



TO: Denver City Council
FROM: Courtney Levingston, AICP, Senior City Planner
DATE: February 21, 2019
RE: Official Zoning Map Amendment Application #2018I-00065

Staff Report and Recommendation

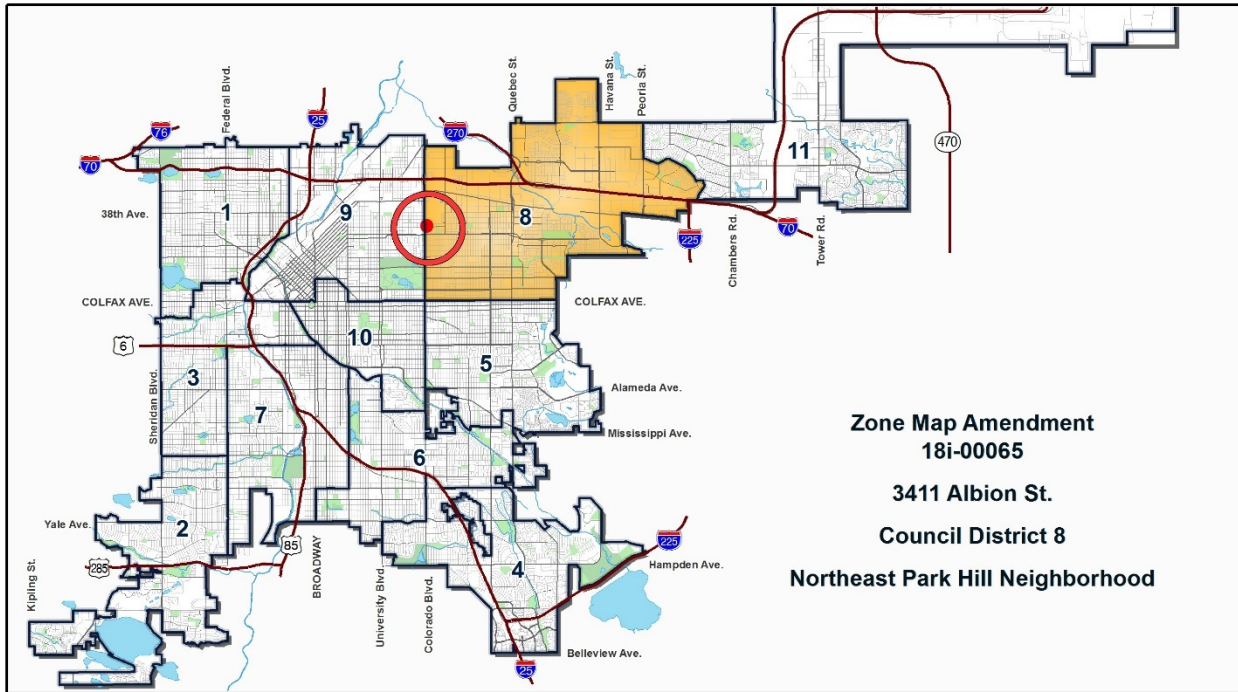
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** of application #2018I-00065.

Request for Rezoning

Address:	3411 Albion Street
Neighborhood/Council District:	Northeast Park Hill / Council District 8
RNOs:	Inter-Neighborhood Cooperation (INC); Clayton United, Denver Arts and Culture Initiative, Greater Park Hill Community, Inc., Northeast Park Hill Coalition (NEPHC)
Area of Property:	31,200 square feet or .72 acres
Current Zoning:	E-SU-Dx
Proposed Zoning:	E-MX-2x
Property Owner(s):	Park Hill Orthodox Presbyterian Church
Owner Representative:	Bruce O'Donnell, Starboard Realty Group

Summary of Rezoning Request

- The subject property is located in the Northeast Park Hill statistical neighborhood on Albion Street at the intersection of Bruce Randolph Avenue.
- The subject property is comprised of a 1-story brick building, which was constructed in 1956 and is currently occupied by a church.
- The church has moved to a new location and the proposed rezoning will allow for the property to redevelop.
- The E-MX-2x (Urban Edge Neighborhood, Mixed Use, 2 story maximum height) zone district is intended to provide safe, active, and pedestrian-scaled, diverse areas in established residential neighborhoods. The “x” indicates that allowed uses and building forms are more limited than in the E-MX-2 zone district. Further details of the zone districts can be found in Article 4 of the Denver Zoning Code (DZC).



Existing Context

The site is in the Northeast Park Hill statistical neighborhood at the northwest intersection of Albion Street and Bruce Randolph Avenue, one half block east of Colorado Boulevard, just south of the Park Hill Golf Course. The area is generally characterized as a mix of residential uses with commercial retail along Colorado Boulevard. The Clayton Early Learning campus is to the southwest, across Colorado Boulevard and City of Axum Park is located four blocks east, south of Bruce Randolph Avenue. Transit access includes the 34 bus route on Bruce Randolph Avenue adjacent to the site and additional bus routes on Colorado Boulevard. Colorado Boulevard is identified as an enhanced transit corridor and a high frequency transit (15 minute routes) corridor. The subject property is 160 feet east of Colorado Boulevard.

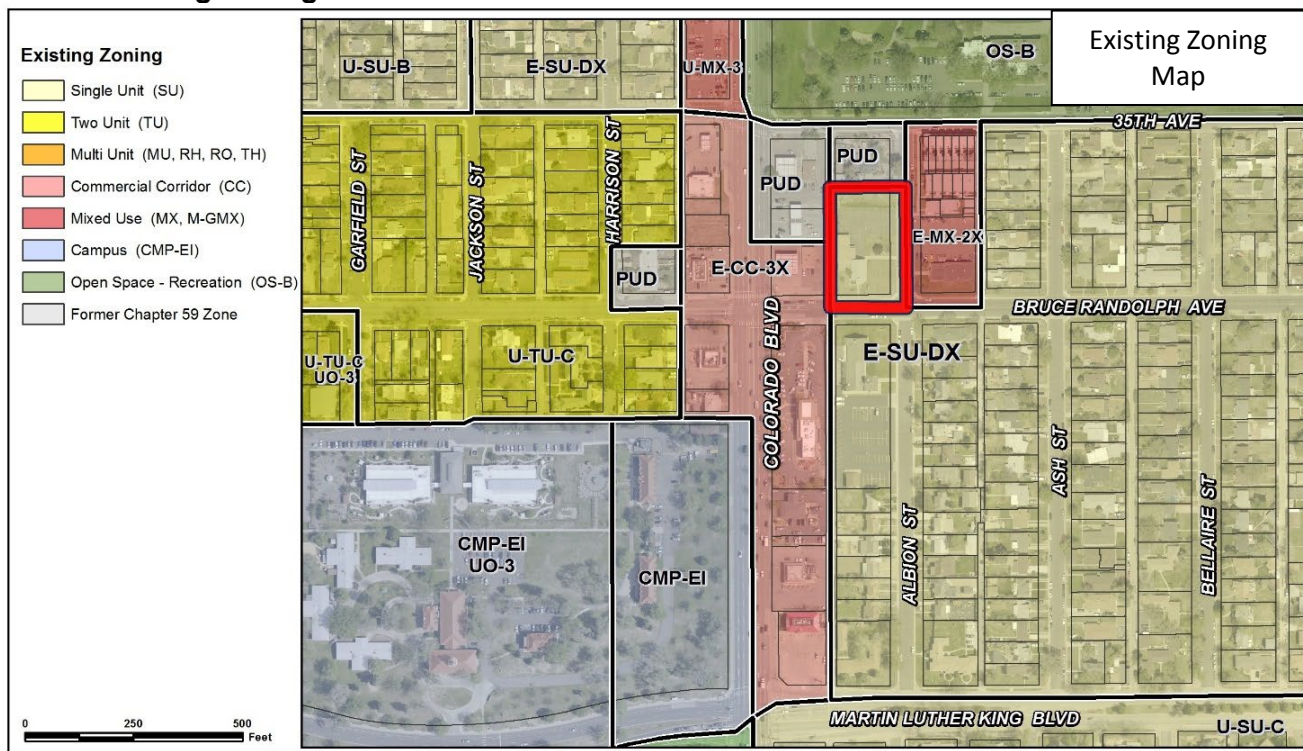


The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-SU-Dx	Quasi-Public/ Institutional	1-story brick religious assembly building with large setbacks	Consists of a regular pattern of rectangular block shapes in an orthogonal grid. Alley access is available on most blocks. The street grid connectivity is interrupted by the golf
North	PUD 539; OS-B beyond	Vacant, previously commercial/retail; recreation	2-story Victorian-style residential structure converted to commercial with medium to large setbacks; open space north of 35 th Avenue	

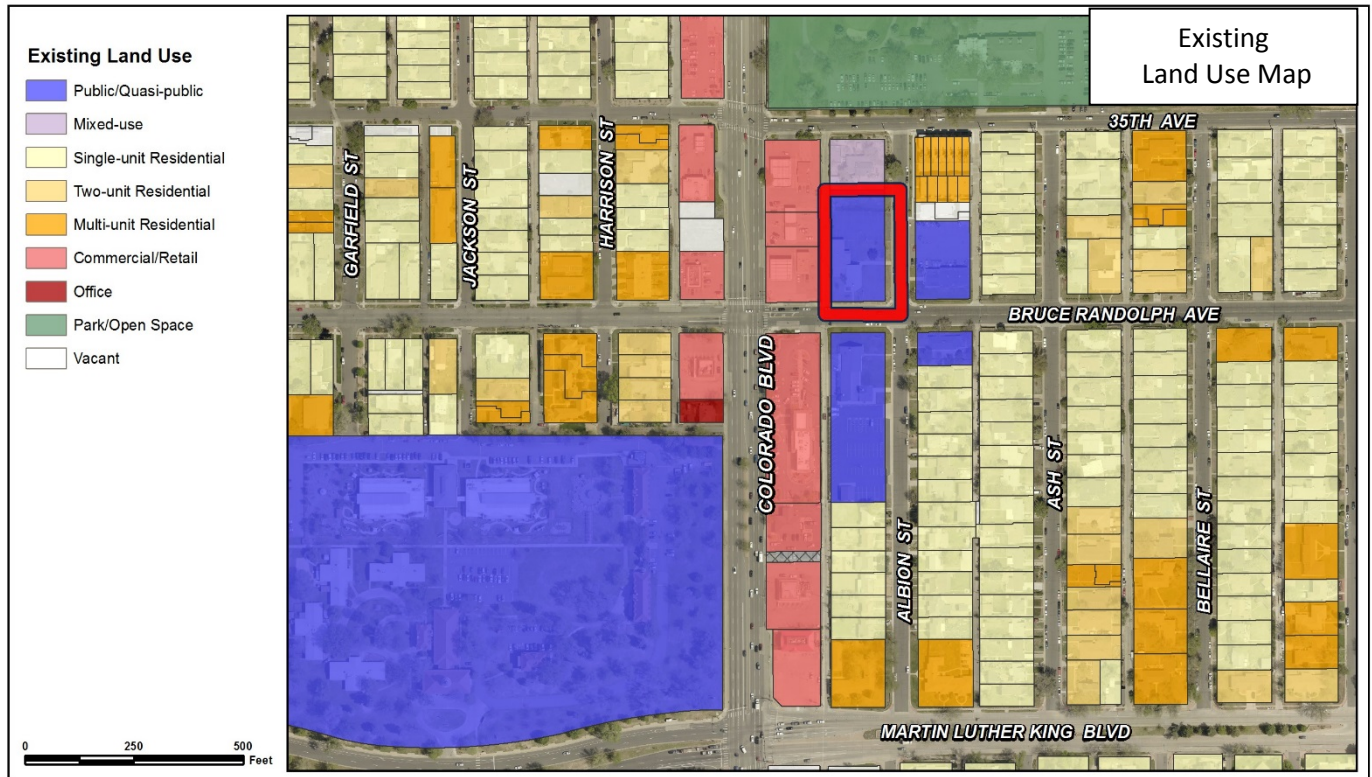
South	E-SU-Dx	Quasi-Public/ Institutional	1.5-story brick religious assembly building with large setbacks	course to the north of 35 th Avenue.
East	E-MX-2x	Quasi-Public/ Institutional; multi- unit residential	Brick 1-story religious assembly building with large setbacks; 2-story rowhouses with medium front setbacks and narrow side setbacks	
West	E-CC-3x and PUD 22	Commercial/Retail	Multiple 1-story auto- oriented and drive- through commercial buildings with large setbacks	

1. Existing Zoning



The subject site is currently zoned E-SU-Dx. E-SU-Dx is a single-unit residential district. The district allows both the suburban house and urban house primary building forms as signified by the “x” suffix. Minimum lot width is 50 feet wide, and minimum lot area is 6,000 square feet. The E-SU-Dx district to the south, across Bruce Randolph Avenue, is a Protected District. Therefore, if the subject property is rezoned to E-MX-2x, Protected District use limitations would apply to some commercial uses such as eating and drinking establishments. Please see DZC Article 11 for additional details.

2. Existing Land Use Map



The above Existing Land Use Map illustrates that the subject site is classified as a public or quasi-public land use (church). There are commercial/retail uses to the west, additional quasi-public uses adjacent to the south and east (also places of worship), and multi-unit residential to the east and northeast.

3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the following images. (Source: Google Maps)



Aerial view of subject property, looking north.



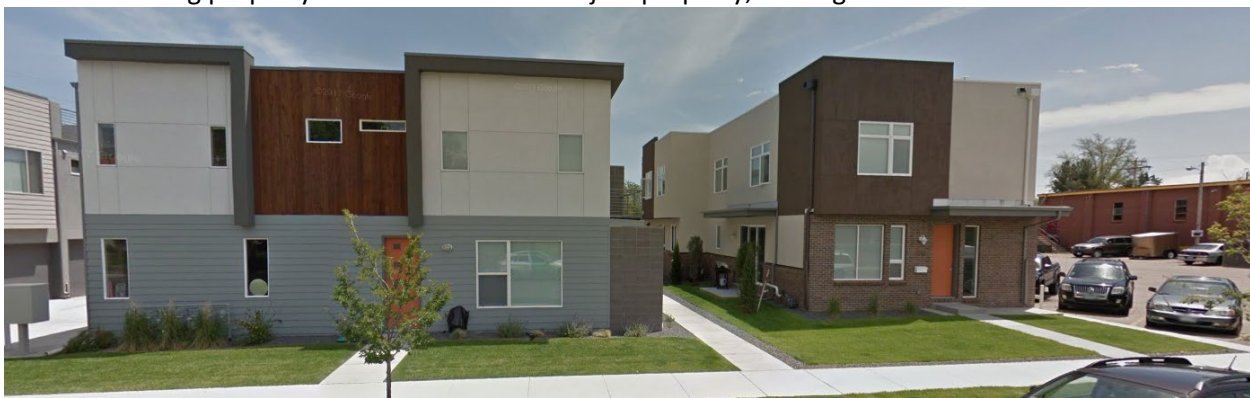
View of subject property from Bruce Randolph Avenue, looking north.



View of subject property from Albion Street, looking west.



View of abutting property to the north of the subject property, looking west.



View of rowhomes across Albion Street, east of subject site, looking east.



Place of Worship institutional building across Albion Street from subject site, looking east.



Place of Worship institutional building across Bruce Randolph Avenue from subject site, looking southwest.

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

Real Estate: Approved – No Comments

Denver Public Schools: Approved – No Response

Environmental Health: Approved – See Comments Below

Notes. DEH does not object to the rezoning request; however, the property is near former historical leaking underground storage tank (LUST) sites. The LUST sites are closed and should not be an environmental concern for the rezoning due to the depth to groundwater and direction of groundwater flow.

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, DEH 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.

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: DEH performed a limited search for information known to DEH 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.

Parks and Recreation: Approved – No Response

Public Works –R.O.W- City Surveyor: Approved - Legal is approved.

Development Services – Transportation: Approved – No Response

Public Works – Wastewater: Approved – No Response

Development Services – Project Coordination: Approved – No Response

Development Services – Fire Prevention: Approved – No Response

Public Review Process

CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	9/28/18
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:	12/3/18
Planning Board voted 6-1 to recommend approval of the rezoning application:	12/19/18
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected	12/24/18

members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	
Land Use, Transportation and Infrastructure Committee of the City Council:	1/8/19
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organization:	2/5/19
City Council Public Hearing:	2/25/19

- **Registered Neighborhood Organizations (RNOs)**

The RNOs identified on page 1 of this staff report were notified of this rezoning application. Leslie Williams, Co-President of the Northeast Park Hill Coalition (NEPHC), provided testimony at the Planning Board hearing on December 19, 2018 on behalf of the RNO, by reading a resolution from the RNO at the Planning Board hearing. The RNO’s testimony at Planning Board stated that were opposed to the development paying the linkage fee rather than providing affordable units, and that the units were not in scale with the existing community.

As of the date of this staff report, the RNO notified on page one have not provided additional comments or positions related to this map amendment.

- **Planning Board**

- Planning Board voted 6-1 to recommend approval of the proposed rezoning.
- Three (3) community members spoke in opposition of the proposal. Concerns centered around lack of affordable housing in the area.

- **Mediation**

After the December 12, 2018 Planning Board hearing, Staff observed 2 mediated discussions with the applicant, Northeast Park Hill Coalition (NEPHC), and Imam Ali of the Northeast Denver Islamic Center regarding the proposed rezoning. Mediated discussions were focused around the provision of affordable housing. In response to the NEPHC Planning Board testimony, the applicant initially agreed to build the 1 affordable unit rather than pay the affordable linkage fee. More discussion took place and then the Applicant verbally committed to building three (3) affordable units, and started to work with the city’s Office of Economic Development (OED) to execute an agreement to build 3 affordable housing units. During the mediated discussions, Northeast Park Hill Coalition requested 10 affordable units, then dropped it to requesting 5 affordable units in exchange for not opposing the rezoning.

As of the date of this staff report, an agreement between the Applicant, Northeast Park Hill Coalition and the Northeast Denver Islamic center has not been reached, but discussions between the parties continue. Please see attached mediation report for additional details.

- **Protest Petition**

Imam Abdur-Rahim Ali of the Northeast Denver Islamic Center submitted a protest petition. It was determined that the protest petition signatures submitted did not meet the 20% requirement, and the petition does not constitute a legal protest. Please see the attached memo summarizing the results.

- **Public Comment**

- The applicant representative provided 7 letters of support from area residents and 1 letter of support from Clayton Early Learning.
- Letters in opposition are generally categorized as follows:
 - 2 letters in opposition with concerns with impacts to area affordability and gentrification.
 - 25 form letters opposing the rezoning were submitted with the protest petition. The form letter noted a strategy from the Park Hill Neighborhood Plan regarding creating and maintaining a mix of housing types that are attractive and affordable for a diverse set of backgrounds. The form letter noted that they were opposed because in early discussions the units were said to be all market rate and were opposed.
 - Two (2) letters in opposition with similar language to the 25 form letters were submitted at the same as the protest petition, from Greater Metro Denver Ministerial Alliance and the Denver Park Hill Seventh-day Adventist Church.
 - A form “petition” against the rezoning was circulated and received 104 signatures. The names and addresses stated were from a variety of areas, with some outside of Denver.
 - A change.org petition was circulated against the rezoning and received 200 names between January 19, 2019 – January 22, 2019. Many of the names listed Denver as a location, however quite a few listed other cities as well other states. The change.org petition had the same form letter language as the 25 form letters above.
- All public comment to date is attached to this staff report.

- **Affordable Housing Discussion**

Applicant has been working with the Office Economic Development (OED) to execute an agreement to build three (3) affordable (less than 80% AMI) 2-bedroom for sale townhome units associated with this project. As of the date of this staff report, an affordable housing commitment has not been executed.

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 2000
- Blueprint Denver (2002)
- Park Hill Neighborhood Plan (2000)

Denver Comprehensive Plan 2000

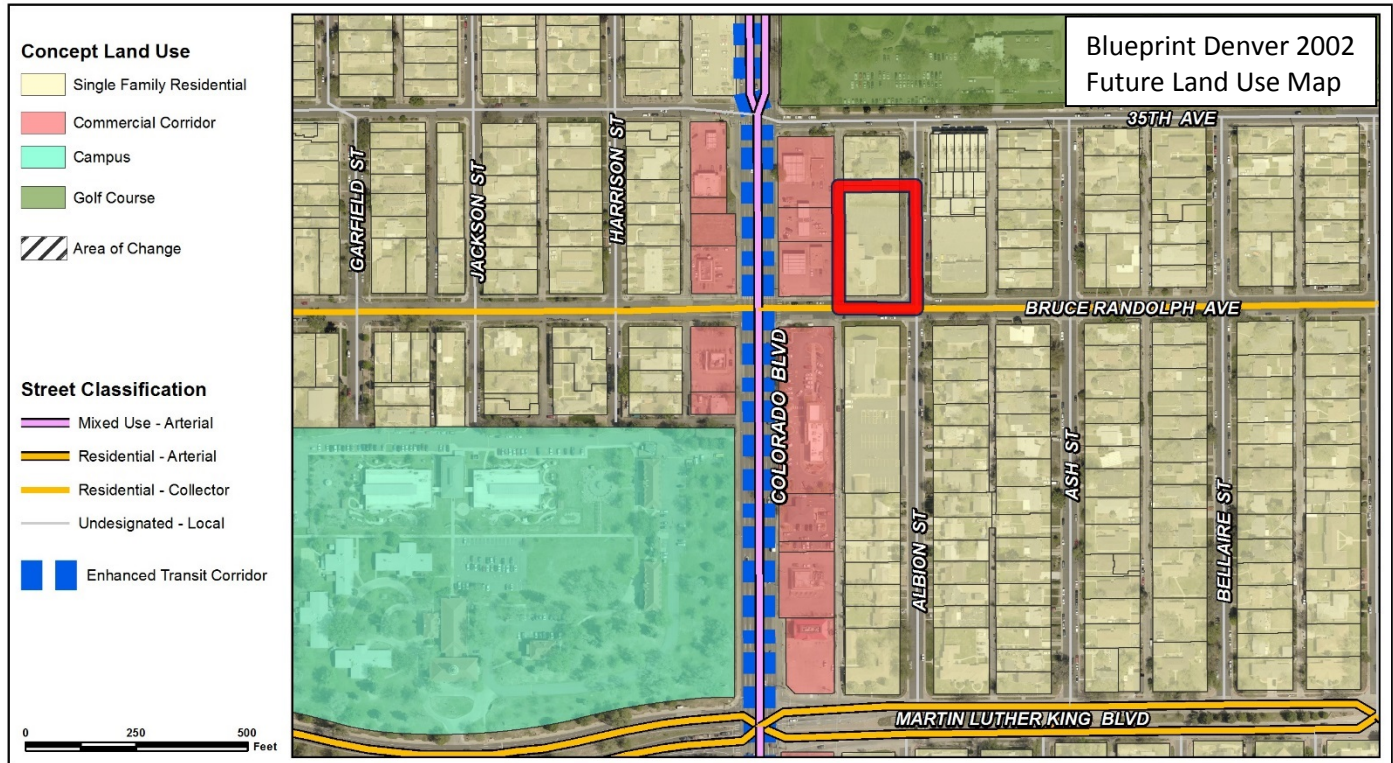
The requested rezoning is consistent with many Denver Comprehensive Plan objectives, strategies, and recommendations, except as outlined in the paragraph below, including:

- Environmental Sustainability Strategy 2-F – *Conserve land by promoting infill development with Denver at sites where services and infrastructure are already in place; designing mixed use communities and reducing sprawl so that residents can live, work and play within their own neighborhoods.* (p. 39)
- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.* (p. 60)
- Housing Objective 6-E – *Identify and capitalize on opportunities to develop housing along transit lines.* (p.118)
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.* (p. 78)
- Legacies Strategy 3-A – *Identify areas in which increased density and new uses are desirable and can be accommodated.* (p. 99)

The proposed map amendment will enable walkable mixed-use development to serve a residential neighborhood. The E-MX-2x zone district will broaden the variety of uses and enable more people to live near retail and services.

Blueprint Denver 2002

According to the Plan Map adopted in Blueprint Denver 2002, this site has a concept land use of Single Family Residential and is located in an Area of Stability.



Future Land Use

Blueprint Denver describes Single Family Residential areas as those with “an employment base significantly smaller than the housing base” and with “single family homes as the predominant residential type.” Although the proposed E-MX-2x zone district will allow more than just residential uses, its application at the intersection of a residential collector and local street on a site that was formerly an institutional use, adjacent to existing commercial uses, and located on a block with considerable mix of non-residential uses, will maintain the character of the area while providing a small mixed use “employment base” as envisioned in Blueprint Denver.

Additionally, it should be noted that “the Blueprint Plan Map (p. 43) is a conceptual depiction of Denver’s land-use and transportation vision for the future. Because it is conceptual, the map’s boundaries between land-use types are not always specific” (p. 163-164) In this case, as there are no residential uses directly west of Albion Street, and the east side of Albion Street also has no single unit residential uses. The single family residential boundary of the Blueprint Plan Map could be interpreted to be more conceptual and non-specific.

Area of Change / Area of Stability

The subject site is located in an Area of Stability. The goal for Areas of Stability is to maintain the character of an area while accommodating some new development and redevelopment at appropriate locations (p. 127). Blueprint Denver states that land use regulations in Areas of Stability should aim to prevent or mitigate negative impacts from non-residential development, especially where adjacent to residential development (p. 123).

The Areas of Stability can be thought of as belonging to one of the following two categories: “Committed Areas” and “Reinvestment Areas.” Reinvestment areas are neighborhoods with character that is desirable to maintain but that would benefit from reinvestment through modest infill and redevelopment in a small area. (p. 122) Blueprint notes that residents in Reinvestment Areas may lack “services, such as grocery stores,” or affordable housing. Opportunities for improvement of Reinvestment Areas could include “redeveloping underutilized land to provide neighborhood services” (P. 123). Additionally, there are regulatory tools, such as map amendments, identified for Areas of Stability. Blueprint states, “in some cases it may be appropriate to change the zoning in an area to create a better match between existing land uses and zoning” (p 124). While Blueprint does not specifically identify Committed or Reinvestment areas, the application asserts that the property is in a Reinvestment area and that a map amendment to E-MX-2x is appropriate to create a better match between the subject property and the surrounding land uses.

The proposed rezoning would support limited redevelopment along neighborhood-serving corridors and is consistent with the Blueprint Denver Area of Stability recommendation. The E-MX-2x district includes building form, setback, and use limitations that ensure that non-residential development is compatible with the surrounding residential neighborhood. Additionally, the proposed rezoning would create a better match between the subject property and the surrounding land uses.

Street Classifications

In Blueprint Denver, Bruce Randolph Avenue is identified as a Residential Collector and Albion Street is an undesignated local. Blueprint Denver states that local streets are “influenced less by traffic volumes and tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51). Collectors are designed to provide a greater balance between mobility and land access (p. 51). The Residential classification is used to identify streets that “emphasize walking, bicycling, and land access over mobility” (p. 55). The proposed E-MX-2x zone district is intended for areas served primarily by local streets (DZC 4.2.4.2C). Because the site is on the corner of a local street (Albion Street), E-MX-2x is consistent with the street classification surrounding the property.

Park Hill Neighborhood Plan

The Park Hill Neighborhood Plan was adopted by City Council in 2000 and applies to the subject property. Applicable goals of the plan generally include:

- Maintain existing integrity of the residential character of Park Hill. Assure that continued growth and development in Park Hill results in a balanced and compatible mix of housing types and densities;
- Maintain and enhance the small-scale neighborhood character of the business areas;
- Minimize visual impacts between commercial and residential; and

- Maintain and enhance viability of residential and commercial land uses on Colorado Boulevard (p.32).

The E-MX-2x district allows for the townhouse, shopfront and general building forms all with a maximum height of 30' feet. Although the proposed E-MX-2x zone district will allow more than just low-scale residential uses, it is the lowest intensity mixed use district in the Urban Edge context, which helps "maintain and enhance the small-scale neighborhood character" as cited in the Park Hill Neighborhood Plan.

The proposed zone district's application on the corner of a local street on a site that was formerly an institutional use, adjacent to existing commercial uses, will maintain and enhance the viability of residential and commercial land uses while compatibly integrating with the larger neighborhood. The proposed rezoning to E-MX-2x is consistent with the goals of the plan because the allowed building forms, design standards and use limitations ensure compatibility with the surrounding neighborhood.

2. Uniformity of District Regulations and Restrictions

The proposed map amendment will result in the uniform application of the E-MX-2x zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed map amendment to the E-MX-2x district further public health, safety, and general welfare through implementation of the City's adopted land use plans and by allowing for redevelopment in a manner that will provide for the construction of additional neighborhood-serving amenities, thereby providing residents more opportunities to live, work, and play within their neighborhood.

4. Justifying Circumstances

This 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...."

The application identifies infill development of townhomes on the same 3400 block of Albion Street as a changed condition that would justify encouraging redevelopment of the site, providing walkable neighborhood amenities facilitated by the proposed rezoning. The application also identifies the 40th and Colorado commuter rail station opened in 2016 as a changed condition justifying the rezoning. This commuter rail station is less than a mile north of the subject property. Additionally, the application cites a variety of recent developments within 3 to 9 blocks of the proposed rezoning supporting the changed condition justification. These are all appropriate justifying circumstances for the proposed rezoning.

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

The requested E-MX-2x zone district is within the Urban Edge Neighborhood Context. The neighborhood context generally consists of single-unit and two-unit residential uses, with small-scale multi-unit residential uses and commercial areas embedded in residential areas. Multi-unit residential and commercial uses are located along local streets, arterials, and main streets (DZC 4.1.1). The proposed rezoning to E-MX-2x is consistent with the Urban Edge neighborhood context description because of its low-scale nature and the site is served by a local street (Albion Street).

The proposed rezoning is also consistent with the general purpose of mixed use districts to promote safe, active, and pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping, and public gathering within and around the city's neighborhoods. The Mixed-Use districts are appropriate along corridors, embedded in neighborhoods and on large sites (DZC 4.2.4.1). The rezoning is consistent with the general purpose of the urban edge mixed use districts as this is an existing neighborhood site and will promote a pedestrian scaled area.

According to the zone district intent stated in the Denver Zoning Code, the E-MX-2x district "applies to small sites served primarily by local streets embedded within an existing or proposed neighborhood. These are typically one or two parcels and are limited to low scale building forms and low intensity uses" (DZC Section 4.2.4.2). Because the proposed rezoning at 3411 Albion Street is located on the corner of a local street, is limited to one parcel with low scale buildings and low intensity uses, and is within an existing neighborhood, it is consistent with the stated intent of the E-MX-2x zone district.

Attachments

1. Application
2. Public Comments, in order received
3. Mediation Summary Report
4. Protest Petition Memo