



TO: Land Use, Transportation, and Infrastructure Committee
FROM: Sarah Cawrse, Senior City Planner
DATE: October 28, 2020
RE: Official Zoning Map Amendment Application #2019I-00070

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends denial of the Application #2019I-00070.

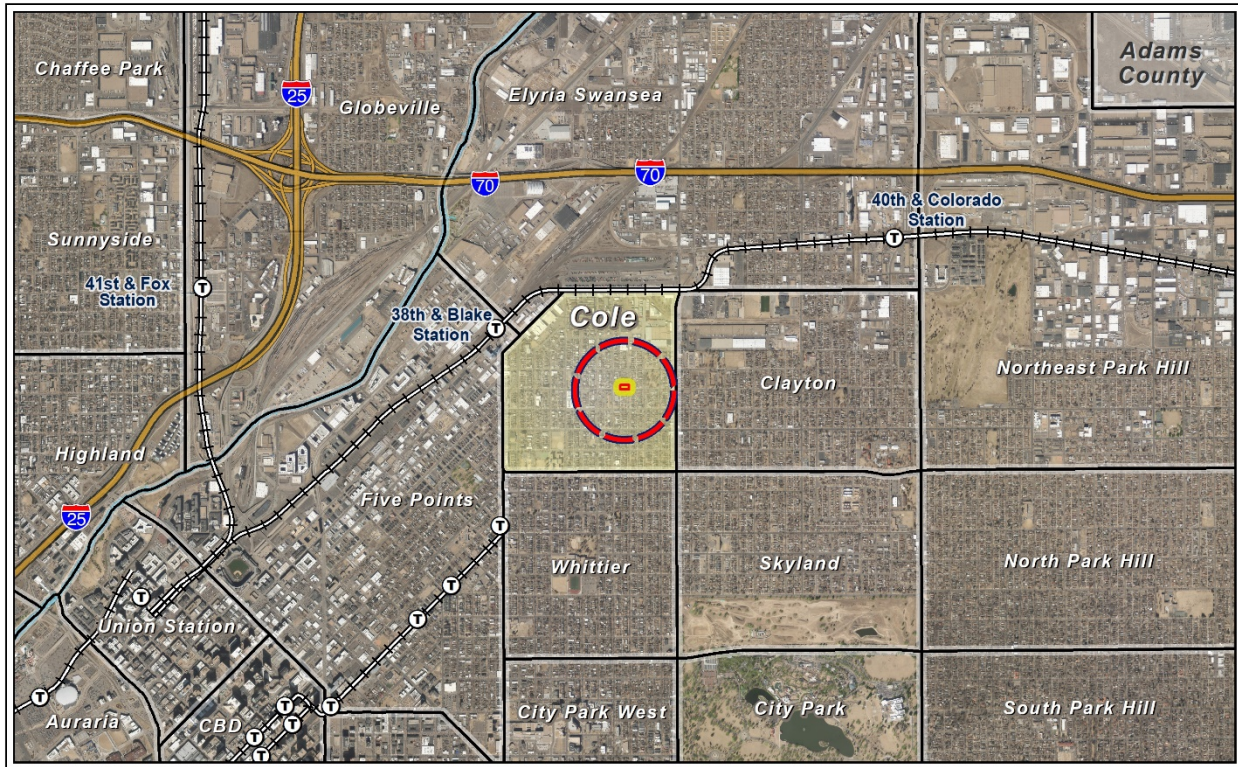
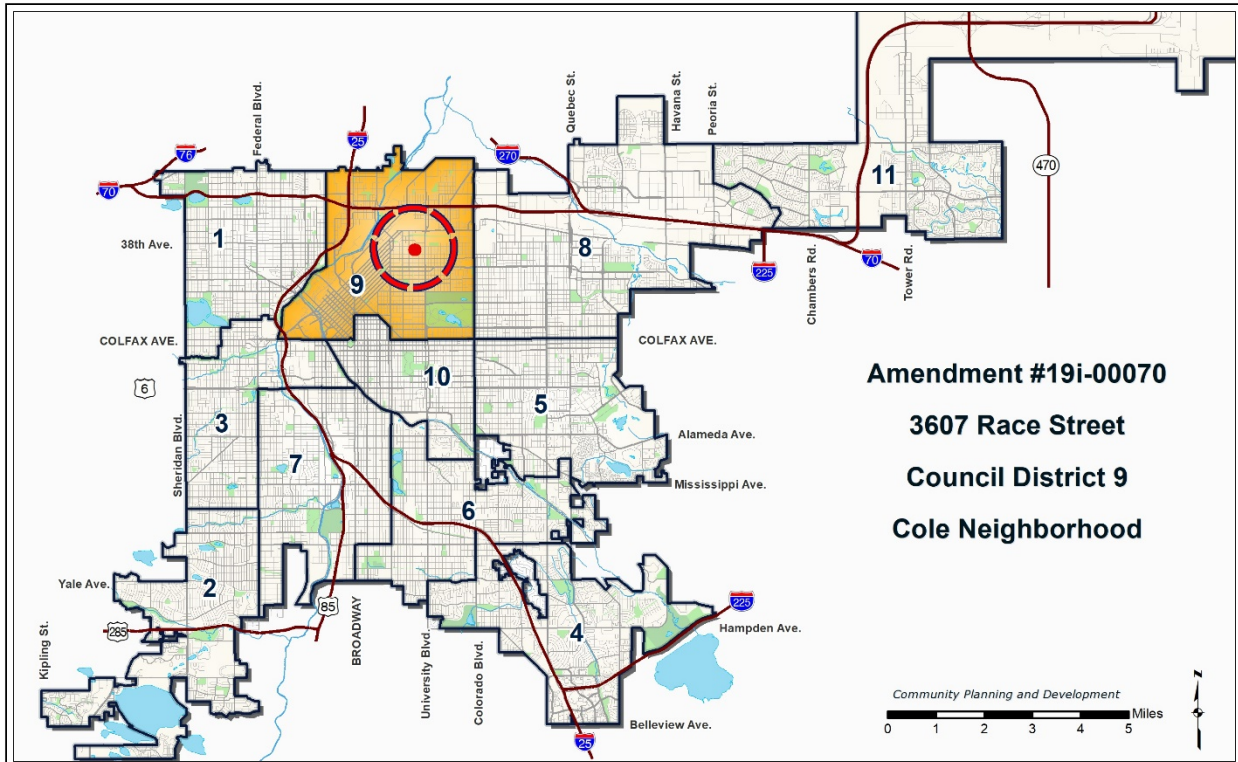
Request for Rezoning

Address:	3601, 3603, 3605, 3607 Race Street
Neighborhood/Council District:	Cole Neighborhood / Council District 9 / CdeBaca
RNOs:	Cole Neighborhood Association, Denver Arts and Culture Initiative, Inter-Neighborhood Cooperation, Northeast Denver Friends and Neighbors, Opportunity Corridor Coalition of United Residents, Reclaim the East Side, The Points Historical Redevelopment Corp, UCAN, United Neighbors of Northeast Denver Residents
Area of Property:	10,400 square feet or 0.24 acres
Current Zoning:	Current zone district U-SU-A1
Proposed Zoning:	Proposed zone district U-RH-2.5
Property Owner:	Timothy Dupuis

Summary of Rezoning Request

- The subject property is in the Cole Neighborhood, west of York Street and north of E Bruce Randolph Avenue at the northeast corner of E 36th Avenue and Race Street.
- The property currently has a one-story structure with a Multi-Unit Dwelling use that is a conforming use. The structure consists of four units.
- The applicant is requesting the rezoning to allow the construction of row homes.
- The requested zone district of U-RH-2.5 (**U**rbane, **R**ow **H**ouse) allows up to a two and a half story row house building form, as well as the urban house, detached accessory dwelling unit, duplex, and tandem house building forms. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 5 of the Denver Zoning Code (DZC).

Existing Context



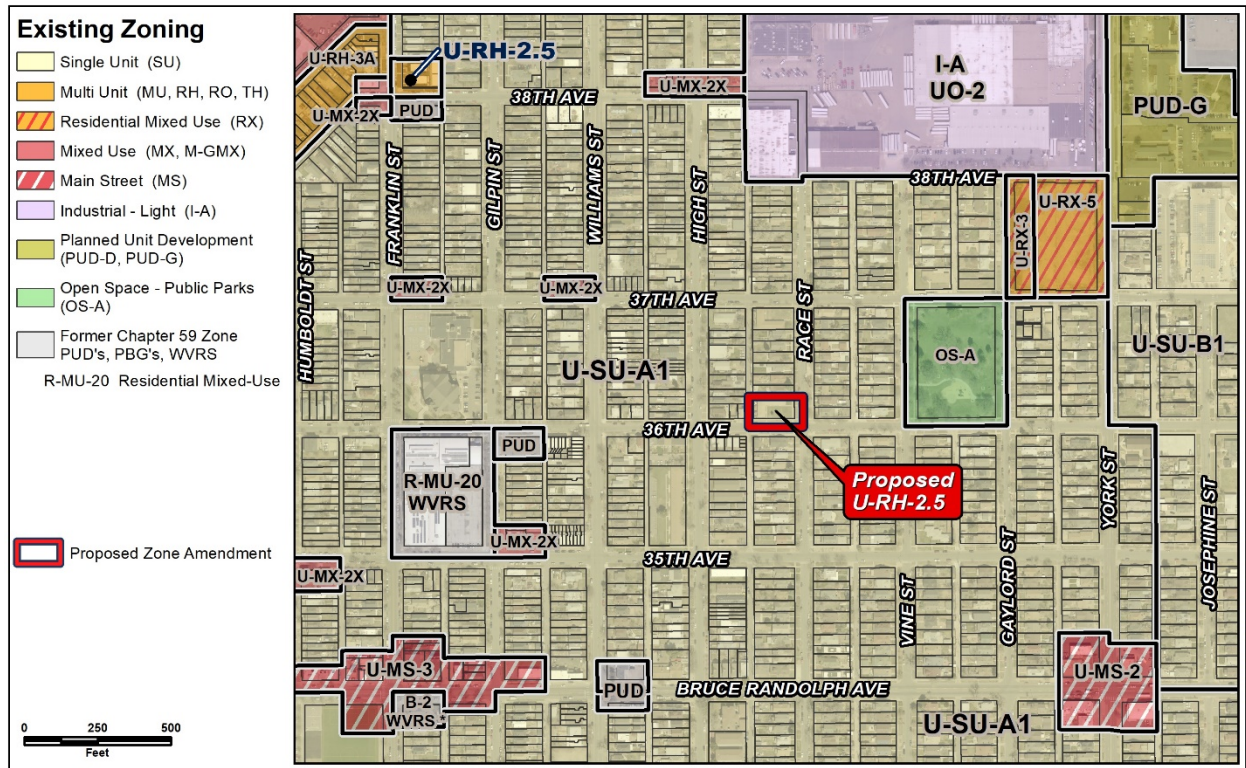


The subject property is in the Cole Neighborhood, at the intersection of E 36th Avenue and Race Street. It is about two blocks north of E Bruce Randolph Avenue and three blocks west of York Street. Russell Square Park is one block to the east. There are primarily single-unit residential uses, with some multi-unit and two-unit residential uses dispersed throughout. There are bus stops located at the intersection of E 36th Avenue and York Street, as well as directly south from the property at E Bruce Randolph 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	U-SU-A1	Multi-unit residential (4-units)	1-story structure	Generally regular grid of streets; Streets between High Street and York Street are interrupted north of E 37 th Avenue by industrial uses. Block sizes and shapes are consistent and rectangular. Vehicle parking to the rear of buildings. Bus stops are located less than a quarter mile away along both E Bruce Randolph Avenue and N York Street.
North	U-SU-A1	Single-unit residential, multi-unit residential	1-story houses	
South	U-SU-A1	Single-unit residential, two-unit residential	1-story houses, 1-story duplexes	
East	U-SU-A1	Single-unit residential, multi-unit residential	1-story houses	
West	U-SU-A1	Single-unit residential, multi-unit residential	1-story houses, 2-story residential structure	

Existing Zoning



The U-SU-A1 is a single unit district allowing urban houses and detached accessory dwelling units with a minimum zone lot area of 3,000 square feet. The maximum building height is 30 feet but there is a permitted height increase of 1 foot for every 5 feet of increase in lot width over 50 feet and up to a maximum height of 35 feet. The zone lot width of 75 feet is much larger than the typical pattern of 25-foot-wide lots, and the permitted height increase could be used to build to a maximum height of 35 feet in the front 65 percent of the zone lot depth. The maximum building coverage on the zone lot is 37.5 percent. This district requires the shallowest setbacks and allows the highest lot coverage of the residential districts in the Urban Neighborhood Context. Setbacks and lot coverage standards accommodate front and side yards like U-SU-A but allow a detached accessory dwelling unit building form in the rear yard. For additional details of the existing zone district, see DZC Section 5.2.2.

The existing entitlement of U-SU-A1 also allows the applicant to seek out similar density in two ways:

1. Under the current zoning per Denver Zoning Code Section 11.2.3.1, "in all SU and TU zone districts, where permitted with limitations: A structure containing such a Multi-Unit Dwelling use may be modified or demolished and rebuilt according to the following limitations: In a SU zone district, the rebuilt structure shall comply with either the building form standards in the subject SU zone districts without regard to the building

forms' use restrictions." This means the current four-unit structure on the property may be modified or demolished and rebuilt as a new four-unit structure that complies with the urban house building form standards stated above.

2. The current property is 10,400 square feet. Due to this large property size, the owner could choose to do a zone lot amendment to create three zone lots that meet the minimum zone lot size of 3,000 square feet and zone lot width of 25'. Each zone lot could have an urban house with detached accessory dwelling unit, which would allow a total of six units on the subject property.

1. Existing Land Use Map



The subject property has a multi-unit residential land use. Surrounding uses are primarily single unit residential with several two-unit and multi-unit uses.

2. Existing Building Form and Scale



1 Subject property looking northwest from the intersection of Race Street and E 36th Avenue (Source: Google Maps)



2

Subject property looking northeast from E 36th Avenue (Source: Google Maps)



3

Adjacent properties to the east near the intersection of Race Street and E 36th Avenue (Source: Google Maps)



4

Adjacent properties to the south near the intersection of Race Street and E 36th Avenue (Source: Google Maps)



Adjacent properties to the west along E 36th Avenue (Source: Google Maps)

Proposed Zoning

The requested U-RH-2.5 zone district is a multi-unit district. Different than the existing U-SU-A1 zone district that only allows the urban house and detached accessory dwelling unit building forms, the proposed zone district of U-RH-2.5 also allows up to a two and a half story row house, duplex, and tandem house building forms.

The row house building form requires a minimum zone lot size of 6,000 square feet and zone lot width of 50 feet. This building form could allow up to ten dwelling units per primary residential structure, but the number of potential units would be dependent on any site constraints and compliance with the building form standards. There is a required upper story setback of 15 feet for low-slope roofs above 25 feet for side, interior, and side streets. An upper story stepback of 10 feet for a building with a low-slope roof above 25 feet is required.

The urban house, duplex, tandem house and row house building forms all require a primary street block sensitive setback or a 20-foot setback where a block sensitive setback does not apply.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below. In addition to the primary building forms below, detached accessory dwelling unit forms are also allowed.

Design Standards	U-SU-A1 (Existing)	U-RH-2.5 (Proposed)
Primary Building Forms Allowed	Urban House	Urban House, Duplex, Tandem House, Row House
Stories/Heights (max)	2.5/35'	2.5/35'
Minimum Zone Lot Size/Width	3,000sf/25'	6,000sf/50'*
Primary Street Setback (min)	Block sensitive	Block sensitive
Side Street Setback (min)	7.5'	5'
Side Interior (min)	10'	5'
Rear, alley/no alley Setback (min)	12'/20'	12'/20'
Building Coverages	37.5%	N/A*

*Standard shown is for the Row House building form and 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 – Although this is an existing non-conforming use (built in 1961) and is surrounded by Single family residences, Real Estate has no issue with this request for our perspective and would defer to CPD to make the final decision.

Denver Public Schools: Approved – No Response

Department of Public Health and Environment: Approved – No Response

Denver Parks and Recreation: Approved – No comments

Public Works – R.O.W. - City Surveyor: Approved – Submitted legal description matches the one in the most recent document in the chain of title.

Development Services - Transportation: Approve – no response

Development Services – Wastewater: Approve – no response

Development Services – Project Coordination: Approve – no response

Development Services – Fire Prevention: Approve – no response

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners	2/3/20
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners	10/6/20
Planning Board voted 6 to 4 at the public hearing to recommend denial to City Council	10/21/20
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:	10/20/2020

- **Registered Neighborhood Organizations (RNOs)**
 Cole Neighborhood Association, a registered neighborhood organization, submitted a letter of support.

- **General Public Comment**
 As of the date of this staff report, 5 emails were received expressing support for the application, 1 email was received expressing opposition, and 1 email was received indicating support for the proposed project, with no mention of the proposed rezoning. The letters of support speak to the idea that an increase in housing by allowing the row house building form is desired. The letter of opposition expressed a concern of an increase in density and its adverse effects. See the attached correspondence for the full text of all these public comments.

- **Planning Board Public Hearing**
 On October 21st, 2020, Planning Board voted 6 to 4 at the public hearing to recommend denial to City Council. Those who voted to recommend denial cited that the application did not meet certain review criteria. There were no public speakers either for or against the application that provided testimony.

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 property:

- *Denver Comprehensive Plan 2040* (2019)
- *Blueprint Denver* (2019)

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with some of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

1. The proposed rezoning would allow infill development that broadens the range of housing types available, consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:
 - Strong and Authentic Neighborhoods Goal 1, Strategy B – *Ensure neighborhoods offer a mix of housing types and services for a diverse population* (p. 34).
2. The proposed rezoning would allow infill development that may help to conserve land and grow responsibly, 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).

The proposed rezoning is not consistent with some of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

1. The proposed rezoning would allow different building forms and higher intensity uses than what is currently in the neighborhood, not consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:
 - Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities* (p. 34).

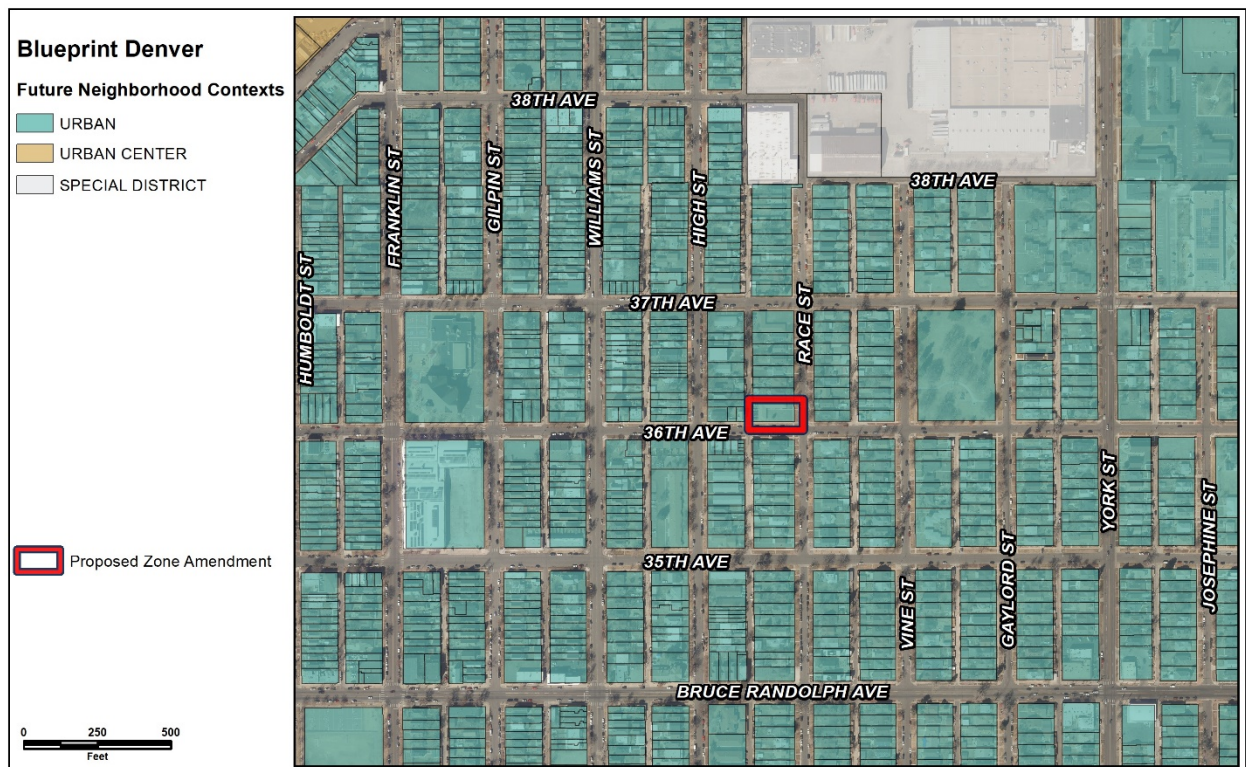
In summary, the proposed rezoning is consistent with some of the plan policies identifying the need for an increase in housing options and for a variety of housing types to be offered. The rezoning request would allow more and different building forms that could accommodate a wider variety of housing types within the neighborhood. The request would allow for infill development that may provide additional units that would help with responsible growth.

The proposed rezoning is also inconsistent with *Denver Comprehensive Plan 2040* goals to encourage quality infill development that is consistent with the surrounding neighborhood. The new building forms and higher intensity of uses that would be allowed in the requested zone district are not consistent with the building forms found near the subject site and surrounding blocks.

Blueprint Denver

Blueprint Denver was adopted in 2019 as a supplement to the *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 Residential Low place type within the Urban Neighborhood Context and provides guidance for the future growth strategy for the city.

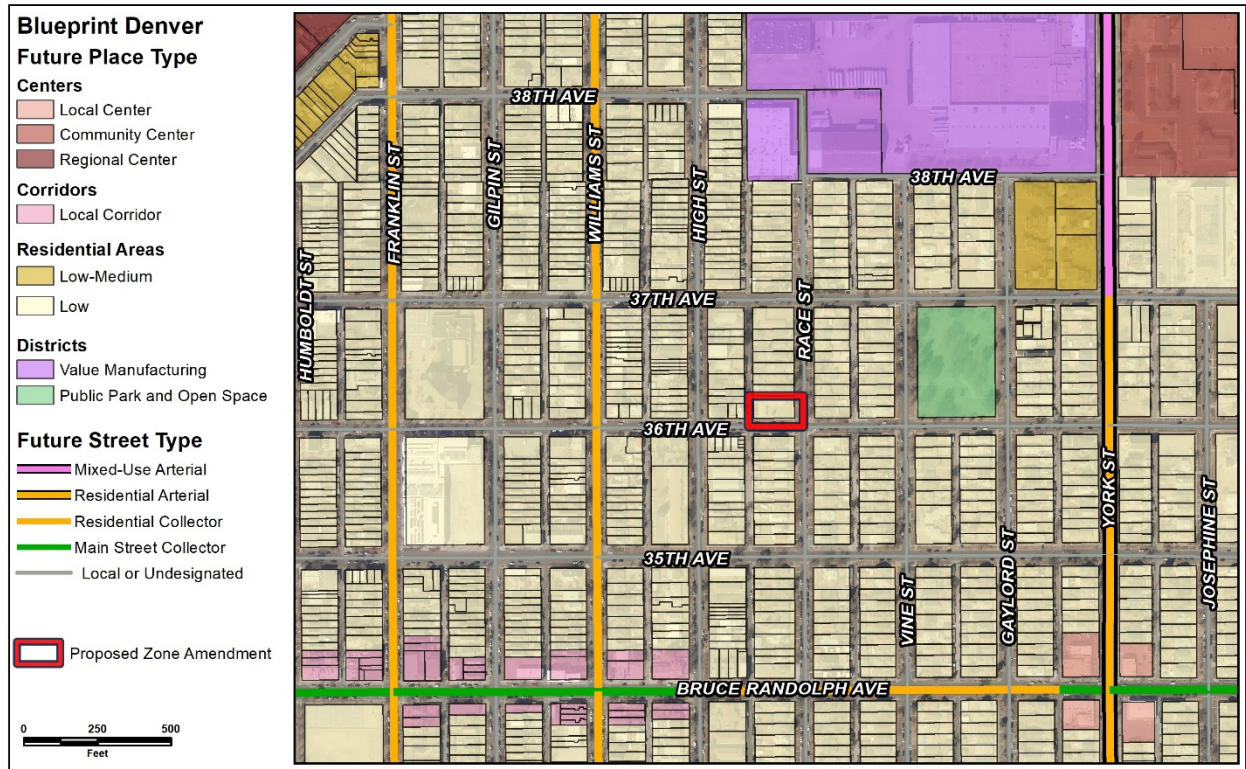
Blueprint Denver Future Neighborhood Context



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 Urban neighborhood context. The neighborhood context

map and description help guide appropriate zone districts (p. 66). In the Urban neighborhood context, “homes vary from multi-unit developments to compact single-unit homes. 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” (p. 221) and “small multi-unit residential and low-intensity mixed-use buildings are typically embedded in single-unit and two-unit residential areas” (p. 222). The proposed U-RH-2.5 zone district is part of the Urban neighborhood context and would allow multi-unit uses, consistent with the intent of the Urban neighborhood context in *Blueprint Denver*.

Blueprint Denver Future Places



The 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 Residential Low place type. *Blueprint Denver* describes the aspirational characteristics of Residential Low places in the Urban context as, “Predominately single- and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible. Medium building coverage. Buildings are generally up to 2.5 stories in height” (p. 230). The current zone district of U-SU-A1 aligns well with the residential low place type description. The proposed zone district of U-RH-2.5 would allow not only two-unit residential uses, but also multi-unit residential uses at a scale and building coverage that is not consistent with this description.

Blueprint Denver provides further guidance for rezonings in Residential Low places regarding uses and minimum lot sizes. The plan states “when a rezoning request is made to change the zoning to allow two-unit uses, the appropriateness of the request depends upon adopted small area plan guidance, neighborhood input, and existing zoning patterns. A departure from the established zoning pattern may be appropriate if the intent is to set a new pattern for the area, as expressed by an adopted small area plan or significant neighborhood input” (p. 231). In this case, there is no adopted small area plan and there has been mixed input received from the community. The letters of support for this application do not express a specific intent to establish a new zoning pattern for the area, but rather speak to the potential development. Page 231 identifies guidance for a rezoning request to change the zoning to allow two-unit uses, but the rezoning request goes beyond two-unit uses, and instead, requests multi-unit uses. There is no plan guidance for a rezoning request for an

existing zone district allowing single-unit uses to be rezoned to a zone district that would allow multi-unit uses.

The rezoning request is not consistent with *Blueprint Denver's* identified Residential Low place type.

Growth Strategy



Blueprint Denver's growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of a Residential Low place type. Residential Low places fall under "all other areas of the city" on the growth strategy map, which are anticipated to see 20% of new housing and 10% of new jobs by 2040. The areas are designated to "take a smaller amount of growth intended to strengthen the existing character of our neighborhoods" (p. 49).

The rezoning request would allow for additional units on the subject site and would therefore contribute to growth in the area. However, the growth strategy is meant to be applied citywide. Since the growth strategy map is informed from the future places map, the rezoning request should be consistent with the future place type of Residential Low to also be consistent with the growth strategy map. The proposed zone district of U-RH-2.5 would allow additional housing types that would allow for significantly more housing growth on the subject site than what is anticipated in *Blueprint Denver's* future place type of Residential Low and the Future Growth Strategy. The rezoning request is inconsistent with *Blueprint Denver's* identified Future Growth Strategy.

Blueprint Denver 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 Race Street and E 36th Avenue as Local Streets, which “can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p. 161). The local street type identified in the plan does not envision a different street type than what already exists. The current future place type of residential low and local street type work together to identify appropriate development intensity.

The rezoning request is consistent with *Blueprint Denver’s* identified Street Type because it would maintain a low-scale residential use along local streets.

Blueprint Denver Strategies

In *Blueprint Denver*, there are a series of strategies related to missing middle housing types. Specifically, Land Use & Built Form Housing Policy 2, Strategy A states “Integrate missing middle housing into low and low-medium residential areas, especially those that score low in Housing Diversity. This should be implemented through holistic revisions to the zoning code at a citywide scale, with a focus on discouraging demolition and encouraging affordability” (p. 82). The rezoning request would go directly against this policy because it does not have a focus on discouraging demolition of the four missing middle housing units that already exist, and it would expand missing middle housing opportunities beyond what is suggested on page 82 of the plan of “allowing 2- to 4-unit structures...where appropriate”. The rezoning would be a single site rezoning that also does not contribute to a wholistic revision to the zoning code at a citywide scale that discourages demolition and encourages affordability. The rezoning request is inconsistent with *Blueprint Denver* strategies.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-RH-2.5 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. However, the proposed zone district is inconsistent with *Blueprint Denver’s* plan policies, and therefore does not contribute to implementing the city’s adopted land use plan. Because of this, the proposed official map amendment does not further the public health, safety, and general welfare of the City through implementation of the city’s adopted land use plan.

4. Justifying Circumstance

The application identifies the Justifying Circumstance under DZC Section 12.4.10.8.A.4, which states “Since the date of the approval of the existing Zone District, there has been a change to such a

degree that the proposed rezoning is in the public interest. Such a change may include: Changed or changing conditions in a particular area, or in the city generally; or, a city adopted plan.”

The application references *Blueprint Denver* as a justifying circumstance since the application was submitted after *Blueprint Denver* (2019) was recently adopted. However, *Blueprint Denver* does not call for a different context, place type, or street type than what is already allowed by the existing zoning, nor from what was recommended by the previous *Blueprint Denver* plan. For a City adopted plan to be used as a justifying circumstance, the plan must specifically call for a change in an area that would then justify a new zone district. The existing site and zoning are already consistent with plan guidance and the rezoning request is inconsistent with plan guidance.

The application references changing conditions in the city and how the rezoning would respond to changing conditions by placing modest rental homes that provide for families, families with children, and multi-generational living opportunities. In addition to that, it references that the rezoning would allow the applicant to redevelop an underutilized property. As stated in the existing zoning section above, under the current zoning per Denver Zoning Code Section 11.2.3.1, “in all SU and TU zone districts, where permitted with limitations: A structure containing such a Multi-Unit Dwelling use may be modified or demolished and rebuilt according to the following limitations: In a SU zone district, the rebuilt structure shall comply with either the building form standards in the subject SU zone districts without regard to the building forms’ use restrictions.” This means the current four-unit structure on the property may be modified or demolished and rebuilt as a new four-unit structure to better accommodate family housing, better utilize the land, and include modern amenities. No rezoning would be needed to do this under existing entitlement. Furthermore, the applicant could choose to do a zone lot amendment and build three urban houses with detached accessory dwelling units, which would come to a total of six units on the subject property. The current entitlement allows for adaptation to changing conditions already by allowing the applicant to redevelop their property with options of what housing types may be built and build housing with additional amenities that better serve a wider range of potential residents.

Since there is a lack of significant changes or ability to address changing conditions in the neighborhood, and a lack of new neighborhood plan direction that is consistent with the requested zone district, the rezoning request of U-RH-2.5 is not justified as being in the public’s interest.

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

The requested U-RH-2.5 zone district is within the Urban Neighborhood Context. The neighborhood context “is primarily characterized by single-unit and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas. Single-unit residential structures are typically the Urban House building form. Multi-unit building forms typically include the Row House building form embedded with other residential form types.” There is typically a regular pattern of blocks surrounded by an orthogonal street grid with alleys (DZC, Division 5.1). This portion of the Cole neighborhood fits the general description of Urban neighborhoods and the proposed U-RH-2.5 zone district would allow single-unit, two-unit, and multi-unit residential uses consistent with the Urban Neighborhood Context general description.

The general purpose of the Urban residential zone districts is to “promote and protect residential neighborhoods within the Urban Neighborhood Context” and “promote existing and future patterns of lower scale multi-unit building forms that address the street in the same manner as an urban house building form” (DZC Section 5.2.2.1). The general purpose also states “The regulations provide certainty to property owners, developers, and neighborhoods about the limits of what is allowed in a residentially-zoned area. These regulations are also intended to reinforce desired development patterns in existing neighborhoods while accommodating reinvestment.” The desired development pattern of Residential Low, as well as the existing development pattern, is single-unit or potentially two-unit houses. The proposed U-RH-2.5 zone district would allow the urban house, tandem house, duplex, and row house building forms, which have standards that would result in development inconsistent with the general purpose of the Urban residential districts.

The specific intent of the U-RH-2.5 zone district is to allow “up to a two and a half story row house building form. It also allows the urban house, detached accessory dwelling unit, duplex, and tandem house building forms” (DZC Section 5.2.2.2.Q). The proposed rezoning would facilitate single-unit, two-unit, or multi-unit uses in appropriate building forms on the subject property, which meets the minimum lot size.

The proposed U-RH-2.5 zone district is not fully consistent with the DZC context description and purpose and intent statements.

Attachments

1. Application
2. Public and RNO comment letters, as applicable