



TO: Land Use, Transportation & Infrastructure Committee
FROM: Ella Stueve, Senior City Planner
DATE: February 28, 2019
RE: Official Zoning Map Amendment Application #2018I-00095

Staff Report and Recommendation

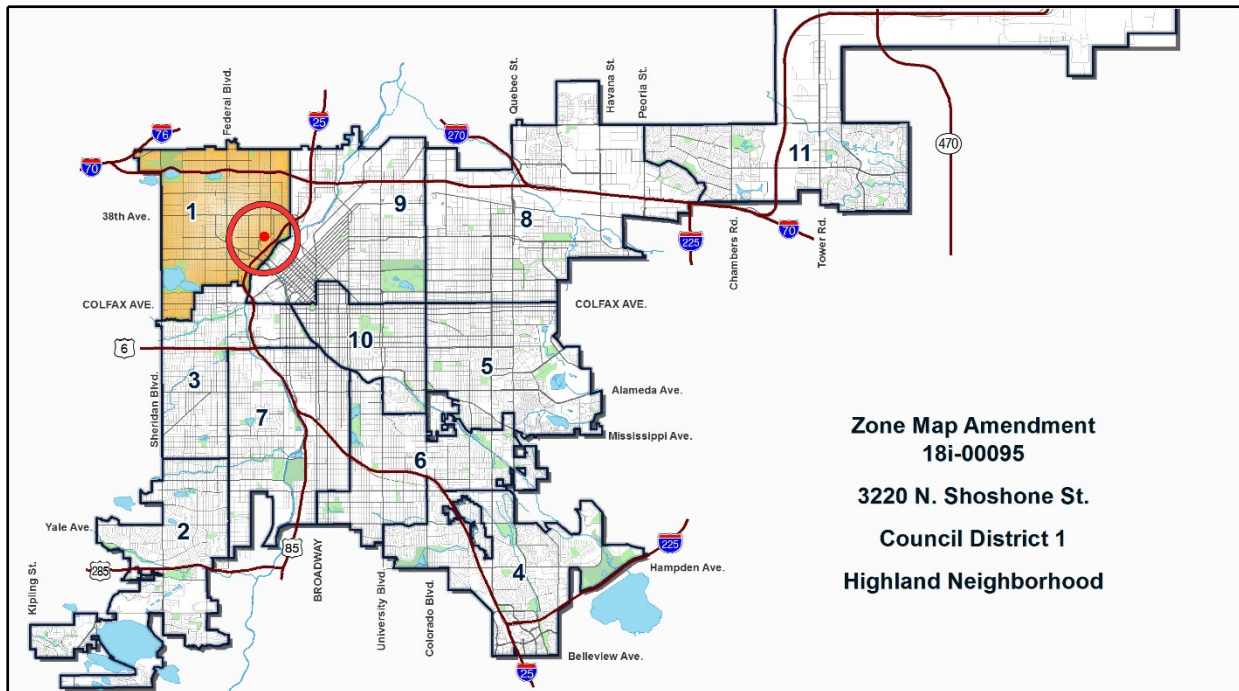
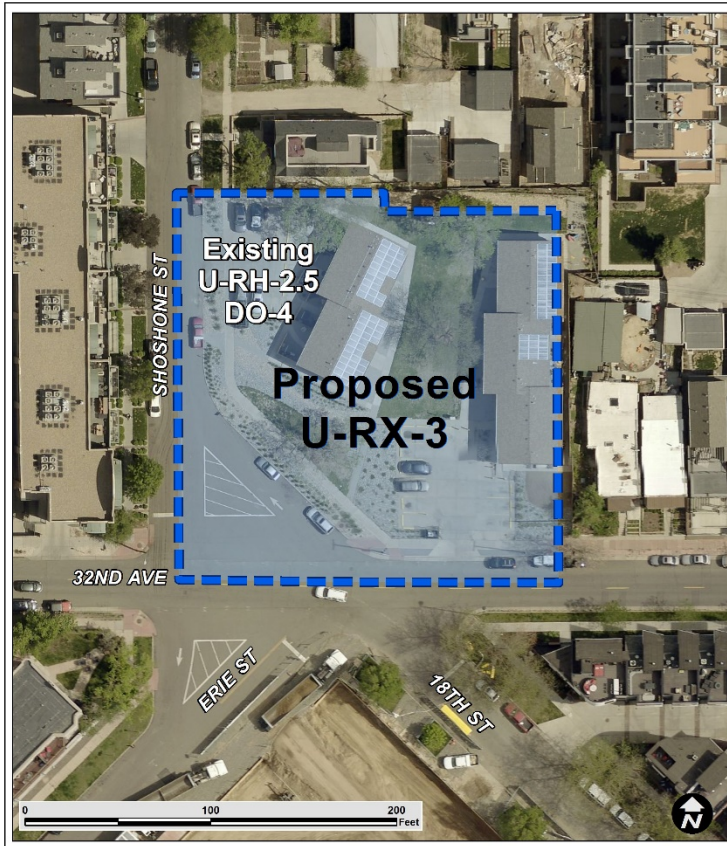
Based on the criteria for review in the Denver Zoning Code, Staff recommends that the Land Use, Transportation & Infrastructure Committee move Application #2018I-00095 forward for consideration by the full City Council.

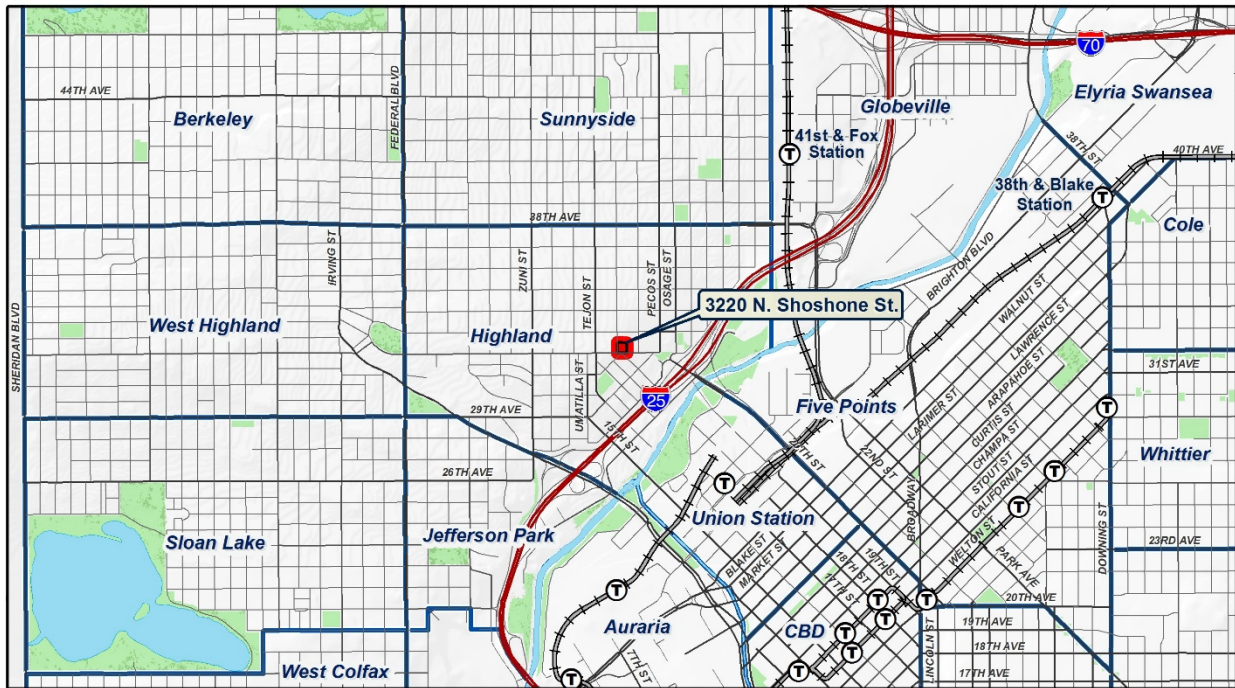
Request for Rezoning

Address:	3220 Shoshone Street
Neighborhood/Council District:	Highland Neighborhood / Council District 1
RNOs:	Highland United Neighbors, Inc.; Center City Denver Residents Organization; United North Side Neighborhood, and Inter-Neighborhood Cooperation (INC)
Area of Property:	29,895 square feet or 0.69 acres
Current Zoning:	U-RH-2.5 DO-4
Proposed Zoning:	U-RX-3
Property Owner(s):	Denver Housing Authority
Owner Representative:	Ismael Guerrero

Summary of Rezoning Request

- The property is in the Highland statistical neighborhood at the northeast corner of Shoshone Street and 32nd Avenue.
- The property, owned by the Denver Housing Authority, is occupied by two residential buildings with a total of ten affordable housing units.
- The applicant is requesting this rezoning to redevelop this site with 53 affordable housing units. The proposed development will be restricted to the use of affordable housing through a 40-year land use restriction agreement with the Colorado Housing and Finance Authority and a U.S. Department of Housing and Urban Development Declaration of Restrictive Covenant. This agreement will replace the current Declaration of Trust that is currently recorded against the property.
- The proposed zone districts, U-RX-3 (**U**rbain **R**esidential **M**ixed Use – **3** stories) allow for a mix of uses that are intended to promote safe, active, and pedestrian-scaled, diverse areas. Allowed building forms are the Town House and Shopfront building forms. Buildings in a Residential Mixed Use district can have street-level retail uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. Commercial uses are secondary to the primary residential use of the district and provide neighborhood-scaled shops and offices. Further details of the proposed zone district can be found in Article 5 of the Denver Zoning Code (DZC).





Existing Context

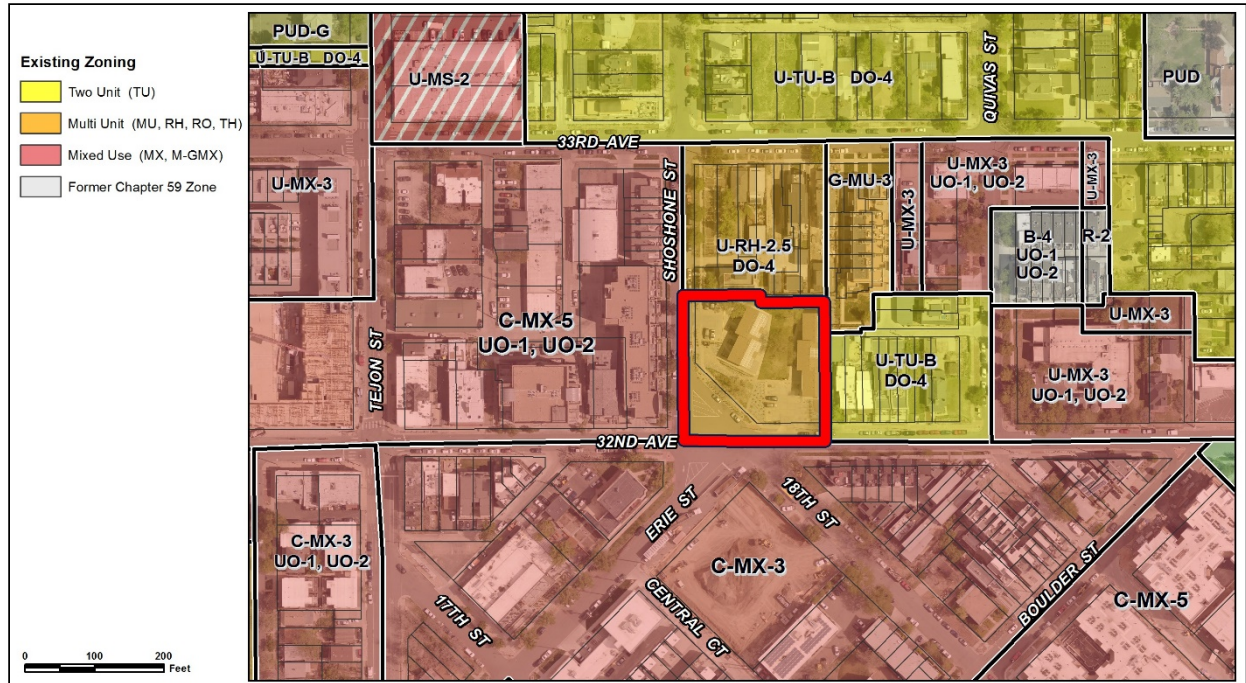
The subject property is in the Highland neighborhood, which is primarily composed of single-unit, two-unit, and multi-unit residential buildings with commercial and mixed-use buildings scattered throughout the area, including on the south side of 33rd Avenue between Shoshone Street and Tejon Street and on

Erie Street between 17th Street and 18th Street. Hirshorn Park is two blocks to the south, and Highland Gateway Park and Saint Patrick’s Park are three blocks to the east. There is bus service on Tejon Street and on 32nd Avenue west of Tejon Street.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-RH-2.5 DO-4	Multi-unit residential	2 multi-unit residential buildings, 2 stories in height, large setback from Shoshone Street and 32 nd Avenue	Generally regular grid of streets interrupted to the south and east by I-25, and the Downtown angled street grid to the south. Block sizes and shapes are consistent and rectangular. Vehicle parking to the side or rear of buildings (alley access).
North	U-RH-2.5 DO-4	Two-unit residential, Multi-unit residential, Single-unit residential	One- to two-story houses in eclectic styles	
South	C-MX-3	Currently under construction	Currently under construction for a three-story, multi-unit residential building in the General building form	
East	U-TU-B DO-4	Single-unit residential	One- to two-story houses in eclectic styles	
West	C-MX-5, UO-1, UO-2	Multi-unit residential	Five-story residential building	

1. Existing Zoning



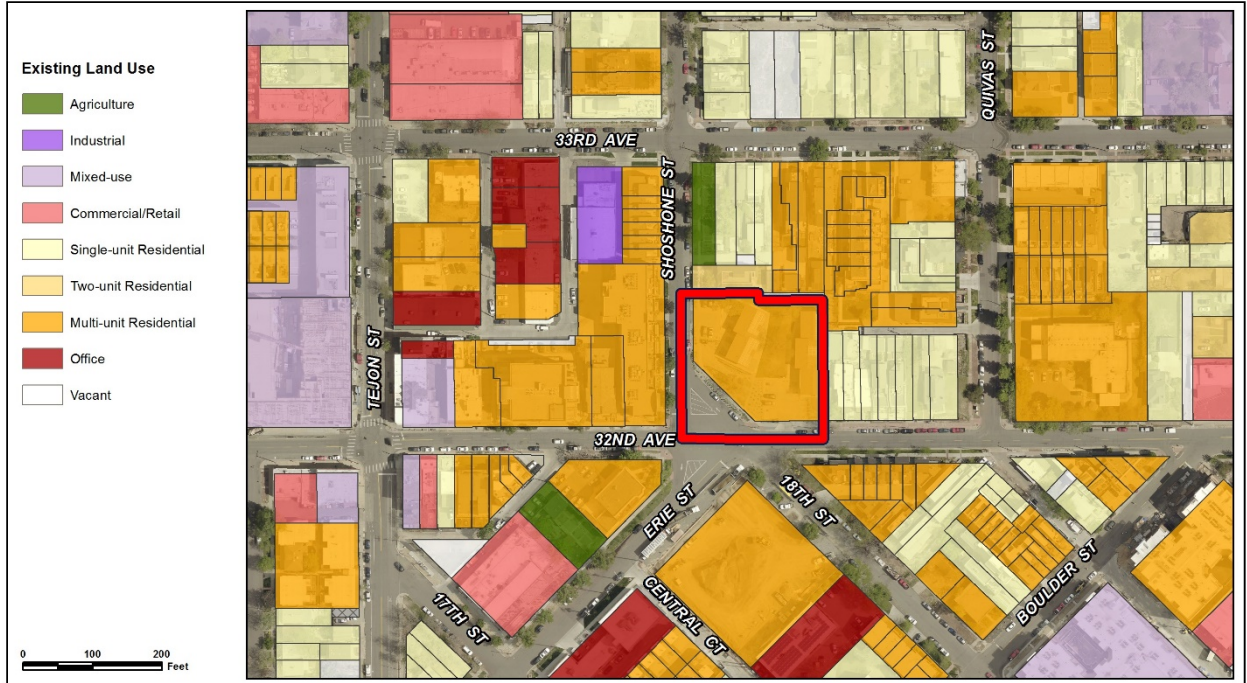
U-RH-2.5 is a row house district in the Urban neighborhood context. It allows row house, tandem house, duplex and urban house primary building forms up to a height of 2.5 stories and 35 feet. Structures are generally required to have 20-foot or block-sensitive primary street setbacks and five foot side interior and side street setbacks. Allowed uses are mostly limited to civic uses and single unit, two unit, and multi-unit dwellings with one parking space required per unit. For additional details of the zone district, see DZC Section 5.2.2.

The DO-4 design overlay allows for side setbacks reduced to three feet for the urban house, duplex, and tandem house building forms, and reduced to zero feet for the detached accessory dwelling unit building form. The proposed U-RX-3 zone district allows different building forms, so the DO-4 will no longer apply if the proposed rezoning is approved. See DZC Section 9.4.5.8.

2. View Planes

The subject property is within the Park at 51st Ave. and Zuni St. Central Business District View Plane. The allowable height under the view plane is over 80 feet on the subject property, which is greater than the allowed height in both the existing zone district and the proposed zone district.

3. Existing Land Use Map



4. Existing Building Form and Scale (Images from Google Street View)



Site – from 32nd Avenue at 18th Street/Shoshone Street



North – from Shoshone Street



East – from 32nd Avenue



South – from 32nd Avenue at 18th Street



West – from 32nd Avenue at Shoshone Street

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 Environmental Health: Approved – see comments.

Notes: The Denver Department of Public Health and Environment (DDPHE) is not aware of environmental concerns that would affect the rezoning; DDPHE concurs with the rezoning request.

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 – ROW - City Surveyor: Approved – no comments.

Development Services - Transportation: Approved – no response.

Development Services – Wastewater: Approved – no response.

Development Services – Project Coordination: Approved – see comments.

The U-RX-3 Shopfront Building Form has a 70% Build-To along the Primary Street (W 32nd Avenue), and 10'-foot Rear and Side Interior Setbacks. The 25'-foot Upper Story Setbacks above 27'-feet also apply at the Rear and Side Interior Zone Lot boundaries. Please schedule a Concept meeting to further discuss comments related to the Site Development process.

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	12/28/2018
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	2/4/2019
Planning Board public hearing; Planning Board voted unanimously (9-0) to recommend approval of this rezoning.	2/20/2019
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	2/15/2019
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward	3/5/2019
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 organizations (tentative)	3/25/2019
City Council Public Hearing (tentative)	4/15/2019

- Additional Public Outreach and Input
 - **Registered Neighborhood Organizations (RNOs)**
 - Staff received a letter in support from the Highland United Neighbors, Inc. Planning and Community Development Committee. The letter cited two years of the applicant working with the community to find a compromise between expanding affordable housing and minimizing impact to the neighborhood, including protecting views.
 - **Other Public Comment**
 As of the date of this staff report, eight letters were received expressing support for the application, and seven letters were received expressing opposition. The support was generally around providing additional, diverse housing opportunities for families, the scale and character, and the impact on traffic safety. The opposition was generally in response to an increase in allowed height, the speed of the design and rezoning processes, the impact on traffic and parking, the impact on the character of the

neighborhood, and the lack of a specific building design. See the attached correspondence for the full text of all of these public comments.

- **Applicant Outreach prior to submission of rezoning application**

The applicant conducted the following 12 meetings with the Highlands United Neighbors Inc. (HUNI) Planning and Community Development Committee (PCD) and District 1 Councilman Rafael Espinoza since February of 2017.

Date	Description	Contacts	Agenda
2/9/2017	Meeting City Council District 1	CM Espinoza & Staff	Preliminary discussions about DHA plans and rezoning
3/14/2017	HUNI PCD Meeting	Tim Boers and attendees	Preliminary discussions about DHA plans and rezoning
3/29/2018	Meeting City Council District 1	CM Espinoza & Staff	Update CM on DHA's plans
5/8/2018	HUNI PCD Meeting	Tim Boers and attendees	Update HUNI PCD on plans and presented a 5 story building
6/12/2018	HUNI PCD Meeting	Tim Boers and attendees	Updated HUNI PCD revised building to address concerns
7/10/2018	HUNI PCD Meeting	Tim Boers and attendees	Updated HUNI PCD revised building to address concerns
8/22/2018	Design Charrette	HUNI PCD Members	Engaged with HUNI PCD members to discuss and explore potential solutions
9/7/2018	DHA send another iteration to PCD	Tim Boers and attendees	Updated drawings and zoning waivers to HUNI PCD
12/6/2018	DHA Meeting with City Council District 1	CM Espinoza	DHA staff, architects and CM Espinoza worked on fitting unit mix into a 3.5 story building
12/11/2018	HUNI PCD Meeting	HUNI PCD, CM Espinoza	CM Espinoza presented a building to HUNI PCD with 1/2 3 story, 1/2 4 story
12/17/2018	Meeting City Council District 1	CM Espinoza, Ryan Tobin (DHA Staff)	Discussions of possibly fitting building into 3 stories
1/8/2019	HUNI PCD Meeting	HUNI PCD, CM Espinoza	Update on rezoning application and discussion of U-RX-3

- **Planning Board**

Planning Board voted unanimously (9-0) to recommend approval of this rezoning. One member of the public spoke to read his letter of opposition, which is included in the letters listed above and attached.

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)
- Highland Neighborhood Plan (1986)

Denver Comprehensive Plan 2000

The proposal is consistent with many Denver Comprehensive Plan strategies, 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)
- Environmental Sustainability Strategy 4-A- *Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools are accessible by multiple forms of transportation, providing opportunities for people to live where they work* (p. 41)
- Land Use Strategy 1-H - *Encourage development of housing that meets the increasingly diverse needs of Denver’s present and future residents* (p. 58)
- 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)
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.* (p. 78)
- Denver's Legacies Strategy 3-A- *Identify areas in which increased density and new uses are desirable and can be accommodated* (p. 99)
- Housing Strategy 6-B: *Continue to support mixed-income housing development that includes affordable rental and for-purchase housing for lower-income, entry-level and service employees, especially in Downtown and along transit lines* (p. 117)
- Economic Activity Strategy 1-H: *Support a variety of housing opportunities for Denver’s current and future workforce. Housing opportunities throughout Denver should be expanded —*

especially in the Downtown core and near employment centers — to accommodate people and families of all incomes. (p. 131)

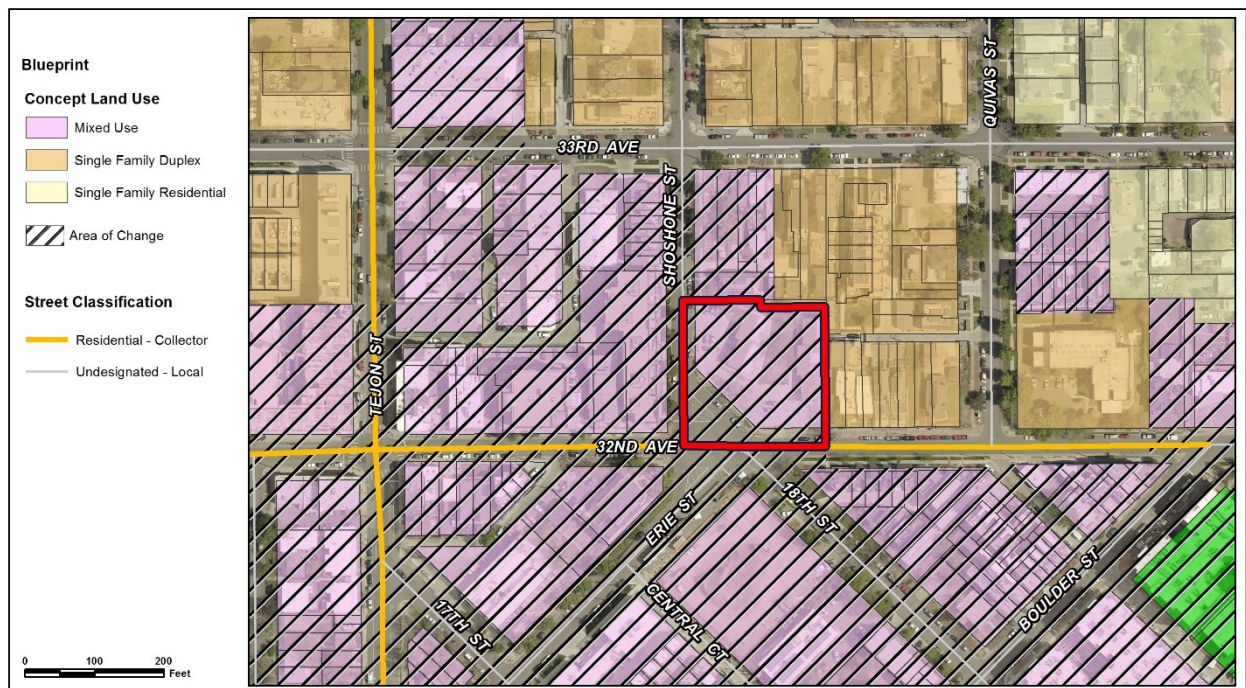
- Neighborhoods Strategy 1-E - *Allow, and in some places encourage, a diverse mix of housing types and affordable units (p. 150)*
- Neighborhoods Strategy 1-F - *Invest in neighborhoods to help meet citywide goals and objectives for a range of housing types and prices (p. 150)*

The proposed map amendment is consistent with Comprehensive Plan 2000 as it would facilitate redevelopment at a higher density, including a mix of housing types, in a mixed-use area that has access to transit, parks, and other amenities and is close to the downtown core.

Blueprint Denver

According to the 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of Mixed Use and is in an Area of Change.

Future Land Use



Blueprint Denver defines Mixed Use as areas that “have a sizable employment base as well as housing. Intensity is higher in mixed-use areas than in other residential areas. Land uses are not necessarily mixed in each building or development or even within each block. But within the neighborhood, residential and non-residential uses are within walking distance of one another. The proportion of residential to commercial uses varies considerably from one mixed-use district to another” (p. 41) The mix of uses should include “light industry, office, retail & entertainment uses mixed with residential – horizontal & vertical mix” (p. 65).

The proposed U-RX-3 zone district would allow a mix of uses that are consistent with this Future Land Use designation while emphasizing residential uses to reflect the surrounding buildings and character.

Area of Change

As noted, the site is in an Area of Change. In general, “The goal for Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (p. 127). Additionally, displacement is a concern in Areas of Change, and regulations should “encourage the retention of low-income residents” (p. 127). Blueprint Denver provides additional specific guidance for the Jefferson Park-Highland mixed-use neighborhood: “Urban apartments mixed with pockets of retail with housing above will be one type of redevelopment along collectors and arterials. Bordering these mixed-use streets will be townhouses and higher density residential buildings” (p. 137). One of the guiding principles for Areas of Change is to “transition to adjacent areas, especially Areas of Stability” (p. 142).

The rezoning application is consistent with the Blueprint Denver Area of Change recommendations. This site has access to multiple bus transit lines and is close to the downtown core, and it is consistent with the direction for sites along collector streets. The proposed zone district, with residential mixed use and a three-story height limit, provides a transition from the surrounding Mixed Use, Area of Change to the south, west, and northwest – where higher building heights are allowed – to the Single Family Duplex, Area of Stability to the east and northeast – where lower building heights are allowed.

Street Classifications

Blueprint Denver classifies 32nd Avenue as a Residential Collector street. According to Blueprint Denver, “collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas” (p. 51) Residential Collector streets “are designed to emphasize walking, bicycling and land access over mobility” (p. 55).

Blueprint Denver classifies Shoshone Street as an Undesignated Local street. “The design features of local streets are influenced less by traffic volumes and are 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).

The U-RX-3 zone district is intended for areas served by local or collector streets. Therefore the proposed rezoning to U-RX-3 is consistent with the Blueprint Denver Street Classifications as it would allow uses and intensity appropriate for this particular location.

Highland Neighborhood Plan

The Highland Neighborhood Plan was adopted in 1986. The plan includes general recommendations for the entire Highland neighborhood and more specific recommendations by subarea. As stated in the plan, “the overall vision for Highland is to create a stable low density residential neighborhood which offers a variety of housing opportunities for low, moderate and middle income residents. Housing would be available in a balanced mix of types and costs which would enhance the existing socio-economic mix of people living in the neighborhood” (pg. 5). General recommendations include “increase neighborhood

employment opportunities” (p. 6b), “creating more housing opportunities” (pg. 10), “encourage a mixture of residential types and costs as a part of new development” (p. 11), “improve and stabilize the condition of housing in Highland” (p. 15), and “encourage a variety of residential mixed use projects” (p. 16). The plan also recommends that infill development “should be compatible in character and materials and provide appropriate buffering to the surrounding properties; proposed uses should be low traffic generators; proposed uses should not create parking, noise, or pollution problems; and examples of acceptable uses are senior citizen housing, mom and pop shops, and low density multi-family housing” (p. 14).

The subject property also falls within Subarea 13 of the plan. Recommendations for Subarea 13 include to “improve and stabilize the residential areas” (p. 46), and specifically to “improve the housing condition of both single family and multi-family units” and to “target both city, state and federal rehabilitation resources” (p. 47). While the proposed height and density limits are mapped to be what is allowed in the Former Chapter 59 R-2 zone district, the diagram flags this particular area with the caveat “except when project meets neighborhood goals” (p. 12b).

While the density allowed by U-RX-3 is higher than what would be allowed by R-2, the rezoning is consistent with neighborhood goals listed above. The residential mixed use districts allow limited, compatible commercial uses that provide neighborhood-serving retail and create job opportunities while continuing to emphasize residential uses that make up the neighborhood pattern. The three-story building height enables additional residential units to meet the plan’s housing goals while remaining at a compatible scale. The additional setbacks and stepbacks adjacent to Protected Districts creates eases the transition to low-intensity residential. Therefore, this rezoning is consistent with the recommendations of the Highland Neighborhood Plan.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-RX-3 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed map amendment would further the public health, safety, and general welfare of the City through implementation of adopted plans by responding to changes in the general character of the area and by facilitating additional density in appropriate locations, including housing opportunities and building forms that enhance the pedestrian environment and walkability of this area. The proposed rezoning would facilitate increased housing density and a mix of uses, which have been linked to increased physical activity,¹ decreased obesity,² and decreased driving.³

¹ Ewing, R., and R. Cervero. 2010. "Travel and the Built Environment: A Meta-Analysis." *Journal of the American Planning Association* 76 (3): 265-94

² Ewing, R., T. Schmid, R. Killingsworth, A. Zlot, and S. Raudenbush. 2003. "Relationship between Urban Sprawl and Physical Activity, Obesity, and Morbidity." *American Journal of Health Promotion* 18: 47-57.

³ Frumkin, Frank, and Jackson 2004; Fran et al. 2006; Ewing et al. 2008; Stone 2008.

4. Justifying Circumstance

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 change may include: (a.) Changed or changing conditions in a particular area, or in the city generally.”

There has been significant redevelopment in the Highland neighborhood in the last several years, which has resulted in increases in density, prices, vehicle traffic, amenities. Examples of this kind of redevelopment in the immediate vicinity include restaurants (Avanti opened July 2015, Recess Beer Garden opened July 2015, Postino opened August 2015, and others) which have created walkable destinations for dining. Businesses (C3 Bike Shop opened 2013, Alchemy 365 Gym opened September 2018, and Kshok Distribution opened May 2015) provide opportunity for shopping, employment and activity close by. Finally, market-rate apartment development has come to the neighborhood with Studio Lohi (May 2015), Line 28 (November 2017) and Centric (2015) and others. This development and the simultaneous increase in housing costs has created additional need for housing opportunities, and particularly affordable housing, that would be allowed in the U-RX-3 zone district. Therefore the proposed map amendment is justified to recognize the changed character of the area.

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

The requested U-RX-3 zone district is within the Urban Neighborhood Context, which is primarily characterized by single-unit and two-unit residential uses with embedded, small-scale, multi-unit residential uses and commercial areas. The street, block, and access patterns in this context provide a regular pattern of block shapes with a consistent presence of alleys (DZC Division 5.1). The current zone district, U-RH-2.5 DO-4, is also within the Urban Neighborhood Context, as are the parcels to the north and to the east of the subject property. The proposed rezoning to U-RX-3 is consistent with the neighborhood context description.

Residential Mixed Use Districts are “intended to promote safe, active, and pedestrian- scaled, diverse areas through the use of building forms that clearly define and activate the public realm. Residential Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and to improve the transition between commercial development and adjacent residential neighborhoods. Compared to the Mixed Use districts, the Residential Mixed Use districts are primarily intended to accommodate residential uses. Commercial uses are secondary to the primary residential use of the district, and they provide neighborhood-scaled shops and offices for residents to conveniently access goods and services within walking distance. Buildings in a Residential Mixed Use district may have commercial uses, but upper stories are reserved exclusively for housing or lodging accommodation uses.” (DZC Section 5.2.4.1). The proposed amendment is consistent with the general purpose of Residential Mixed Use zone districts as it would facilitate predominantly residential uses and convenient access to small-scale commercial uses as an appropriate transition from larger scale residential and offices uses to the west and south, respectively, to the lower-scale residential uses to the north and east.

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The proposed U-RX-3 zone district is specifically intended for residentially-dominated areas served primarily by local or collector streets (DZC Section 5.2.4.2). The request is consistent with the specific intent of U-RX-3 with the adjacent collector (32nd Avenue) and local street (Shoshone Street) and the adjacent building heights and entitlements.

Attachments

1. Application
2. Public comment letters