



TO: Denver Planning Board
FROM: Francisca Penafiel, Associate City Planner
DATE: July 8, 2020
RE: Official Zoning Map Amendment Application #2019I-00226

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00226.

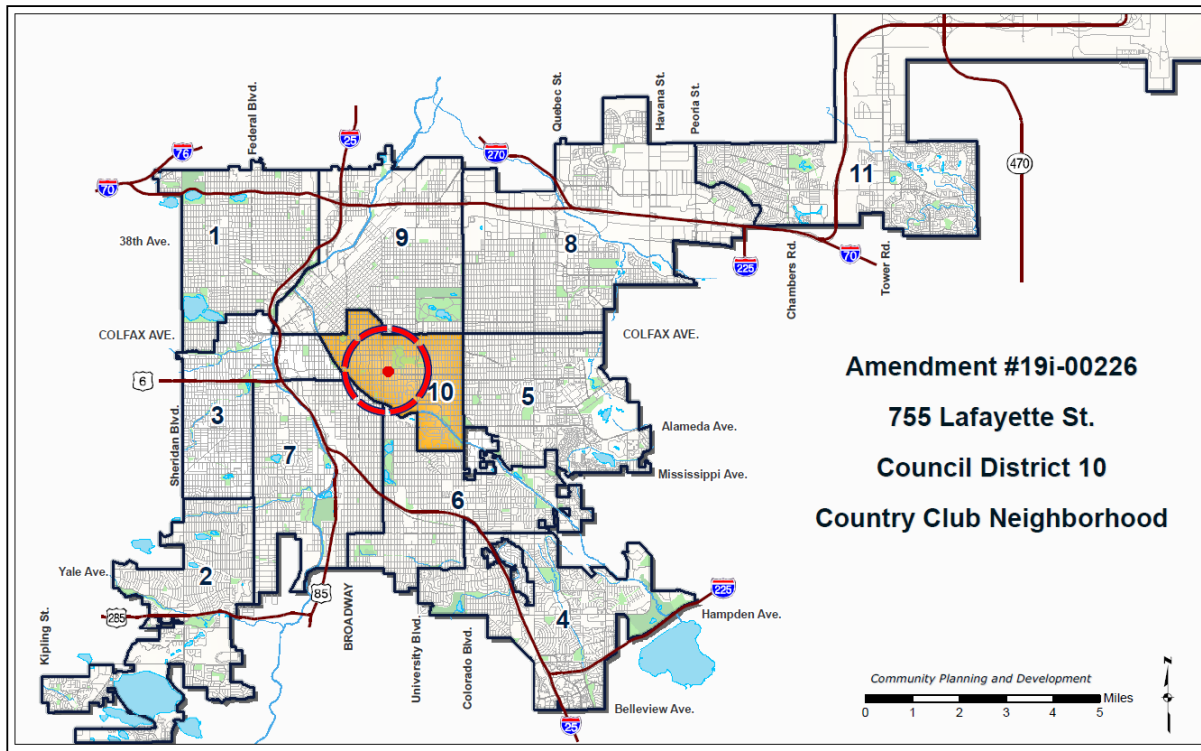
Request for Rezoning

Address: 755 Lafayette Street
Neighborhood/Council District: Country Club / Council District 10
RNOs: Neighbors for Greater Capitol Hill, 7th Avenue Neighborhood Association, Friends & Neighbors for Cheesman Park, Capitol Hill United Neighborhoods, Inc, Association, Inter-Neighborhood cooperation (INC)
Area of Property: 6,250 square feet or 0.14 acres
Current Zoning: U-SU-C
Proposed Zoning: U-SU-C1
Property Owner(s): Ross and Diane Murphy
Owner Representative: Alex Orkow

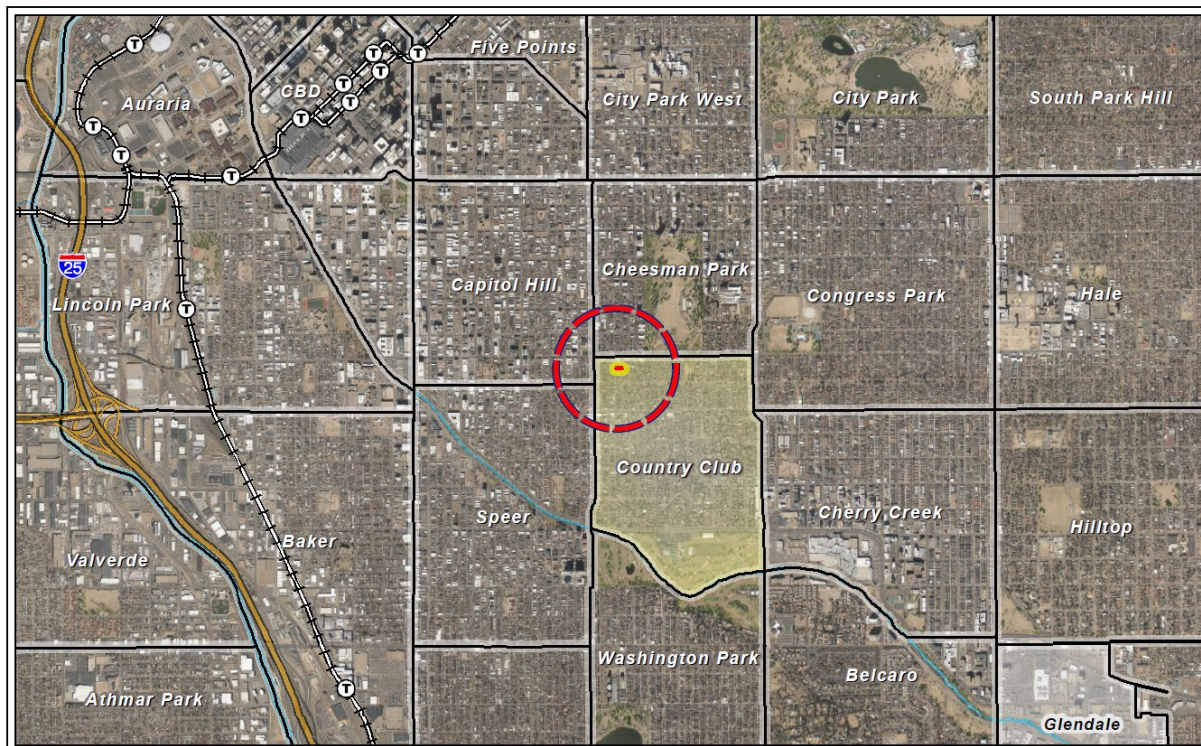
Summary of Rezoning Request

- The subject property contains a single-unit dwelling built in 1904 and is located southwest from Cheesman Park, between 8th and 7th Avenues along North Lafayette Street.
- The property owner is proposing to rezone the property to build an accessory dwelling unit.
- The proposed U-SU-C1, **U**rbane, **S**ingle-**U**nit, **C1** (5,500 square feet minimum zone lot size allowing accessory dwelling units (ADUs)), zone 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 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).

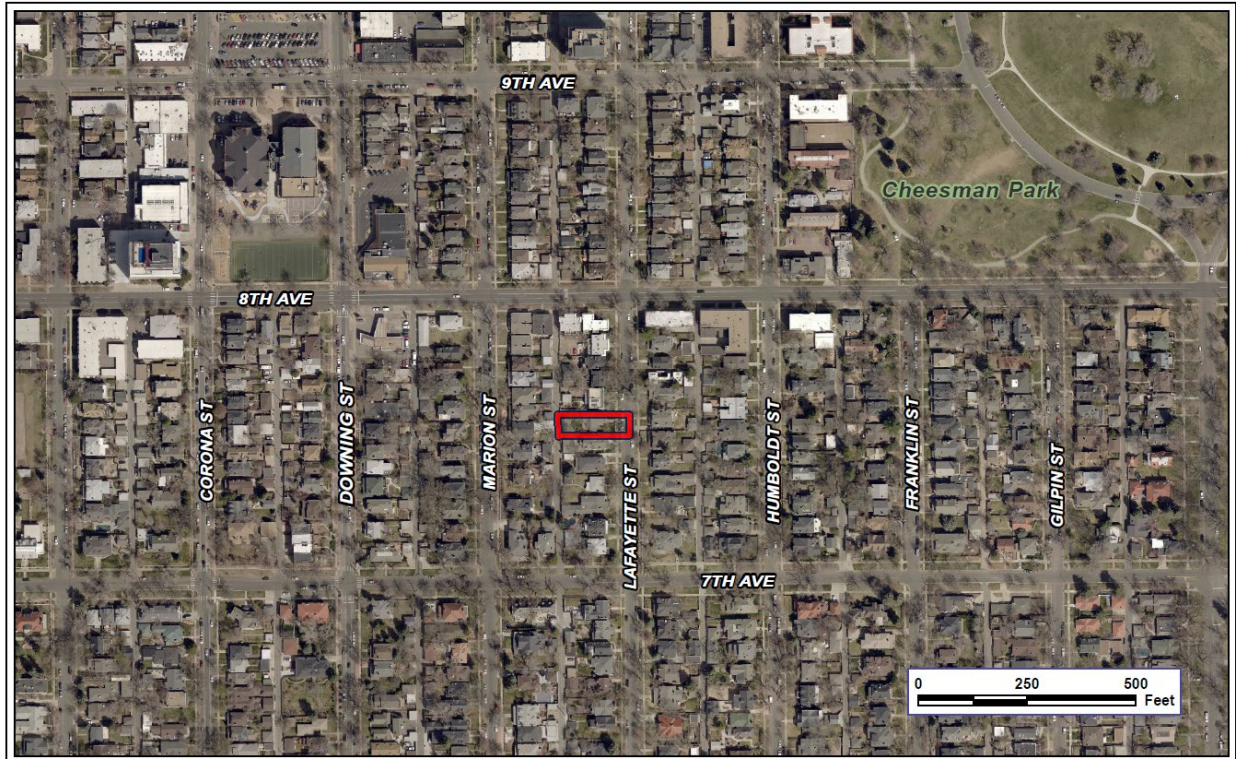
City Location



Neighborhood Location – Country Club



1. Existing Context

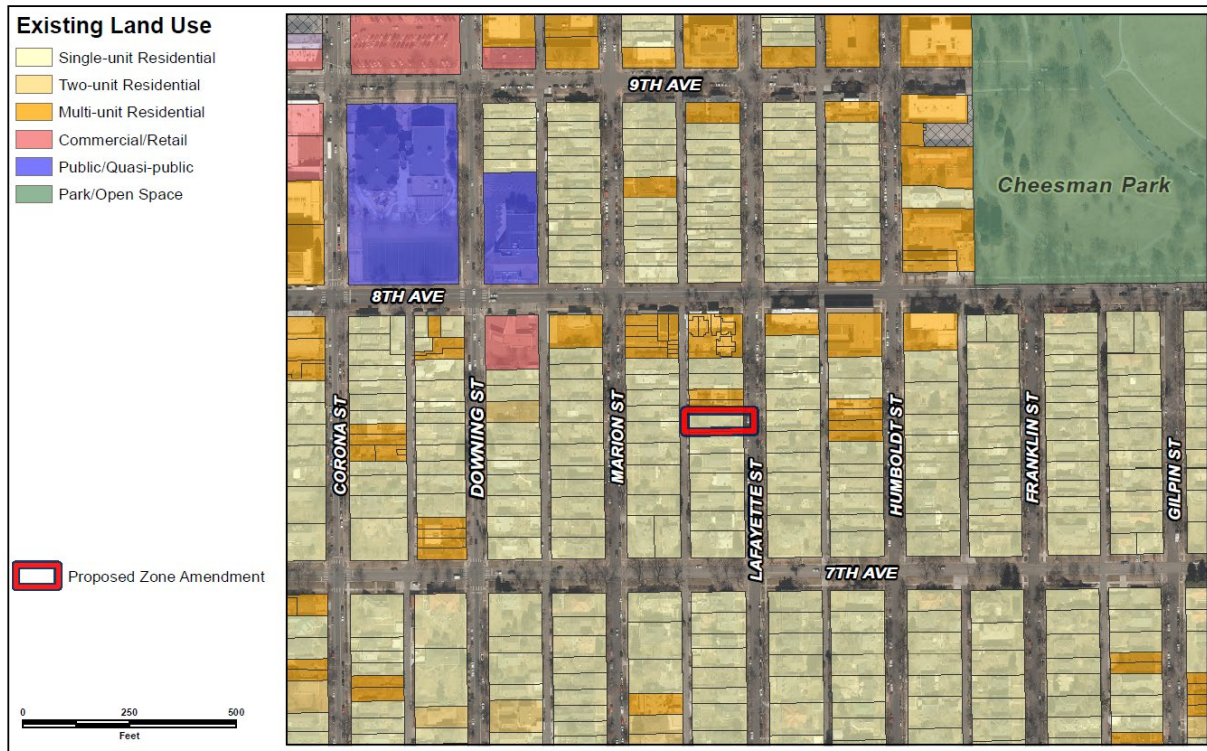


The subject property is in the Country Club statistical neighborhood, which is characterized primarily by single-unit residential uses and then transitioning to more two-unit and multi-unit uses closer to the north in Cheesman Park and Capitol Hill. Generally, there is a pattern of rectangular blocks in a street grid pattern with alley access. The subject site is mid-block between 8th Avenue and 7th Avenue.

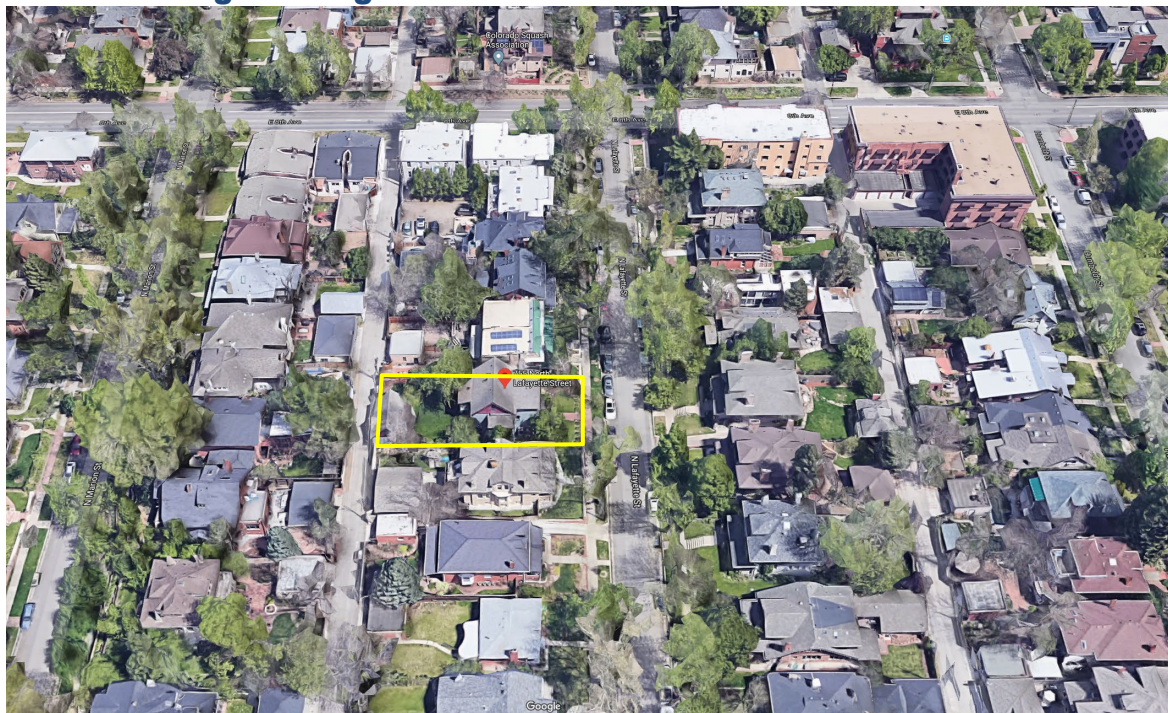
The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-SU-C	Single-unit Residential	2 -story Residence	Generally regular grid of streets; Block sizes and shapes are consistent and rectangular. Detached sidewalks with tree lawns and existing alleys. Garages and on-street vehicle parking.
North	U-SU-C	Row House	2-story Residence	
South	U-SU-C	Single-unit Residential	1 1/2-story Residence	
East	U-SU-C	Single-unit Residential	2-story Residence	
West	U-SU-C	Single-unit Residential	2 1/2-story Residence	

3. Existing Land Use Map



4. Existing Building Form and Scale



Aerial view of the site, looking north.



View of property looking west.



View of the property to the north, looking west.



View of the property to the west, looking east.



View of the property to the south, looking west.

5. Historic Landmark District

The site is located within the East Seventh Avenue historic district. Staff, in coordination with the Landmark Preservation Commission, perform design review for all projects that require building permits for properties locally designated as historic landmarks or inside locally designated historic districts. Design review ensures that these projects preserve the properties’ key historic character-defining features and qualities. If the site is rezoned and an ADU is proposed it would be subject to review by the Landmark Preservation Commission.

Proposed Zoning

The U-SU-C1 is a single unit zone district with a minimum zone lot of 5,500 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-C1 district. Compared to the U-SU-C district, U-SU-C1 introduces the accessory dwelling unit use and Detached Accessory Dwelling Unit (DADU) building form. The Detached Accessory Dwelling Unit 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. For zone lots greater than 6,000 square feet and up to 7,000 square feet the ADU building footprint may be a maximum of 864 square feet.

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-C1 (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 (Min.)	5,500 square feet	5,500 square feet
Minimum Zone Lot Width (Min.)	50 feet	50 feet
Primary Street Block Sensitive Setback Required / If not	Yes / 20 feet	Yes / 20 feet
Side Street Setback (Min.) *	5 feet	5 feet
Side Interior Setback (Min.) *	5 feet	5 feet
Rear Alley / No Alley	12 feet / 20 feet	12 feet / 20 feet

Design Standards	U-SU-C (Existing)	U-SU-C1 (Proposed)
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 property with width of 50 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 comments.

Development Services-Fire: Approved – No Comments

Denver Public Schools: Approved – No Response.

Development Services: Project Coordination: Approved Rezoning Only – Comments:

Will require additional information at Site Plan Review

- 1) The rezoning request is approved.
- 2) Based on the proposed description, it appears that the existing garage will be modified to accommodate the ADU on top. The existing detached structure, as shown on the provided survey, would not comply with the Detached Accessory Dwelling Unit building form requirements for setbacks and potentially height and bulk plane standards. These standards may be able to be met either with a) careful design in consideration of the standards that will apply to any portions of the existing building that are modified, b) with a variance approved by the Board of Adjustment, or c) demolition and reconstruction of the detached structure if a or b above are not able to be met. These items will need to be reviewed and approved through either a Site Development Plan process or Residential construction application.
- 3) If the total number of units on the site remains less than three, then the zoning review can be conducted through residential zoning rather than the Project Coordination department.

Development Services: Transportation: Approved – No response.

Development Services: Wastewater: Approved – See comments below.

DS Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction

documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

Landmark Preservation: Approve Rezoning Only- Will require additional information at Site Plan Review

Property is located within the East 7th Avenue Historic District.

Any changes to the exterior of the building or site that requires a building or zoning permit, must first be reviewed by Denver Landmark Preservation, including an addition to the existing structure to convert into an Accessory Dwelling Unit or demolition of the existing structure to construct a new ADU.

The conversion of an existing structure into an ADU will be reviewed with the Design Guidelines for Denver Landmark Structures and Districts. The guidelines are accessible on-line at:
https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/landmark/design_guidelines/Denver_Landmark_Guidelines-complete.pdf.

Please complete a pre-application form and submit to landmark@denvergov.org. Please include current color photographs of existing conditions and plans/drawings/sketches that adequately depict the project. Pre-application form is accessible on-line at:
https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/landmark/Guides_applications/Landmark_PreApplication_Review_Form.pdf

Parks and Recreation: Approved – No comments

Public Health and Environment: Approved – See comments below.

Notes. EQ concurs with the request and is not aware of environmental concerns that should be considered for this rezoning.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, EQ suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.

The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must, at all times, be effective in the control of fugitive

particulate emissions on the site, including periods of inactivity such as evenings, weekends, and holidays.

Denver’s Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

Scope & Limitations: EQ performed a limited search for information known to EQ regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Public Works – City Surveyor: Approved – See comments below

The Land Description is approved.

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:	02/25/2020
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:	05/18/2020
Planning Board public hearing postponed on June 2 by request of the applicant. He asked for extra time to talk to the opposing neighbors and help them understand the rezoning process.	06/03/2020
Property legally posted for a period of 15 days and CPD written notice of the postponed Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	06/29/2020

Planning Board public hearing	07/15/2020
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:	07/20/2020
Land Use, Transportation and Infrastructure Committee of the City Council:	08/04/2020
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:	08/24/2020
City Council Public Hearing:	09/14/2020

- **Registered Neighborhood Organizations (RNOs)**
 - To date, staff has received no comment letters from Registered Neighborhood Organizations.
- **General Public Comment**
 - To date, staff has received 50 letters of opposition, one inquiry email and 2 letters of support from the public. The letters of opposition express concerns with the preservation of the historic character, concerns with setting a precedent of ADU's in the neighborhood, concerns on ADU's decreasing their property values and the unintended effects the detached accessory dwelling unit could potentially have in their street parking given the increase in density. The letters of support recommend approval of the application because they are in support of the creation of more affordable housing in Denver and to help mitigate the effects of climate change. Staff also received an electronic petition opposing the rezoning of 755 Lafayette, signed by 98 neighbors. All comments received are attached to this staff report.
- **Mediation**
 - The City provides free mediation services with a neutral, third party mediator to discuss issues associated with map amendments. Mediation requires both parties to be willing to participate. Mediation services were offered to the applicant on June 1 and the applicant declined.

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)
- Housing an Inclusive Denver (2018)

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-C1 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-family 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 Country Club neighborhood.

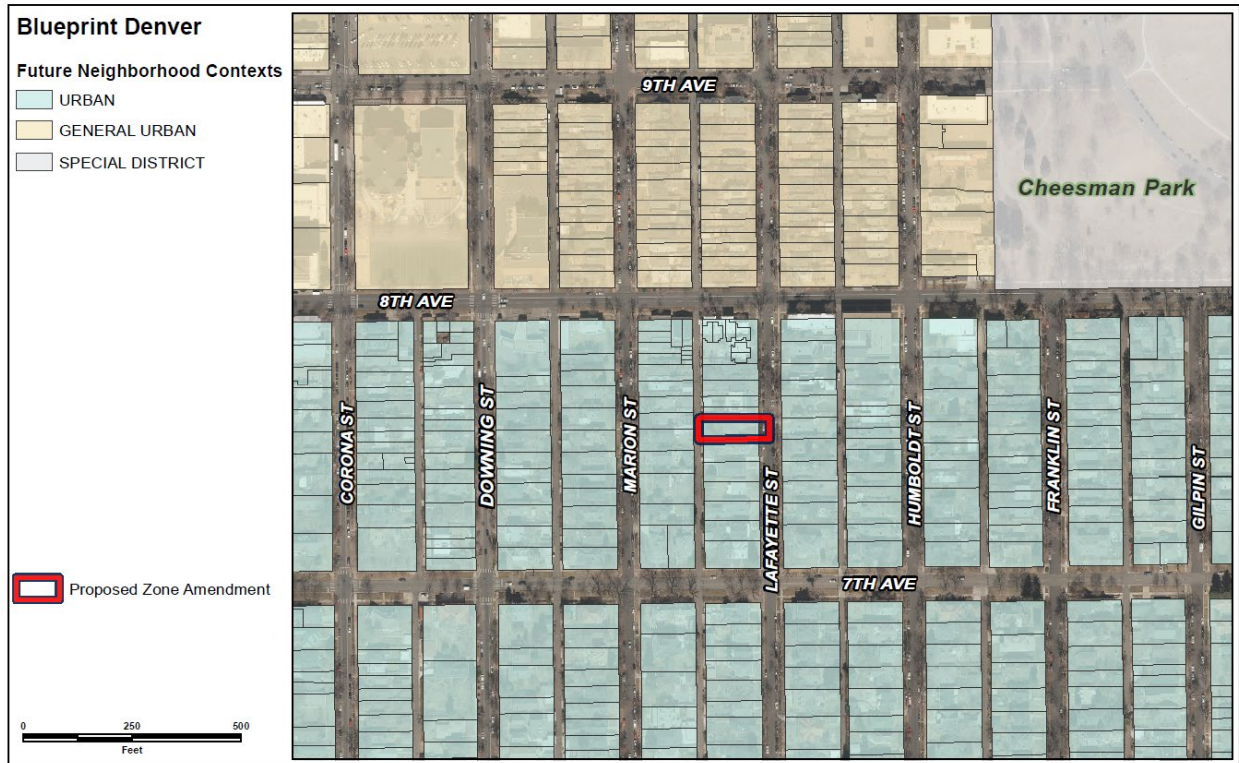
- Environmentally Resilient Goal 8, Strategy A – Promote infill development where infrastructure and services are already in place (p. 54).

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

Blueprint Denver

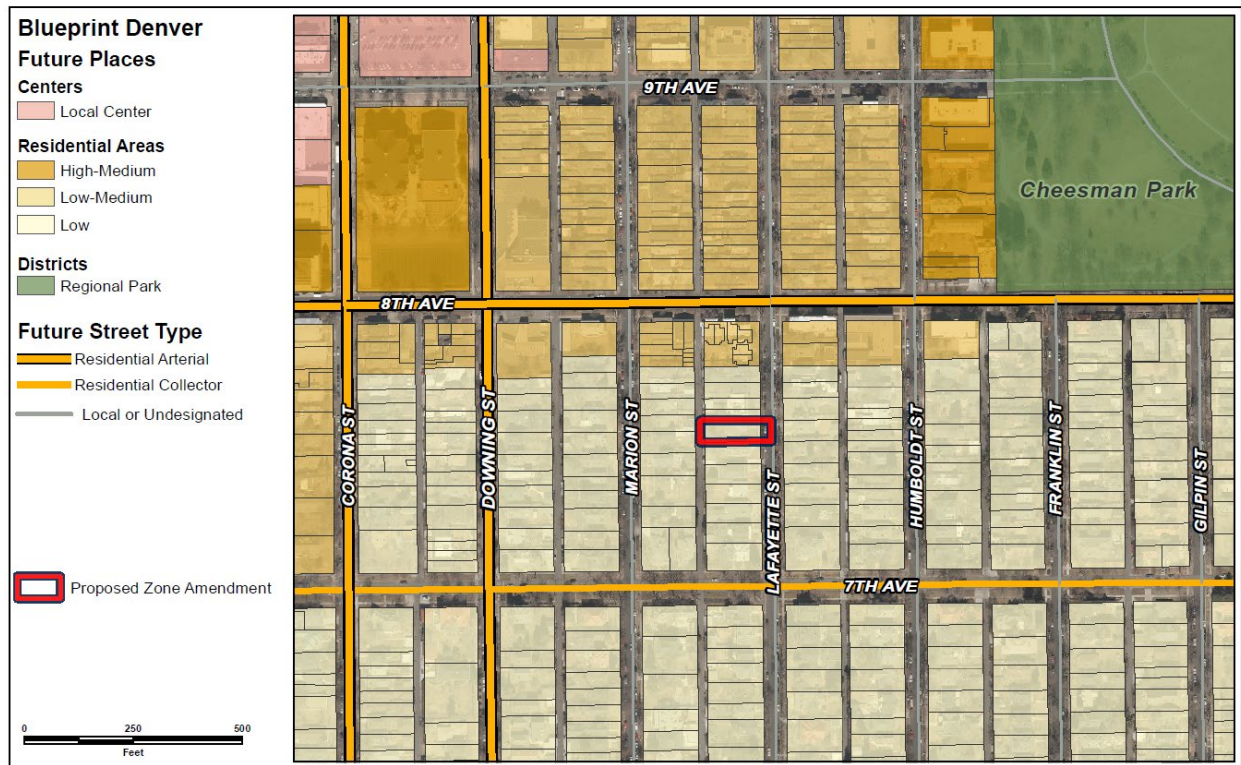
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Low Residential place within the Urban Neighborhood Context and 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 site is 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 alley access (p. 222). U-SU-C1 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 5.2.2.1). U-SU-C1 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

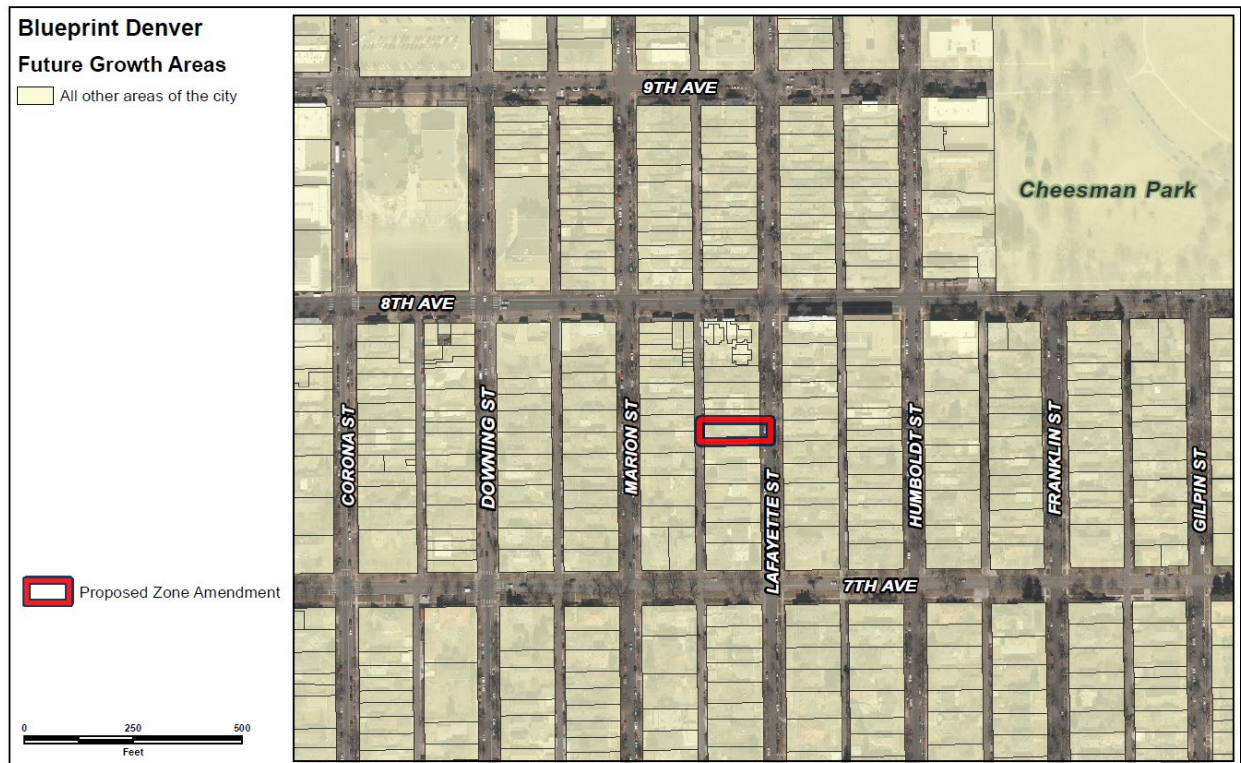


The subject site is designated within a Low Residential future place type on the *Blueprint Denver* Future Places map. This place type is “predominately single- and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible,” and “building heights are generally up to 2.5 stories in height” (p. 230). The U-SU-C1 is a single unit residential district that allows for an additional dwelling unit accessory to an established single-family 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*, street types work together with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). *Blueprint Denver* classifies Lafayette Street as a Local or Undesignated street. “Local streets can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p. 155). The proposed U-SU-C1 district is consistent with this description 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 is “mostly residential areas with embedded local centers and corridors, take a smaller amount of growth intended to strengthen the existing character of our neighborhoods” (p. 49). The proposed map amendment to U-SU-C1 will allow low-intensity growth to the number of households in this area by allowing an accessory dwelling unit.

Blueprint Denver Strategies

Blueprint Denver provides recommendations related to rezoning to allow for ADUs. Policy 4 Strategy E. says “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 is a single lot in a residential area within a few blocks of stops for two different bus routes. This rezoning to an ADU zone district will have minimal impacts on the surrounding neighborhood and is consistent with *Blueprint* recommendations.

Housing an Inclusive Denver (2018)

Adopted in 2018, *Housing an Inclusive Denver* was not adopted as a supplement to *Denver Comprehensive Plan 2040* but was still adopted by City Council and can be considered relevant to the review criteria for this map amendment. The Plan includes citywide guidance for using *Blueprint Denver*

to reduce regulatory barriers to development of accessory dwelling units; however, some of its recommendations can be applied to individual map amendments that propose allowing an accessory dwelling unit. For this case, the following plan goals are applicable:

Legislative and Regulatory Priorities, Recommendation 2: “Expand and strengthen land-use regulations for affordable and mixed-income housing. Through Blueprint Denver and supplemental implementation actions such as zoning modifications, the City should support land-use regulations that incentivize affordable and mixed-use housing, including expanding the development of accessory dwelling units.”

Attainable Homeownership, Recommendation 1: “Promote programs that help households maintain their existing homes. The City and its partners should target existing homeowner rehabilitation programs to residents in vulnerable neighborhoods, promote financial literacy education for prospective and existing homeowners, and promote the development of accessory dwelling units as a wealth-building tool for low and moderate-income homeowners.”

The proposed map amendment to U-SU-C1 is consistent with these *Housing an Inclusive Denver* recommendations because it will expand the availability and allow the development of an accessory dwelling unit at this site.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-SU-C1 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.

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 districts. 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-C1 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 Country Club neighborhood consists of mostly single and two-unit residential uses in rectangular blocks with alley access. The proposed rezoning to U-SU-C1 is consistent with the neighborhood context description.

The specific intent of the U-SU-C1 zone district is “a single unit district allowing urban houses and detached accessory dwelling units with a minimum zone lot area of 5,500 square feet. Blocks typically have a consistent pattern of 50-foot-wide lots. Setbacks and lot coverage standards accommodate front and side yards similar to U-SU-C but allowing a detached accessory dwelling unit building form in the rear yard” (DZC 5.2.2.2.H.) The subject site is in an area where Urban houses and 50-foot wide lots are common. The site at 755 Lafayette Street is 6,250 square feet with a width of 50 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.

Attachments

1. Application
2. Legal Description
3. Public Comment Emails