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TO: City Council Land Use, Transportation, and Infrastructure Committee
FROM: Tony Lechuga, Senior City Planner
DATE: February 23, 2023
RE: Official Zoning Map Amendment Application #2022I-00167
750 East 9th Avenue
Rezoning from PUD 499 to G-MU-3

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2022I-00167.

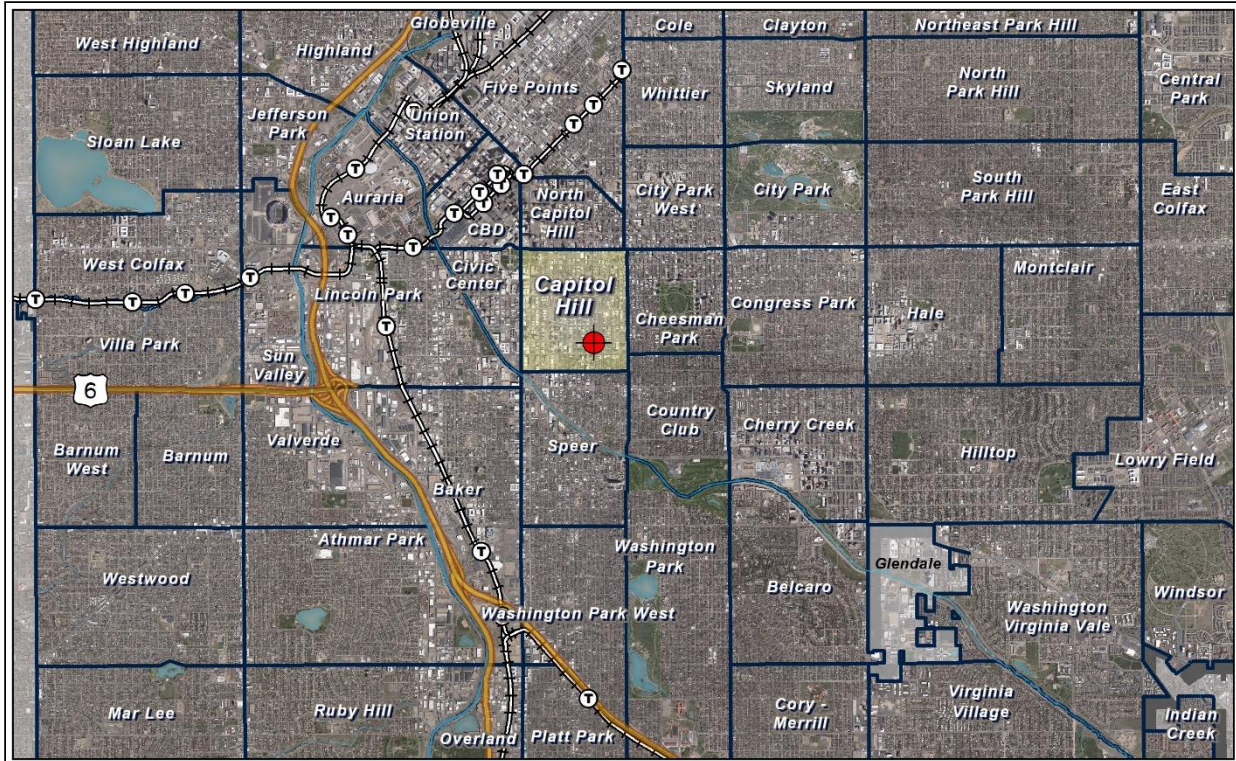
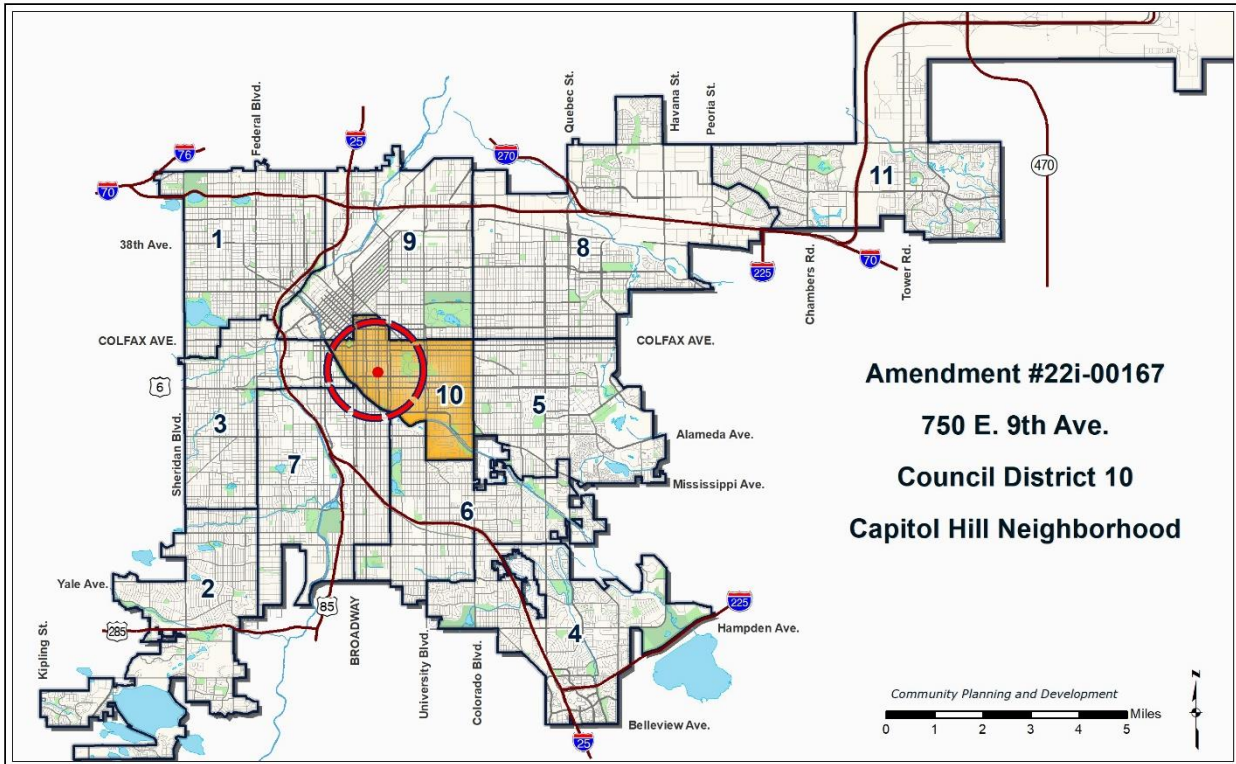
Request for Rezoning

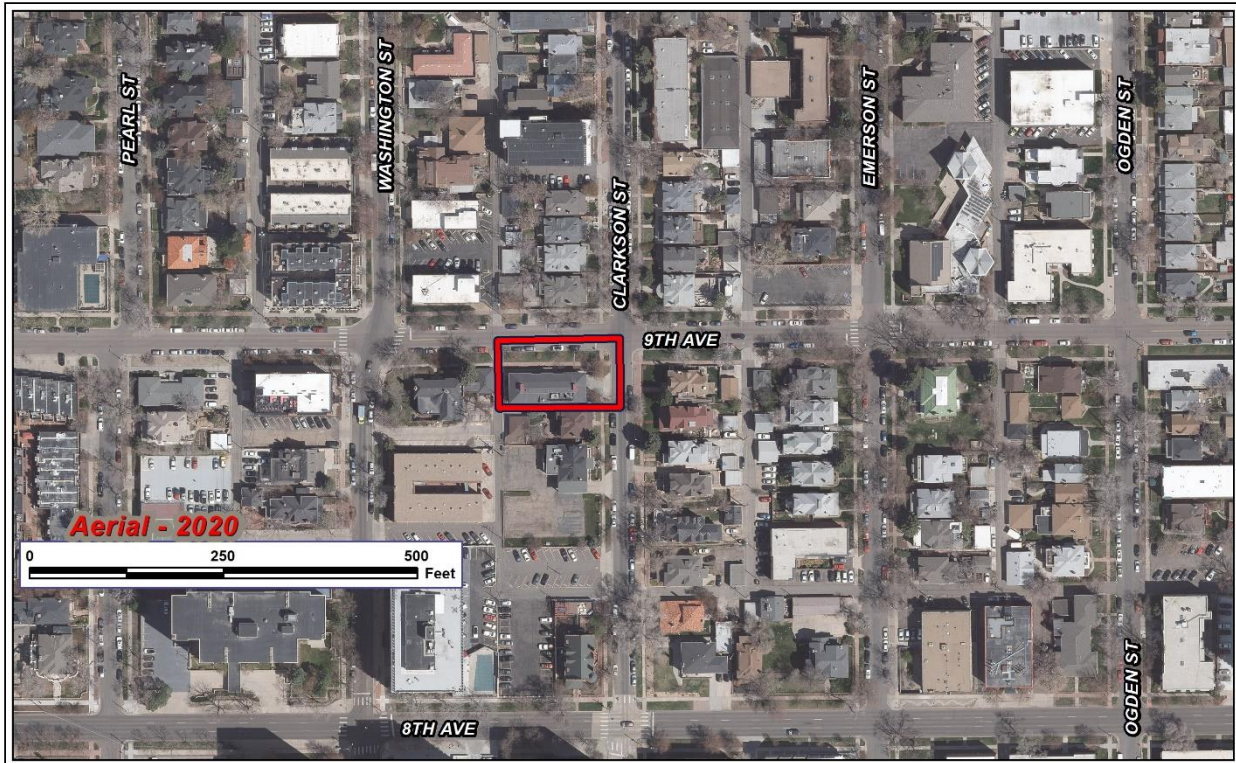
Address: 750 East 9th Avenue
Neighborhood/Council District: Capitol Hill / Council District 10
RNOs: Inter-Neighborhood Cooperation (INC), Strong Denver, Capitol Hill United Neighborhoods, Inc., Neighbors for Greater Capitol Hill
Area of Property: 6,257 square feet or 0.14 acres
Current Zoning: PUD 499
Proposed Zoning: G-MU-3
Property Owner(s): Capitol Hill Healing Center LLC
Owner Representative: Max Odom

Summary of Rezoning Request

- The subject property contains a two-story office built in 2002. It is located within the Capitol Hill statistical neighborhood at the southwest corner of East 9th Avenue and North Clarkson Street and currently used as therapists' offices.
- The property owner, with Max Odom as their representative, is proposing to rezone the property to allow for residential uses.
- The proposed G-MU-3, **General Urban, Multi Unit, 3 stories**, zone district allows the urban house, duplex, garden court, town house and apartment primary building forms. The maximum height of the allowed primary building forms ranges from 30 to 40 feet and there are no protected districts within the surrounding blocks. This district is intended for use in the General Urban Neighborhood Context, which is intended to promote and protect higher density residential neighborhoods. Further details of the zone district can be found in the proposed zone district of this staff report (below) and in Article 6 of the Denver Zoning Code.

Existing Context





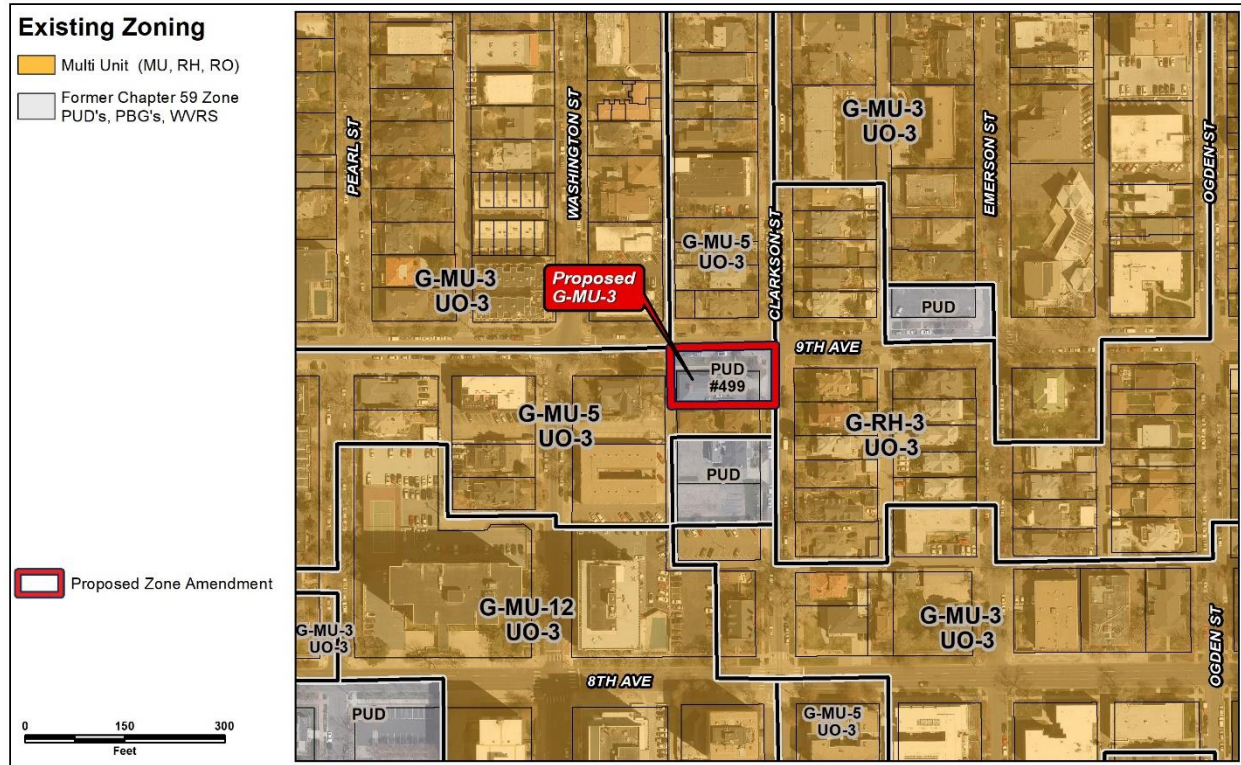
The subject property is located within the Capitol Hill statistical neighborhood, at the southwest corner of East 9th Avenue and North Clarkson Street. The subject property is about 5 blocks from Governors Park to the southwest and 8 blocks from Cheesman Park to the east. The subject site is served by RTD bus route 6 along East 8th Avenue with a stop one block to the south, and route 12 along North Corona Street and North Downing Street with stops three and four blocks away.

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 499	Office	2-story brick office with entrance along E. 9 th Ave. and underground parking with an entrance on N. Clarkson St.	Generally regular grid of streets. Block sizes and shapes are consistent and rectangular with consistent sidewalks and amenity zones. Generally, vehicle parking is located to the rear or side of buildings in the neighborhood.
North	G-MU-5, UO-3	Single-unit Residential	2.5-story brick single-unit home with detached garage with alley access in the Quality Hill Historic Landmark District	
East	G-RH-3, UO-3	Single-unit Residential	2.5-story brick single-unit home with detached garage with alley access	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
South	G-MU-5, UO-3	Single-unit Residential	2.5-story brick single-unit home with detached garage with alley access	
West	G-MU-5, UO-3	Office	2-story brick office that is a Landmark Structure	

1. Existing Zoning

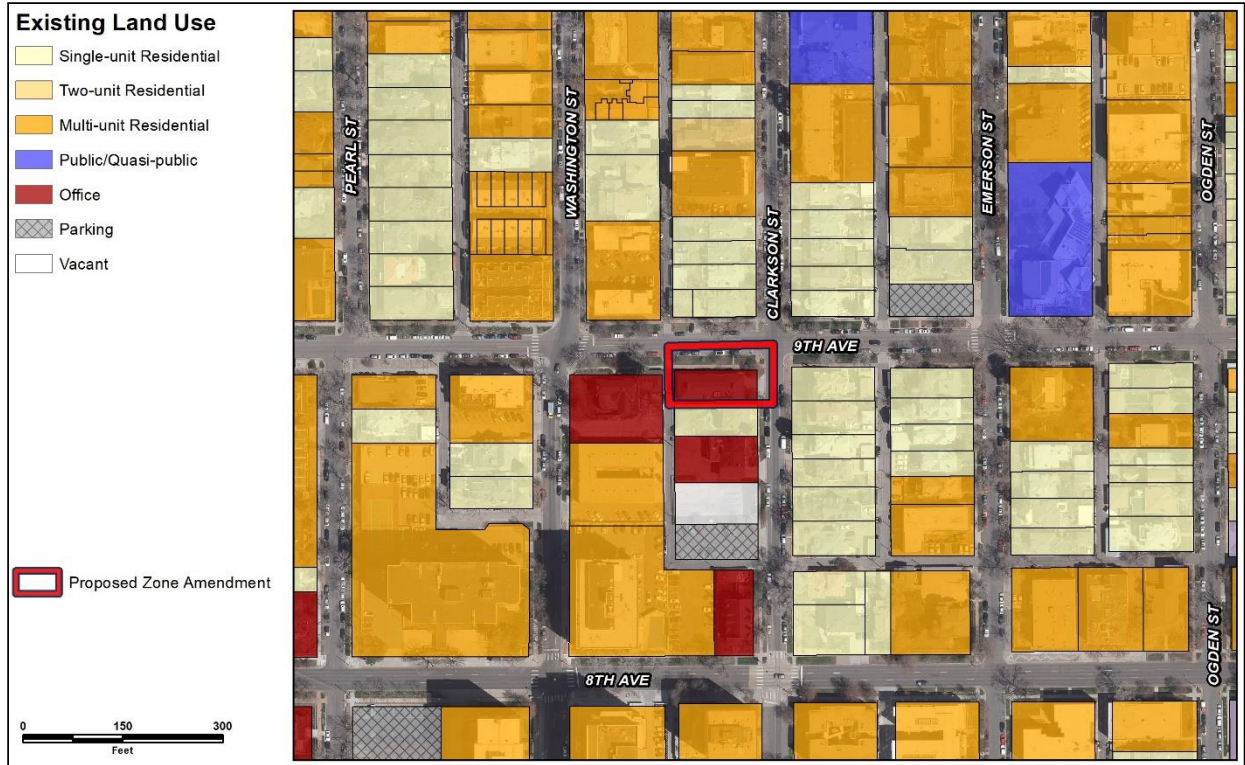


PUD 499 was adopted in 2000 and applies to the subject property. The PUD was intended to allow for construction of a two-story clinic or office with a similar design to the Kistler-Rodriguez House, which is located immediately adjacent to the west on East 9th Avenue and is on the National Register of Historic Places. The PUD allows a maximum structure height of up to 35 feet and further details building separation, landscaping, and other requirements. It limits uses of the structure to “Holistic, Naturopathic Practitioners.” PUD 499 is attached to this staff report.

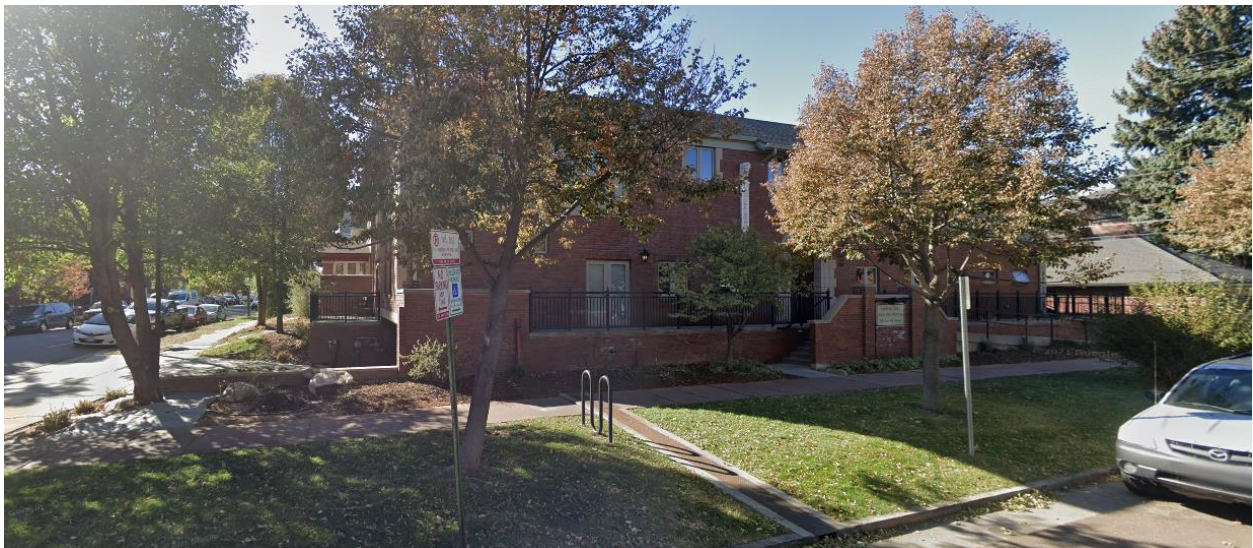
2. View Plane

The subject property is within the Cheesman Park – Botanic Gardens View Plane. The intent of this view plane is to preserve the view of the Rocky Mountains (west of the subject property) from the Cheesman Park pavilion (east of the subject property). The site at 750 East 9th Avenue is subject to a maximum height restriction of about 125’ feet. However, the proposed zone district of G-MU-3 has a much lower height restriction of 40 feet maximum height for primary structures.

3. Existing Land Use Map



4. Existing Building Form and Scale



Site - from East 9th Avenue, facing south (Source: Google Maps)



North – the property to the north, from East 9th Avenue facing northwest (Source: Google Maps)



East – the property to the east, from East 9th Avenue facing southeast (Source: Google Maps)



South – the property to the south, from North Clarkson Street facing west (Source: Google Maps)



West – the property to the west, from East 9th Avenue facing south (Source: Google Maps)

Proposed Zoning

G-MU-3 Zone District

The requested G-MU-3 zone district has a maximum height of 40 feet. 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 499 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 on the following table.

Design Standards	PUD 34 (Existing)	G-MU-3, UO-3 (Proposed)
Primary Building Forms Allowed	N/A	Urban House, Duplex, Garden Court, Town House, Apartment
Height in Stories / Feet (max)	2 stories / 35 feet	3 stories / 30-40 feet*
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	3,000 sf / 25'
Primary Street Setbacks (min)	10'	5' to 20'*
Building Coverages (max)	51.72%	50% to N/A

*Standard varies between building forms and the applicability of enhanced affordability incentives

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: Approve Rezoning Only – Will require additional information at Site Plan Review. Denver Department of Public Health & Environment - Division of Environmental Quality (EQ) does not guarantee approval of any proposed development project at this site by providing a response to this Official Map Amendment Referral Agency Review Request. Future development is subject to existing land use controls and other environmental requirements in accordance with applicable local, state, and federal environmental regulations and statutes. EQ recommends the Property Owner conduct an environmental site assessment to determine the potential presence, nature, and extent of possible contamination on the site and to identify specific cleanup needs associated with future development. EQ may have additional information about localized potential environmental concerns at the site. However, providing such information about a specific site is beyond the scope of these zoning application comments.

Denver Parks and Recreation: Approved – No Comments

Public Works – R.O.W.- City Surveyor: Approved – See Comments: Recommend adding the quarter section, township, and range to the description.

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:	11/29/22
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:	1/30/23
Planning Board voted 8-2 to recommend approval to the City Council:	2/15/23
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:	2/18/23
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	2/28/23
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):	3/20/23 (Tentative)
City Council Public Hearing (tentative):	4/10/23 (Tentative)

Public Outreach and Input

- **Registered Neighborhood Organizations (RNOs)**

As of the date of this report, staff has received one written comment from an RNO pertaining to this application.

- One written comment in support was received from Strong Denver and is attached to this staff report.
- **Other Public Comment**
As of the date of this report, staff has received nine comments in opposition to the rezoning. The comments came from a current tenants and patients who noted that the occupancy of the building is full and conversion to residential would be a detriment to the community as this is a well-used clinic.

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)*
- *East Central Area Plan (2020)*

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 multi-unit residential development 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).*

Similarly, the proposed G-MU-3 zoning would allow for a broader variety of uses including multi-unit residential and limited commercial uses at an intensity consistent with the desire for dense, walkable, neighborhoods close to downtown. Further, the application of multi-unit zoning contributes to the city's

aspirational network of well-connected mixed-use corridors and is therefore consistent with the following strategy in the Strong and Authentic Neighborhoods vision element:

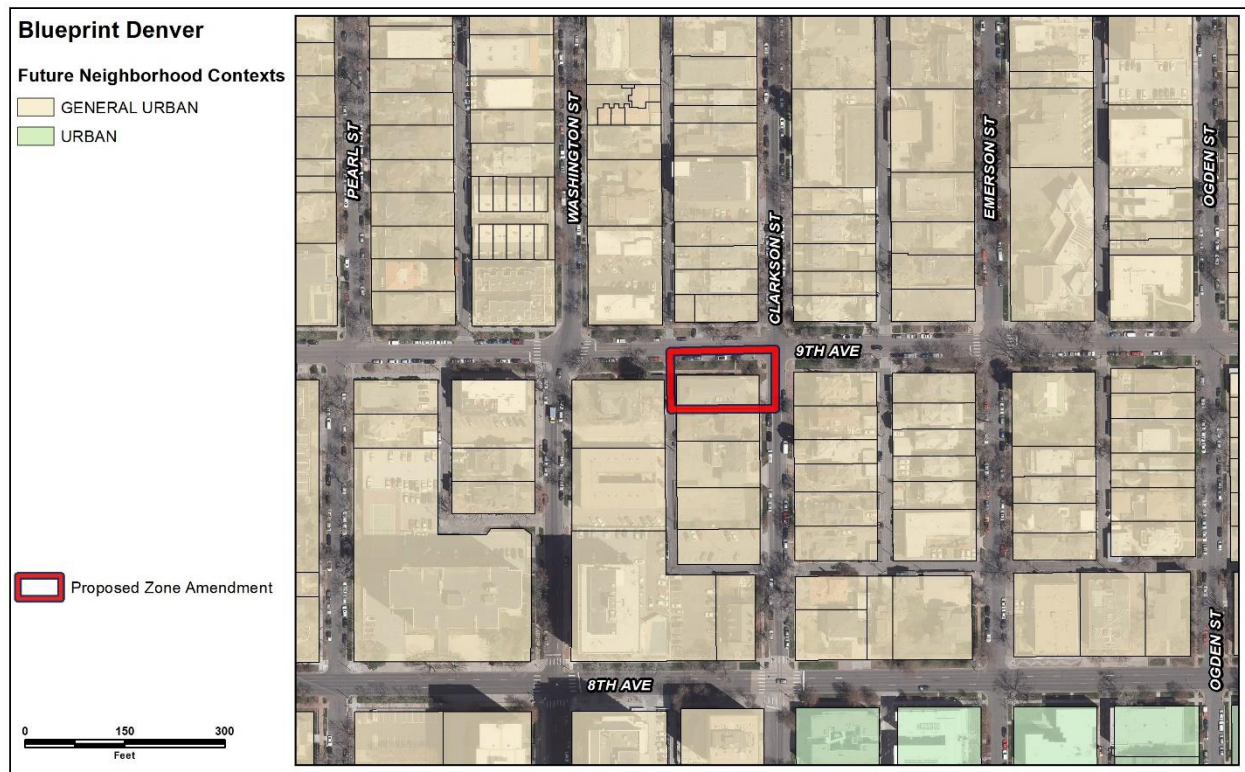
- Strong and Authentic Neighborhoods Goal 1, Strategy B – *Ensure neighborhoods offer a mix of housing types and services for a diverse population* (p. 34).

Overall, the requested map amendment would allow for a broader variety of residential uses at an intensity consistent with the desire for dense, walkable neighborhoods expressed in Comprehensive Plan 2040.

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 High Residential place within the General Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

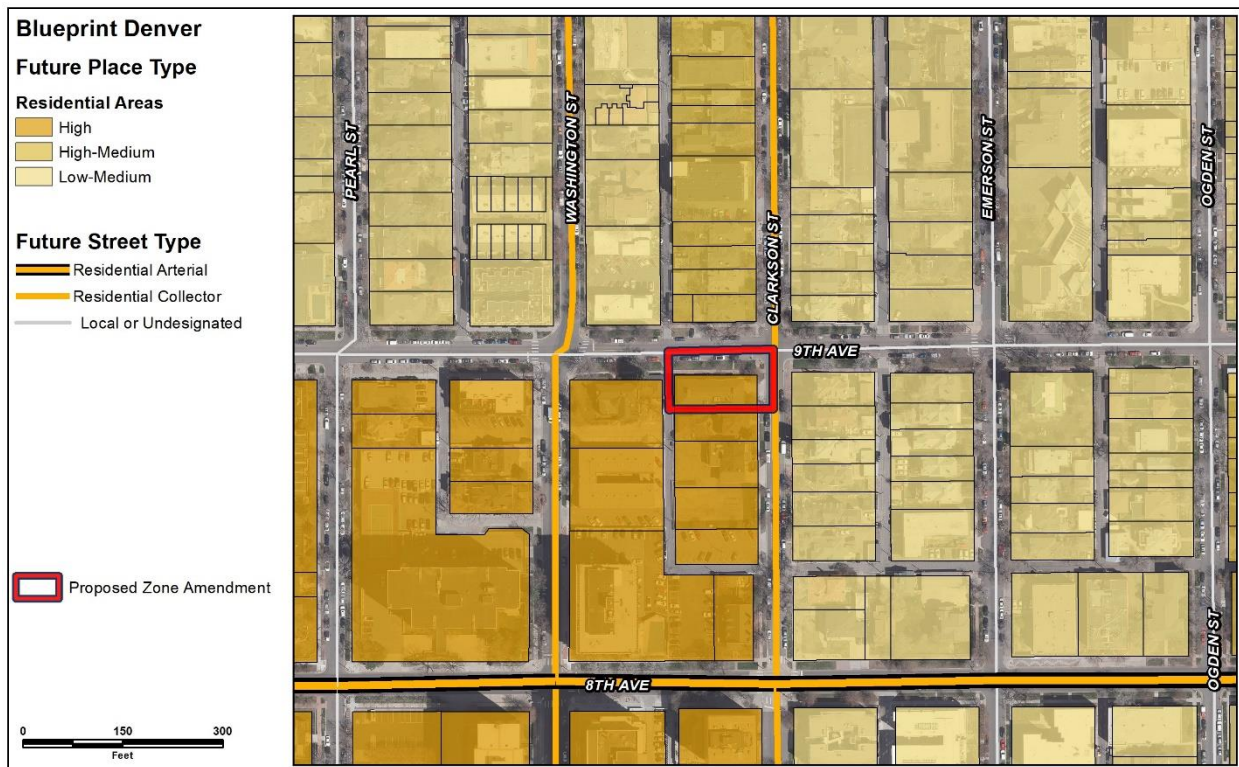
Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences between neighborhoods and their land use, built form, and mobility options at a higher scale. The subject property is shown on the context map as the General Urban neighborhood context. The neighborhood

context map and description help guide appropriate zone districts (p. 66). In the General Urban neighborhood context, there are “predominantly multi-unit structures. 1-unit and 2-unit residential and low scale mixed-use are embedded within the multi-unit areas. Block patterns are generally regular with consistent alley access. Buildings are medium scale and close to the street” (p. 137). The proposed G-MU-3 zone district is part of the General Urban neighborhood context and would allow multi-unit structures, consistent with the intent of the General Urban neighborhood context in *Blueprint Denver*.

Blueprint Denver Future Places



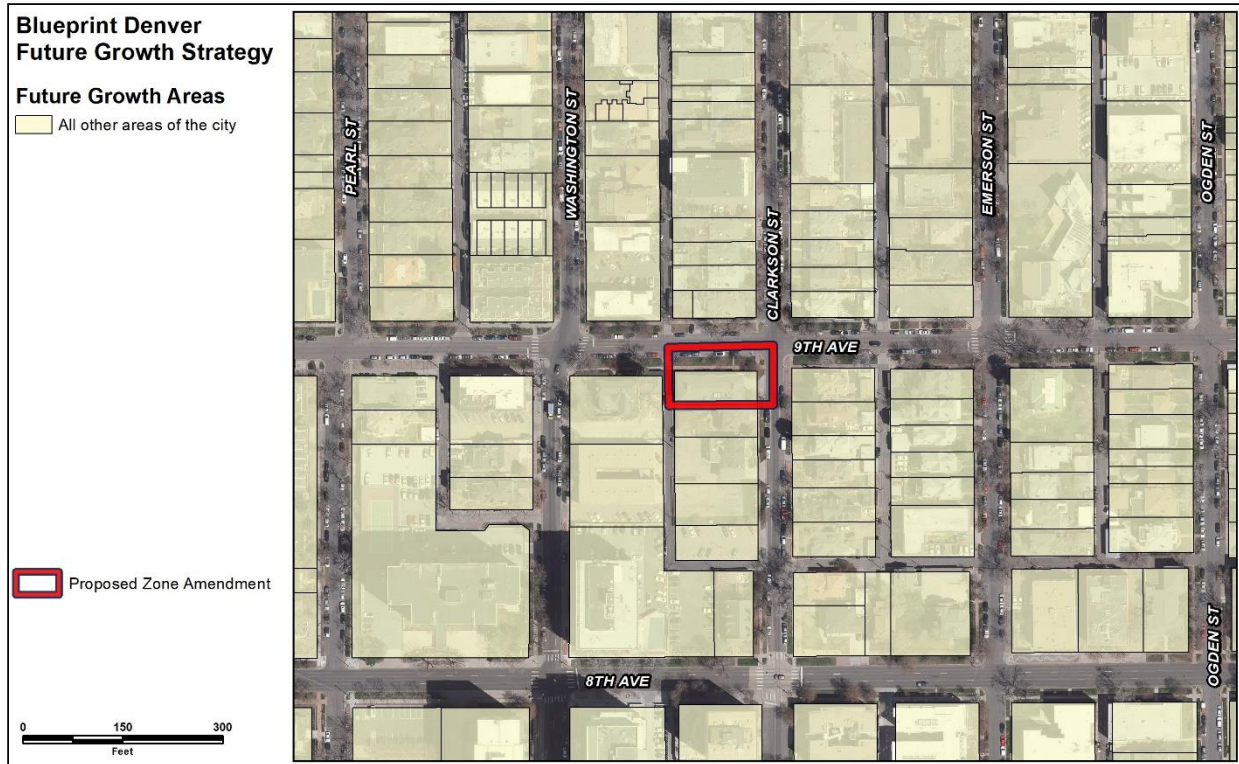
The General Urban Neighborhood Context provides nuance to the aspirations of the individual places shown on the map. The Future Places Map shows the subject property as part of a High Residential place type. *Blueprint Denver* describes the aspirational characteristics of High Residential places in the General Urban context as, “Predominately multi-unit residential, though compatible commercial uses should be interspersed throughout. Buildings are generally the tallest of the residential places in this context” (p. 246). The proposed zone district of G-MU-3 would allow additional residential and limited commercial uses embedded within the adjacent multi-unit residential areas.

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 East 9th Avenue as a Local Street, which are “most often characterized by residential uses” (p. 161). North Clarkson is

classified as a Residential Collector, which are primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses” (p. 161). The proposed G-MU-3 district is consistent with this street type because it would allow for primarily residential uses in a largely residential established neighborhood.

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 G-MU-3 zone district is appropriate in this growth area as it add the opportunity for both housing growth. Therefore, the proposed rezoning is consistent with the *Blueprint Denver* growth strategy.

Additional Strategies

In *Blueprint Denver*, there are recommendations that form a comprehensive list of policies and strategies to guide implementation of the plan. They are organized by the three elements of complete neighborhoods.

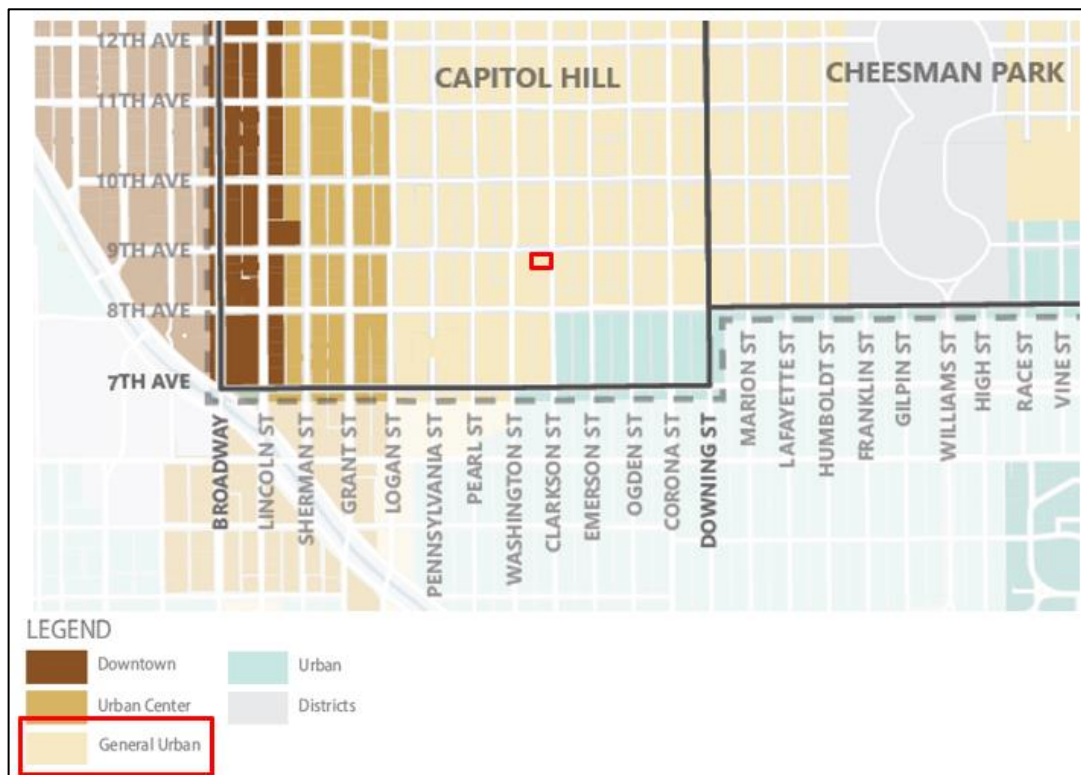
Blueprint Denver provides recommendations related to properties that retained zoning from the Former Chapter 59 zoning code.

- Land Use & Built Form: General Policy 3, Strategy B: *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).
- Land Use & Built Form: General Policy 3, Strategy B: *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*.

East Central Area Plan (2020)

The East Central Area Plan identifies the Neighborhood Context for the subject property as General Urban. This is consistent with the requested zone district’s neighborhood context.

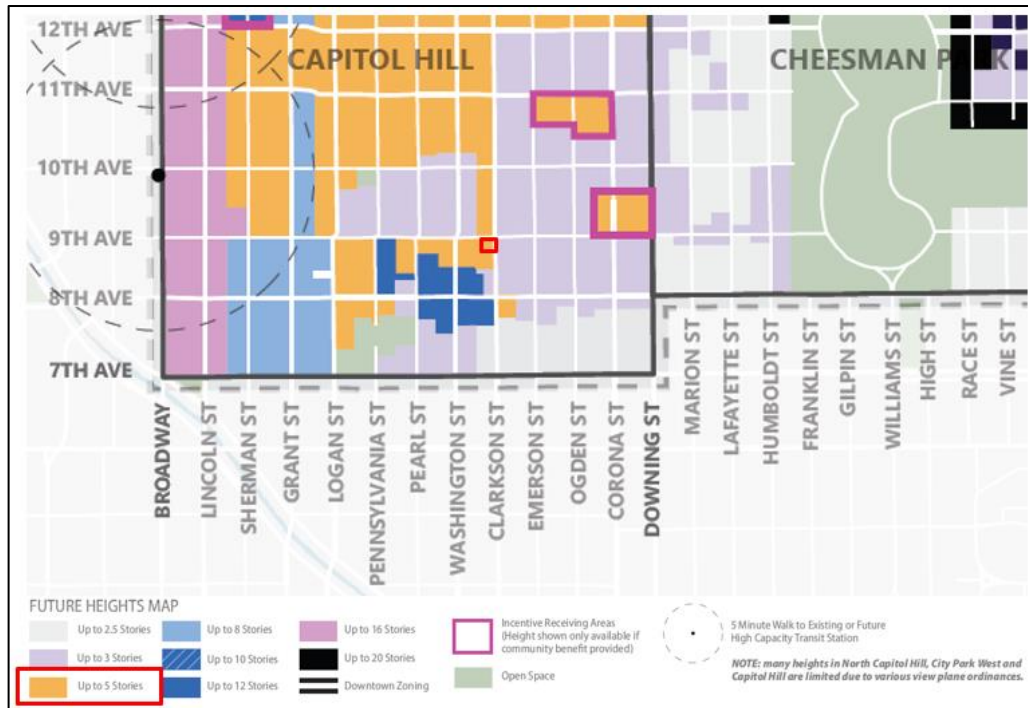


The East Central Area Plan identifies the Future Place for the subject property as High Residential, which should include “predominately multi-unit residential, though compatible commercial uses

should be interspersed throughout” (p.29). This is consistent with the requested zone district’s scale and uses.



The East Central Area Plan further refines *Blueprint Denver* height guidance and identifies the maximum building height for the subject property as up to 5 stories. This is consistent with the requested zone district’s height.



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 and allow for adaptive reuse of the property.

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...."

Since the property was last rezoned in 2000, the Capitol Hill neighborhood has seen substantial redevelopment and reinvestment, including significant infill along mixed-use corridors. As a result, there has been additional residential and commercial 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.

The combination of changes in the neighborhood and the existence of a Former Chapter 59 PUD justifies the proposed rezoning to G-MU-3 as being in the public interest.

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 General 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. 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. PUD 499
3. Public comments