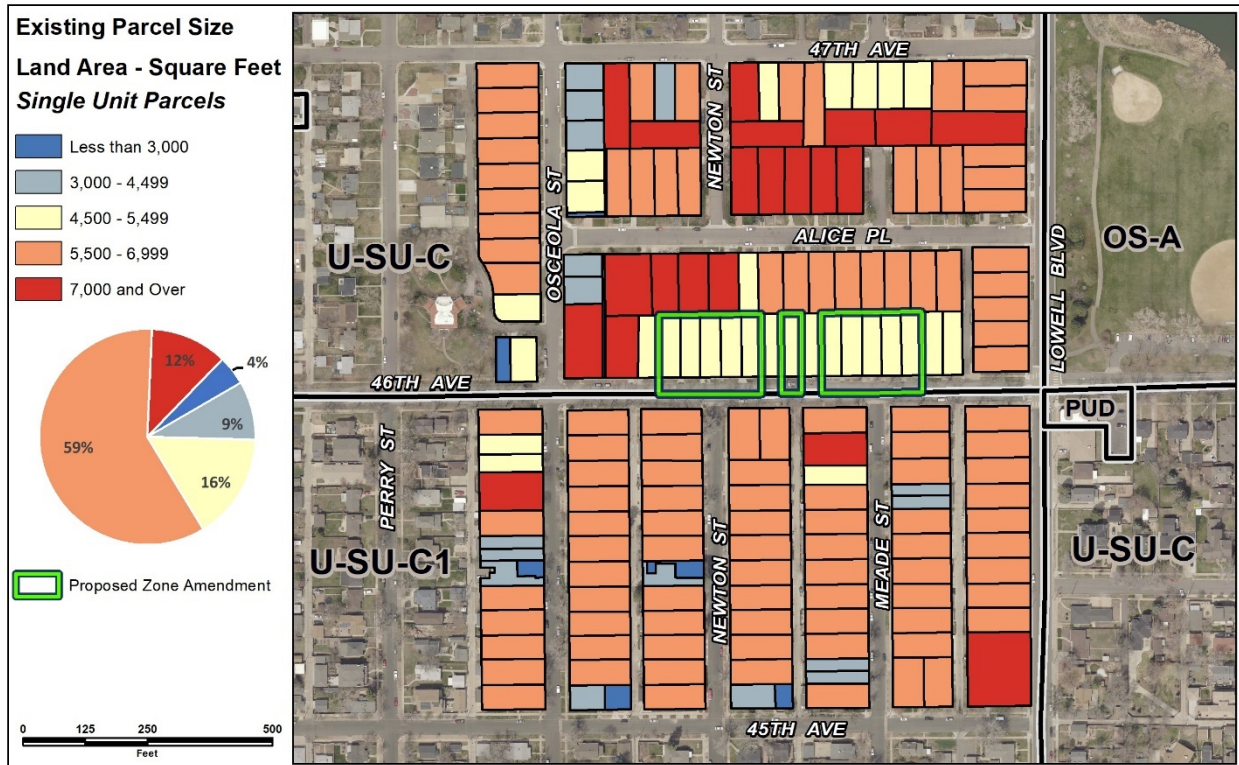
Blueprint Denver provides additional recommendations related to rezoning to allow for ADUs.

- 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).

In this case, the requested rezoning applies to several zone lots in a residential area, within a few blocks of an RTD bus route. 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. Additionally, as the subject properties are 5,080 square feet, the applicants are proposing to rezone from U-SU-C with a minimum zone lot size of 5,500 square feet and minimum zone lot width of 50 feet to a district with a

smaller lot size, U-SU-B1, with a minimum zone lot size of 4,500 square feet and a minimum zone lot width of 35 feet. *Blueprint Denver* provides guidance for these situations stating, “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). While the lot sizes contained in the blocks north and south of the proposed rezoning are more consistent with the U-SU-C district and are over 5,500 square feet, more than half of the lots that have single-unit residential uses in the subject property block are smaller than 5,500 square feet and consistent with the proposed U-SU-B1 district. Therefore, staff considers there is a pattern of smaller lots with similar uses, and the applicants’ proposal to rezone to a district with a smaller lot size is consistent with the future places map and *Blueprint* guidance for applying the Low Residential future place type.

Parcel Size Analysis



2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-SU-B1 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 which recommends “the expansion of

accessory dwelling units throughout all residential areas” (p. 84). The proposed rezoning would also provide the benefit of an additional housing unit that is compatibly integrated into the surrounding neighborhood and within walking distance of a park, grocery store and bus route, thus increasing access to opportunity.

4. Justifying Circumstance

The application identifies the adoption of *Blueprint Denver* 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 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.”

As discussed above, *Blueprint Denver* specifically recommends the city diversify housing choice through the expansion of accessory dwelling units throughout all residential areas. The plan was adopted after the date of approval of the existing zone district. Therefore, this is an appropriate justifying circumstance for the proposed rezoning.

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

The requested U-SU-B1 zone district is within the Urban Neighborhood Context. The neighborhood context is “primarily characterized by single-unit and two-unit residential uses” and “single-unit residential structures are typically the Urban House building form” (DZC, Division 5.1). These areas consist of “regular pattern of block shapes” and “a consistent presence of alleys” (DZC, Division 5.1). The Berkeley neighborhood consists of mostly single and two-unit residential uses in rectangular blocks, many of which have alley access. The proposed rezoning to U-SU-B1 is consistent with the neighborhood context description.

The general purpose of residential zone districts in this context is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context (DZC Section 5.2.2.1). 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 U-SU-B1 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 DADU in the rear yard.

The specific intent of the U-SU-B1 zone district is “a single unit district allowing urban houses and detached accessory dwelling units with a minimum zone lot area of 4,500 square feet. Blocks typically have a consistent pattern of 37.5-foot-wide lots. Setbacks and lot coverage standards accommodate front and side yards similar to U-SU-B but allowing a detached accessory dwelling unit building form in the rear yard” (DZC Section 5.2.2.2.E). The subject properties are 5,080 square feet with a width of 40 feet. The adopted plan direction recommends allowing detached accessory dwelling units. Therefore, rezoning this site would be consistent with the specific intent of the zone district.

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Attachments

1. Application
2. Public Comments