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TO: Denver City Council
FROM: Scott Robinson, Senior City Planner
DATE: June 3, 2021
RE: Official Zoning Map Amendment Application #2020I-00163

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2020I-00163.

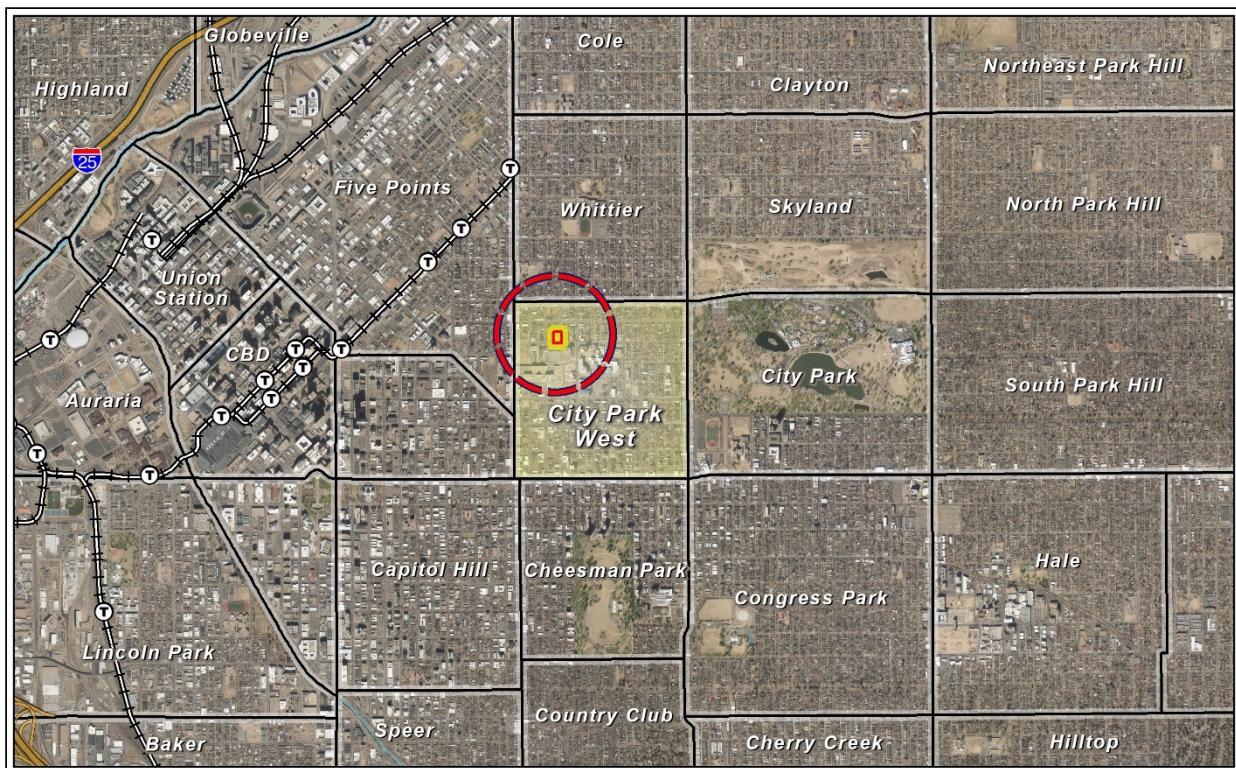
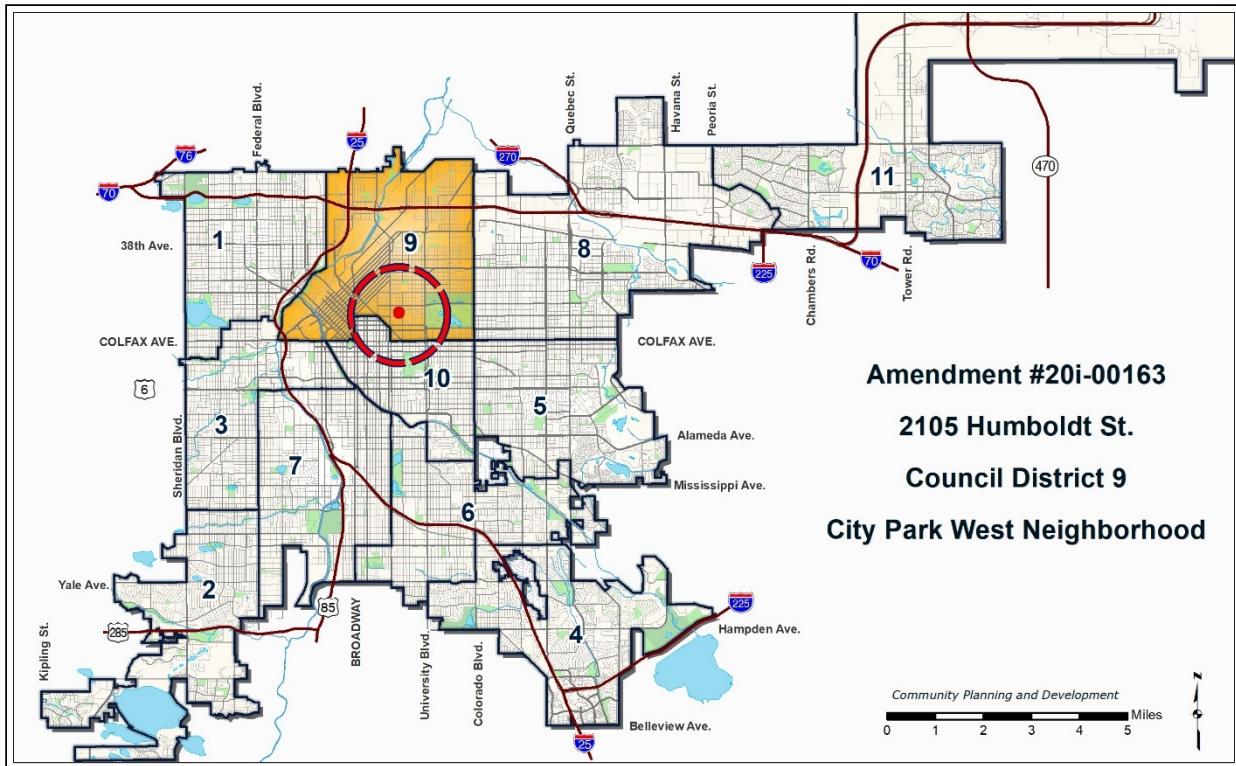
Request for Rezoning

Address:	2101-2105 North Humboldt Street
Neighborhood/Council District and CM:	City Park West / Council District 9, CM CdeBaca
RNOs:	City Park West Neighborhood Organization; The Points Historical Redevelopment Corp; Reclaim the East Side; Uptown on the Hill; Neighborhood Coalitions of Denver, Inc.; Neighbors for Greater Capitol Hill; Capitol Hill United Neighbors, Inc.; Inter- Neighborhood Cooperation; Opportunity Corridor Coalition of United Residents; District 9 Neighborhood Coalition, Inc.; City Park Friends and Neighbors
Area of Property:	28,400 square feet
Current Zoning:	PUD #74
Proposed Zoning:	U-MS-2
Property Owner(s):	CWJ Properties, LLC
Owner Representative:	Steve Ferris

Summary of Rezoning Request

- The subject property is in City Park West, just north of the Uptown Medical District, at the northwest corner of North Humboldt Street and East 21st Avenue.
- The site is currently the home of Jerry's Nut House, which makes, distributes, and sells nuts and other snacks.
- The applicant is requesting the rezoning to allow for a portion of the existing building to be converted into a hardware store, while the rest of the building would remain Jerry's Nut House.
- The proposed U-MS-2 (Urban, Main Street, 2-story) zone district allows a range of commercial, residential, and civic uses in the Town House, Drive Thru Services, Drive Thru Restaurant, and Shopfront building forms with a maximum height of two stories. 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



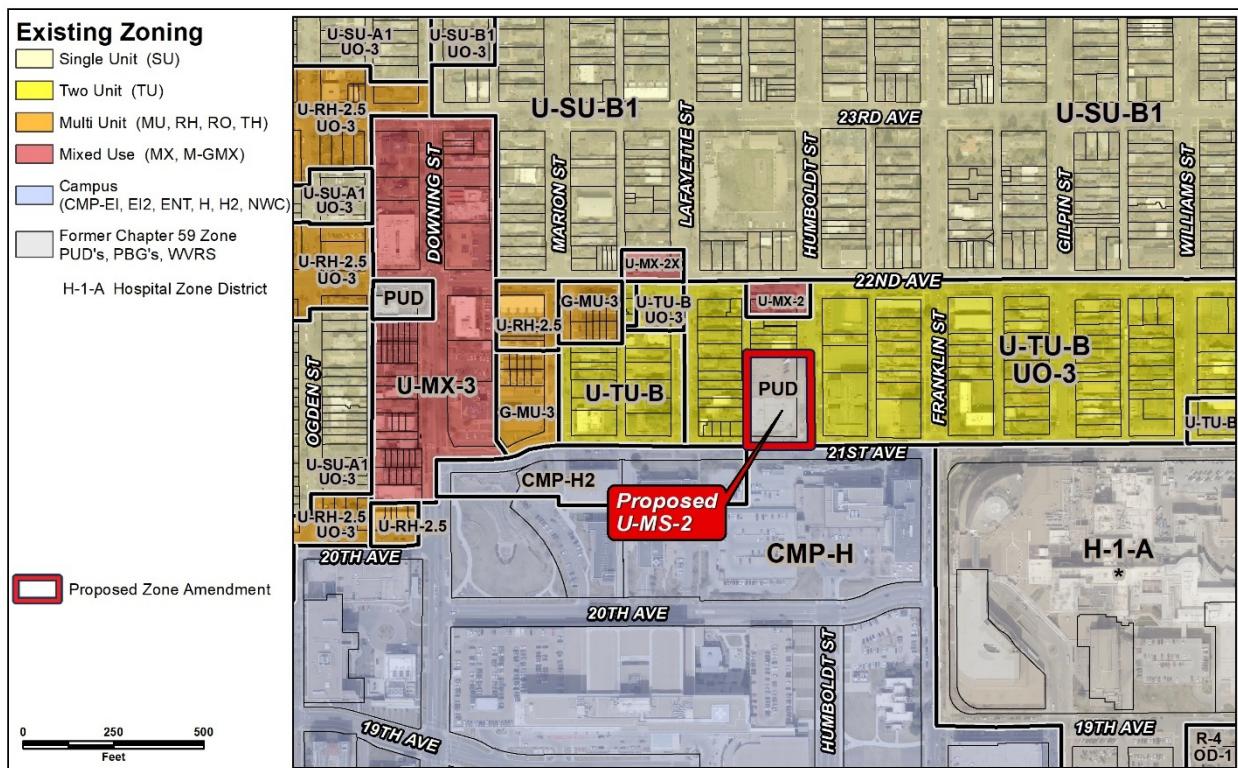


The subject property is in the City Park West neighborhood, just north of the Uptown Medical District, at the northwest corner of North Humboldt Street and East 21st Avenue. The area north of East 21st Avenue is predominately a mix of single-unit and two-unit residential, with higher density residential, retail, office, and other uses interspersed. There are a few small retail nodes along East 22nd Avenue to the north, and the Lafayette Street Historic District abuts the property to the west. Whittier Elementary School is about ¼-mile to the north, City Park ½-mile to the east, and Benedict Fountain Park ½-mile to the west. There is RTD bus service on East 22nd Avenue and on North Downing Street, three blocks to the west. The 27th & Welton stop on the RTD L Line is just over ½-mile to the northwest.

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

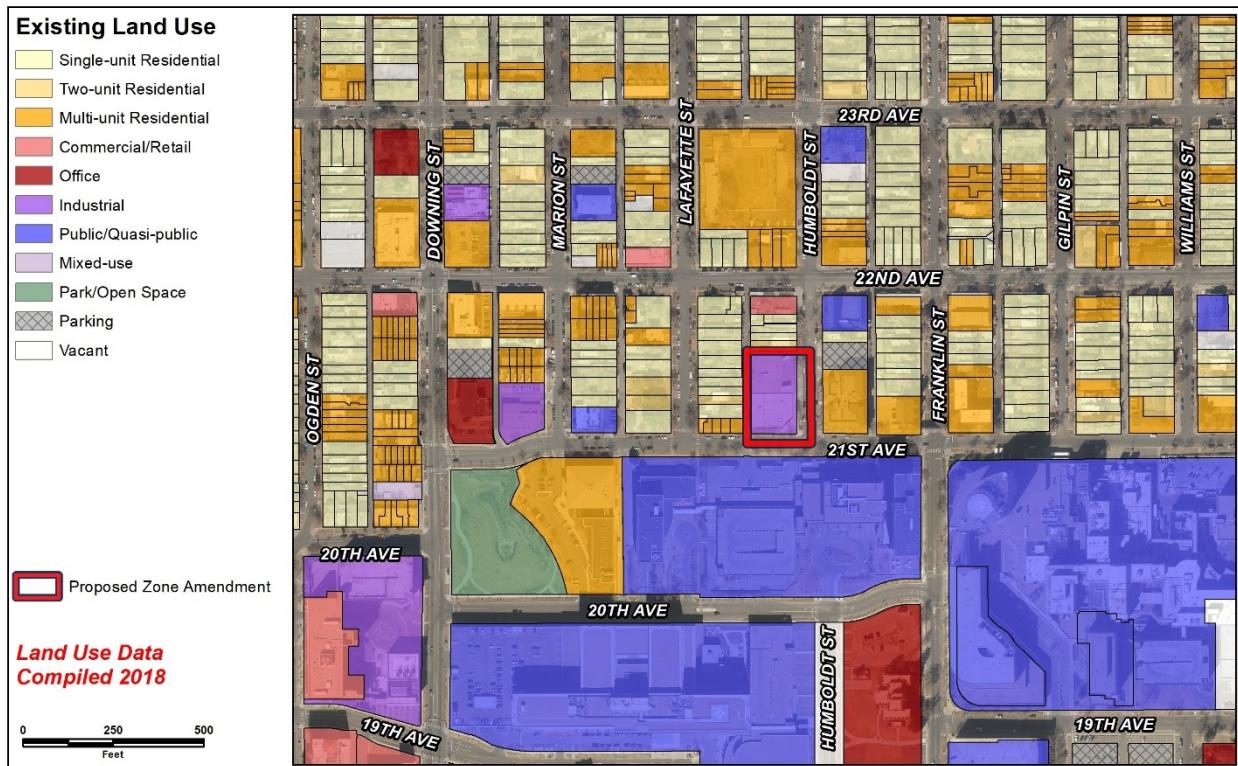
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	PUD #74	Food manufacturing, distribution, and sale	1-story brick industrial building	Generally regular grid of streets interrupted to the south by the Uptown Medical District.
North	U-TU-B UO-3; U-MX-2	Single-unit residential; retail	1-2 story houses; 1-story strip retail building	Block sizes and shapes are consistent and rectangular north of E. 21 st Ave.
South	CMP-H	Hospitals and medical offices	5-story medical office buildings, parking garage	Vehicle parking to the side or rear of buildings (alley access).
East	U-TU-B UO-3	Multi-unit residential	3-story apartment building	
West	U-TU-B UO-3	Single-unit, two-unit, and multi-unit residential	1-2 story houses and duplexes, 1-story rowhouse	

1. Existing Zoning



The subject property is zoned PUD #74, which is a Former Chapter 59 planned unit development zone district which sets custom standards for the property. The PUD is tailored specifically to the existing building and use, allowing only “retailing and wholesaling food products and related items such as gifts, etc., and the processing and packaging of food products and related items, and storage of raw materials and finished goods.” Development on the site is limited to one 20,210 square foot building, with a maximum height of 30 feet and required setbacks of five feet along E. 21st Ave., 16 feet along N. Humboldt St., zero feet along the alley to the west, and 17 feet along the north lot line. There are no additional or customized restrictions or mitigation requirements to reduce impacts of the allowed uses, with the PUD noting “the business has existed harmoniously in the neighborhood for decades.” For more details, see the attached copy of PUD #74.

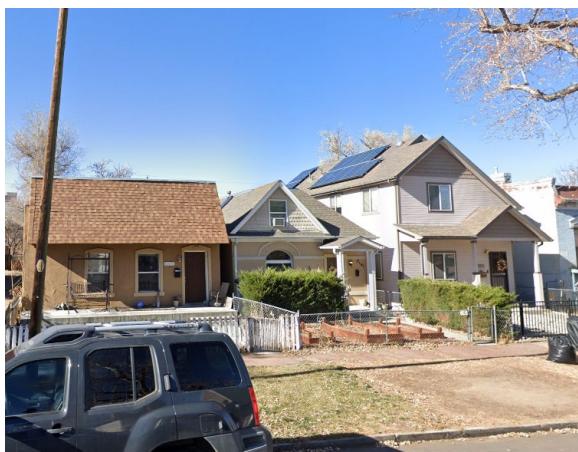
2. Existing Land Use Map



3. Existing Building Form and Scale



Site – from E. 21st Ave. & N. Humboldt St.



North – from N. Humboldt St.



East – from E. 21st Ave. & N. Humboldt St.



South – from E. 21st Ave.

Source: Google Maps



West – from E. 21st Ave. & N. Lafayette St.

Proposed Zoning

The requested U-MS-2 zone district has a maximum height of two stories and 30 feet with allowable encroachments. The minimum primary street setback is zero feet, except for the town house building form which has a 10-foot minimum primary street setback. Build-to requirements are for 50%-75% of the building to be between zero and either five or 10 feet of the primary lot line, except the Town House building form which requires the build-to between 10 and 15 feet. A variety of mixed residential, commercial, and civic uses are allowed. For additional details of the requested zone district, see DZC Sections 5.2.5, 5.3 and 5.4.

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

Design Standards	PUD #74 (Existing)	U-MS-2 (Proposed)
Primary Building Forms Allowed	N/A	Town House; Drive Thru Services; Drive Thru Restaurant; Shopfront
Stories/Heights (max)	N/A/30'	2/30'
Primary Build-To Percentages (min)	N/A	50-75%*
Primary Build-To Ranges	N/A	0'-10' to 5'-15'*
Minimum Zone Lot Size/Width	N/A	N/A
Primary Setbacks (min)	5'	0' to 10'*
Building Coverages	20,210 SF	N/A

*Standard 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 – No response

Denver Public Schools: Approved – No response

Department of Public Health and Environment: Approved – No response

Denver Parks and Recreation: Approved – No response

Public Works – R.O.W. - City Surveyor: Approve rezoning only – will require additional information at Site Plan Review:

- Legal description recited as it appears in the most recent vesting instrument in the chain of title.

Development Services - Transportation: Approved – No response

Development Services – Wastewater: Approve rezoning only – will require additional information at Site Plan Review:

- DES 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.

Development Services – Project Coordination: Approve rezoning only – will require additional information at Site Plan Review:

- The rezoning process does not require or review the proposed physical site design of the property that is intended to be developed after a rezoning is approved. It is not clear from the application if the existing building will be torn down and rebuilt or if the applicant is primarily seeking changes of uses in the zone district with the rezoning.
- If the rezoning is primarily to accomplish a change of use allowance with the underlying rezoning, a Zoning Permit will need to be approved after the rezoning is complete. This will likely occur as a change of use Zoning Permit through Commercial Zoning.
- If the building will be reconstructed and/or major site or exterior modifications are needed after the Rezoning is approved for the new use, a Site Development Plan will likely be needed. If this is anticipated, it is recommended to submit for a Concept Review plan prior to the Rezoning being completed so staff can ensure that the proposed project will be able to physically work with the intended zone district.

Development Services – Fire Prevention: 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:	1/19/21
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:	3/15/21
Planning Board recommended approval by a vote of 8-0:	3/31/21

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 (10) working days before the meeting:	3/30/21
Land Use, Transportation, and Infrastructure Committee of the City Council review:	4/13/21
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:	5/17/21
City Council Public Hearing:	6/7/21

- **Public Outreach and Input**

- **Registered Neighborhood Organizations (RNOs)**

Capitol Hill United Neighborhoods, Inc., a registered neighborhood organization, submitted a letter of support for the application based on a vote of 22-0. The letter cites the benefits for small businesses, reuse of an existing structure, and improving walkability as reasons for support. City Park West, another RNO, submitted a letter of support for the application based on a unanimous vote, with the condition that additional parking be addressed. Uptown on the Hill, also an RNO, submitted a letter of support citing the benefit of the proposed use and limited impacts.

- **General Public Comments**

At the time of this staff report, no general public comments have been received.

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)
- 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 additional services and amenities within an established neighborhood, enabling an existing business to remain in its current location, consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy C – Improve equitable access to resources that improve quality of life, including cultural and natural amenities, health care, education, parks, recreation, nutritious food and the arts (p. 28).
- Equitable, Affordable and Inclusive Goal 5, Strategy C – Stabilize residents and businesses at risk of displacement through programs and policies that help them to stay in their existing community (p. 29).

The proposed map amendment would allow new community-serving uses while supporting an existing business and reusing an existing building, 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).
- 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).
- Strong and Authentic Neighborhoods Goal 3, Strategy E – Support the stewardship and reuse of existing buildings, including city properties (p. 34).
- Strong and Authentic Neighborhoods Goal 4, Strategy A – Grow and support neighborhood-serving businesses (p. 35).

The proposed rezoning would facilitate an existing business remaining in the neighborhood, while increasing opportunities for additional local businesses to serve the community, consistent with the following strategy from the Economically Diverse and Vibrant vision element:

- Economically Diverse and Vibrant Goal 3, Strategy A - Promote small, locally-owned businesses and restaurants that reflect the unique character of Denver (p.46).

The proposed map amendment would allow for compatible infill development and an expansion of appropriate uses in an established neighborhood, consistent with the following strategies from the Environmentally Resilient vision element:

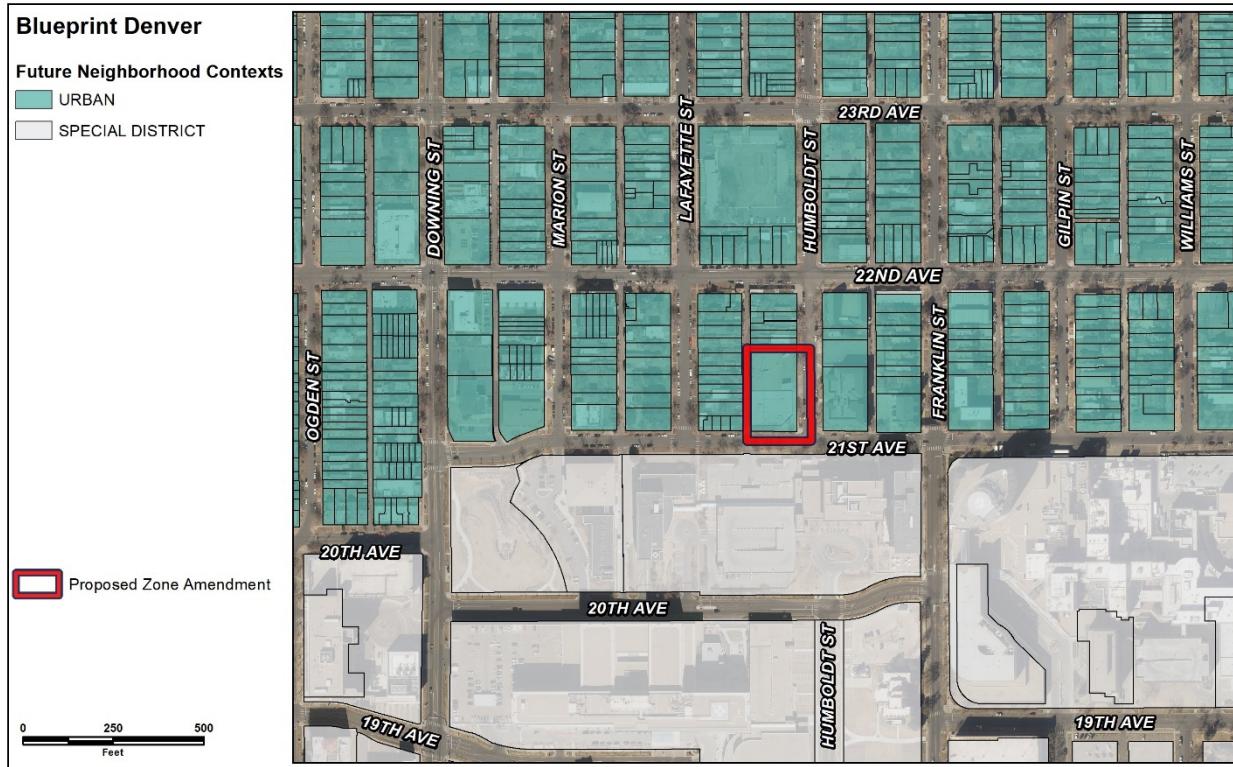
- Environmentally Resilient Goal 8, Strategy A - Promote infill development where infrastructure and services are already in place (p.54).
- Environmentally Resilient Goal 8, Strategy C – Encourage mixed-use communities where residents can live, work and play in their own neighborhoods (p. 54).

As described above, the proposed rezoning to U-MS-2 would facilitate mixed-use development and community-serving uses at an appropriate location, consistent with the recommendations of Comprehensive Plan 2040.

Blueprint Denver

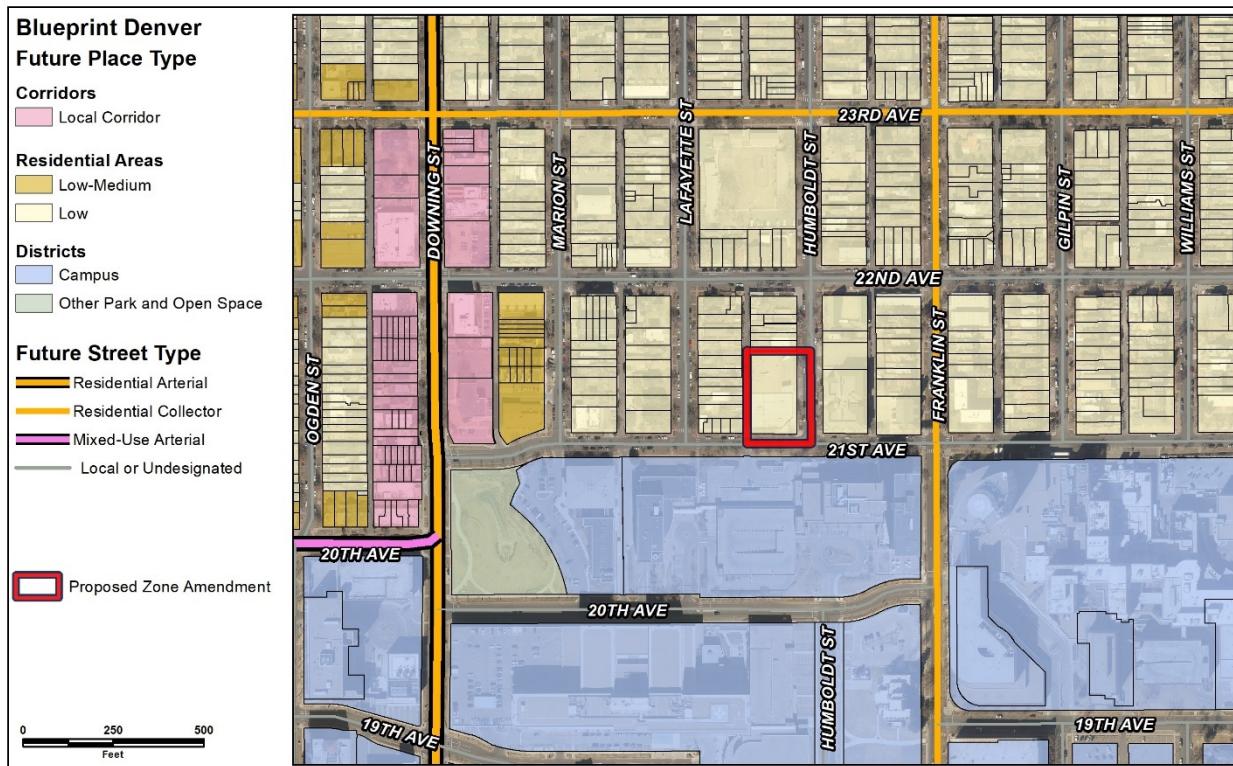
Blueprint Denver was adopted in 2019 as a supplement to Comprehensive Plan 2040 and establishes an integrated framework for the city's land use and transportation decisions. Blueprint Denver identifies the subject property as part of a Low Residential place within the Urban Neighborhood Context and provides guidance 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. The subject property is shown on the context map as Urban neighborhood context. The neighborhood context map and description help guide appropriate zone districts (p. 66). The Urban neighborhood context is described as areas where “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-MS-2 zone district is part of the Urban context and is “is intended to provide for appropriate locations for traditional corner commercial establishments located within a residential neighborhood” (DZC 5.2.5.2.A). Since the proposed district allows an appropriate mix of uses and allowable building forms that contribute to street activation, the proposed rezoning to an Urban context zone district is appropriate and consistent with the plan.

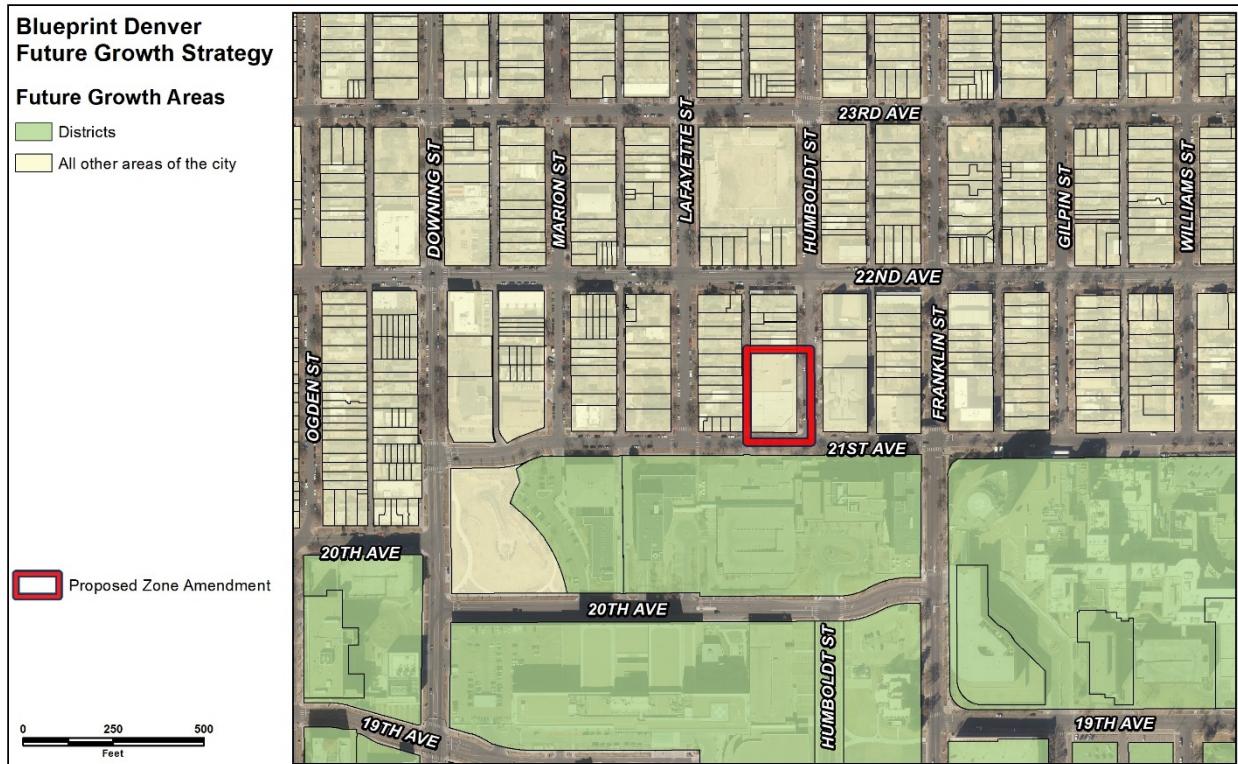
Blueprint Denver Future Places



The neighborhood context of Urban 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 Low Residential place. Blueprint Denver describes the aspirational characteristics of Low Residential places in the Urban context as “predominately single- and two-unit uses on smaller lots.... Some civic and institutional uses are compatibly integrated throughout and limited mixed-use can occur along arterial and collector streets, as well as where commercial uses have been already established.... Buildings are generally up to 2.5 stories in height” (p. 230). The U-MS-2 zone district would allow a range of uses, including commercial, at a location where commercial uses are already established. The maximum allowed height

of two stories would ensure compatible development, consistent with the Urban Low Residential place description.

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 Low Residential place, which is grouped with all other areas of the city. These other areas are anticipated to see around 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). These areas are intended to "take a smaller amount of growth intended to strengthen the existing character of our neighborhoods" (p. 49). The proposed map amendment to U-MS-2 would allow an appropriate amount of growth and strengthen the existing neighborhood, consistent with the Blueprint Denver 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 North Humboldt Street and East 21st Avenue as local streets. According to the plan, "local streets can vary in their land uses and are found in all neighborhood contexts" (p.161). The proposed U-MS-2 district is consistent with this description as it is intended to be applied to "areas or intersections served primarily by local streets embedded within an existing or proposed neighborhood" (DZC Section 5.2.5.2.A) and would allow development of a scale and intensity appropriate for such streets.

Blueprint Denver Strategies

Blueprint Denver provides recommendations related to Former Chapter 59 and custom zoning. Policy 3 Strategy A says to “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 would bring the subject property out of a Former Chapter 59 PUD into the Denver Zoning Code, consistent with this recommendation. The proposed U-MS-2 zone district is consistent with the context, place, growth strategy, street type, and strategy recommendations of Blueprint Denver.

East Central Area Plan

The East Central Area Plan was adopted by City Council in 2020 and applies to the subject property. The plan includes general recommendations and neighborhood-specific recommendations, and utilizes the same context and place framework as Blueprint Denver. The subject property is designated Urban Low Residential, the same as Blueprint Denver, and the place description is very similar: “Some civic and institutional uses are compatibly integrated throughout and limited mixed-use can occur along arterial and collector streets, as well as where commercial uses have been already established” (p. 30). The Maximum Building Heights map on page 35 indicates the maximum height for the subject property is 2.5 stories. In addition, Strategy L10.A recommends to “rezone Former Chapter 59 properties into the Denver Zoning Code” (p. 45).

The recommendations for the City Park West neighborhood include Policy CPW-L4: “Promote and protect the existing small commercial areas north of 21st Avenue” (p. 202). Strategies related to this policy include “maintain appropriate, small-scale, compatible mixed-use zoning on these sites,” and “ensure allowed building forms, uses, and other regulations promote compatibility with the surrounding residential areas, while providing for desired uses to locate and be successful in these locations” (p. 202).

The proposed rezoning to U-MS-2 would continue to allow existing commercial uses on the subject property, but with updated Denver Zoning Code zoning that will ensure built form compatibility and appropriate uses. The allowed height of two stories in the U-MS-2 zone district is less than the plan’s recommended maximum of 2.5 stories. The proposed map amendment is consistent with the East Central Area Plan’s context and place designations and would promote compatible commercial uses at an appropriate location in City Park West, making it consistent with the plan.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-MS-2 would 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 and by promoting compatible uses

in a walkable development pattern. The proposed U-MS-2 zone district would allow a broader range of uses, creating opportunities for more community-serving businesses on the property, with limitations that minimize negative impacts on surrounding properties. The U-MS-2 zone district also includes significant minimum build-to and transparency standards, ensuring any future development on the property will be pedestrian-oriented. The height, setback, and parking location and screening requirements also create compatibility with the surrounding neighborhood – particularly the adjacent protected and historic districts. Together, the use and form standards in the U-MS-2 zone district will promote the welfare of the area with expanded uses while protecting health and safety through reasonable restrictions.

4. Justifying Circumstance

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8, “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:... a City adopted plan; or that the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.” As discussed above, recently adopted plans call for retaining existing commercial uses in this portion of City Park West while bringing properties out of Former Chapter 59 zoning, which the subject property currently has. Thus, the proposed rezoning is justified both by this new plan direction and by the fact that the property has retained Former Chapter 59 zoning.

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

The requested U-MS-2 zone district is within the Urban Neighborhood Context. The neighborhood context “is primarily characterized by single-unit and two-unit residential uses” where “small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas” (DZC, Division 5.1). The proposed map amendment would allow the continuation of a small commercial area embedded in a residential neighborhood, consistent with the Urban Neighborhood Context description.

The general purpose of the Urban Main Street zone districts is “to promote safe, active, and pedestrian-scaled commercial streets through building forms that clearly define and activate the public street edge” and they are appropriate “on single zone lots at the intersection of local/collector streets within a residential neighborhood” (DZC Section 5.2.5.1). The proposed rezoning would allow compatible commercial uses at a pedestrian scale at an intersection of local streets in an established neighborhood, consistent with the purpose of the Main Street zone districts.

According to the zone district intent stated in the Denver Zoning Code, the U-MS-2 district “applies to areas or intersections served primarily by local streets embedded within an existing or proposed neighborhood where a building scale of 1 to 2 stories is desired. The U-MS-2 district is intended to provide for appropriate locations for traditional corner commercial establishments located within a residential neighborhood” (DZC Section 5.2.5.2.A). The subject property is at the intersection of two

local streets within an existing neighborhood. The proposed map amendment would allow neighborhood commercial uses at this location at an appropriate scale, consistent with the specific intent of the U-MS-2 zone district.

Attachments

1. Application
2. Public and RNO comment letters
3. PUD #74