



**TO:** Denver City Council  
**FROM:** Francisca Penafiel Vial, Associate City Planner  
**DATE:** August 10, 2020  
**RE:** Official Zoning Map Amendment Application #2019I-00115

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00115.

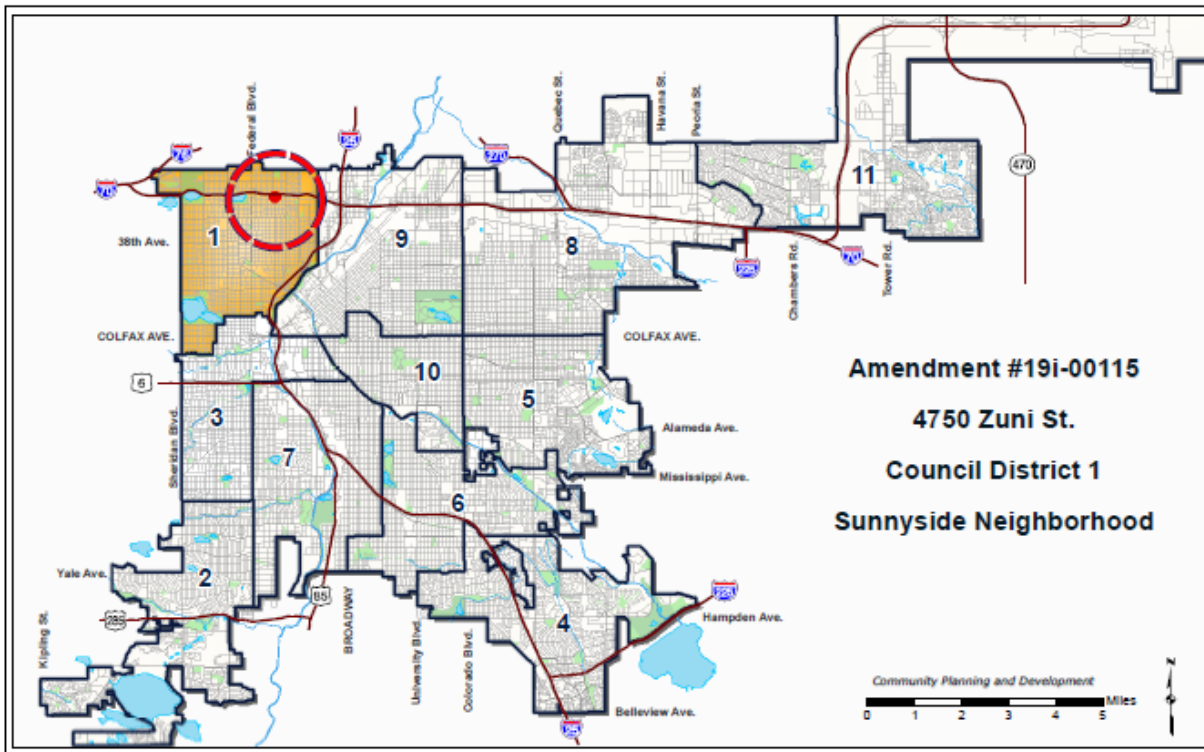
### Request for Rezoning

Address: 4750 Zuni St  
Neighborhood/Council District: Sunnyside / Council District 1  
RNOs: Northeast Denver Friends and Neighbors (NEDFANS)  
Sunnyside United Neighbors, Inc. (SUNI)  
Inter-Neighborhood Cooperation (INC)  
Area of Property: 7,720 square feet or 0.17 acres  
Current Zoning: U-SU-C  
Proposed Zoning: U-SU-C1  
Property Owner(s): Matthew Fadel and Jessica Kunevicius

### Summary of Rezoning Request

- The subject property contains a single-unit built in 1948 and is located north of W 47<sup>th</sup> Avenue.
- The property owner is proposing to rezone the property to build a new accessory dwelling unit in the rear of the property.
- The proposed **U-SU-C1**, Urban, **Single-Unit, C1** (5,500 square feet minimum zone lot size allowing accessory dwelling units (ADUs)), zone district is intended for use in the Urban Neighborhood Context which is characterized by single-unit and two-unit uses. Small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas. Single-unit structures in the zone district are in the Urban House building form. The Urban House building form maximum height is 30 to 35 feet in the front 65% of the zone lot, 17 feet in the rear 35% of the zone lot and 24 feet for an ADU. Further details of the zone district can be found in Article 5 of the Denver Zoning Code.

### City Location

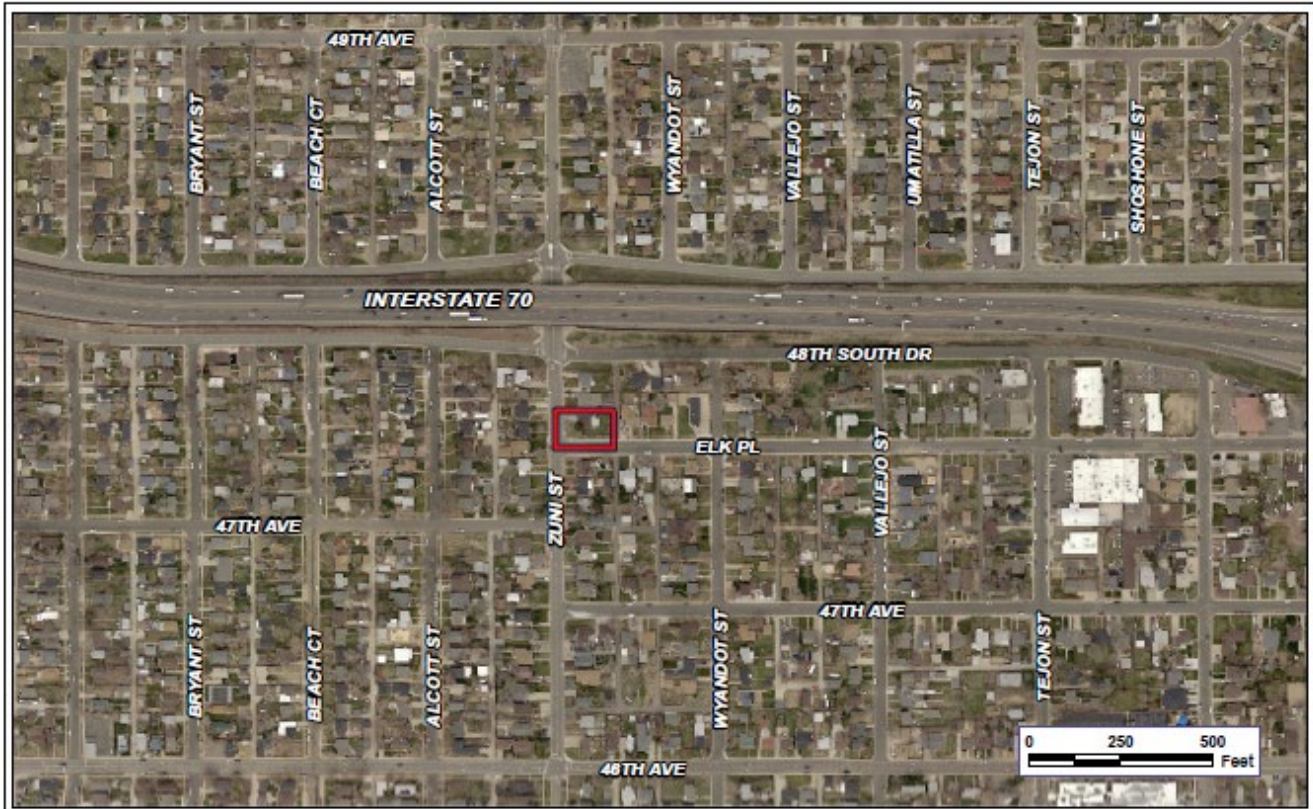


### Neighborhood Location - Sunnyside



## 1. Existing Context

### Aerial - 2019



Map Date: January 15, 2020

The subject property is on the northeast corner of Zuni Street and Elk Place and one block south of I-70. In the general vicinity are:

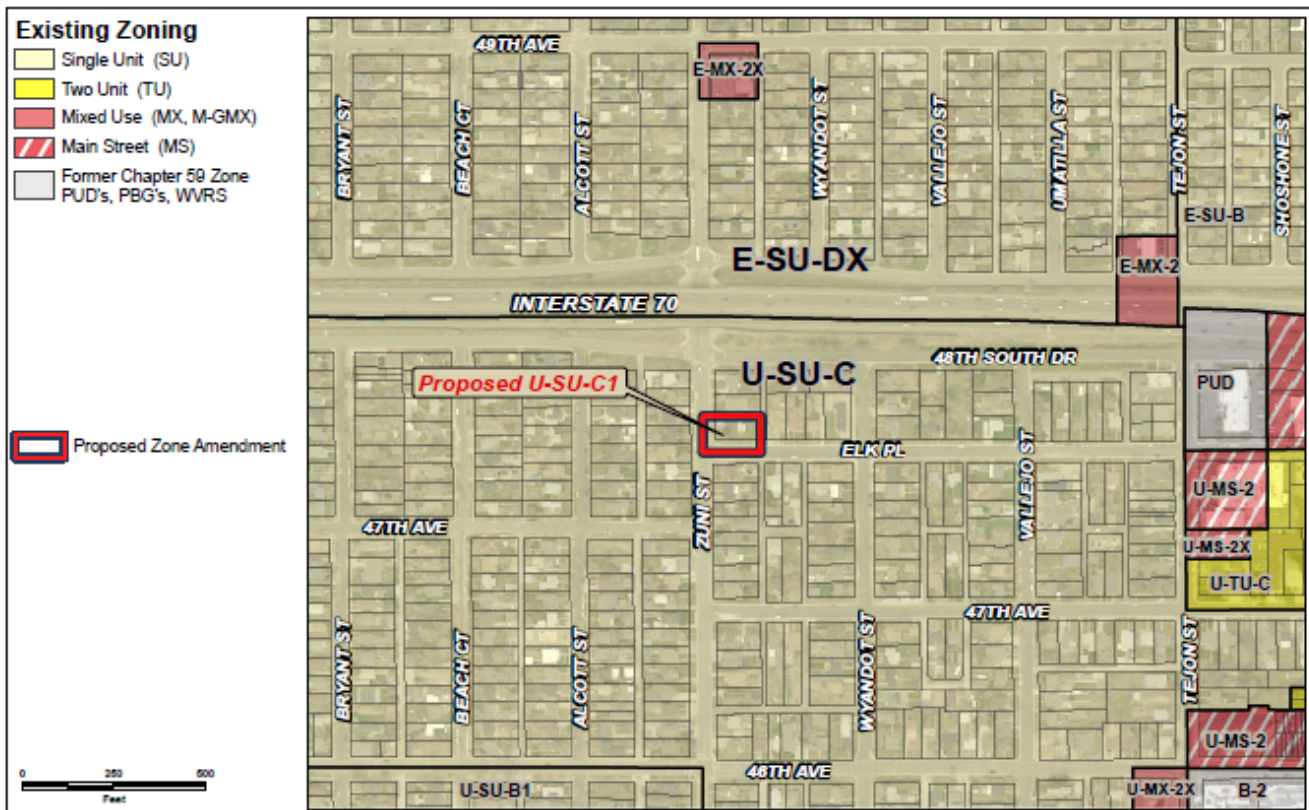
- Interstate 70 – 1 block north
- Pecos Park – 5 blocks to the east
- STRIVE Prep-Sunnyside Campus – 5 blocks east
- Beach Court Elementary School – 2 blocks north
- Zuni Park – 4 blocks north

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-SU-C	Single-unit Residential	1-story Residence	Block sizes and shapes are consistent and rectangular and shaped by a grid street pattern. Detached sidewalks with tree lawns and existing alleys. Garages and on-street vehicle parking.
North	U-SU-C	Single-unit Residential	1-story Residence	
South	U-SU-C	Single-unit Residential	1-story Residence	
East	U-SU-C	Single-unit Residential	1-story Residence	
West	U-SU-C	Single-Unit Residential	1-story Residence	

## 2. Existing Zoning

### Existing Zoning



Map Date: January 15, 2020

Urban (U) Neighborhood Context Zone District		Building Forms											
		Suburban House	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)	U-SU-C		■										

■ = Allowed \*See Section 1.2.3.5 for exceptions

The U-SU-C zone district is a single-unit zone district allowing only the Urban House primary building form on a minimum 5,500 square feet zone lot. 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 in the rear 35% of the zone lot.

### 3. Existing Land Use Map

#### Existing Land Use



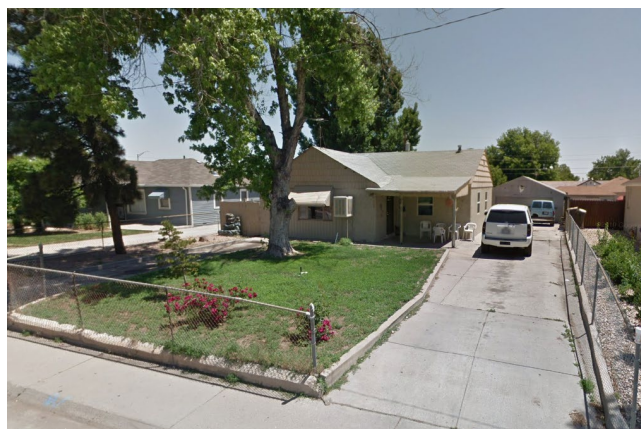
Map Date: January 15, 2020

Land Use Data Compiled 2018

#### 4. Existing Building Form and Scale



Subject Property



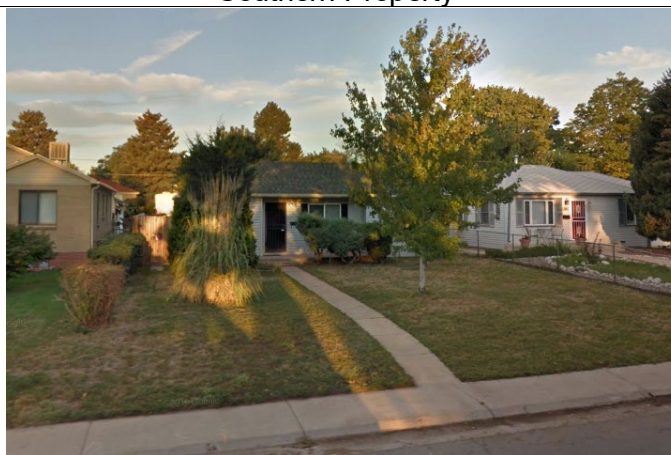
Northern Property



Southern Property



Eastern Property



Western Property

**Proposed Zoning**

The U-SU-C1 is a single unit zoning district that allows only an Urban House primary building form on zone lots measuring at least 5,500 square feet. A variety of residential and civic land uses are allowed. For the Detached Accessory Dwelling Unit building form the maximum height is 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° applies to the DADU building form. For this building form there is also an exemption from the 37.5% building coverage standard allowing the lesser of 50%, or 500 square feet. For zone lots greater than 6,000 square feet and up to 7,000 square feet the ADU building footprint may be a maximum of 864 square feet.

<b>Design Standards</b>	<b>U-SU-C (Existing)</b>	<b>U-SU-C1 (Proposed)</b>
Primary Building Forms Allowed	Urban House	Urban House
Height in Stories / Feet, Front 65% of Zone Lot, Urban House, (max.)	2.5 stories / 30 feet	2.5 stories / 30 feet
Height in Stories / Feet, Rear 35% of Zone Lot, Urban House, (max.)	1 story / 17 feet	1 story /17 feet
Height in Stories / Feet, Detached Accessory Dwelling Unit, (max.)	1.5 stories / 24 feet	1.5 stories / 24 feet
Zone Lot Size (Min.)	5,500 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 50 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

**Development Services-Fire:** - Approved – No Response

**Development Services – Project Coordination:** Approved – No Comments

**Development Services - Transportation:** Approve – 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. Please note the rear 'alley' is considered private. Connection to the Denver public sanitary main to serve the ADU will be in West Elk Place. 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.

**Parks and Recreation:** Approved – No Comments

**Public Health and Environment:** Approved – See comments below:

- Notes. DDPHE concurs with this request and is not aware of environmental concerns that should be considered for the rezoning.
- 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, DDPHE 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.
- If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.
- The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.
- 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: DDPHE performed a limited search for information known to DDPHE 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.



**Public Works – City Surveyor:** Approved - See comments below:

- A portion of the Northwest Quarter of Section 21, Township 3 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, State of Colorado.  
 The South 61.73 feet of the West 125 feet of Lot 3, Block 6, North Highlands, City and County of Denver, State of Colorado.

Containing an area of 0.177 Acres, (7716 Square Feet), More or Less.

**Public Review Process**

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>12/05/19</b>
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:	<b>02/03/20</b>
Planning Board public hearing:	<b>02/19/20</b>
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:	<b>02/19/20</b>
Land Use, Transportation and Infrastructure Committee of the City Council:	<b>03/03/20</b>
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:	<b>07/27/20</b>
City Council Public Hearing (postponed twice because of COVID 19 and protests)	<b>08/10/20</b>

- **Registered Neighborhood Organizations (RNOs)**
  - To date, staff has received no comment letters from Registered Neighborhood Organizations.
- **Other Public Comment**
  - To date, staff has received no other public comment letters.

## 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*
- *Blueprint Denver (2019)*
- *Sunnyside Neighborhood Plan (1992)*
- *Housing an Inclusive Denver (2018)*

### ***Denver Comprehensive Plan 2040***

The proposed rezoning is consistent with many of the *Denver Comprehensive Plan 2040* strategies, including:

U-SU-C1 allows for an additional dwelling unit that is accessory to the primary single-family 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 than the single-family homes that are found in much of the Sunnyside neighborhood. The proposed U-SU-C1 zone district is therefore consistent with the Equitable, Affordable and Inclusive Goal 2 Strategy:

- 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).

Similarly, the proposed U-SU-C1 zoning would allow for a broader variety of uses housing choices at an intensity consistent with the surrounding neighborhood and it is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy B – “Ensure neighborhoods offer a mix of housing types and services for a diverse population” (p. 34).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – “Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities” (p. 34).

The development is proposed in an area where infrastructure and services are already in place and is therefore consistent with the following Environmentally Resilient Goal 8, Strategy:

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

### ***Blueprint Denver (2019)***

*Blueprint Denver* identifies the subject property as within the Urban Neighborhood Context, part of a Low Residential place type and on the Growth Strategy map within “All other areas of the city.”

Blueprint Denver 2019 also recommends specific actions on rezoning requests to enable accessory dwelling units. Land Use & Built Form: Housing Policy 4 states, “Diversify housing choice through the expansion of accessory dwelling units throughout all residential areas.” According to *Blueprint Denver*, “Accessory dwelling units (ADUs) can add variety to the housing stock in low density residential neighborhoods without significantly changing the existing character.” The following two strategies apply to this rezoning application:

- 04.A. “Study and implement allowances for ADUs – including those attached and detached from the primary home – in all neighborhood contexts and residential zone districts”; and
- 04.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, especially where adjacent 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).

The subject application is rezoning an individual zone lot to enable an ADU in a residential area, so it is small in area and consistent with this adopted plan direction.

### **Future Neighborhood Context**

*Blueprint Denver* 2019, as well as the Denver Zoning Code, are organized by neighborhood contexts. A context-based approach sets guidelines for character-compatible development. On the *Blueprint Denver* context map the subject property is within an Urban Neighborhood Context. These areas contain small multi-unit and mixed-use areas typically embedded in 1-unit and 2-unit residential areas, with regular block patterns (p. 136). The Urban context has a high degree of walkability with good access to transit.

## Blueprint Denver Future Neighborhood Contexts

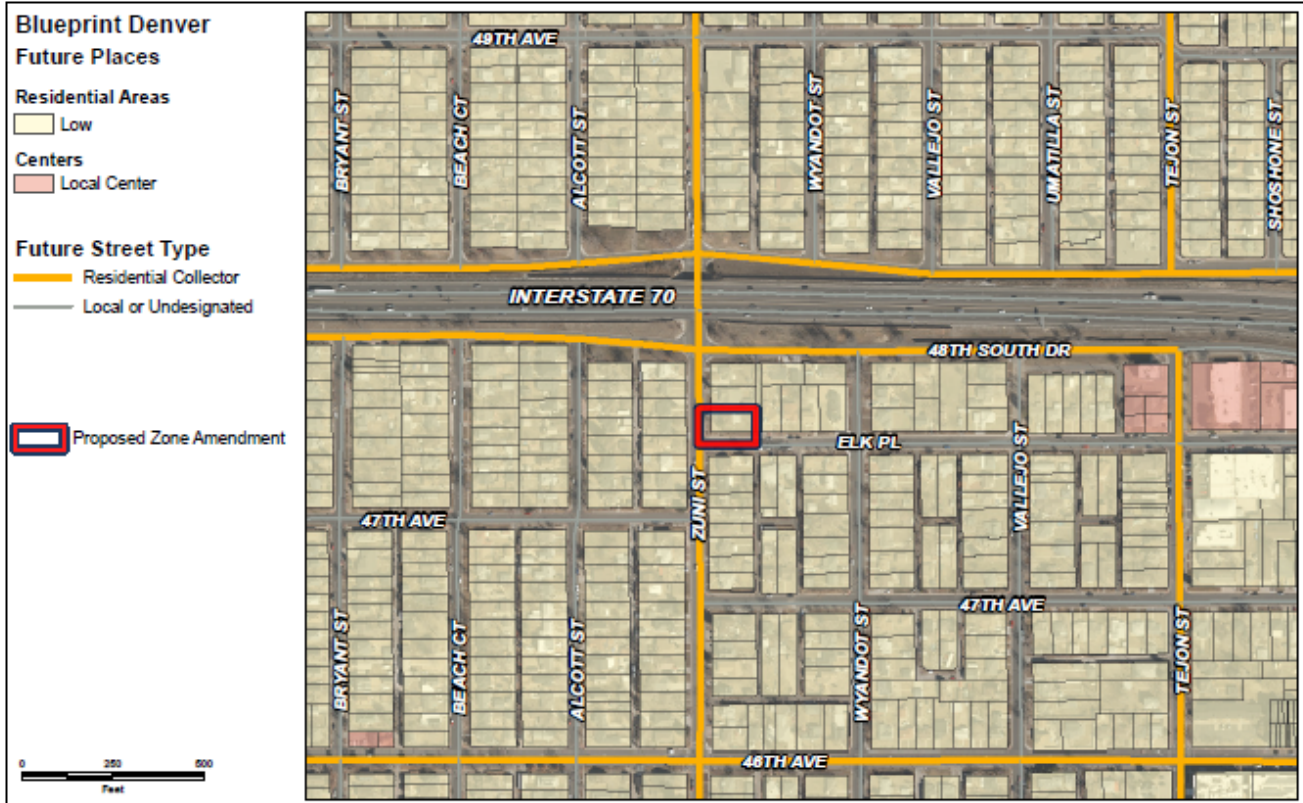


Map Date: January 15, 2020

The proposed U-SU-C1 zone district is an Urban zone district and is “intended to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context. The building form standards, design standards and uses work together to promote desirable residential areas. Lot sizes are consistent within an area and lot coverage is typically medium to high accommodating a consistent front and side yard. There are single-unit districts that allow accessory dwelling units in the rear yard, maintaining the single unit character at the street. These regulations are also intended to reinforce desired development patterns in existing neighborhoods while accommodating reinvestment” (p. 5.2-1 & 2). The zoning standards within the U-SU-C1 zone district allow a low-scale accessory dwelling unit structure that will be compatible with the existing residential area, and consistent with the Blueprint Denver urban context.

**Future Places**

**Blueprint Denver Future Places and Streets**



Map Date: January 15, 2020

On the Blueprint Denver Future Places map the subject property is within a Low Residential future place. Per Blueprint Denver, “Future places are an organizational system that describes the desired character of an area. Future places work together to promote complete neighborhoods for the residents living within or near each of them. Each place expresses itself differently depending on which neighborhood context it is located within.” Residential areas have a predominantly residential land use but “are supported by a variety of embedded uses needed for a complete neighborhood including schools, recreation and nodes of commercial/retail uses” (p. 141). Per *Blueprint Denver* Low Residential areas in the Urban Context are “Predominately single- and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible. Buildings are generally up to 2.5 stories. Vehicle access is typically from alleys” (p. 230). The U-SU-C1 zone district allows the Urban House building form with an accessory dwelling unit and a maximum height of 2.5 stories, or up to 30-35 feet, in the front 65% of the zone lot and 1 to 1.5 stories, or 17 to 24 feet in the rear 35% of the zone lot. These standards are in conformance with the residential low Urban place type.

### Street Types

Blueprint Denver 2019 classifies Zuni Street as a Residential Collector street. *Blueprint Denver* states, “Collector streets are in between a local street and an arterial street; they collect movement from local streets and convey it to arterial streets” (p. 155). Residential Collector streets like Zuni Street have “Primarily residential uses, but may include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modest setback” (p. 160). The proposed U-SU-C1 district allows primarily residential and civic uses and includes modest primary street setbacks. Therefore, it is consistent with the Urban Residential Collector street type.

### Growth Strategy

## Blueprint Denver Future Growth Strategy



Map Date: January 15, 2020

The subject property is on the Growth Strategy map within “All other areas of the city.” These types of places are anticipated to see around 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). “The remaining growth areas are smaller but still play a key role in meeting the diversity of new jobs and housing needed for our dynamic city. Higher intensity residential areas near downtown, mid-scale housing in innovation/flex districts and low-scale greenfield residential all contribute to Denver’s future housing stock. The remaining parts of Denver, 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). This site is located within the “remaining parts of

Denver.” The proposed map amendment to U-SU-C1 will allow low-intensity growth in a residential low place where it is in character with the existing area.

### **Sunnyside Neighborhood Plan 1992**

The Sunnyside Neighborhood Plan was adopted by City Council in 1992 and applies to the subject property. It identifies this area as residential. The goals of the plan refer to maintaining and stabilizing the residential character of Sunnyside while encouraging small scale shops and offices, particularly in the commercial zones along 44<sup>th</sup> avenue and Tejon Street, that will enhance and serve the neighborhood. It does not have any particular recommendations for the area where the subject property is located. But it says that the key to a safe and stable neighborhood will be in providing decent, affordable rental housing (p.46). Since the proposed zone district would continue to reinforce the residential character of the area it is consistent with the applicable recommendations of the Sunnyside Neighborhood Plan.

### **Housing an Inclusive Denver (2018)**

Adopted in 2018, the *Housing an Inclusive Denver* plan was not adopted as a supplement to the Comprehensive Plan but can be considered an “adopted plan” for this map amendment review criterion when relevant. The Plan includes citywide guidance for using Blueprint Denver to reduce regulatory barriers to development of accessory dwelling units; however, some of its recommendations can be applied to individual map amendments that propose allowing an accessory dwelling unit. In this case, the following plan goals are applicable:

**Legislative and Regulatory Priorities, Recommendation 2:** *“Expand and strengthen land-use regulations for affordable and mixed-income housing. Through Blueprint Denver and supplemental implementation actions such as zoning modifications, the City should support land-use regulations that incentivize affordable and mixed-use housing, including expanding the development of accessory dwelling units.”*

**Attainable Homeownership, Recommendation 1:** *“Promote programs that help households maintain their existing homes. The City and its partners should target existing homeowner rehabilitation programs to residents in vulnerable neighborhoods, promote financial literacy education for prospective and existing homeowners, and promote the development of accessory dwelling units as a wealth-building tool for low and moderate-income homeowners.”*

The proposed map amendment to U-SU-C1 is consistent with these *Housing an Inclusive Denver* recommendations because it will expand the availability and allow the development of an accessory dwelling unit at this location.

The proposed rezoning to U-SU-C1 of the subject property complies with these recommendations because the proposed addition of an accessory dwelling unit will add to the mix of residential housing types in the area, will add a low-scale development that is in character with the adjacent neighborhood and will conform with the neighborhood context, maximum building height and minimum zone lot size recommendations in the existing zoning.

## **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 of the City by allowing a moderate level of reinvestment in the area consistent with the desired character and by implementing the city's adopted land use plans. The proposed rezoning would also facilitate increased housing density near a mix of uses and transit, which have been linked to increased physical activity,<sup>1</sup> decreased obesity,<sup>2</sup> and decreased driving.<sup>3</sup>

### **4. Justifying Circumstance**

The application identifies the adoption of Blueprint Denver 2019 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: 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."*

The adoption of *Blueprint Denver 2019*, which specifically recommends the city diversify housing choice through the expansion of accessory dwelling units throughout all residential areas, justifies the rezoning request. Changed conditions is an appropriate justifying circumstance for the proposed rezoning.

### **5. Consistency with Neighborhoods Context Description, Zone District Purpose and Intent Statements**

The zoning standards in the proposed zone district are based upon the Urban Neighborhood context (DZC Division 5.1). This context is characterized by single-unit and two-unit uses. Small-scale multi-unit and commercial areas are embedded in residential areas. Single-unit structures in the zone district are the Urban House form, and multi-unit building forms in the context typically include the row house form embedded with other residential form types. The character of surrounding area and the recommended neighborhood context both make the proposed rezoning to U-SU-C1 consistent with the neighborhood context description.

The Urban residential zone districts are *"intended to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context"* (DZC Section 5.2.2.1.A). *"The building form standards, design standards and uses work together to promote desirable residential areas. The standards of the single unit districts accommodate the pattern of one to two and a half story urban house forms where the narrow part of the building orients to the street and access is from alley loaded garages. Lot sizes are generally consistent within the area and lot coverage is typically medium to high accommodating a consistent front and side yard. There are districts that allow accessory dwelling units in the rear yard, maintaining the single unit character at the street"* (DZC Section 5.2.2.1.B). *"These regulations are also intended to reinforce desired development patterns in existing neighborhoods while accommodating reinvestment"* (DZC Section 5.2.2.1.D). The application to rezone to U-SU-C1 in this

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

<sup>2</sup> 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.

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



location is consistent with the above general purpose statement because the rezoning allows lower scale single-unit and accessory dwelling units and building form standards consistent with the desired development pattern of the area.

The specific intent of the U-SU-C1 zone district is as follows, "U-SU-C1 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 pattern of 50 foot wide lots. This district requires the shallowest setbacks and allows the highest lot coverage in the Urban Neighborhood Context. 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.B). The subject lot is in an area where urban houses exist and are permitted with a typical lot pattern of lots at least 50 feet wide. 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
2. Legal Description