



**TO:** Denver City Council  
**FROM:** Andrew Webb, Principal City Planner  
**DATE:** November 7, 2022  
**RE:** Official Zoning Map Amendment Proposal #2021I-00263 rezoning multiple properties in West Highland from U-SU-A, U-SU-B and U-SU-C to U-SU-A1, U-SU-B1 and U-SU-C1

### Staff Report and Recommendation

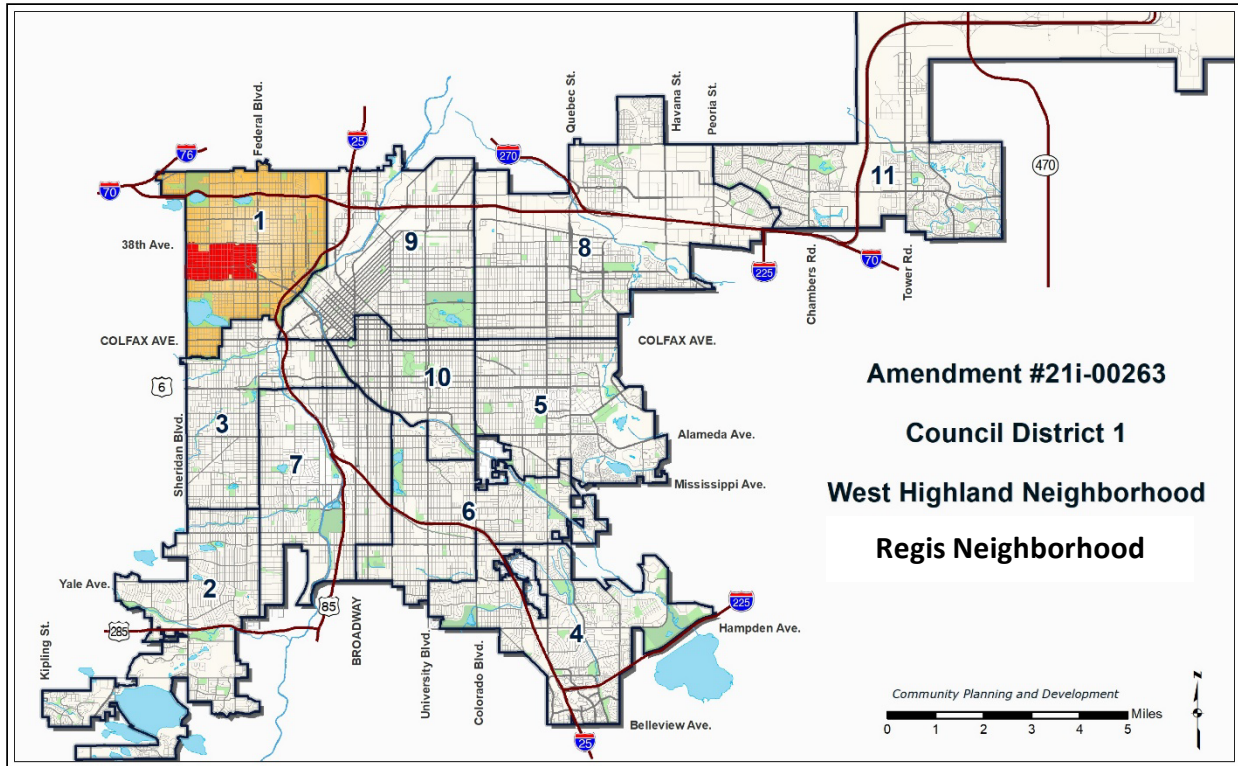
Based on the criteria for review in the Denver Zoning Code, Staff recommends the City Council approve application #2021I-00263.

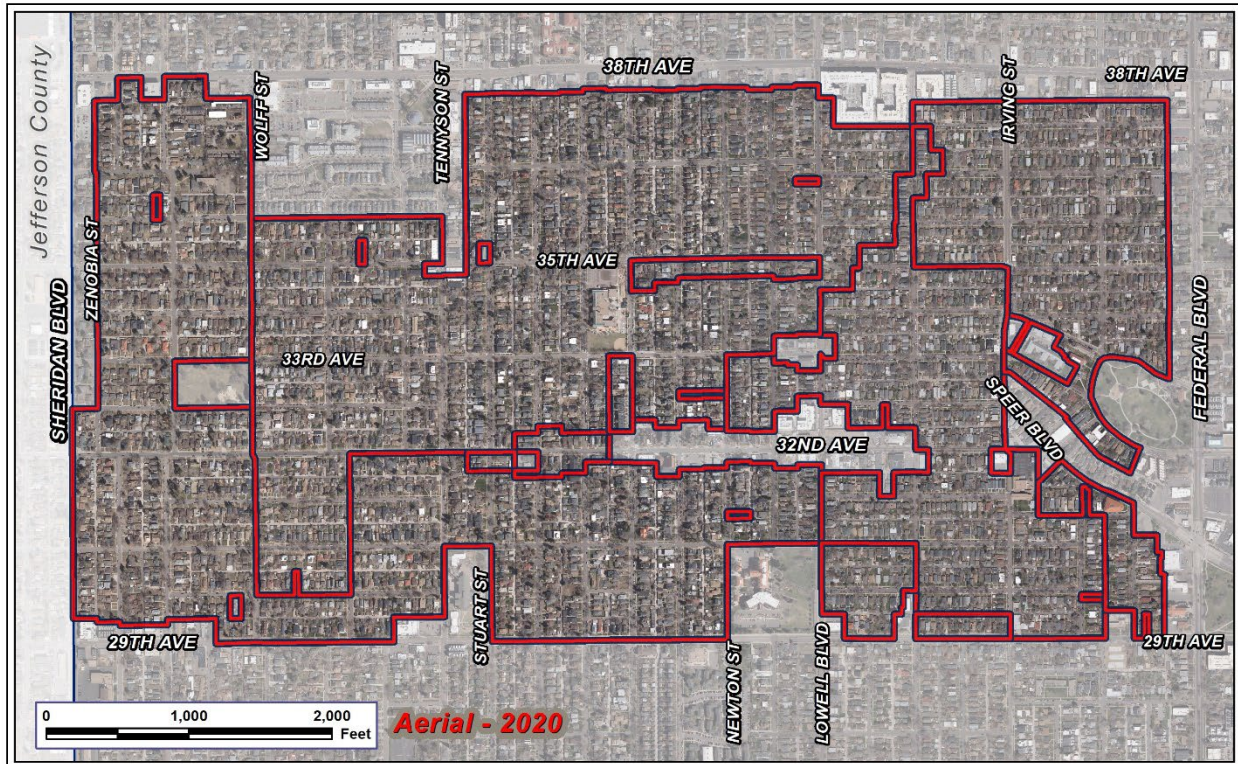
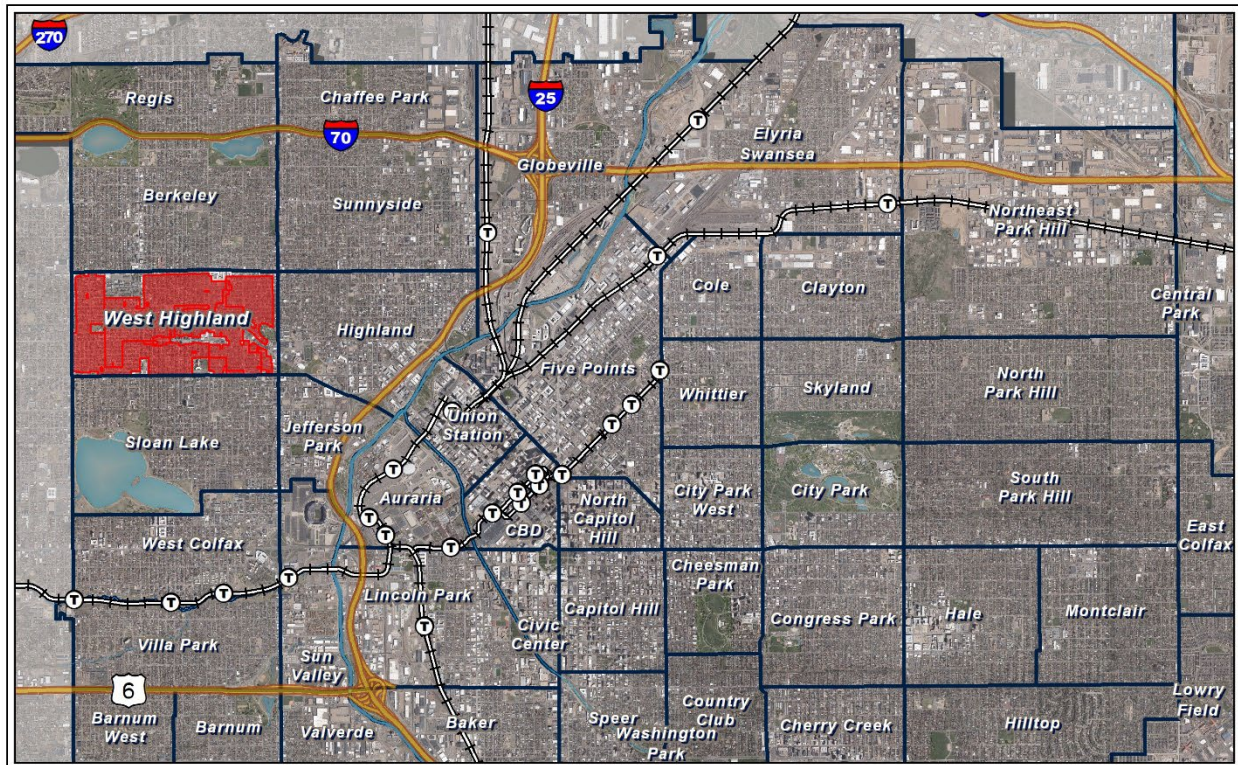
### Summary and Purpose

Councilmember Amanda Sandoval is sponsoring a map amendment to rezone the single-unit residential zone districts in the West Highland neighborhood to allow accessory dwelling units.

- The proposed rezoning includes the area of single-unit zoning west of North Federal Boulevard, south of West 38th Avenue, east of North Sheridan Boulevard and north of West 29<sup>th</sup> Avenue in the West Highland neighborhood.
- The proposed rezoning includes approximately 3,267 single unit residential properties, comprising an area of about 562 acres. The proposed map amendment would rezone these properties from U-SU-A, U-SU-B and U-SU-C to U-SU-A1, U-SU-B1 and U-SU-C1.
- The proposed zone districts are the same as the current district except that they allow the accessory dwelling unit use and detached accessory dwelling unit building form. The accessory dwelling unit use is allowed either within the primary structure or in a detached accessory dwelling unit structure. Further details of the requested zone districts can be found in the proposed zone district section of the staff report (below) and in Article 5 of the Denver Zoning Code (DZC).

## Existing Context





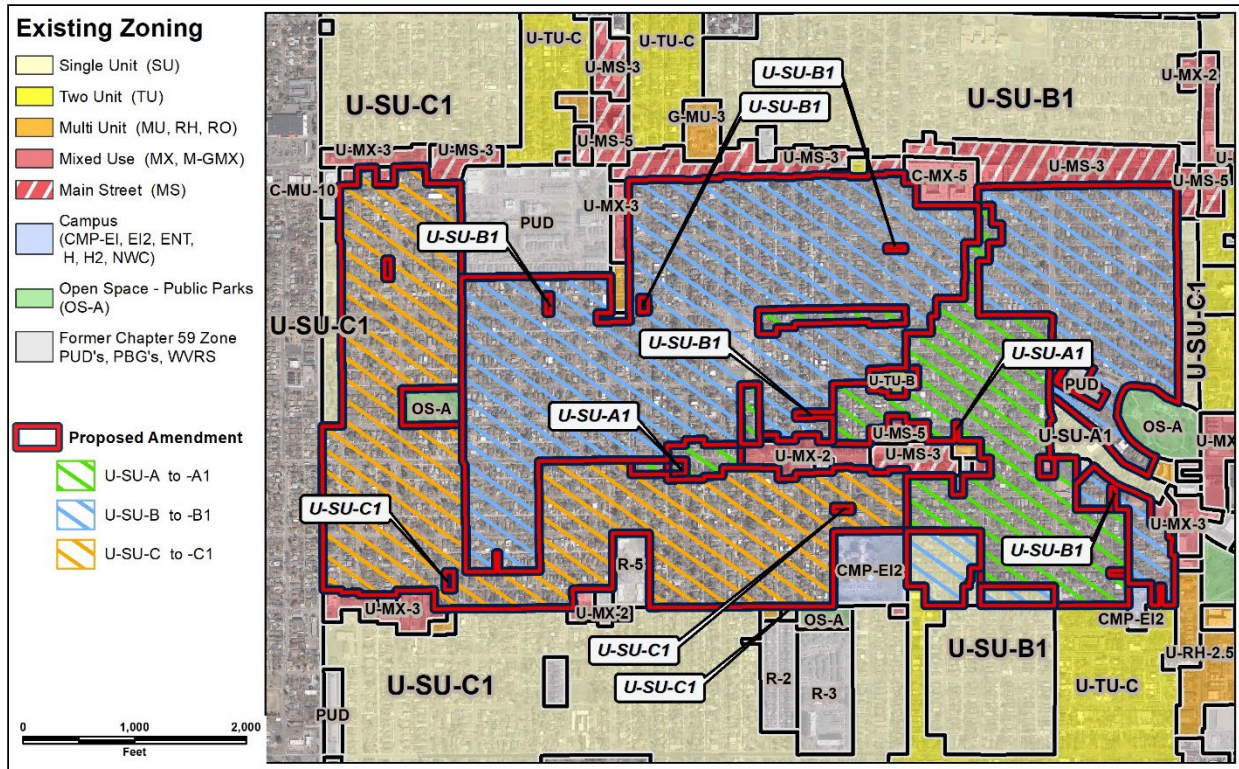
The subject properties are in the West Highland neighborhood. The subject properties are characterized primarily by single-unit residential uses abutting multi-unit residential and commercial uses on mixed use corridors like West 29<sup>th</sup> Avenue, West 32<sup>nd</sup> Avenue, North Sheridan Boulevard and North Federal Boulevard. To the north the subject area is bordered by the Berkeley Neighborhood, and to the east the subject area is bordered by the Highland neighborhood. It is bounded by the municipality of Wheat Ridge to the west and the Denver neighborhood of Sloan Lake to the south. There is a pattern of regular blocks surrounded by orthogonal streets within a grid.

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-A, U-SU-B and U-SU-C. Several properties contained within the rezoning area were previously rezoned to allow ADUs as individual applications.	Single-unit residential	1- and 2-story residential buildings with moderate setback	Generally regular grid of streets with mix of north/south and east/west facing blocks; Block sizes and shapes are consistent and rectangular. Vehicle parking to the side or rear of buildings (alley access).
North	U-SU-A, U-SU-B and U-SU-C; U-TU-C, U-MS-3 (along 38 <sup>th</sup> Avenue)	Commercial uses along 38 <sup>th</sup> , single and two unit uses to the north.	1- and 2-story residential buildings with moderate setback, 1- to 3-story commercial uses along 38 <sup>th</sup> Ave.	
South	Primarily U-SU-C1 (Sloan Lake neighborhood), U-MX-2 and U-RH-2.5 along 29 <sup>th</sup> Ave.	Primarily residential, some commercial and mixed use along 29 <sup>th</sup> Ave.	1- and 2-story residential buildings with moderate setbacks, 1- and 2-story commercial and mixed uses along 29 <sup>th</sup>	
East	U-TU-B, U-MX-3, G-MU-3 UO-3	Two- and multi-unit residential, mixed uses along Federal Blvd.	1- and 3-story mixed use structures, mix of residential and auto-oriented commercial uses along Federal Blvd.	
West	Wheat Ridge R-1 and R-3, single- and	Single- and multi-unit residential	1- to 3-story residential uses	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
	multi-unit districts			

### 1. Existing Zoning



The proposed rezoning area is currently zoned U-SU-A, U-SU-B and U-SU-C, which are single unit districts allowing urban houses with a minimum zone lot area of 3,000, 4,500 and 5,500 square feet, respectively. Typical lot widths range from 25 to 50 feet.

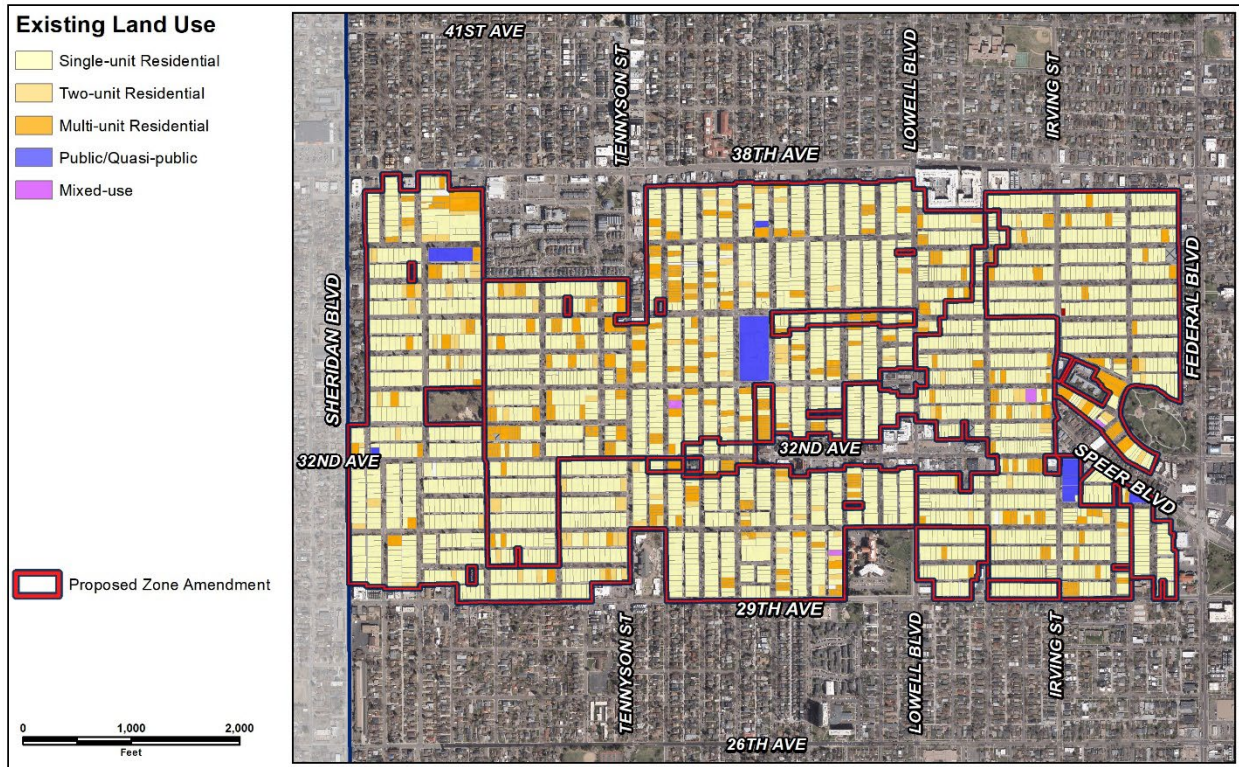
### 2. Historic Structures

The area proposed to be rezoned includes three historic districts: Packard's Hill, Wolff Place, Allen M. Ghost. It abuts but does not include the Tilden School for Teaching Health Historic District. Several individual Denver Landmarks can be found within the rezoning area, including the Edison School and John Brisben Walker House. Proposed new construction within historic districts or on properties containing a Landmark structure would be subject to the additional design review requirements of those districts.

### 3. Large Development Review

The applicability of the large development review process is defined by DZC Section 12.4.12.2. There is no specific development concept for this legislative map amendment proposal, no adopted plan recommends use of the LDR process for this proposal, no infrastructure network or system improvements are anticipated, and there is no existing general development plan that needs to be amended. Therefore, although the area of the rezoning is larger than 5 acres, large development review was found to be inapplicable.

#### 4. Existing Land Use Map

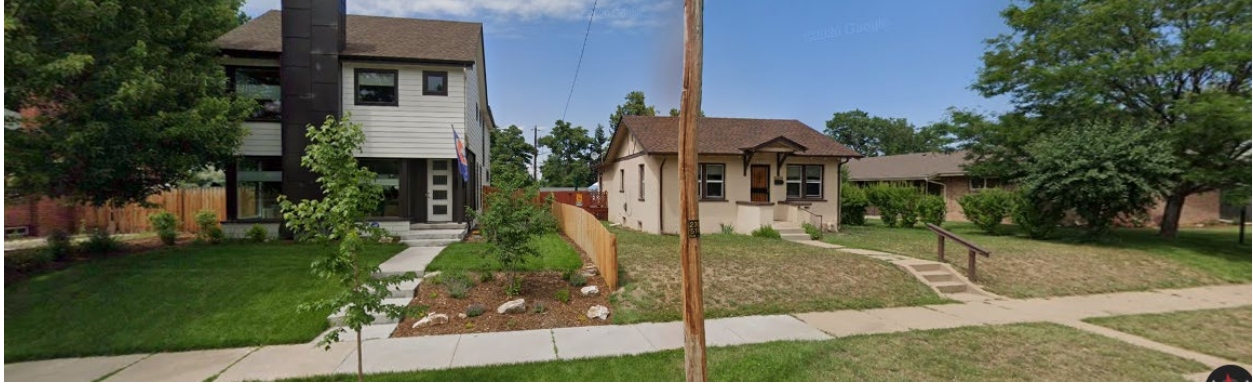


#### 5. Existing Building Form and Scale

All images are from Google Street View.



View facing north along West 32<sup>nd</sup> Avenue at North Wolff Street, within the rezoning area.



*View facing north on West 34<sup>th</sup> Avenue, near North Yates Street*



*View facing west on North Meade Street, just south of West 33<sup>rd</sup> Avenue*



*View facing west along North Stuart Street, just south of West 38<sup>th</sup> Avenue*





*View facing north along West 37<sup>th</sup> Avenue just west of North Federal Boulevard*

### **Proposed Zoning**

The proposed zone districts (U-SU-A1, U-SU-B1 and U-SU-C1) are single-unit residential districts allowing the Urban House building form with a maximum height of 30 to 35 feet and Accessory Dwelling Units with a maximum height of 24 feet. The minimum zone lot width for these districts range from 25 to 50 feet wide, and minimum zone lot area ranges from 3,000 to 5,500 square feet. Setbacks and lot coverage standards accommodate front and side yards similar to the existing U-SU-A, U-SU-C and U-SU-B zone districts. Further details of the zone districts can be found in Article 5 of the Denver Zoning Code (DZC).

The primary building forms allowed in the proposed zone districts are the same as those allowed in the existing zone districts.

### **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 comments.

**Denver Public Schools:** Approved – No response.

**Department of Public Health and Environment:** Approve Rezoning Only - Will require additional information at Site Plan Review. Denver Department of Public Health & Environment - Division of Environmental Quality (EQ) does not guarantee approval of any proposed development project at this site by providing a response to this Official Map Amendment Referral Agency Review Request. Future development is subject to existing land use controls and other environmental requirements in accordance with applicable local, state, and federal environmental regulations and statutes. EQ recommends the Property Owner conduct an environmental site assessment to determine the potential presence, nature, and extent of possible contamination on the site and to identify specific cleanup needs associated with future development. EQ may have additional information about localized

potential environmental concerns at the site. However, providing such information about a specific site is beyond the scope of these zoning application comments.

**Denver Parks and Recreation:** Approved – No comments.

**Public Works – R.O.W. - City Surveyor:** Approved with comments. Legal description updated per request.

**Development Services - Transportation:** Approved – No response.

**Development Services – Wastewater:** Approve – 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. 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.

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

- 1) Any specific property seeking to construct or establish an ADU use or structure on the property will need to receive appropriate Zoning and Building permits and comply with the building form standards for the zone lot. Single family homes and duplex structures are reviewed through the Residential Zoning Review team.
- 2) Given the large area of the rezoning, it may be that not every property in the zone district will be able to meet the building form standards to construct an ADU on the zone lot if desired.
- 3) Any ADUs used as a short-term rental will need to acquire appropriate zoning and licensing permits.

**Development Services – Fire Prevention:** Approved – No response.

## Public Review Process

	Date
Door Flyers	Dec. 2021
Public Survey	Dec. 2021 through May 2022
Community Town Halls to discuss proposal with neighborhood residents	1/19/22 and 1/29/22
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered	6/22/2022

neighborhood organizations, and property owners:	
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:	8/22/2022
Planning Board Public Hearing:	9/7/22 Unanimous recommendation of approval
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 (10) working days before the meeting:	9/3/22
Land Use, Transportation and Infrastructure Committee of the City Council:	9/13/22
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:	10/17/2022
City Council Public Hearing:	11/7/2022

- **Public Outreach and Input**

- **Registered Neighborhood Organizations (RNOs)**

As of the date of this staff report, no comments have been received from Registered Neighborhood Organizations.

- **General Public Comments**

**Written Comments:** As of the date of this staff report, CPD has received approximately 45 letters from residents indicating support for the proposed amendments, citing the need for new housing units in areas with existing neighborhood services and the potential of ADUs to add to the diversity of housing size and cost in the area. Staff has also received about 10 letters or written comments from residents indicating concerns about additional street parking demand. All comments received are included in the

attached comment record. The record includes eight copies of a letter sent by two residents who jointly own four properties in the area, highlighting their opposition to the proposed rezoning, primarily due to concerns that they were not properly notified.

- *Staff comment: beginning in June, 2022, three rounds of postcards were sent to all 3257 individual property owners in the West Highland neighborhood using property ownership information from the Denver Assessor's Office. Eighteen signs were posted along key neighborhood thoroughfares and entrance points on August 22, 2022 in advance of the Planning Board hearing. In response to a request from this stakeholder for more signs, staff posted 25 signs along key neighborhood thoroughfares and entrance points on October 17, 2022 in advance of the November 7 City Council hearing.*

**Online Survey:** City Council District 1 published an online survey in English and Spanish from December 2021 to May 2022 seeking residents' input. Of the 584 responses received, 420 said they supported the proposed rezoning to allow ADUs, 131 said they opposed it, and 33 said they were undecided.

## **Criteria for Review / Staff Evaluation**

The City Attorney's Office has determined this to be a legislative map amendment proposal. Therefore, the criteria for review of this legislative rezoning proposal are found in DZC, Sections 12.4.10.7 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

#### **1. Consistency with Adopted Plans**

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2040 (2019)*
- *Blueprint Denver (2019)*

### **Overview of Plan Consistency**

Several adopted plans, detailed below, recommend allowing accessory dwelling units (ADUs) as one tool in a broader strategy to diversify the types of housing that are available and provide affordable housing options. This rezoning, if approved, would allow ADUs throughout the West Highland neighborhood.

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

The proposed text amendment and rezoning are consistent with *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The map amendment enables ADUs in an entire neighborhood. ADUs can provide additional housing options, including for seniors and families, and they can provide residents more flexibility to remain in their houses. Therefore, the map amendment is consistent with the following Equitable, Affordable and Inclusive strategies:

- Equitable, Affordable and Inclusive Goal 2, Strategy A – *Create a greater mix of housing options in every neighborhood for all individuals and families* (p. 28).
- Equitable, Affordable and Inclusive Goal 2, Strategy D – *Increase the development of senior-friendly and family-friendly housing, including units with multiple bedrooms in multifamily developments* (p. 28).

Because ADUs are not currently allowed in the West Highland neighborhood (with the exception of the handful of properties that have previously been rezoned via individual applications), the map amendment would provide an additional housing type and is therefore consistent with the following Strong and Authentic Neighborhoods strategy:

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

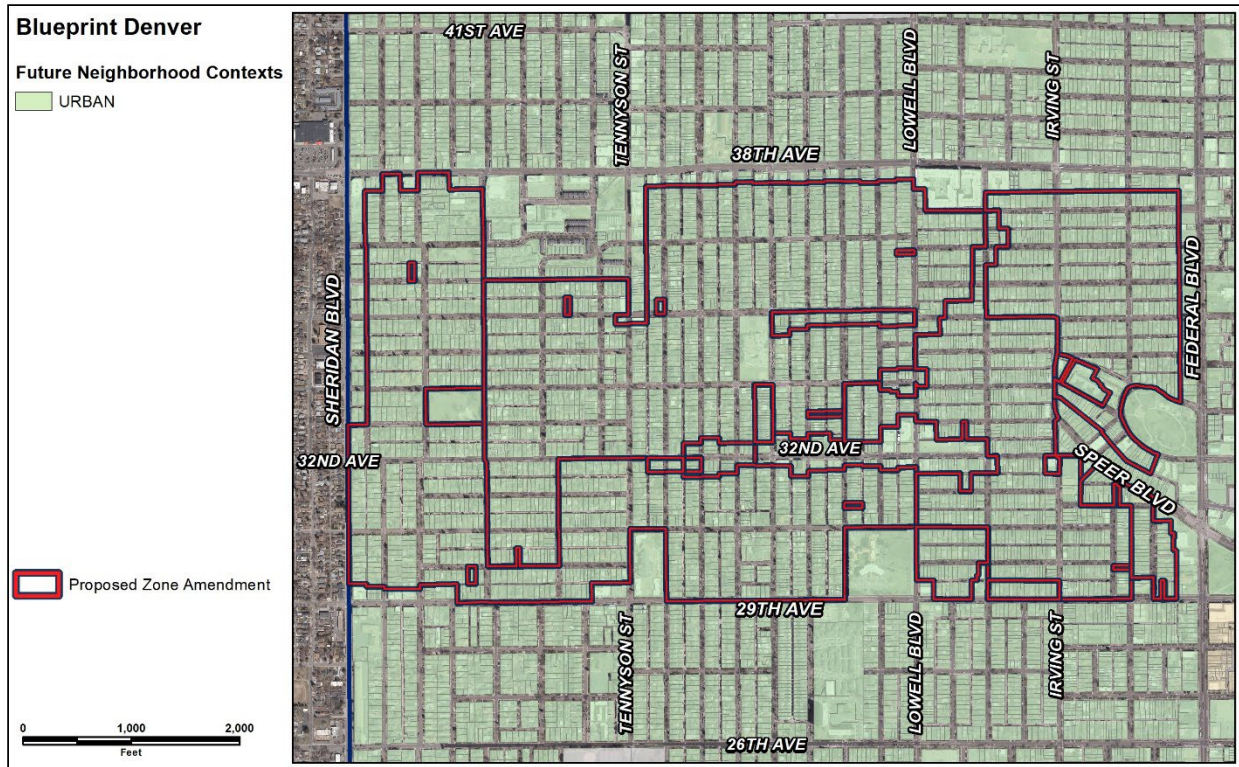
Similarly, the map amendment will allow additional housing units on lots with existing houses where infrastructure and services such as water, stormwater, and transit already exist. Therefore, the map amendment is consistent with the following Environmentally Resilient strategy:

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

### ***Blueprint Denver***

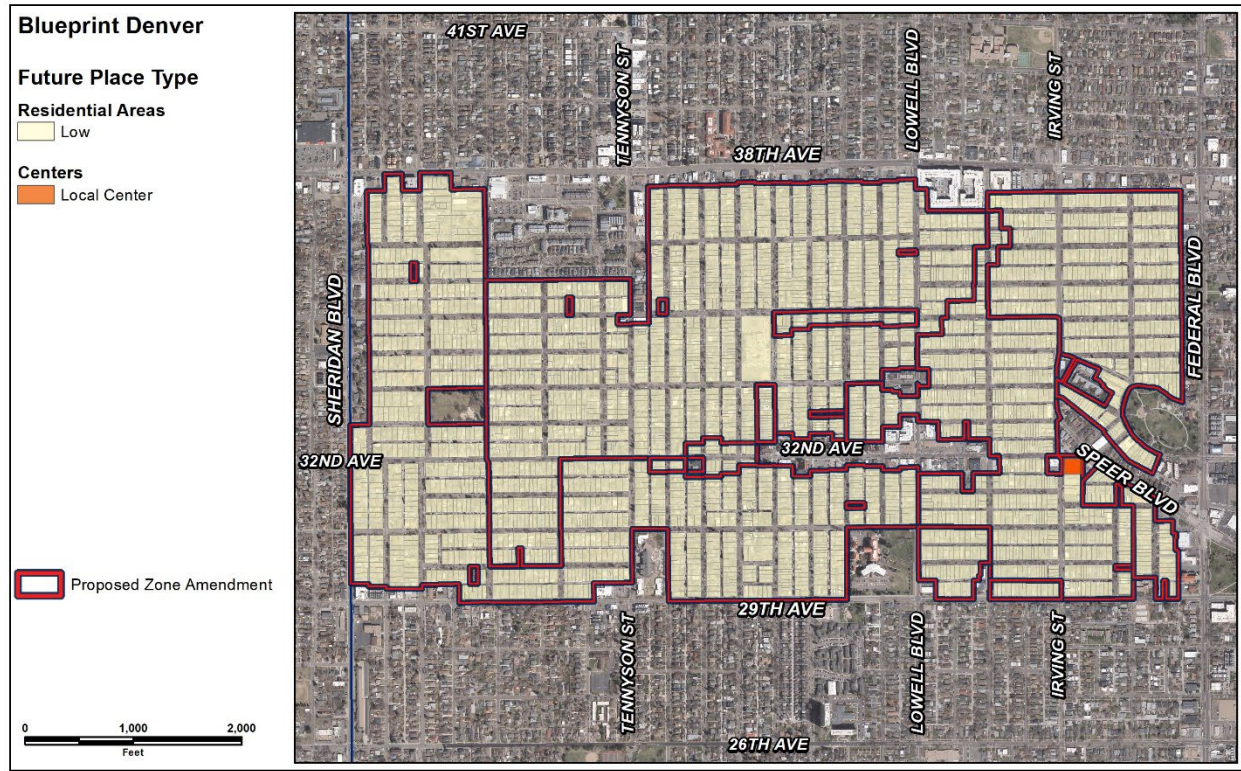
*Blueprint Denver* was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject properties as part of a Low Residential place within the Urban Neighborhood Context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

### **Blueprint Denver Future Neighborhood Context**



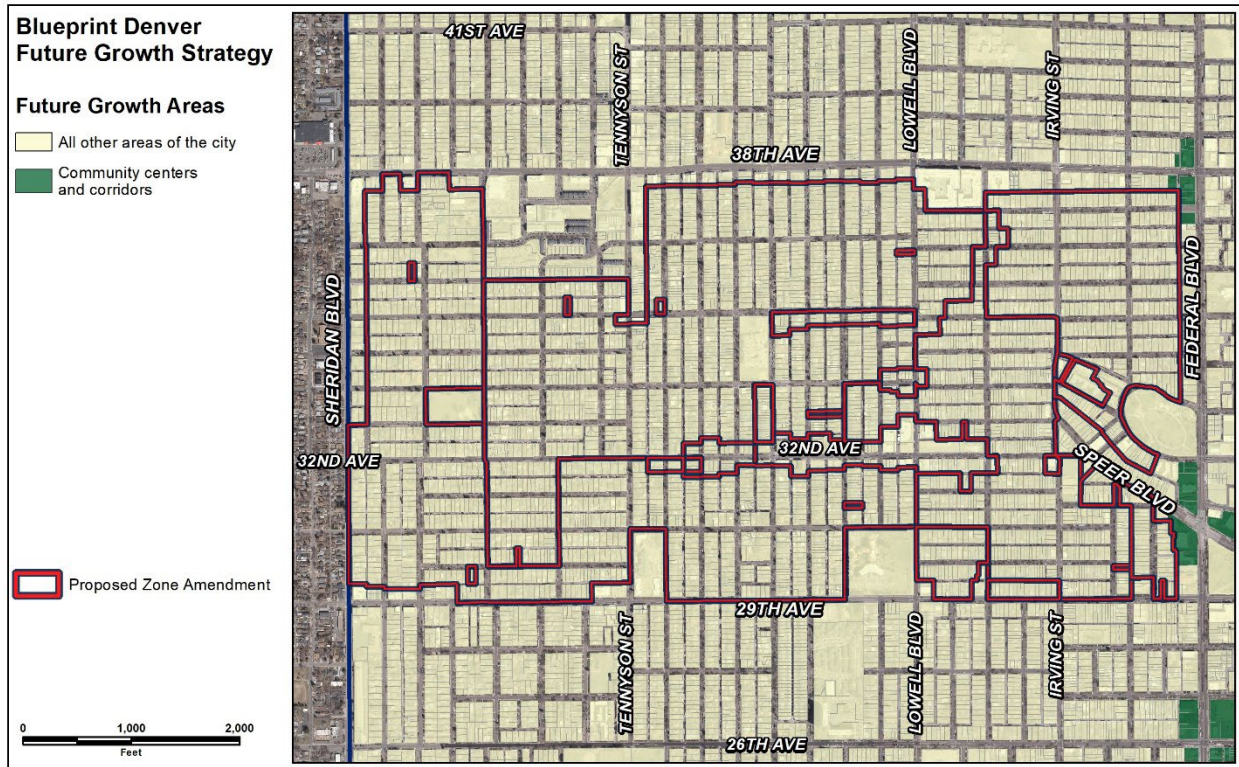
In Blueprint Denver, future neighborhood contexts are used to help understand differences between land use, built form, and mobility at a high scale, between neighborhoods. The subject properties are shown on the context map as Urban neighborhood context, the description of which is used to guide appropriate zone districts (p. 66). The Urban neighborhood context is described as containing “small multi-unit residential and low-intensity mixed-use buildings typically embedded in single-unit and two-unit residential areas” with grid block patterns and alley access (p. 222). U-SU-A1, U-SU-B1 and U-SU-C1 are zone districts within the Urban neighborhood context and is “intended to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context” and “the building form standards, design standards and uses work together to promote desirable residential areas” (DZC Section 5.2.2.1). The U-SU-A1, U-SU-B1 and U-SU-C1 districts are consistent with Blueprint Denver’s future neighborhood context of Urban because it will promote residential character by allowing a low-scale accessory dwelling unit that will be compatible with the existing residential area.

## Blueprint Denver Future Places



The subject properties in the West Highland neighborhood are 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 U-SU-A1, U-SU-B1 and U-SU-C1 zone districts are single-unit residential zone districts that allow for an additional dwelling unit accessory to an established single-unit home, which is consistent with the Low Residential future place type description. These districts allow the Urban House primary building form, which has a maximum height of 2.5 stories, also consistent with the future places map.

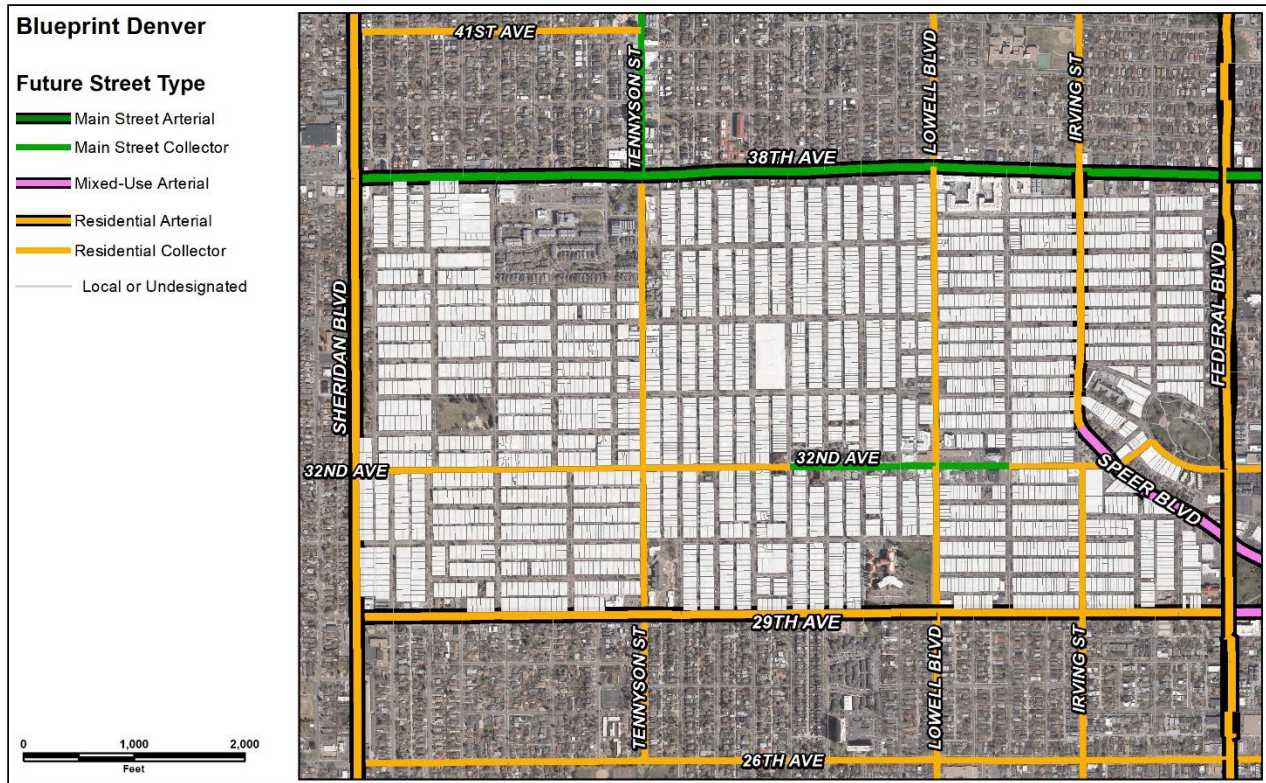
## Growth Strategy



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 properties are 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 contains “mostly residential areas with embedded local centers and corridors (that) take a smaller amount of growth intended to strengthen the existing character of our neighborhoods” (p. 49). The proposed U-SU-C1 zone district allowing an ADU is appropriate in this growth area as it will minimally contribute to development intensity in the neighborhood while maintaining the area’s single-family residential character.



## Blueprint Denver Street Types



Street types described in Blueprint Denver help inform the appropriate intensity of the adjacent development (p. 67). *Blueprint Denver* classifies West 29<sup>th</sup> Avenue, North Lowell Boulevard and North Tennyson Street as Residential Collectors where they pass through the West Highland Neighborhood. “Collector streets are in between a local street and an arterial street; they collect movement from local streets and convey it to arterial streets,” such as North Federal Boulevard to the east. (p.159). Parts of West 32<sup>nd</sup> Avenue are designated as Residential Arterials, while the area near the intersection with North Lowell Boulevard is designated as a Main Street Collector. North Sheridan Boulevard and North Federal Boulevard are designated as Residential Arterials where they abut and serve the West Highland Neighborhood. The remaining streets in the proposed rezoning are undesignated local streets, which are “most often characterized by residential uses [and] provide the lowest degree of through travel but the highest degree of property access” (p. 154).

U-SU-A1, U-SU-B1 and U-SU-C1 are residential districts within the Urban Neighborhood Context, which include regulations intended to “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.” (DZC Section 5.2.2.1.B). Therefore, the proposed map amendment will result in an intensity that is appropriate for the network of street types in the area.

### **Blueprint Denver Strategies**

*Blueprint Denver* includes additional recommendations that are relevant for this proposed map amendment.

#### **Land Use & Built Form, Housing, Policy 4:**

- This policy recommends "Diversify[ing] housing choice through the expansion of accessory dwelling units throughout all residential areas" (p. 84), which is consistent with the map amendment.
- The policy is aimed at a citywide approach to ADUs, and it includes several strategies for integrating accessory dwelling units, including using "an inclusive community input process to respond to unique considerations in different parts of the city," "expanding[ing] access to ADUs as a wealth-building tool for low- and moderate-income homeowners," and "identify[ing] strategies to reduce involuntary displacement – especially in areas that score high for Vulnerability to Displacement – in conjunction with expanding the allowance for ADUs" (p. 84). This legislative rezoning removes the burden on individual homeowners to rezone their own property.

#### **Land Use & Built Form, General, Policy 11:**

- This policy is to "Implement plan recommendations through city-led legislative rezonings and text amendments" (p. 79).
- **Strategy A** recommends "prioritiz[ing] larger-scale, legislative rezonings over site-by-site rezonings to implement plan recommendations and to achieve citywide goals, including equity goals" (p. 79). Given broad interest in rezoning to allow ADUs on single properties in West Highland, a legislative rezoning for the entire area is consistent with this strategy.
- **Strategy C** directs text amendments and city-led rezonings to utilize "a robust and inclusive community input process." A months-long public outreach process for this rezoning included two town-halls with recordings shared on Facebook, a survey available in English and Spanish that received 292 responses, a website with FAQs, and overview, and other ADU resources, and a mailer sent in English and Spanish to all residential properties in West Highland. Full details of the outreach and the input received are included in the attached rezoning proposal.

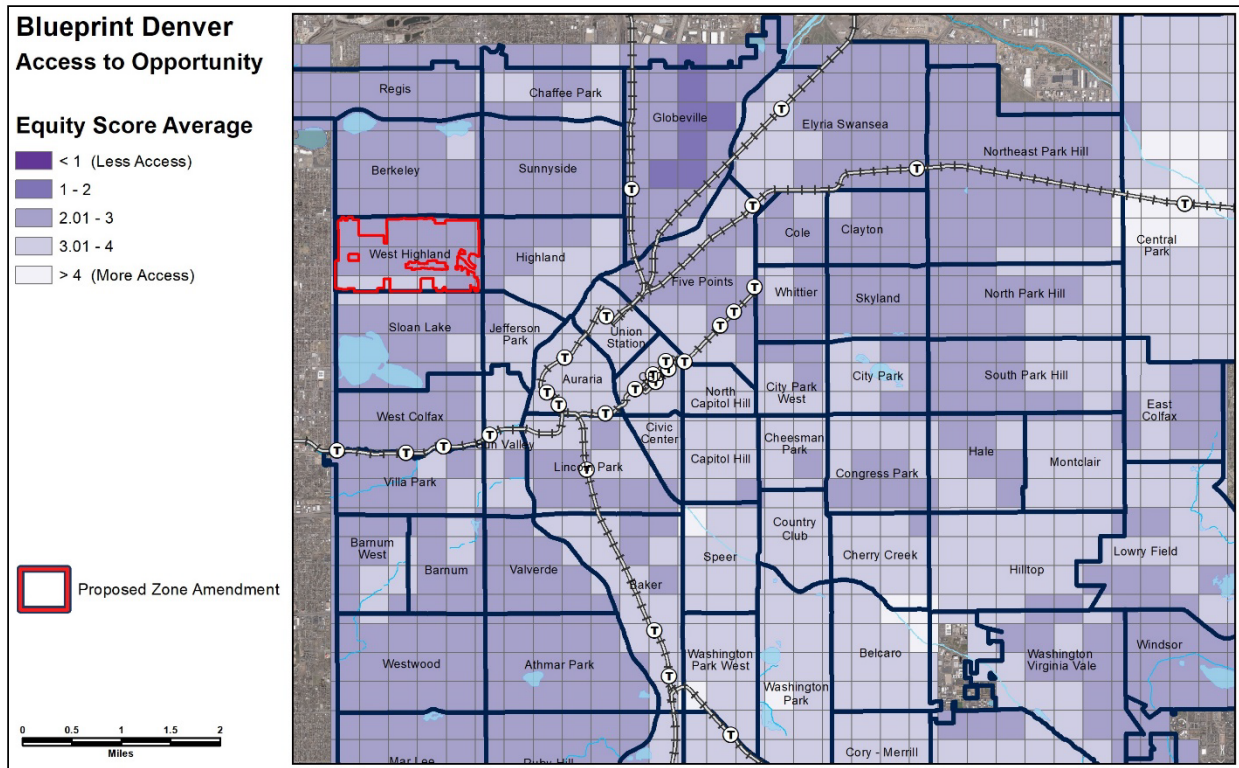
#### **Land Use and Built Form: General, Policy 5:**

- This policy is to "Integrate mitigation of involuntary displacement of residents and/or businesses into major city projects" (p. 75)
- **Strategy B** recommends "For major city investments and projects—including regulatory changes and legislative rezonings— analyze the potential for the involuntary displacement of lower-income residents and local businesses." Discussion of impacts on involuntary displacement is included below *Blueprint Denver* equity concepts. Additionally, the use limitations of ADUs, including a requirement of single ownership of the primary house and the ADU, are designed to encourage their use by existing residents rather than speculative buyers.

### **Blueprint Denver Equity Concepts**

*Blueprint Denver* contains three equity concepts to help guide change to benefit everyone. Each equity concept has associated measurements that helps inform implementation actions through large rezonings along with other implementation actions.

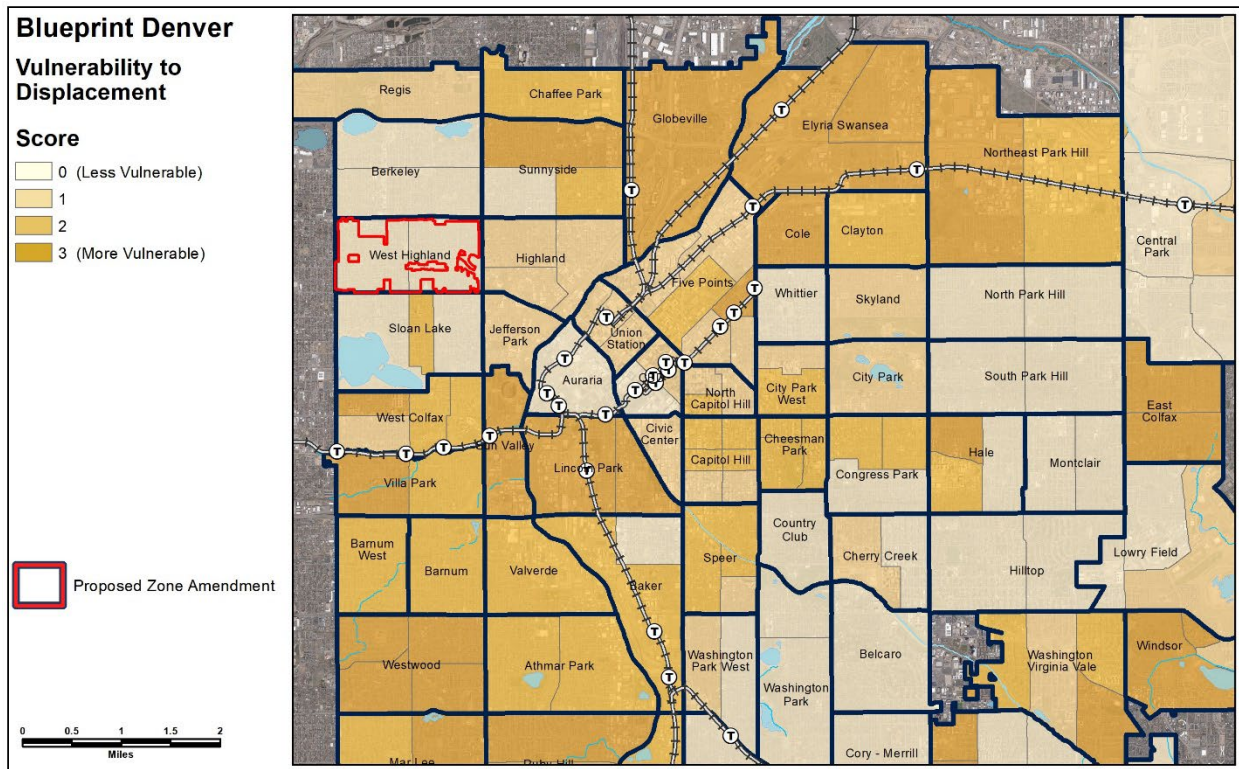
#### **I. Access to Opportunity**



This equity concept is measured using a six-indicator index of data points for neighborhood equity and scores measuring access to amenities, services and quality transit. Generally, West Highland is shown to have slightly average access when measuring social determinants of health, access to healthcare and life expectancy. The neighborhood has less than average scores for access to grocery stores.

This rezoning, with its focus on allowing additional housing units, will increase the availability of homes near transit and expand the number of residents who can access jobs and services along nearby centers and corridors, such as 32<sup>nd</sup> and Lowell and Sheridan and Federal Boulevards. Further, this rezoning will not exacerbate or worsen inequities in the access to opportunity concept scores as it promotes opportunities for every Denver resident to live in a complete neighborhood with basic services and amenities.

## II. Vulnerability to Involuntary Displacement

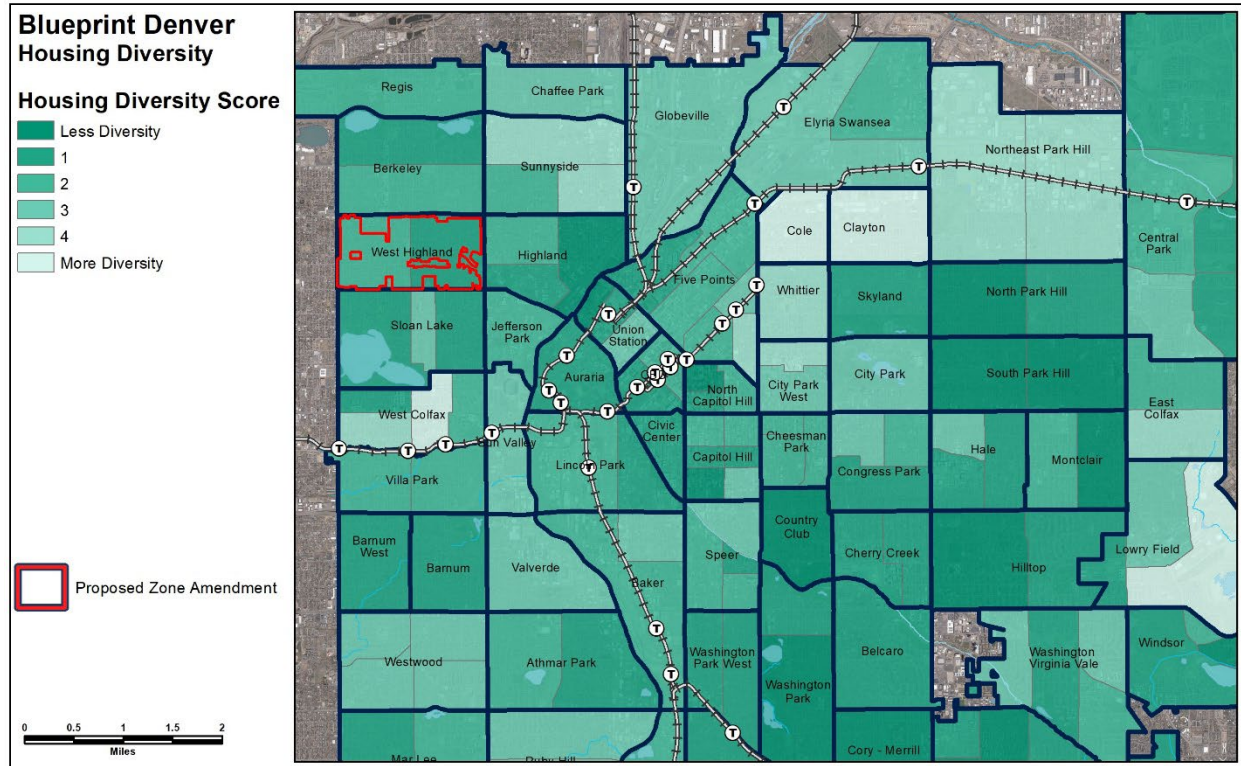


This concept seeks to stabilize residents and businesses who are vulnerable to displacement due to increasing property values and rents. The basis for measuring vulnerability to involuntary displacement was developed by the Department of Housing Stability (HOST) and combines the following data points from the U.S. Census: median household income, percent of renter-occupied units and percent of residents with less than a college degree. These indicators showed a higher percentage than average of residents who own their homes and a higher median income in West Highland, making the neighborhood among the city's least vulnerable to displacement.

This proposed rezoning will not increase inequities but instead allow more property owners to establish an accessory dwelling unit on their property which can be an opportunity to build wealth and help keep current residents in place and provide more housing options for households who are vulnerable to displacement.

## III. Expanding Housing & Jobs Diversity

This concept seeks to provide a better and more inclusive range of housing and employment options in all neighborhoods. A diverse range of housing options, including different prices, sizes, types and a mix of rental and for-sale is key to encouraging complete neighborhoods and households of all types and incomes. Similarly, access to quality employment options allows residents of varying incomes and education levels to find jobs and wealth-building opportunities.



The housing diversity score combines census tract-level data measuring the percentage of middle-density housing (housing with 2-19 units), home size diversity, ownership versus rental, housing costs, and the number of income-restricted units. The census tracts that make up the West Highland neighborhood offer less diversity than the citywide average for home sizes and housing costs. The indicators show a lower-than-average number of rental units and “missing middle” housing options.

This zoning proposal will help preserve and expand existing housing diversity by creating a new housing option that is typically smaller and at a different price point than the existing single-unit homes in the neighborhood. ADUs can accommodate households of different ages, sizes, and incomes which would also advance the goal to increase racial, ethnic and socioeconomic diversity in Denver’s neighborhoods.

***Denver Department of Housing Stability Five Year Strategic Plan***

*The HOST Five Year Strategic Plan* is not adopted as a supplement to the Comprehensive Plan, but the plan was adopted by City Council in 2021 and can be considered relevant to the review criteria for this map amendment. The map amendment will help reduce regulatory barriers to developing ADUs and are therefore consistent with the following plan guidance:

- **Program and Development Strategies:** Partner with agencies involved in the development review process to assess barriers to small-scale affordable housing and propose solutions that enable smaller projects (e.g., projects with a small number of units, accessory dwelling units, etc.). (p. 31)
- **Policy and Systems Change Strategies:** Support efforts to advance key land use strategies to advance affordable housing outlined in Blueprint Denver. These include: Diversify housing choice through the expansion of accessory dwelling units and remove barriers to the construction. (p. 51)

## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to U-SU-A1, U-SU-B1 and 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 rezoning will improve public health, safety, and general welfare through implementing adopted plans.

Additionally, a rezoning to allow ADUs throughout the neighborhood introduces a new type of housing in an area, which provides several benefits. First, it expands housing diversity and opportunities to help residents at a range of income levels continue to live in the neighborhood. Second, it provides more flexibility for existing residents of West Highland, which can allow families to remain in place as they grow and age. This flexibility supports family cohesion and can increase economic security.

The proposed rezoning would also allow infill development through a minimal, context-sensitive increase in housing units. This infill, taking place where utilities, services, and a mix of uses are already in place, is more environmentally sustainable than the alternative of greenfield development. And because ADUs are either attached to the main building or behind the main building, they allow extra housing options while maintaining the character of the neighborhood.

## **Attachments**

1. Application (includes outreach summary)
2. Public Comments