



TO: Denver City Council
FROM: Valerie Herrera, Senior City Planner
DATE: April 11, 2022
RE: Official Zoning Map Amendment Application #2021I-00226

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2021I-00226.

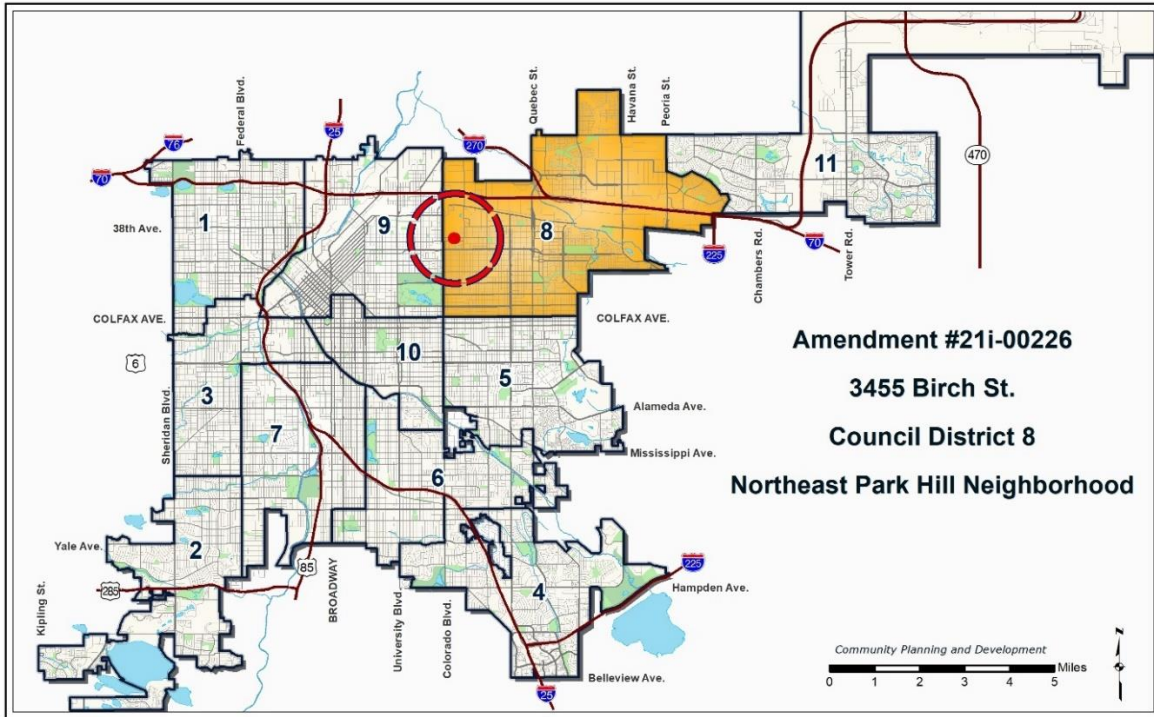
Request for Rezoning

Address:	3455 North Birch Street
Neighborhood/Council District:	Northeast Park Hill / Council District 8
RNOs:	Inter-Neighborhood Cooperation (INC) Denver For ALL East Denver Residents Council Northeast Park Hill Coalition (NEPHC) District 8 Neighborhood Coalition, Inc. United Northeast Denver Residents Greater Park Hill Community, Inc. Opportunity Corridor Coalition of United Residents
Area of Property:	7,880 square feet or 0.18 acres
Current Zoning:	E-SU-Dx
Proposed Zoning:	E-SU-D1x
Property Owner(s):	Alex Walsh and Amy Harris
Owner Representative:	None

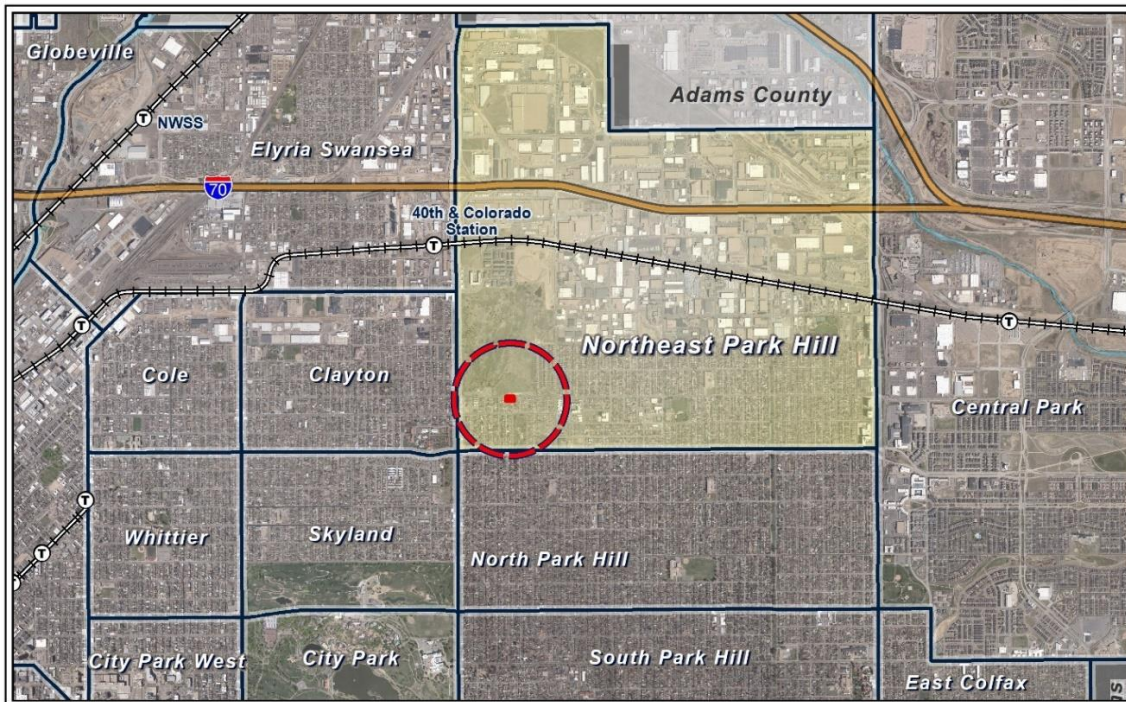
Summary of Rezoning Request

- The subject property contains a single-unit one-story dwelling built in 1950 and a detached garage. The site is located between East 35th Avenue and East Bruce Randolph Avenue, along North Birch Street.
- The property owner is proposing to rezone the property to build an accessory dwelling unit (ADU).
- The proposed **E-SU-D1x**, Urban Edge, Single-Unit, D1x (6,000 square feet minimum zone lot area allowing accessory dwelling units (ADUs) zone district is intended for use in the Urban Edge Neighborhood Context which is characterized by single-unit and two-unit uses. Single-unit residential uses are typically located along local and residential arterial streets and structures are usually the Suburban and Urban House building form. The maximum height of the Suburban House building form is from 30 to 35 feet for the front and rear of the zone lot. 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 4 of the Denver Zoning Code (DZC).

City Location



Neighborhood Location – Northeast Park Hill



1. Existing Context



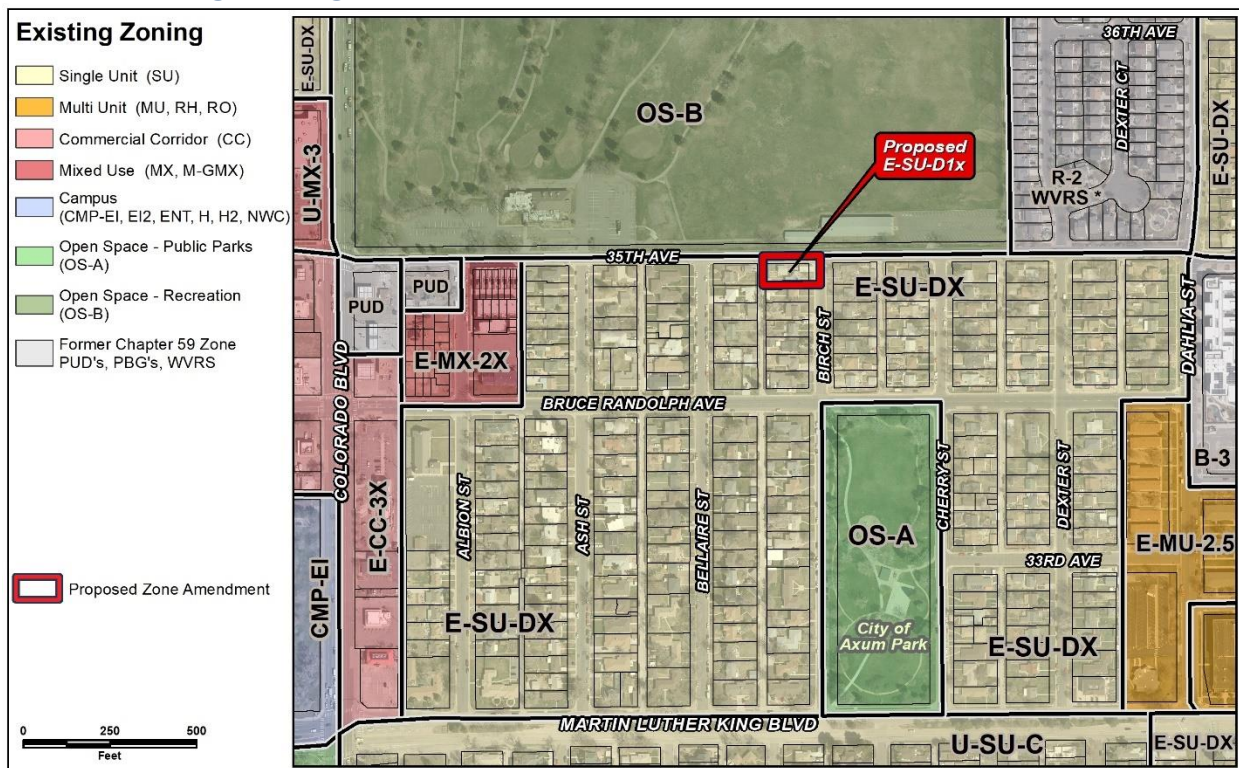
The subject property is in the Northeast Park Hill statistical neighborhood, which is characterized primarily by single-unit residential uses. Two-unit and multi-unit existing uses can also be found throughout the neighborhood. Generally, there is a pattern of rectangular blocks in a street grid pattern with alley access. The subject site just south of the Park Hill Golf Course and north of the City of Axum Park as shown in the aerial snapshot above. Colorado Boulevard is west of the property.

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	Single-unit Residential	1 -story Residence. Front setbacks are calculated per Sec. 13.1.5.9. Side setbacks are 5 feet. Rear setback is 12 feet. No driveway.	Generally regular grid of streets. Block sizes and shapes are consistent and generally a pattern of rectangular blocks.
North	OS-B	Social/Recreation (Park Hill Golf Course)	Private Open Space.	Attached sidewalks and existing alleys.
South	E-SU-Dx	Single-unit Residential	1 -story Residence. Front setbacks are calculated per Sec. 13.1.5.9. Side	Garages and on-street vehicle parking are consistent throughout the neighborhood.

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
			setbacks are 5 feet. Rear setback is 12 feet. No driveway.	
East	E-SU-Dx	Single-unit Residential	1 -story Residence. Front setbacks are calculated per Sec. 13.1.5.9. Side setbacks are 5 feet. Rear setback is 12 feet. No driveway.	
West	E-SU-Dx	Single-unit Residential	1 -story Residence. Front setbacks are calculated per Sec. 13.1.5.9. Side setbacks are 5 feet. Rear setback is 12 feet. No driveway.	

2. Existing Zoning

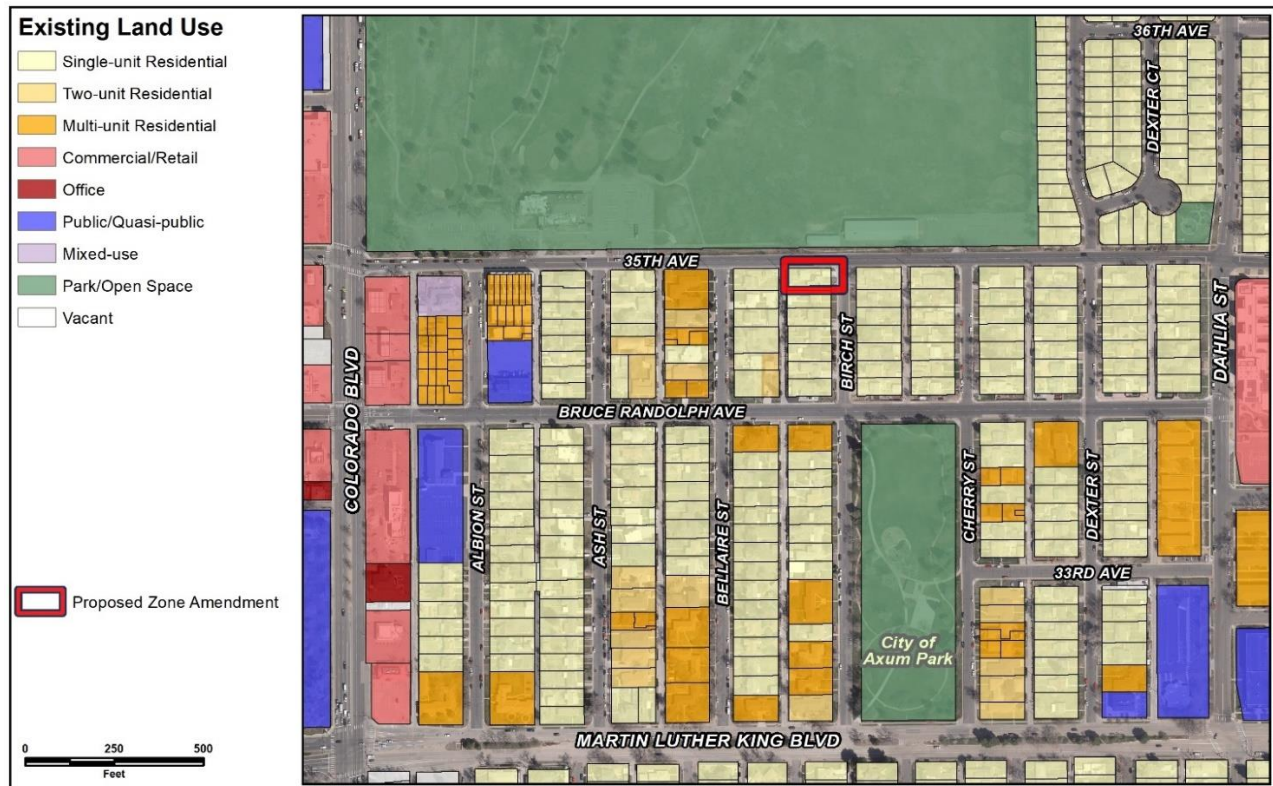


The E-SU-Dx zone district is a single-unit district allowing the Suburban and Urban House primary building form on a minimum zone lot of 6,000 square feet. The maximum height of the Suburban House building form is from 30 to 35 feet for the front and rear of the zone lot. For Urban House, the

maximum allowed height is 2.5 stories or 30 to 35 feet in the front 65% of the zone lot, 1 story and 17 feet to 19 feet in the rear 35% of the zone lot. It allows two accessory structure forms: Detached Garage and Other Detached Accessory Structure with a maximum height of 15 to 17 feet. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context.

Urban Edge (E) Neighborhood Context Zone District		Building Forms												
		Suburban	Urban House	Duplex	Tandem House	Row House	Garden Court	Town House	Apartment	Drive Thru Services	Drive Thru Restaurant	General	Shopfront	
Max Number of Primary Structures Per Zone Lot		1*	1*	1*	2	No Maximum								
Single Unit (SU)	E-SU-D1x	■	■		●									

3. Existing Land Use Map



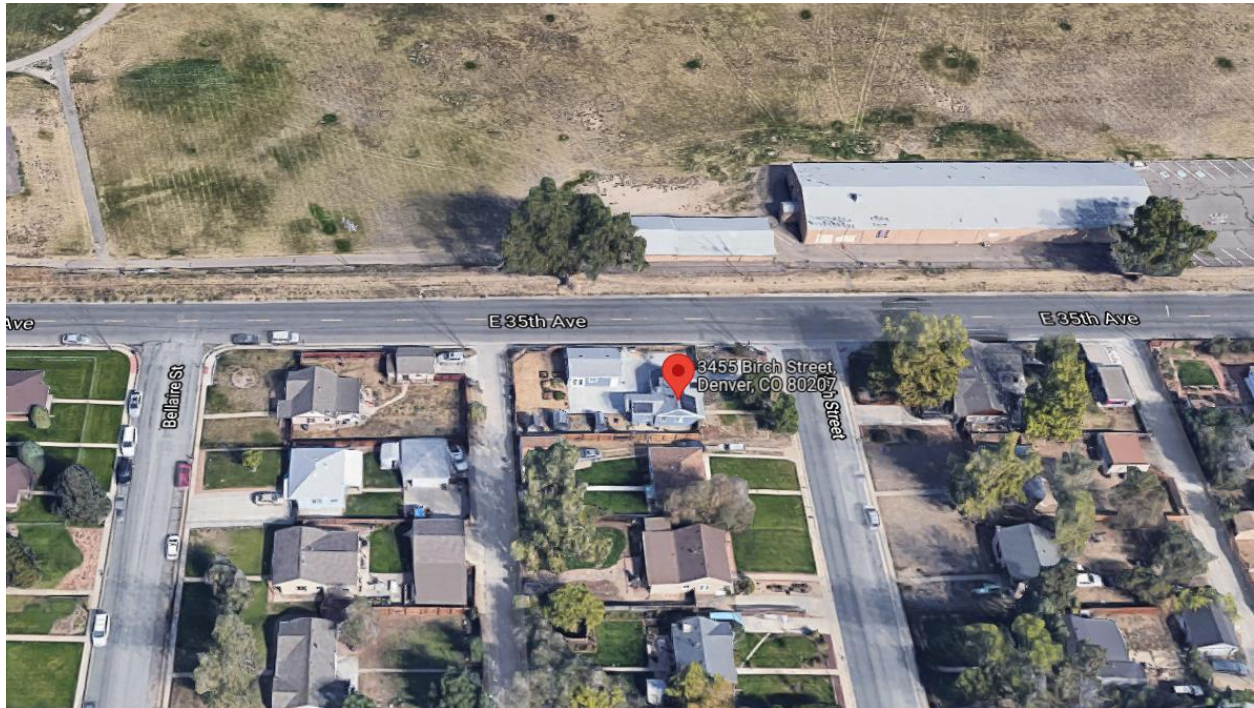
4. Existing Building Form and Scale

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Aerial view of the site, looking north. (Google Maps)



View of property looking west. (Google Street View)



View of the alley from E 35th Ave, looking south. (Google Street View)



View of the single-unit properties across street from the subject property, looking east. (Google Street View)

Proposed Zoning

The E-SU-D1x is a single unit zone district with a minimum zone lot of 6,000 square feet that allows a Suburban and Urban House primary building form. A variety of residential and civic uses are permitted as primary uses in the E-SU-D1x zone district. Compared to the E-SU-Dx zone district, E-SU-D1x 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. The subject site has a lot size

of 7,880 square feet, allowing a maximum building footprint of 1,000 square feet for the detached accessory dwelling unit.

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

Design Standards	E-SU-Dx (Existing)	E-SU-D1x (Proposed)
Primary Building Forms Allowed	Suburban and Urban House	Suburban and 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	Suburban: 30 feet Urban: 1 story / 17 feet	Suburban: 30 feet Urban: 1 story / 17 feet
DADU Maximum Height in Stories / Feet	DADUs not permitted	1.5 stories / 24 feet
Zone Lot (Min.)	6,000 square feet	6,000 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
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

* Varies per lot width

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 Comments

Asset Management: Approved - No Comments

Denver Public Schools: Approved – No Comments

Department of Public Health and Environment: Approved - No Comments

Denver Parks and Recreation: Approved - No Comments

Transportation and Infrastructure – R.O.W.- City Surveyor:

Denied 12.20.2021 - See Comments Below:

Legal Description submitted is in the incorrect format of the truncated version of the Assessor's Office's website. Please see attached copy of most recent vesting instrument in chain of title for the correct legal description.

Approved 12.28.2021 – Legal Description corrected per Warranty Deed provided by City Surveyor.

Legal Description

Lot Address: 3455 N Birch St Denver, CO 80207

Schedule Number: 01302-04-006-000

Legal Description:

Lots 28, 29, 30

Block 42,

J.Cook Jr's North Division of Capitol Hill

City and County of Denver,

State of Colorado

Development Services – Project Coordination: Approve Rezoning Only - Will require additional information at Site Plan Review

- 1) The applicant will need to obtain building permits and zoning use and construction permits before any construction can commence.
- 2) Plan reviews will be conducted by Residential Review Team.
- 3) All new construction will need to comply with determined building form standards and DZC requirements.

Development Services – Fire Protection: Approved - No Comments

Development Services – Transportation: Approved - See Comments Below

DES Transportation approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering, ROW dedication to the City, access changes, traffic studies and/or right of way improvements. The extent of the required design and improvements will be determined once this property begins the redevelopment process. The results of any traffic studies may require the construction of off-site mitigation or may limit the proposed density of the project.

Development Services- Wastewater: Approved - See Comments Below

There is no objection to the rezone. Upon rezoning applicant will need to obtain a building permit. Independent sanitary service lines may be required, historical drainage paths must be maintained. Sanitary main is located in alley to west of parcel. Please see link to assist with setting finished floor elevations and being aware of adjacent storm water flows

(<https://geospatialdenver.maps.arcgis.com/apps/webappviewer/index.html?id=12500a3b06b34bfcb2c297697a64c4de>). Proposed finished floor elevation must be set 12-inches above flow depths shown

(brown is ground, blue is 100-year). If you have questions on this comment letter, please contact Wastewater Engineer above.

Approval of this rezone on behalf of Wastewater does not state, or imply, public storm/sanitary infrastructure can, or cannot, support the proposed zoning. Commitment to serve proposed structure will be based on permit issuance.

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:	12/01/2021
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:	01/17/2022
Planning Board public hearing	02/02/2022
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:	02/05/2022
Land Use, Transportation and Infrastructure Committee of the City Council:	02/15/2022
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:	03/21/2022
City Council Public Hearing (Tentative):	04/11/2022

- **Registered Neighborhood Organizations (RNOs)**
 - To date, staff has not received written input from any of the Registered Neighborhood Organizations (RNOs) that were sent notice.

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)
- Parkhill Neighborhood Plan (2000)

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).

E-SU-D1x 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 Northeast Park Hill 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 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 Low Residential place within the Urban Edge Neighborhood Context and provides guidance on the future growth strategy for the city.

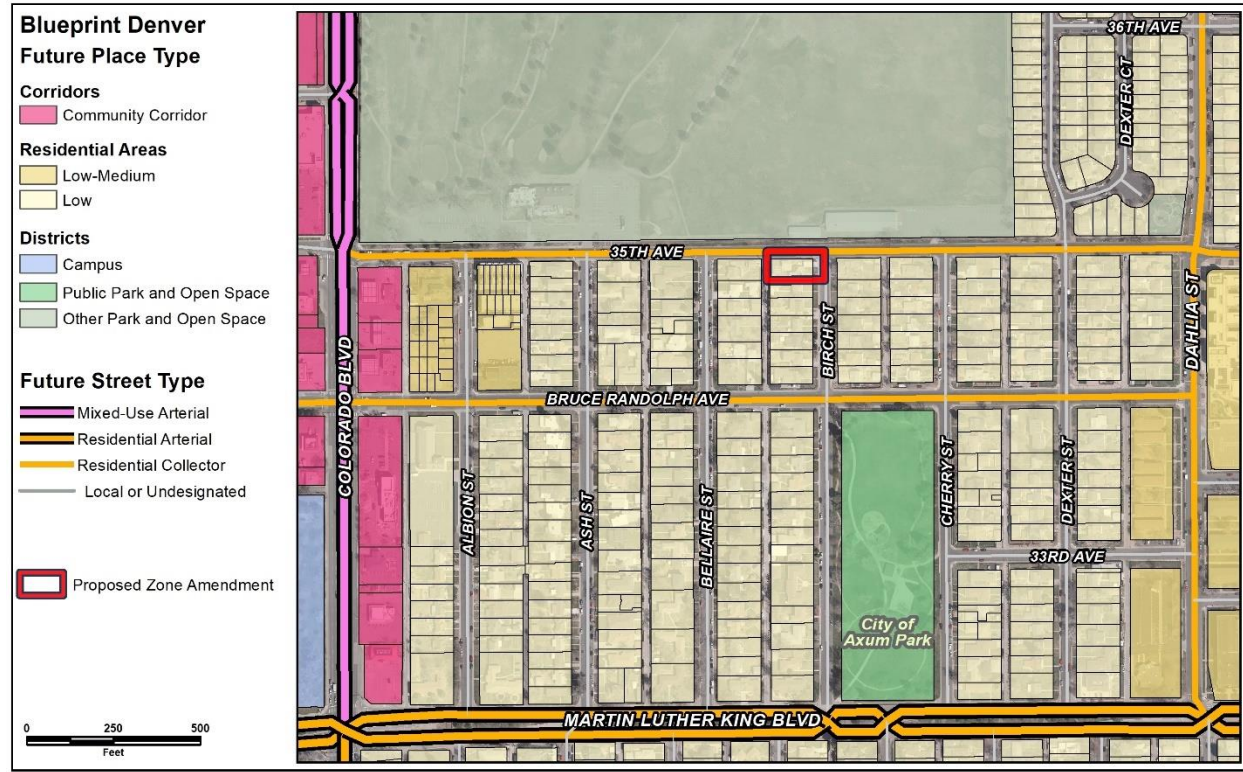
Per *Blueprint Denver*, urban edge context “contains elements of the suburban and urban contexts. Small multi-unit residential and commercial areas are typically embedded in 1-unit and 2-unit residential areas. Block patterns are generally regular with a mix of alley access. Buildings are lower scale and generally set back farther from the street. This context is intended to be walkable and bikeable with access to transit but still some reliance on cars. The parks are of various sizes and scales and there are also various types of schools, civic and social spaces. Mixed occurrence of tree lawns/planting strips with higher percentage of tree canopy cover” (p. 137).

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 Edge neighborhood context, the description of which is used to guide appropriate zone districts (p. 66). The Urban Edge neighborhood context is described as containing “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. 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. Vacant institutional uses on corners or select sites may be appropriate locations to introduce additional residential intensity. Low to medium buildings coverage. Building are generally up to 2.5 stories in height” (p. 215). E-SU-D1x is a zone district within the Urban Edge 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 4.2.2.1). E-SU-D1x is consistent with the Blueprint Denver future neighborhood context of Urban Edge 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

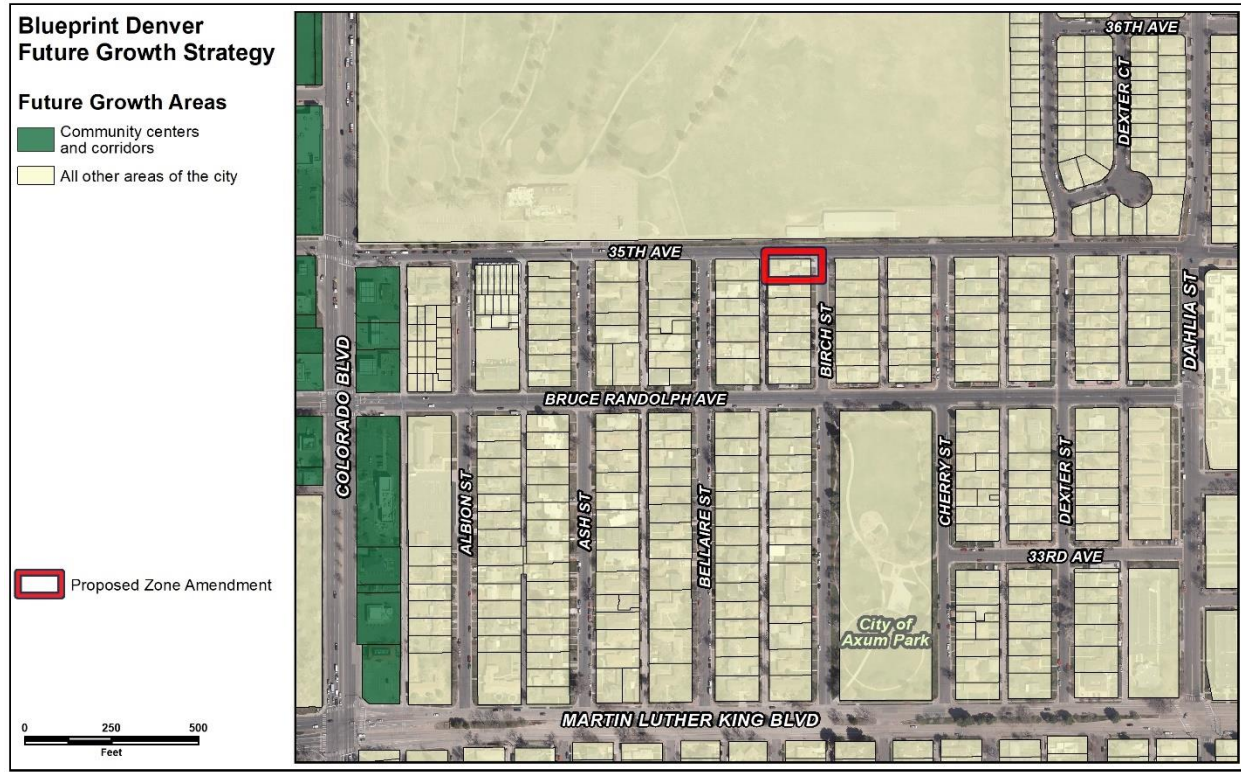


The subject site is designated within a Low Residential future place type on the *Blueprint Denver* Future Places map. This place type is “predominately single and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible,” and “building heights are generally up to 2.5 stories in height” (p. 230). The E-SU-D1x 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 Suburban and 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 North Birch 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 E-SU-D1x 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 E-SU-D1x 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). This rezoning to an ADU zone district will have minimal impacts on the surrounding neighborhood and is consistent with *Blueprint* recommendations.

Small Area Plan: Park Hill Neighborhood Plan

The request meets the following goal and recommendation from the *Park Hill Neighborhood Plan*:

- **Land Use and Zoning Goal:** “Maintain the 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.” (p. 32).
- **Land Use and Zoning Action Recommendation 3:** “Create and maintain a mix of housing types and sizes that are attractive and affordable to a diversity of ages, incomes, household types, sizes, cultural and ethnic backgrounds.” (p. 33).

The proposed ADU would maintain the existing integrity of Northeast Park Hill and increase the mix of housing options in the neighborhood, which is comprised of single-unit, two-unit, and multi-unit dwellings.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to E-SU-D1x 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. The building form standards and allowed uses of the proposed zone district promote compatibility with the building forms and uses allowed in the surrounding area.

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 district. Therefore, this is an appropriate justifying circumstance for the proposed rezoning.

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

The intent of the Residential districts is to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context. These regulations allow for some multi-unit

districts, but not to such an extent as to detract from the overall image and character of the residential neighborhood. The requested E-SU-D1x zone district is within the Urban Edge Neighborhood Context. The neighborhood context is “characterized by a mix of elements from both the Urban and Suburban Neighborhood Contexts. The Urban Edge Neighborhood Context is primarily single-unit and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas. Single-unit residential structures are typically the Urban House and Suburban House building forms. Multi-unit building forms are typically the Row House, Garden Court, Town House or Apartment building forms embedded with other residential uses.” (DZC, Division 4.1). These areas consist of “regular pattern of block shapes” and “a connection and a mixed presence of alleys” (DZC, Division 4.1). The Northeast Park Hill neighborhood consists of mostly single-unit residential uses in rectangular blocks with alley access and has a diverse mix of two-unit and multi-unit housing integrated within the single-unit residential. The proposed rezoning to E-SU-D1x is consistent with the neighborhood context description.

The specific intent of the E-SU-D1x zone district is “a single unit district allowing suburban houses, urban houses and detached accessory dwelling units with a minimum zone lot area of 6,000 square feet. Setbacks and lot coverage standards accommodate front and side yards similar to E-SU-Dx and allow a detached accessory dwelling unit in the rear yard.” (DZC Section 4.2.2.2.G). The site at 3455 North Birch Street is 7,880 square feet with a width of approximately 60 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 2021I-00226