



**TO:** Denver City Council  
**FROM:** Rob Haigh, Senior City Planner  
**DATE:** May 1, 2023  
**RE:** Official Zoning Map Amendment Application #2022I-00207

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code (DZC), Staff recommends that the Denver City Council approve Application #2022I-00207.

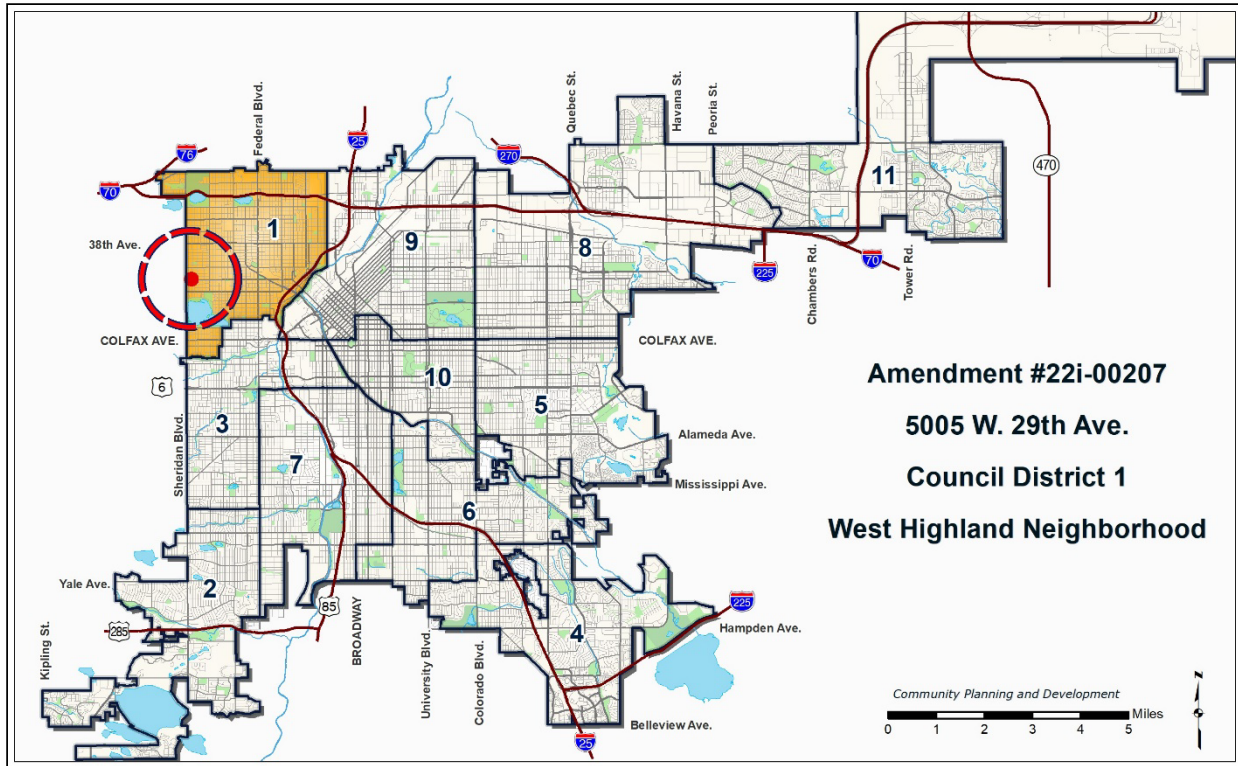
### Request for Rezoning

Address: 5005 West 29<sup>th</sup> Avenue  
Neighborhood/Council District: West Highland / Council District 1  
RNOs: Inter-Neighborhood Cooperation (INC), West Highland Neighborhood Association, Sloan's Lake Citizens Group, Strong Denver.  
Area of Property: 13,034 square feet or 0.3 acres  
Current Zoning: PUD 83 (Former Chapter 59)  
Proposed Zoning: U-MX-3  
Property Owner(s): 5005 W 29TH AVE LLC  
Owner Representative: Josh Ward

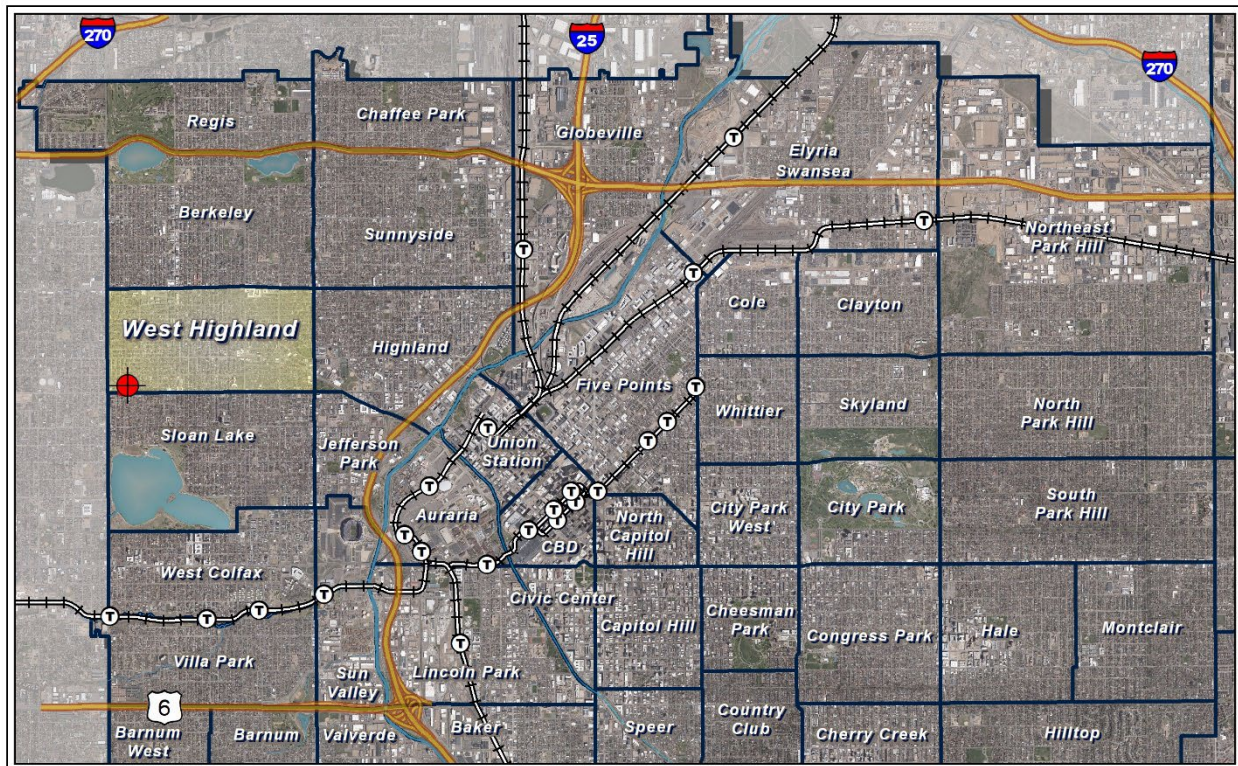
### Summary of Rezoning Request

- The subject property is in the West Highland neighborhood, at the southeast intersection of West 29<sup>th</sup> Avenue and North Yates Street.
- The property is occupied by a one-story building, built in 1973 as a vehicle transmission repair shop. In 1982, the property was rezoned from B-2 to PUD 83 to allow for the continued use of this property for the transmission repair business without needing to annually renew their nonconforming use.
- The applicant is requesting the rezoning to facilitate the redevelopment of the property for use as an *Industrial Services – Contractor, Special Trades – General Use* as permitted in the U-MX-3 with limitations.
- The requested U-MX-3 (**U**rban, **M**ixed Use, **3** story maximum height) zone district is designed for areas or intersections served primarily by local or collector streets where a building scale of 1 to 3 stories is desired. It is intended to provide safe, active, and pedestrian-scaled, diverse areas along corridors and embedded in residential neighborhoods. Further details of the zone districts can be found in Article 5 of the Denver Zoning Code (DZC).

### City Location



### Neighborhood Location





### Aerial View



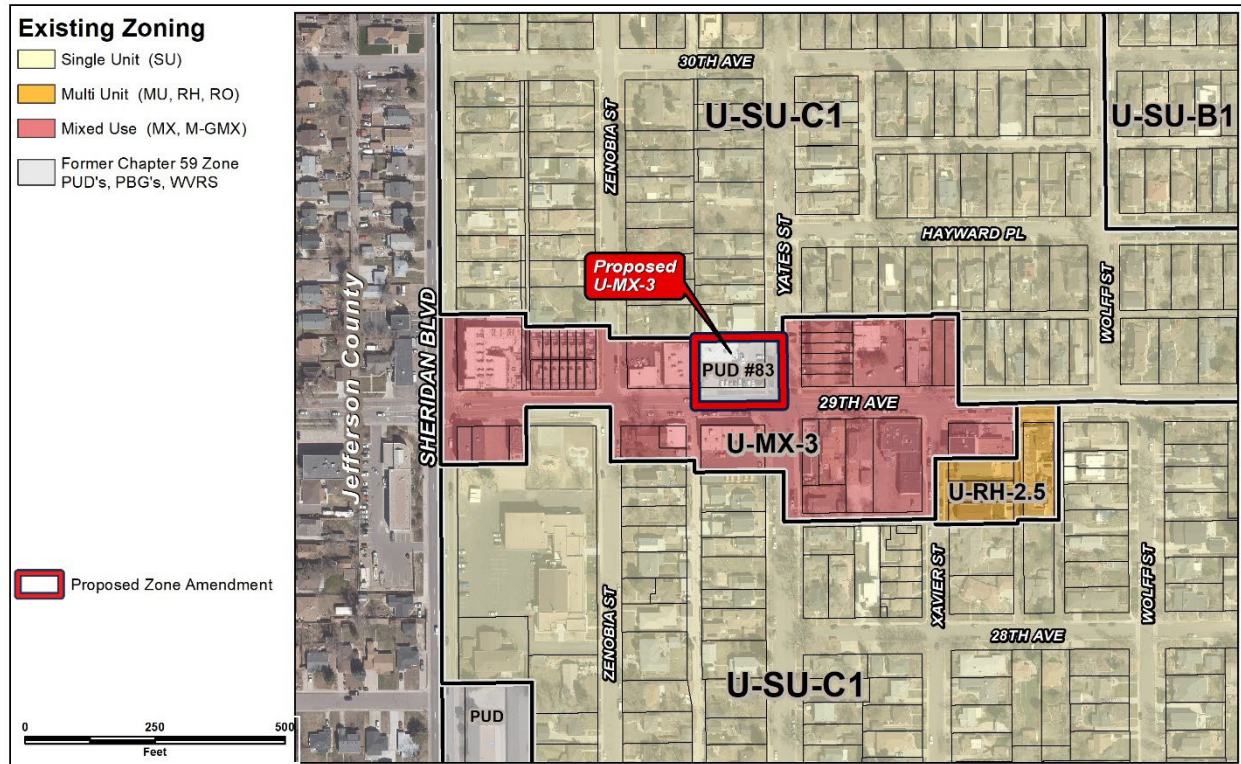
### Existing Context

The property is in the West Highland neighborhood at the northwest corner of West 29<sup>th</sup> Avenue and North Yates Street. The subject property is located along the 29<sup>th</sup> Avenue corridor that contains a mix of commercial, retail, office, and residential uses. To the north and south of the 29<sup>th</sup> Avenue corridor, uses transition to primarily single-unit residential uses with embedded two-unit and multi-unit residential uses throughout. Transit access includes the Regional Transportation District (RTD) bus route 51 along Sheridan Boulevard, RTD bus route 32 on West 32<sup>nd</sup> Avenue, and RTD bus route 28 along West 26<sup>th</sup> Avenue.

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 83	Automobile Services, Heavy (vacant)	1 story automotive repair building	Generally regular grid of streets. Block sizes and shapes are square and rectangular with alleys. Garages are rear, side and front loaded with On-Street vehicle parking.
North	U-SU-C1	Two-unit residential	1 story duplex and detached garage with alley access	
South	U-MX-3	Commercial office	1 story brick shopfront building	
East	U-MX-3	Rowhouse – Multi-unit residential	2 story rowhouse	
West	U-MX-3	Commercial Office	1 story brick office building	

## Existing Zoning



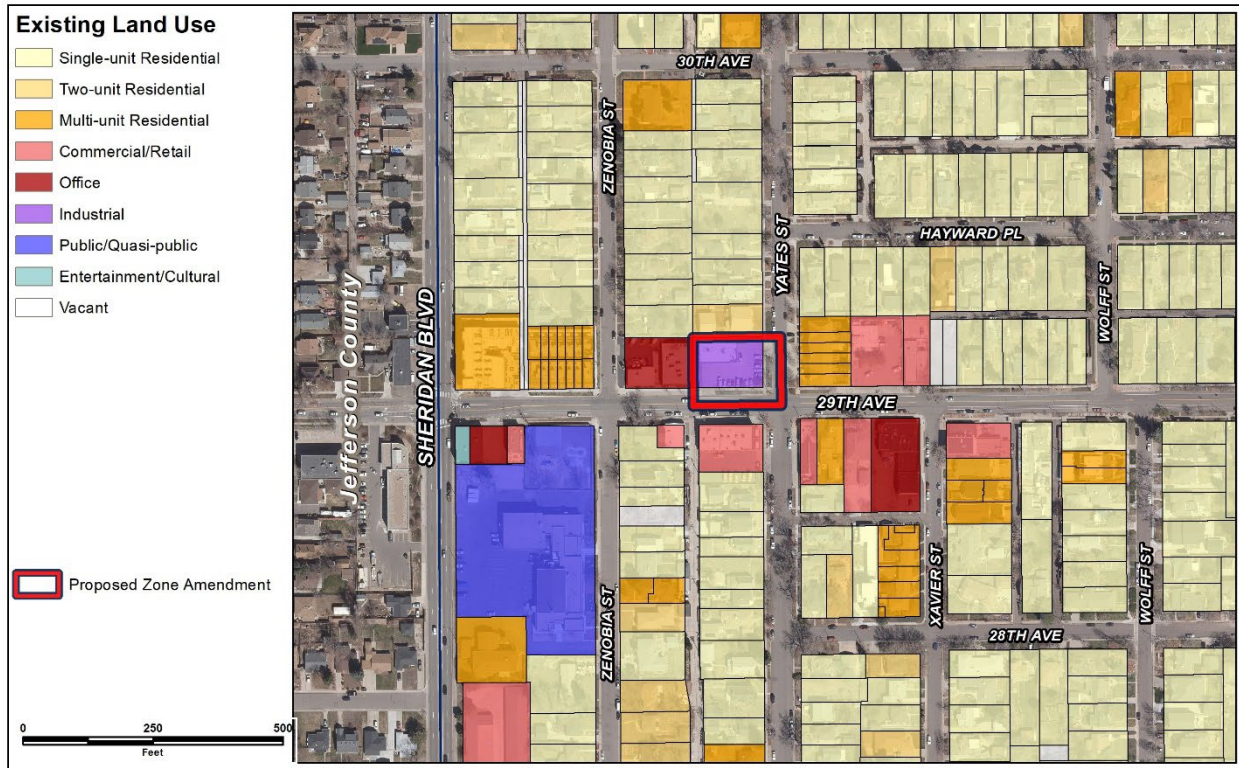
The subject site is zoned PUD 83, which is a Former Chapter 59 PUD zone district. The PUD is highly customized for the existing building and previous user that has been in place since before the PUD approval in 1982. Specifically, PUD 83 sets forth:

- Allowed uses: Transmission Repair Shop
- Size of the proposed district: 12,250 square feet.
- Size of the proposed structure: 3,879 square feet.
- Required parking: 1 space per 300 square feet of gross floor area resulting in 13 off-street parking spaces.
- Maximum structure height: 20 feet.
- The structure shall be located on the west and north property lines with a 49 foot, 10 inch setback from Yates and 45 foot, 8 inch setback from West 29<sup>th</sup> Avenue.
- The PUD also establishes a District Plan Map that includes a site plan dictating the location and layout of the improvements.

The subject property is surrounded to the west, south, and east by other U-MX-3 zone districts. The areas to the north of the subject property are zoned U-SU-C1. If the subject property is rezoned to U-MX-3, it will be subject to all protected district standards including additional setbacks and use limitations. For protected district standards see DZC page 5.3-15, 5.3-23, and 5.3-25 for setbacks in the Town House, General, and Shopfront building forms allowed in the U-MX-3 zone district.



### Existing Land Use Map



### Existing Building Form and Scale

All images from Google Maps Street View.



Subject property looking north from the intersection of West 29<sup>th</sup> Avenue



South – Property directly south of the subject site, looking southwest from West 29<sup>th</sup> Avenue.



West – property directly west of the subject property looking northwest from West 29<sup>th</sup> Avenue





East – Properties directly east of the subject property, looking east from North Yates Street



North – Properties directly north of the subject property, looking west from North Yates Street

### **Proposed Zoning**

The **U-MX-3, Urban, Mixed-use, 3-story** district is a mixed-use zone district in the urban context. U-MX-3 applies to areas or intersections served primarily by local or collector streets where a building scale of 1 to 3 stories is desired. The Mixed Use zone districts in the Urban Neighborhood Context are intended to promote safe, active, and pedestrian-scaled, diverse areas that enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods. In the U-MX-3 zone district the Town House, General and Shopfront building forms are allowed primary building forms. Maximum height allowed is 3 stories or 45 feet with additional limitations when adjacent to protected districts. Further details of the zone district can be found in Article 5 of the Denver Zoning Code.

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

<b>Design Standards</b>	<b>Existing PUD 83</b>	<b>Proposed U-MX-3</b>
Primary Building Forms Allowed	N/A	Town House, General, Shopfront, Drive Thru Services, Drive Thru Restaurant
Height in Stories / Feet (max.)	20'	General, Shopfront & Drive Thru: 3 stories / 45' Town House: 3 stories / 38'
Primary Street Build-To Percentages (min.)	N/A	Town House, General:70% Shopfront: 75% Drive Thru: 50%
Primary Street Build-To Ranges (min./max.)	N/A	Town House: 10'/15' General & Drive Thru: 0'/15' Shopfront: 0'/5' Residential Only Buildings: 0'/10'
Side Interior Setback	N/A	Town House: 5' General, Shopfront & Drive Thru: 0'
Side Interior Setback, adjacent to a protected district	N/A	Town House, General and Shopfront & Drive Thru: 10'
Upper Story Setback Above 27' adjacent to Protected District: Rear, alley/Rear, no alley and Side Interior (min)	N/A	Town House, General, Shopfront & Drive Thru: 15'/25'
Primary Street Setbacks (min.)	N/A	Town House: 10' General, Shopfront & Drive Thru: 0'
Primary Street Transparency (min.)	N/A	Town House, General & Drive Thru: 40% Shopfront: 60%, residential only buildings: 40%



## **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.

**Denver Fire Department:** Approved – No comments.

**Development Services - Transportation:** Approved – No response.

**Denver Parks and Recreation:** Approved – No comments.

**Development Services – Project Coordination:** Approved – No response

**Development Services – Wastewater:** Approved – See comments below.

There is no objection to the rezone, however applicant should be under notice that DOTI will not approve any development of this property without assurance that there is sufficient sanitary and storm sewer capacity. A sanitary study and drainage study may be required. These studies may results in a requirement for the developer to install major infrastructure improvements or a limit to development if current infrastructure is insufficient. Approval of this rezone on behalf of Wastewater does not state, or imply, public storm/sanitary infrastructure can, or cannot, support the proposed zoning.

**Department of Public Health and Environment:** Approved – See comments below.

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.

**Department of Transportation & Infrastructure – City Surveyor:** Approved – No comment

## 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:	01/05/2023
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:	2/14/2023
Planning Board Hearing: <i>Forwarding Recommendation of Approval</i>	03/01/2023
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:	03/08/2023
Land Use, Transportation and Infrastructure Committee of the City Council:	03/21/2023
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:	04/10/2023
City Council Public Hearing:	05/01/2023

- **Registered Neighborhood Organizations (RNOs)**
  - Staff received one letter of support from Strong Denver.
- **Other Public Comment**
  - Five letters of opposition have been received from a neighboring property owners citing concerns with how the proposed zone district and use will not be compatible with the adjacent residential uses. The public comments highlight concerns about the use expanding off the zone lot, and commercial vehicles parking on public rights-of-way.



## 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)

#### *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.

#### *Strong and Authentic Neighborhoods Vision Element*

The proposed rezoning would allow for a mix of uses on the subject property which is located along an established mixed use corridor. The site is approximately 0.1 mile from the RTD bus stop on Sheridan Boulevard that serves route 51, and is approximately ¼ mile from bus routes along West 29<sup>th</sup> Avenue and West 31<sup>st</sup> Avenue. The proposed U-MX-3 zoning would allow for a variety of neighborhood-serving uses including employment, housing, services, eating and drinking establishments, and office uses that build upon the mixed-use corridor on West 29<sup>th</sup> Avenue. It is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy A – Build a network of well-connected, vibrant, mixed-use centers and corridors (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).

#### *Environmentally Resilient 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).

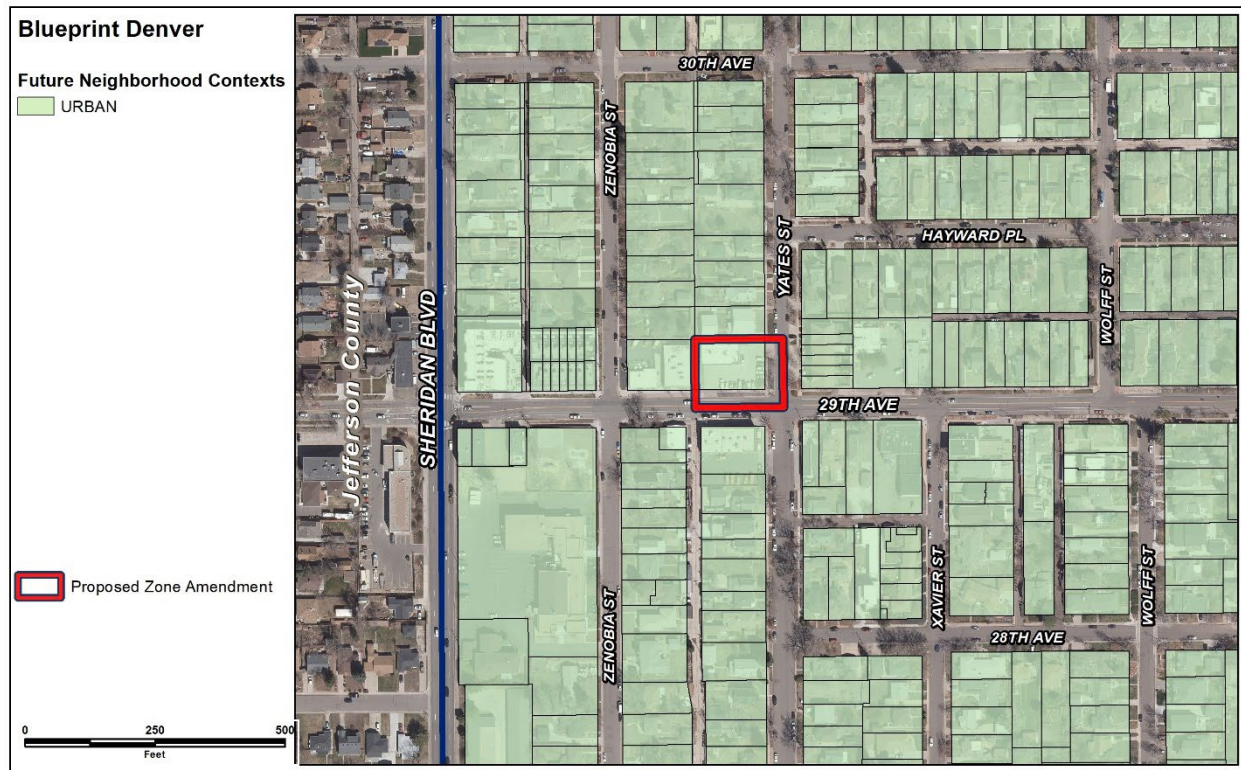
- Environmentally Resilient Goal 8, Strategy C – Focus growth by transit stations and along high- and medium-capacity transit corridors (p. 54).

The requested map amendment will allow for new development at an infill location where services and infrastructure are already in place. The requested U-MX-3 zone district broadens the variety of uses allowing residents to live, work and play in their neighborhood. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

### **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 a Local Corridor future place within the Urban Context and provides guidance from the future growth strategy for the city.

### **Blueprint Denver Future Neighborhood Context**



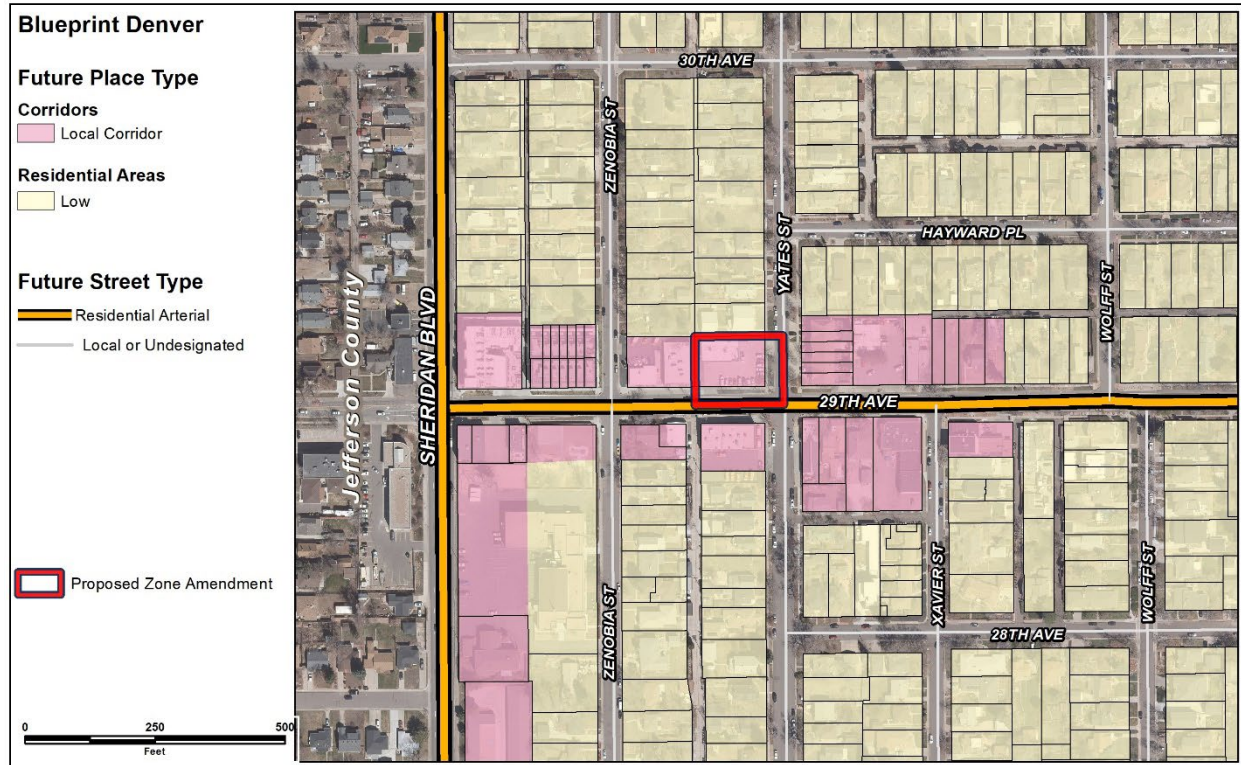
In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in things like land use and built form and mobility options at a higher scale, between neighborhoods. Small area plans provide more certain guidance on topics including building heights (p. 66). The subject property is within the Urban neighborhood context. The land use and built form in the Urban neighborhood context is described as “Small multi-unit residential and mixed-use areas typically embedded in 1-unit and 2-unit residential areas” (p. 136).

The proposed U-MX-3 zone district is part of the Denver Zoning Code Urban Neighborhood Context that is intended to “promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge,” and “to enhance the convenience, ease



and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods." (DZC Section 5.2.3.1)

### Blueprint Denver Future Places



Within the Urban Neighborhood Context, the subject property is categorized as a Local Corridor future place type with a land use and built form defined by *Blueprint Denver* as primarily providing “options for dining, entertainment and shopping” and “may also include some residential and employment uses” (p.228). In addition, in a Local Corridor, “buildings have a distinctly linear orientation along the street with very shallow setbacks. The scale is intimate with a focus on the pedestrian. The public realm is typically defined by lower-scale buildings with active frontages” while “heights are generally up to three stories” (p. 228).

The proposed rezoning to U-MX-3 is appropriate and consistent with the Local Corridor designation as it allows for the mixed-use development of pedestrian-friendly building forms (up to three stories) that define and activate the public street edge. Additionally, the building form standards in the Denver Zoning Code that include increased side interior setbacks and upper story setbacks help to ensure that any new development will appropriately transition toward the protected district north of the subject property.

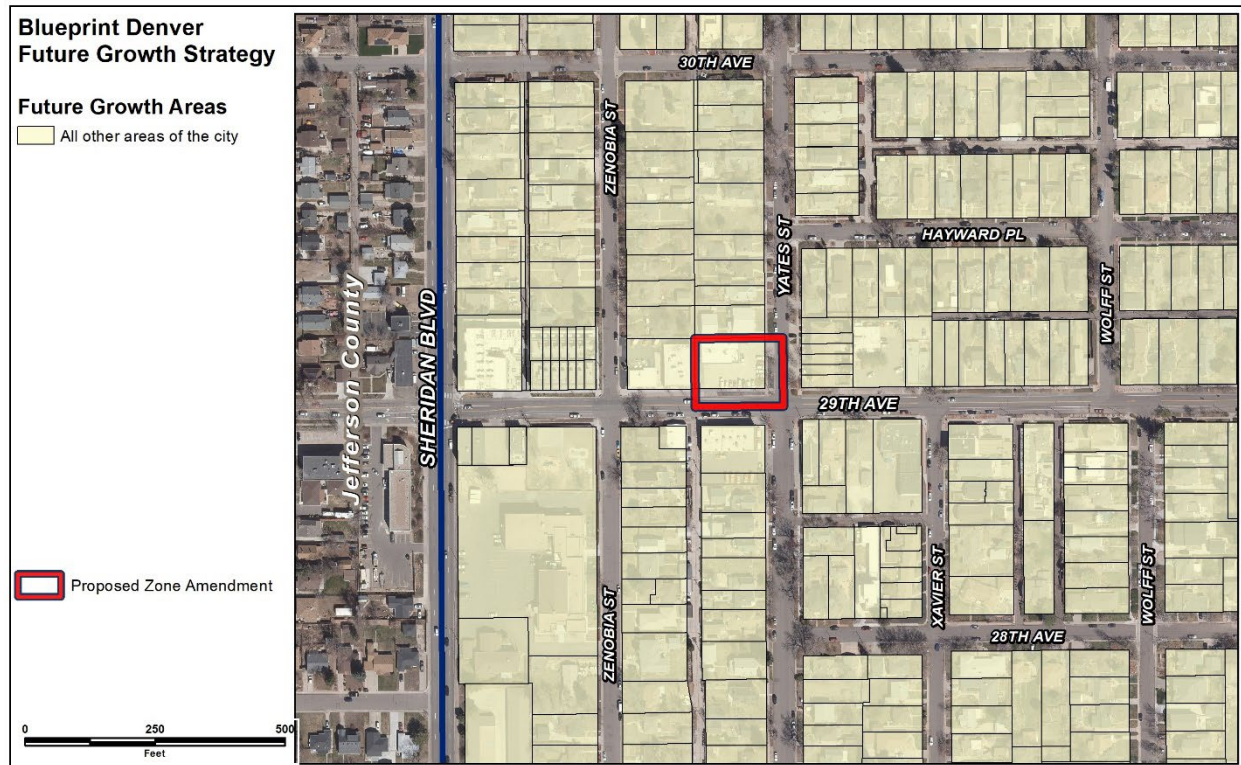
### Street Types

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 West 29<sup>th</sup> Avenue as an Residential Arterial Future Street Type. Residential Arterials “are designed for the highest amount of through movement and the lowest degree of property access” (p. 154). North Yates Street is a Local Street. Local Streets “are designed for the highest degree of property access and the lowest amount of

through movement” (p. 154). Additionally, Residential Street Types serve “Primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses.”

The proposed rezoning to U-MX-3 is consistent with the Blueprint Denver Undesignated Local and Residential Arterial street classifications because U-MX-3 is intended for areas and intersections primarily served by local and collector streets. The proposed rezoning continues to implement plan goals to establish and maintain this mixed-use node at an intersection of West 29<sup>th</sup> Avenue and North Yates Street

### 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 U-MX-3 is consistent with this map because will enable compatible development at this location to support continued viability of the local corridor that serves the surrounding residential neighborhood.

### Blueprint Denver Strategies

The following additional *Blueprint Denver* policies are applicable to the rezoning request:

- Land Use and Built Form: General Policy 3, Strategy A - “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).

The proposed rezoning is also consistent with *Blueprint Denver* policies because it would eliminate a Former Chapter 59 zone district and bring the site into the Denver Zoning Code.



## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to U-MX-3 will result in the uniform application of zone district building form, use, and design regulations on this site as they are applied to any other sites zoned U-MX-3.

## **3. Public Health, Safety and General Welfare**

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through the implementation of the City's adopted plans and by allowing for redevelopment in a manner that will provide for the construction of additional neighborhood-serving commercial, retail, services, and employment uses, thereby providing residents more opportunities to live, work, and play within their neighborhood. The proposed rezoning would also facilitate housing density near a mix of uses or provide a greater mix of uses proximate to residential areas depending on the resulting development

## **4. Justifying Circumstance**

The application identifies 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: ... c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning." The zoning on the subject site is a Former Chapter 59 PUD. Rezoning from Former Chapter 59 zoning into the Denver Zoning Code is an appropriate justifying circumstance. Additionally, rezoning out of the existing PUD 83 will provide more flexibility to modify the site to accommodate changing conditions in the neighborhood.

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

The requested U-MX-3 zone district is within the Urban Neighborhood Context. The neighborhood context generally consists of single-unit and two-unit residential uses with embedded small-scale multi-unit residential and commercial areas (DZC, Division 5.1).

The proposed rezoning is also consistent with the general purpose of mixed-use districts to promote safe, active, and pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping, and public gathering within and around the city's neighborhoods. The Mixed-Use districts are appropriate along corridors, embedded in neighborhoods and on large sites (DZC Section 5.2.3.1). The rezoning is consistent with the general purpose of the urban mixed-use districts as this is an existing neighborhood site and will promote a pedestrian scaled area along West 29<sup>th</sup> Avenue.

According to the zone district intent stated in the Denver Zoning Code, the U-MX-3 district "applies to areas or intersections served primarily by local or collector streets where a building scale of 1 to 3 stories is desired." (DZC Section 5.2.3.2.C). The subject property is located in an established mixed-use corridor at the intersection of one local and one residential arterial street. The proposed U-MX-3 zoning would allow buildings and uses consistent with the purpose and intent of the zone district.

## **Attachments**

1. Application
2. Current PUD 83

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### 3. Public Comments