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TO: Denver Planning Board
FROM: Brandon Shaver, Senior City Planner
DATE: February 10, 2021
RE: Official Zoning Map Amendment Application #2020I-00157
4410 N. Fillmore St.
Rezoning from E-SU-D to U-SU-C1

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2020I-00157.

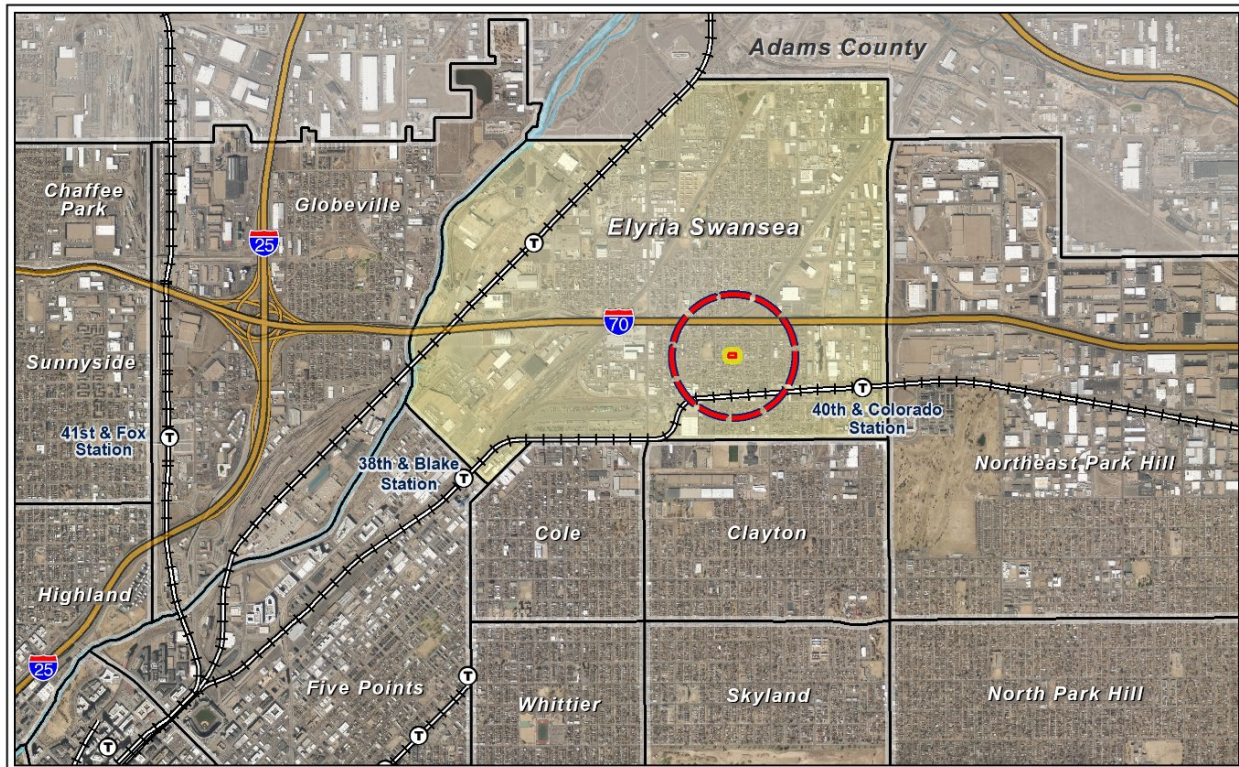
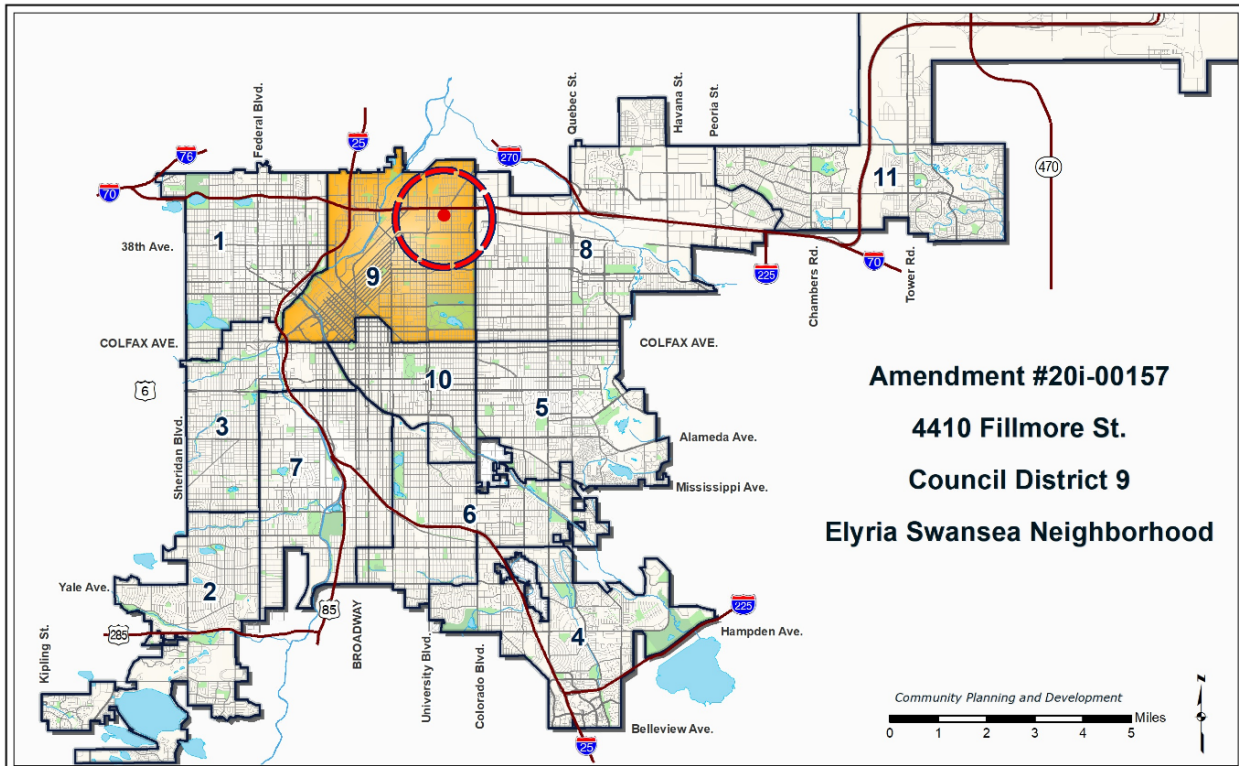
Request for Rezoning

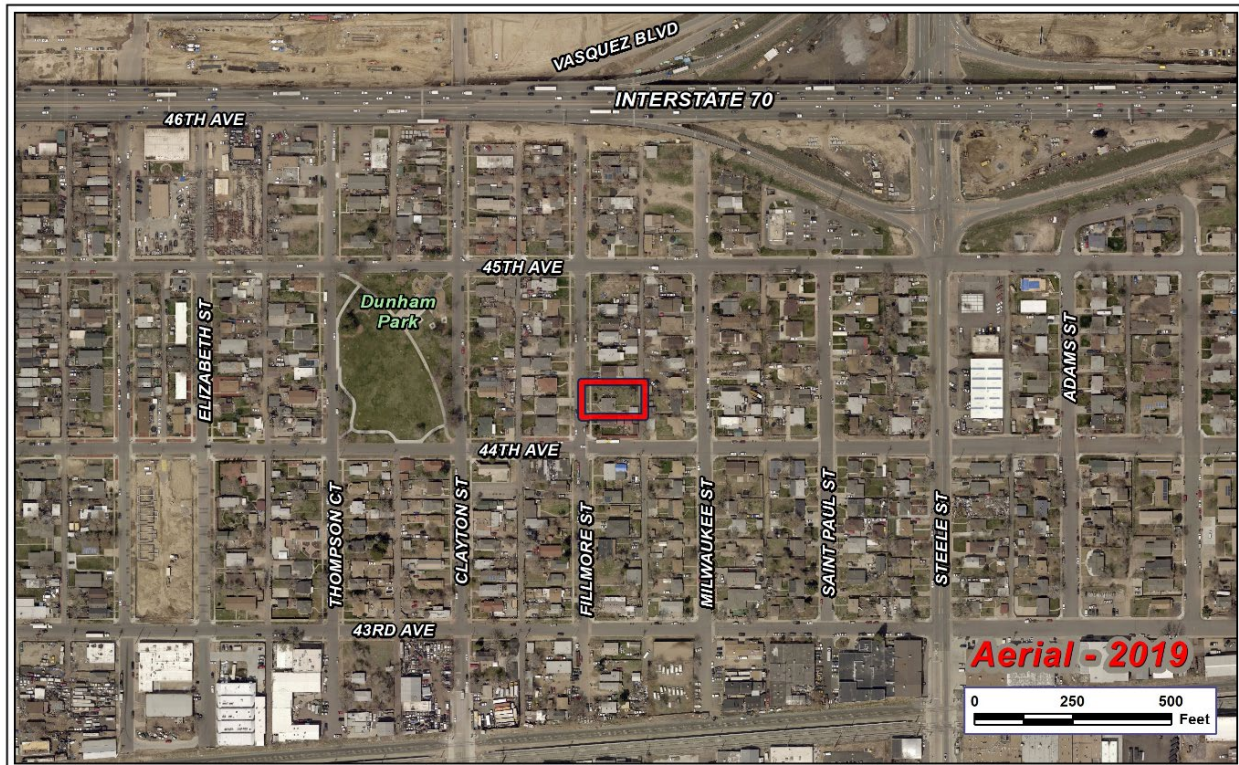
Address: 4410 North Fillmore Street
Neighborhood/Council District: Elyria Swansea / Council District 9
RNOs: Inter-Neighborhood Cooperation (INC), Elyria Swansea/Globeville Business Association, Cross Community Coalition, Denver Arts and Culture Initiative, Northeast Denver Friends and Neighbors (NEDFANS), Reclaim the East Side, UCAN, Elyria and Swansea Neighborhood Association, Opportunity Corridor Coalition of United Residents
Area of Property: 10,900 square feet or 0.25 acres
Current Zoning: E-SU-D
Proposed Zoning: U-SU-C1
Property Owner(s): Andrew & Carolyn Garcia
Owner Representative: N/A

Summary of Rezoning Request

- The subject property contains a single-story, single-unit dwelling built in 1939. It is located within the Elyria Swansea statistical neighborhood near the northeast corner of East 44th Avenue and North Fillmore Street.
- The property owner is proposing to rezone the property to allow for the development of an accessory dwelling unit (ADU).
- The proposed U-SU-C1, **U**rban, **S**ingle-**U**nit, **C1** zone district allows urban houses as well as detached accessory dwelling units in the rear yard with a minimum zone lot area of 5,500 square feet. The maximum height of the Urban House building form is 30 to 35 feet for the front 65% of the zone lot and 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. This district is intended for use in the Urban Neighborhood Context, which is characterized by single and two-unit uses. Further details of the zone district can be found in the proposed zone district of this staff report (below) and in Article 5 of the Denver Zoning Code.

Existing Context



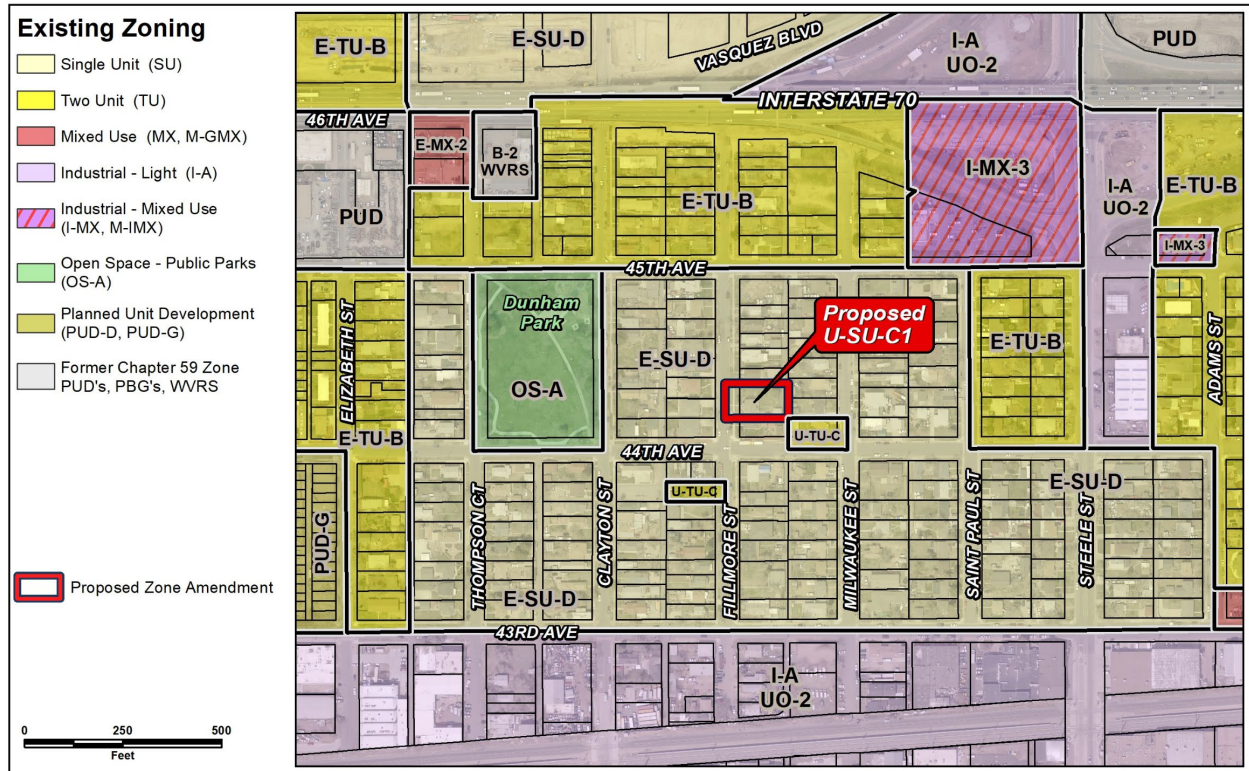


The subject property is located within the Elyria Swansea neighborhood, near the northeast corner of East 44th Avenue and North Fillmore Street. Dunham Park is located one block to the west and Interstate 70 is under reconstruction two blocks to the north. The subject property is approximately 88 feet wide and 125 feet deep. The subject site is just over one-half mile from the 40th and Colorado commuter rail station and is also served by RTD bus route 44 along the Josephine/York couplet five blocks to the west.

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

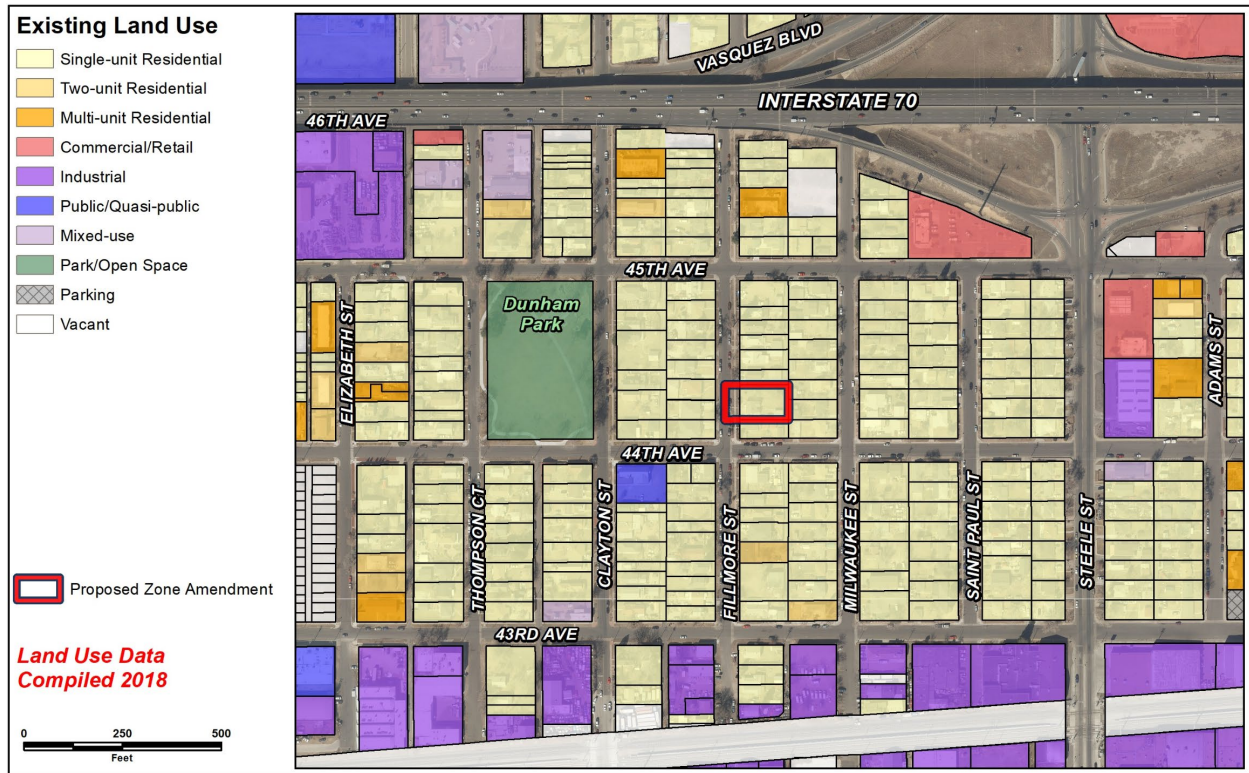
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-SU-D	Single-unit Residential	1-story residence with driveway on southern edge of property leading to a detached garage	Block sizes and shapes are consistent and rectangular and shaped by a grid street pattern. A mixture of attached and detached sidewalks exists. Driveways with front-loaded garages are present and alleys exist on most blocks.
North	E-SU-D	Single-unit Residential	1-story residence with large front setback	
East	E-SU-D/U-TU-C	Single-unit Residential	1-story residence	
South	E-SU-D	Single-unit Residential	1-story residence with detached accessory structures	
West	E-SU-D	Single-unit Residential	1-story residences with driveways leading to attached garages	

1. Existing Zoning

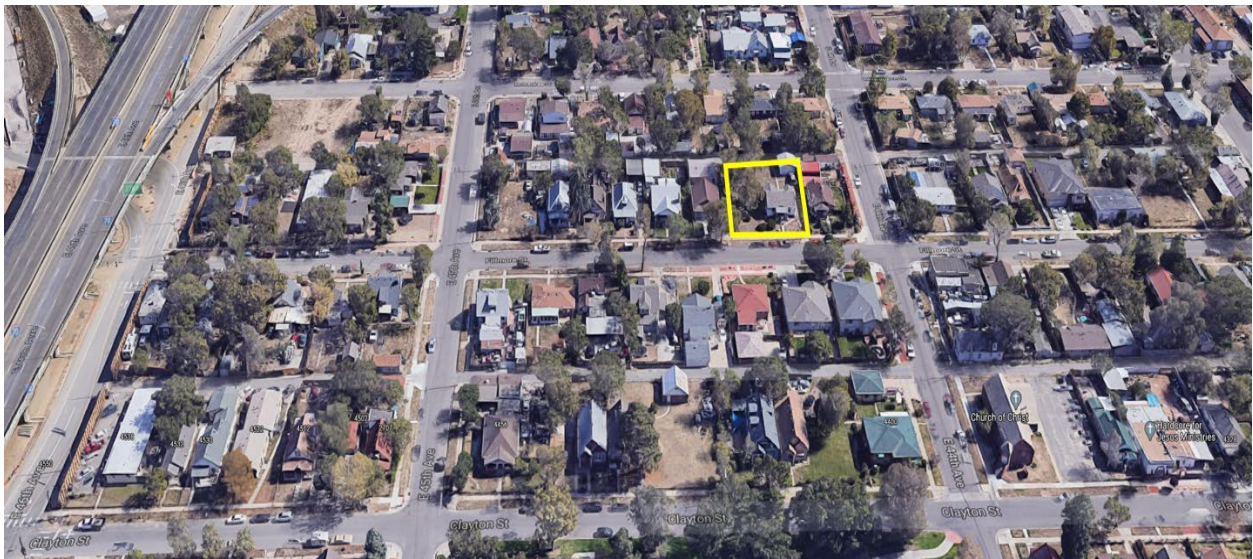


The existing zoning on the subject property is E-SU-D. This is a single-unit zone district in the Urban Edge neighborhood context allowing the urban house form with a minimum zone lot area of 6,000 square feet and minimum lot width of 50 feet. The subject property is surrounded by E-SU-D zoning except for U-TU-C (Urban neighborhood context, two-unit, 5,500 square feet minimum zone lot area) which is found across the alley to the southeast.

2. Existing Land Use Map



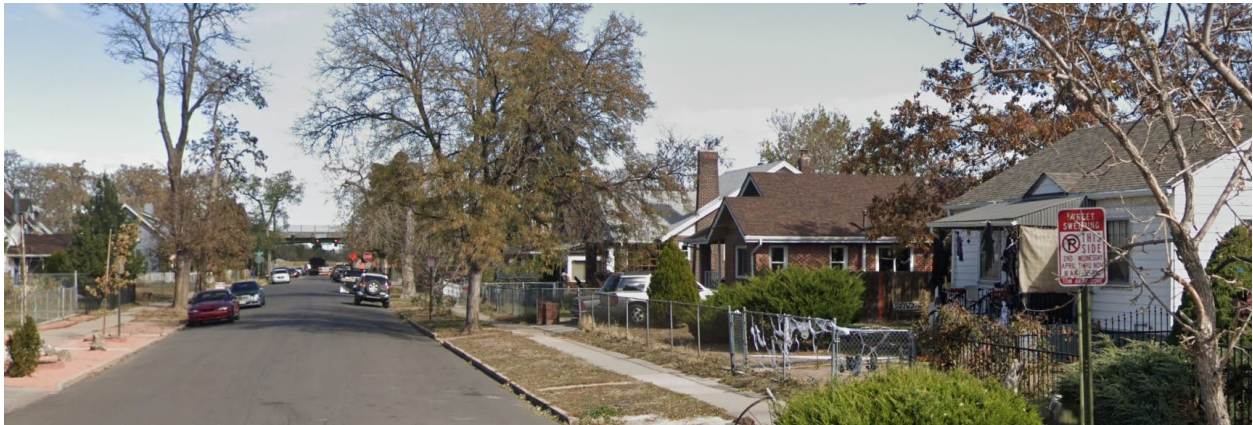
3. Existing Building Form and Scale



Site - Aerial view, looking east (Source: Google Maps)



Site - from North Fillmore Street (Source: Google Maps)



North – from East 44th Avenue (Source: Google Maps)



East – from East 44th Avenue (Source: Google Maps)



South – from East 44th Avenue (Source: Google Maps)



West – from North Fillmore Street (Source: Google Maps)



Southwest – from Interstate 70 & North Fillmore Street (Source: Google Maps)

Proposed Zoning

U-SU-C1 Zone District

The applicant is requesting to rezone to U-SU-C1, which allows only the Urban House primary building form on a zone lot with a minimum area of 5,500 square feet. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context. The U-SU-C1 district also permits the accessory dwelling unit use and Detached Accessory Dwelling Unit (DADU) building form, to be located in the rear 35 percent of the lot, in addition to a variety of residential and civic uses permitted in the U-SU-C district. The DADU building form has a maximum height of 1.5 stories or 24 feet. A bulk plane that rises 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 allows an exemption from the 37.5 percent building coverage standard, allowing the lesser of 50 percent or 500 square feet. For zone lots greater than 7,000 square feet, the ADU building footprint may be a maximum of 1,000 square feet. The district does not require any off-street vehicular parking for single-unit dwellings, but if provided, parking for the DADU must be accessed from the alley; street access is allowed when no alley is present.

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

Design Standards	E-SU-D (Existing)	U-SU-C1 (Proposed)
Primary Building Forms Allowed	Urban House	Urban House
Height in Stories / Feet, Front 65% of Zone Lot, Urban House, (max.)	2.5 stories / 35 feet	2.5 stories / 35 feet
Height in Stories / Feet, Rear 35% of Zone Lot, Urban House, (max.)	1 story / 19 feet	1 story / 19 feet
Height in Stories / Feet, Detached Accessory Dwelling Unit, (max.)	N/A	1.5 stories / 24 feet
Zone Lot Size (min.)	6,000 sf	5,500 sf
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 Setback, Alley / No Alley	12 feet / 20 feet	12 feet / 20 feet
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 width of 88 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 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 – Legal description accepted

Development Services - Transportation: Approved – No response

Development Services – Wastewater: Approved – See comments below

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 – See comments below

1) The urban house form is the only building form available in U-SU-C1 for the Primary Structure. This form limits the total lot coverage to 37.5%. Access should be provided from the alley unless no alley is present. If the existing garage will be torn down and rebuilt to accommodate an ADU, access should be limited to be from the alley to bring the property more into compliance.

2) The U-SU-C1 zone allows for a detached accessory dwelling unit building form and use accessory to the Primary use. The new use and structure will need to fully comply with the detached accessory dwelling unit building form standards.

3) Development will need to be approved via residential zoning group review for site specific plan review and building permits.

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:	11/16/20
Applicant submitted revised application:	11/25/20
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:	1/31/21
Planning Board Public Hearing:	2/17/21
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 working days before the meeting (tentative):	2/9/21
Land Use, Transportation and Infrastructure Committee of the City Council meeting (tentative):	2/23/21
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 (tentative):	3/15/21
City Council Public Hearing (tentative):	4/5/21

Public Outreach and Input

- **Registered Neighborhood Organizations (RNOs)**
 As of the date of this report, staff has not received written comment from an RNO pertaining to this application.
- **Other Public Comment**
 As of the date of this report, staff has not received written public comments pertaining to this application.

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)*
- *Elyria & Swansea Neighborhoods Plan (2015)*

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 an additional housing unit within an established neighborhood, consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 2, Strategy A - *Create a greater mix of housing options in every neighborhood for all individuals and families (p. 28).*
- Equitable, Affordable and Inclusive Goal 3, Strategy B – *Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit (p. 28).*

The proposed rezoning would allow infill development appropriate for the surrounding neighborhood that broadens the range of housing types available, consistent with the following strategy in the Strong and Authentic Neighborhoods vision element:

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

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies in the Environmentally Resilient vision element:

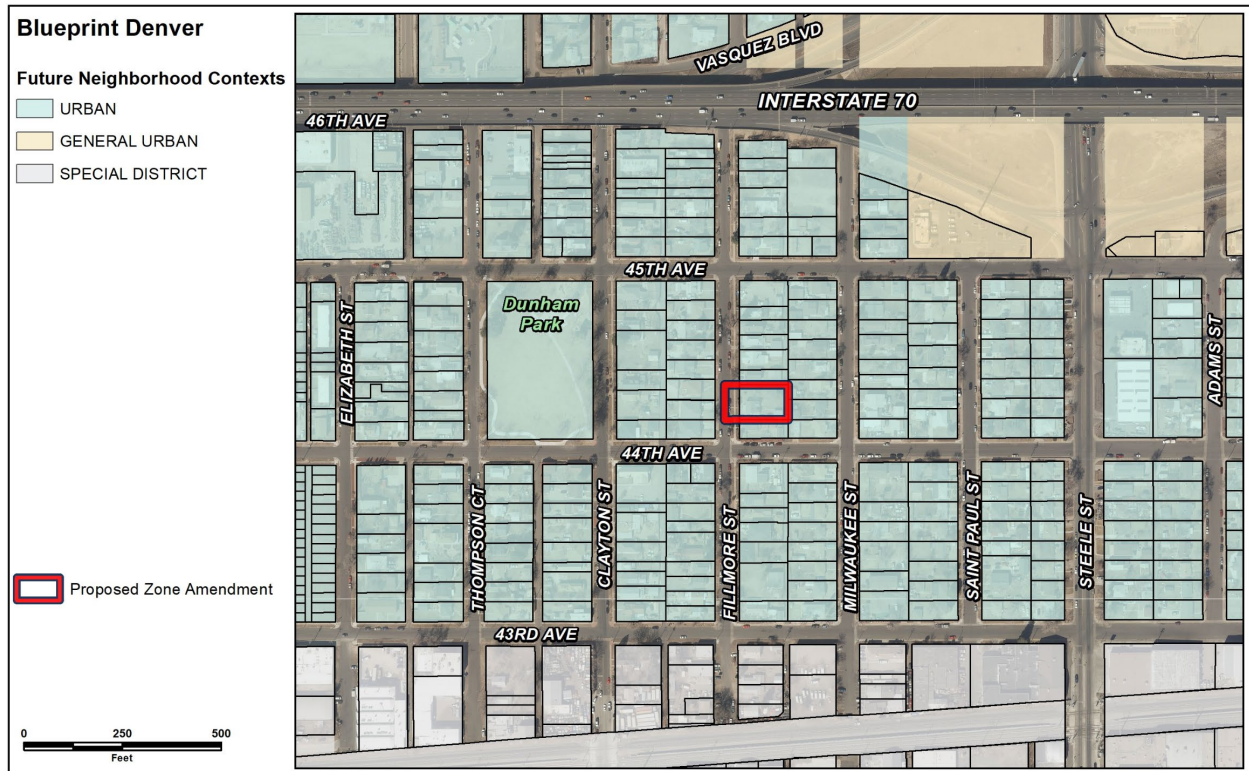
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place (p. 54).*

The requested map amendment will allow an additional residential unit at an infill location where infrastructure is already in place. The requested zone district enables a building form and use which can provide residents with a mixture of housing types. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

Blueprint Denver (2019)

Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Residential Low place within the Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

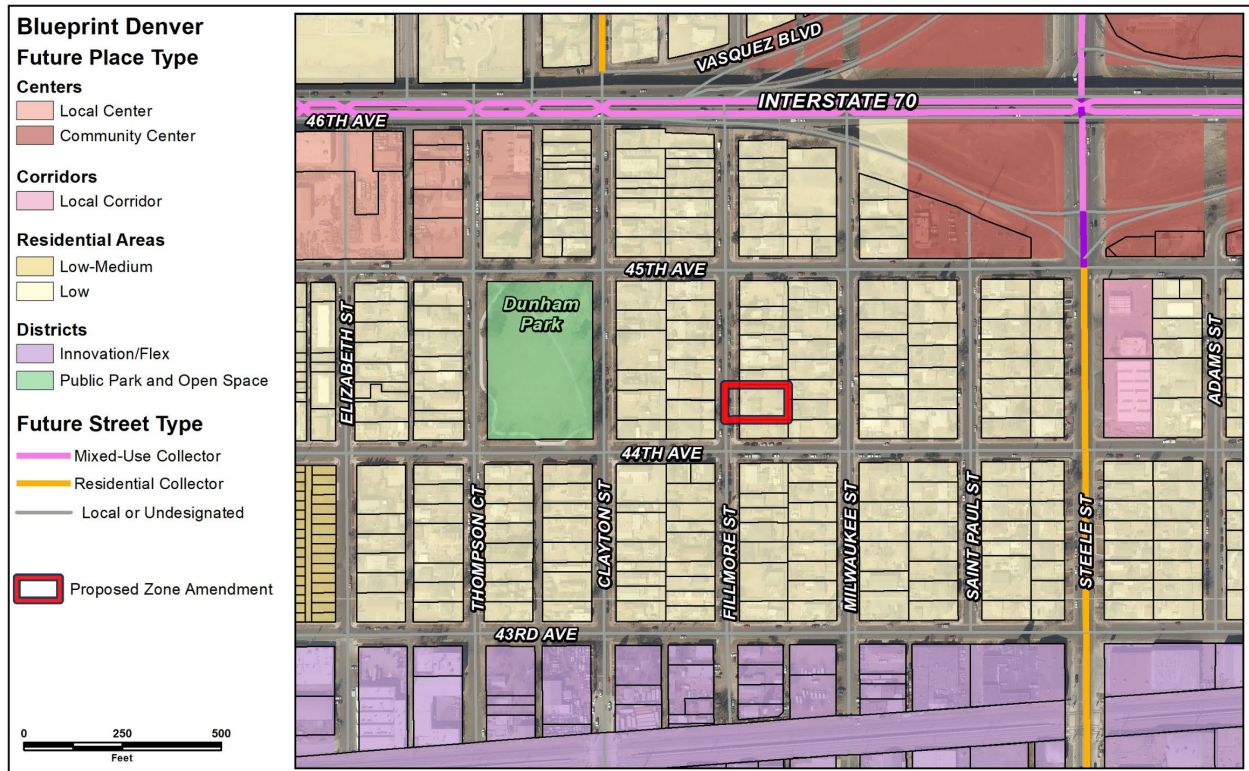
Blueprint Denver Future Neighborhood Context



The subject property is shown on the context map as an Urban Neighborhood Context, the description of which is used to guide appropriate zone districts. “Small multi-unit residential and low-intensity mixed-use buildings are typically embedded in single-unit and two-unit residential areas. Block patterns are a regular grid with consistent alley access. Where they occur, multi-unit buildings are low scale. Mixed-use buildings are sited in a pedestrian-friendly manner near the street” (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 Section 5.2.2.1). U-SU-C1 is consistent with Blueprint Denver’s future neighborhood context of Urban because it will promote the residential character of the neighborhood by allowing a small-scale ADU that will be compatible with the existing residential area.

Blueprint Denver Future Places

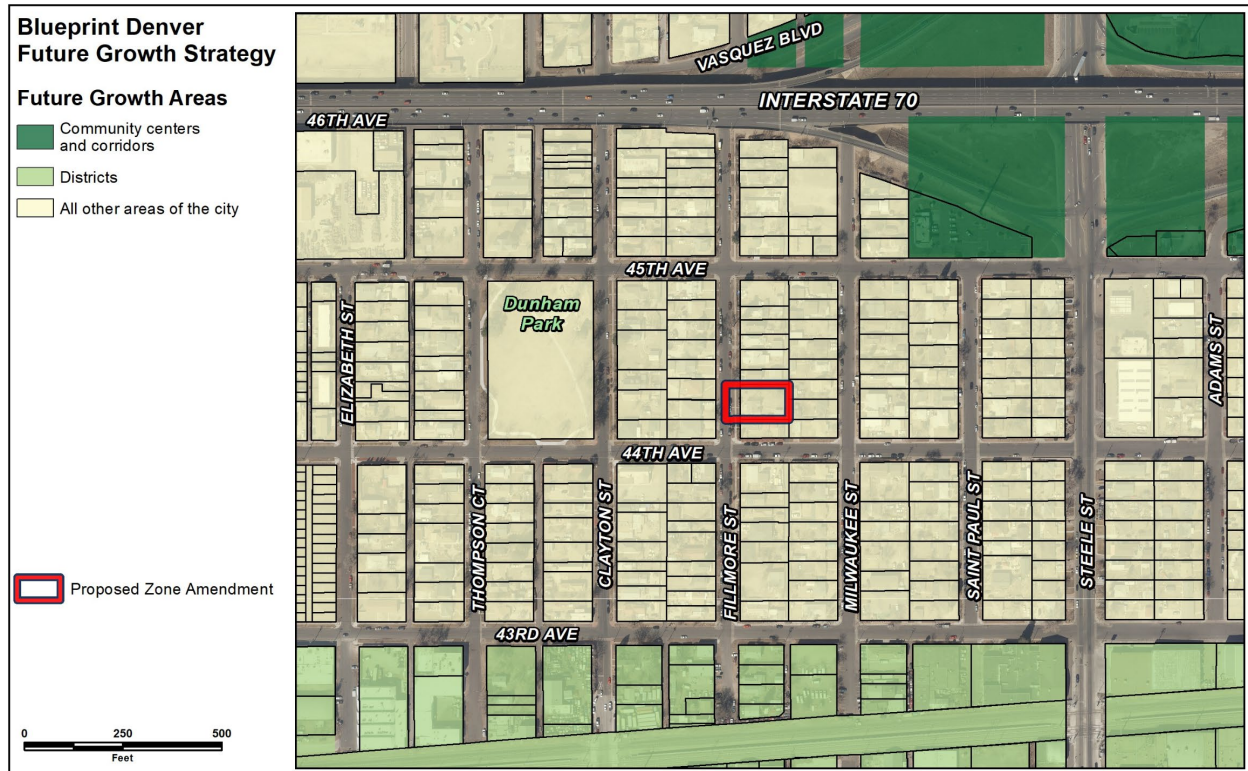


Within the Urban Neighborhood Context, the subject property is categorized as a Residential Low Future Place with a land use and built form defined by Blueprint Denver as “predominately single- and two-unit uses on small or medium lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible... Low to medium building coverage. Buildings are generally up to 2.5 stories in height” (p. 214). The proposed U-SU-C1 zone district allowing a 1.5-story detached ADU on the rear of a medium lot is compatible with this Future Place type.

Street Types

In Blueprint Denver, Future Street Types work in concert with the Future Places to evaluate the appropriate intensity of adjacent development (p. 67). Blueprint Denver classifies North Fillmore Street and East 44th Avenue as Local or Undesignated Future Street Types, 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 proposed U-SU-C1 district is consistent with this street type because it allows for primarily residential uses.

Growth Strategy



Blueprint Denver’s growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of the “All other areas of the city” growth area. These areas anticipate experiencing around 20 percent of new housing growth and 10 percent of new employment growth by 2040 (p. 51). This growth area contains “mostly residential areas with embedded local centers and corridors (that) take a smaller amount of growth intended to strengthen the existing character of our neighborhoods” (p. 49). The proposed U-SU-C1 zone district allowing an ADU is appropriate in this growth area as it will minimally contribute to development intensity in the neighborhood while maintaining the area’s single-unit residential character. Therefore, the proposed rezoning is consistent with the Blueprint Denver growth strategy.

Additional Applicable Strategies

The proposed rezoning is also consistent with the following strategies from *Blueprint Denver*:

- Land Use and Built Form, Housing Policy 4, Strategy E – *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).
- Land Use and Built Form, Housing Policy 5 – *Remove barriers to constructing accessory dwelling units and create context-sensitive form standards* (p. 84).

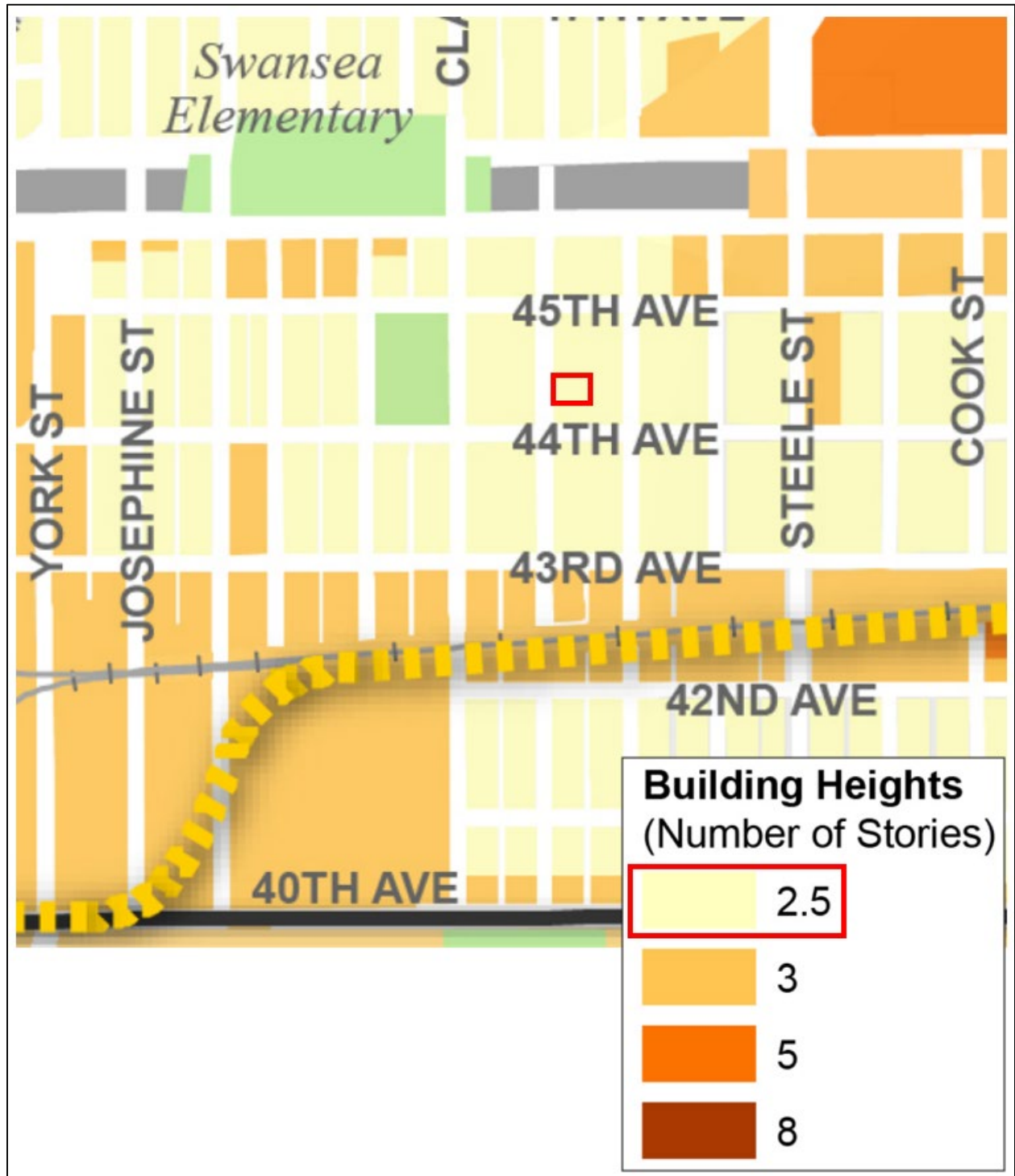
This rezoning to an ADU zone district will have minimal impacts on the character of the surrounding neighborhood and is consistent with Blueprint Denver recommendations. Additionally, the rezoning of the subject property will remove the prohibition on the construction of an accessory dwelling unit. The proposed map amendment is consistent with the above strategies.

Elyria & Swansea Neighborhoods Plan (2015)

This neighborhood plan was adopted by City Council in 2015 and applies to the subject property. It designates the subject property as being within a traditional residential area with a single-family duplex concept land use and a maximum building height of 2.5 stories. "Single family duplex residential areas are moderately dense areas that are primarily residential" (p. 26). The subject property is also outside the area of change, suggesting it should remain residential in use and at a similar development intensity.

C





The request is consistent with several Elyria and Swansea Neighborhoods Plan policies, including:

- Establish a Balance Land Use Strategy Recommendations, B.2 Establish a Strong Compilation of Land Uses That Balances the Needs of Residents, Commerce, and Industry: *Single Family Duplex residential areas are moderately dense areas that are primarily residential. There is a mixture of housing types, including single-family houses, duplexes, rowhouses, and small apartment buildings* (p. 26).
- Establish a Balance Land Use Strategy Recommendations, B.3 Increase Housing Choices: *Encourage investment in new housing to expand the total number of residences and to provide for a diversity of housing types to bring more people of all ages and income levels into the neighborhood* (p. 29).
- Improve Access to Housing, Jobs, Services & Education Recommendations, B.23 Increase Access to Housing: *Provide a broad range of housing types by allowing for moderate increases in density and household economic stabilization by allowing options that supplement an existing single family home, including accessory dwelling units, duplexes and tandem houses* (p. 46).
- Traditional Residential Areas: *Reverse the trend of a declining population and expand housing throughout the neighborhood* (p. 88).
- E.1 Update the Neighborhood Context as *the Denver Zoning Code's Urban Neighborhood Context, as opposed to the currently mapped Urban Edge Context, better reflects the use of alley, limiting or prohibiting curb cuts for street access, and the continuation of detached sidewalks where possible* (p 88).
- E.2 Encourage Investment in Residential Areas of Stability: *Explore opportunities to introduce building forms, consistent with the single-family duplex land designation, such as accessory dwelling units, duplex or tandem houses and rowhouses* (p. 88).
- *Increase the local supply of relatively affordable housing units in the neighborhood. A modest increase in housing density could add more people to the limited neighborhood population and support commercial retail and other desired services in the neighborhood* (p. 89).

The proposed U-SU-C1 zone district would allow an accessory dwelling unit, increasing the variety of housing types in the neighborhood, consistent with the recommendations of the Elyria Swansea Neighborhood Plan. The maximum allowed height of 2.5 stories is consistent with the plan's height recommendations, and the Urban context complies with the plan's goal of shifting the area into Urban context zoning. The proposed rezoning would facilitate residential investment in the neighborhood, increasing the supply of available housing, consistent with the policies and goals of the Elyria & Swansea Neighborhoods Plan.

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 through implementation of the city's adopted land use plans. The proposed rezoning would also facilitate increased housing density near services and amenities and promote a walkable, urban neighborhood within walking distance to public transit.

4. Justifying Circumstances

The application identifies several 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 a change may include: Changed or changing conditions in a particular area, or in the city generally; or, a city adopted plan....”

The Elyria Swansea neighborhood has seen significant change over the last few years including major construction projects like the National Western Complex and the Interstate 70 expansion. The I-70 project, in particular, has resulted in the loss of housing units in the neighborhood, justifying this rezoning to help add some of those units back to stabilize the neighborhood. In addition, the city adopted the Elyria & Swansea Neighborhoods Plan in 2015 and Blueprint Denver in 2019, both of which included new plan direction for the subject property to allow more types of housing and change the zoning context to Urban. The combination of changes in the neighborhood and new neighborhood plan direction justify the proposed rezoning with the map amendment to U-SU-C1 being in the public interest.

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, which “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). This context “consists of a regular pattern of block shapes” and “a consistent presence of alleys” (DZC, Division 5.1). The residential areas in the Elyria Swansea neighborhood consist mostly of single-unit residential uses in rectangular blocks with alley access. The proposed rezoning to U-SU-C1 is consistent with the neighborhood context 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 proposed U-SU-C1 zone district would allow the urban house and detached accessory dwelling unit building forms, which have standards that would result in development consistent with the general purpose of the Urban residential districts.

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 Section 5.2.2.2.H.). The subject property at 4410 North Fillmore Street contains a single-unit dwelling on a lot of 10,900 square feet. Adopted plans recommend allowing detached accessory dwelling units and limited growth in this area compatible with the existing character. Thus, rezoning this site would be consistent with the specific intent of the zone district.

Attachments

1. Application