



**TO:** Denver City Council, Land Use, Transportation and Infrastructure Committee  
**FROM:** Theresa Lucero, Senior City Planner  
**DATE:** November 21, 2018  
**RE:** Official Zoning Map Amendment Application #2017I-00153

### *Staff Report and Recommendation*

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for application #2017I-00153.

### *Request for Rezoning*

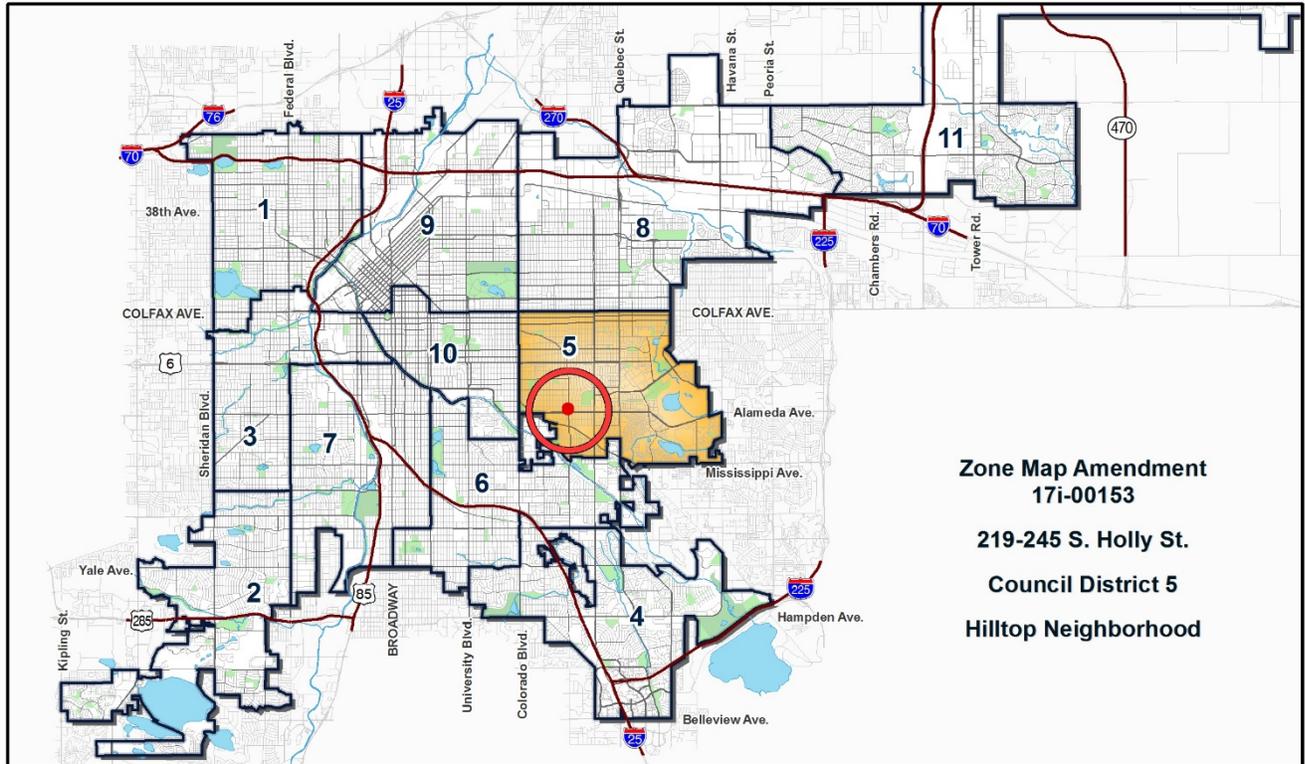
Address:	219, 221, 223, 225, 227, 235, and 245 South Holly Street
Neighborhood/Council District:	Hilltop Neighborhood / City Council District 5
RNOs:	Cranmer Park-Hilltop Civic Association; Crestmoor Park Neighborhood Association; Hilltop Heritage Association; Inter-Neighborhood Cooperation
Area of Property:	28,129 SF, 0.65 Acres
Current Zoning:	E-MU-2.5 and E-SU-Dx
Proposed Zoning:	E-MU-2.5 with a Waiver
Property Owners:	Anna DeWitt, Katherine Ferraro, Lori Jensen, Molly Anna Kull, Carmen Margala, Eric Press, Jennifer Preston
Applicant/Owner:	Anna DeWitt

### *Summary of Rezoning Request*

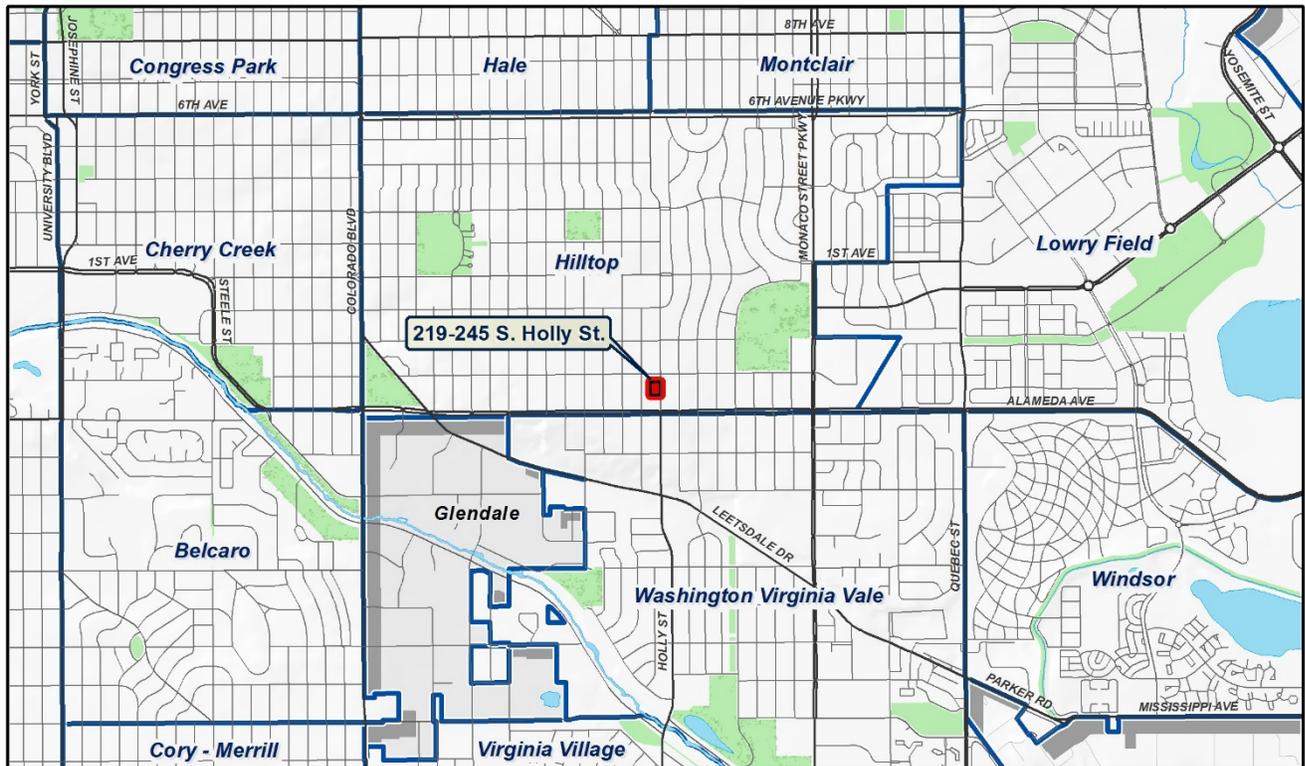
- The subject properties contain three one-story structures, two single-unit structures and one 5-unit structure. The structures were built between 1953 and 1957. The properties are located on South Holly Street north of East Alameda Avenue. The requested map amendment is being sought to allow the property owners to demolish the existing three structures and develop one multi-unit structure.
- An application to rezone the property was initially submitted in December 2017, requesting the S-MU-3 zone district. At a Planning Board public hearing on April 4, 2018 CPD staff recommended denial, and after hearing testimony and deliberating, the Planning Board voted 6-1 with one abstention to recommend denial.
- The applicant changed the application in April 2018 to request the E-MU-2.5 zone district with a waiver that changes the height limit for the Apartment building form from 2 to 2.5 stories. The effect of the waiver would be to allow a structure using the Apartment building form to attain a 3-story building height with reduced square footage on the 3<sup>rd</sup> story. All other E-MU-2.5 zoning standards would apply.
- The **E-MU-2.5**, Urban Edge, **M**ulti-unit, **2.5**-story (35 feet maximum building height), zone district is intended for use in the Urban Edge Neighborhood Context which is characterized by a mix of urban and suburban characteristics with primarily single and two-unit residential land uses, and small-scale multi-unit residential and commercial areas embedded in residential areas. Single-unit structures in the zone district are either Suburban or Urban House forms with allowed Tandem House forms, and allowed multi-unit building forms include Duplex, Garden Court, Town House and the Apartment form. Accessory dwelling units are also permitted. Further details of the zone district can be found in Article 4 of the Denver Zoning Code.

Planning Services  
Community Planning and Development  
201 W. Colfax Ave., Dept. 205 | Denver, CO 80202  
[www.denvergov.org/CPD](http://www.denvergov.org/CPD)  
p. 720.865.2983

### General Location

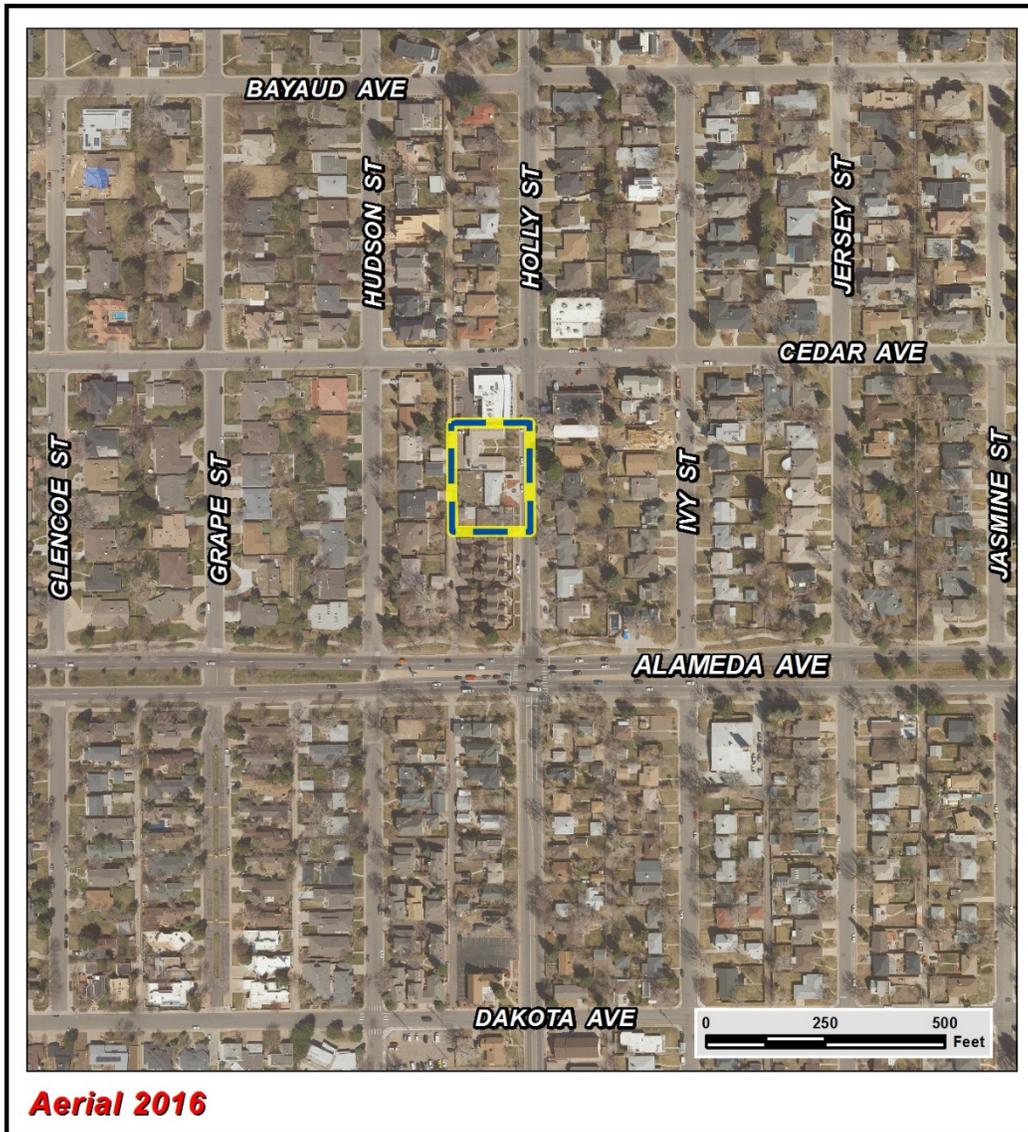


**Zone Map Amendment  
17i-00153  
219-245 S. Holly St.  
Council District 5  
Hilltop Neighborhood**



**Waiver Request**

Section 12.4.10.6 of the Denver Zoning Code enables applicants for an official map amendment to request a waiver of certain rights or obligations under the proposed zone district. This application includes one waiver request to waive the E-MU-2.5 maximum height of 2 stories for the Apartment building form and replace it with an allowed height of 2.5 stories. The effect of the waiver would be to allow a structure using the Apartment building form to attain a 3-story building height with reduced gross floor area on the 3<sup>rd</sup> floor. All other E-MU-2.5 zoning standards would apply.



**1. Existing Context**

The subject property is near the southern boundary of the Hilltop neighborhood. In the general vicinity are:

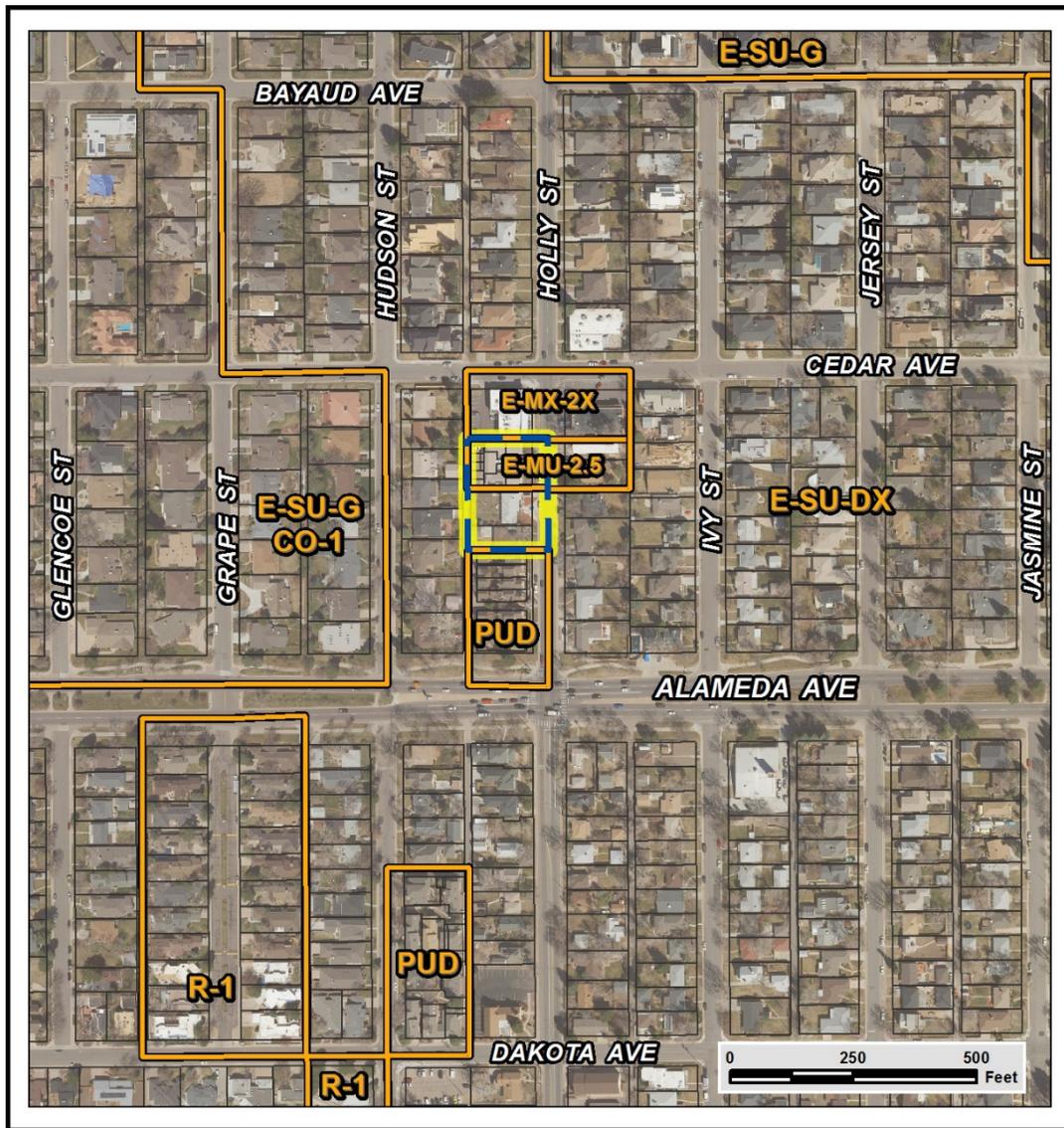
- Carson Elementary School, 3 blocks north,
- Alameda Avenue, 1/2 block south,
- Leetsdale Drive 2 blocks south,
- Crestmoor Park, 4 blocks east,
- Lowry Redevelopment, 8 blocks east,
- Robinson Park, 4 blocks northwest.

The subject property is located between a structure containing three restaurants on the north and a 2-story 7-townhome development on the south. To the east across Holly Street are two low-intensity multi-unit structures, and to the west across an alley are single-unit structures. Area building heights range from 1 to 2-stories.

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

	<b>Existing Zoning</b>	<b>Existing Land Use</b>	<b>Existing Building Form, Scale</b>	<b>Existing Block, Lot, Street Pattern</b>
<b>Site</b>	E-MU-2.5 and E-SU-Dx	Single- & Multi-unit Residential	1-2 story Structures	Grid street patterns with some alleys and attached sidewalks. Regular pattern of rectilinear-shaped blocks.
<b>North</b>	E-MX-2x	Commercial	1-story Structure	
<b>South</b>	PUD #101	Multi-unit Residential	2-story Structures	
<b>West</b>	E-SU-Dx	Single-unit Residential	1-2-story Structures	
<b>East</b>	E-SU-Dx	Single- and Multi-unit Residential, Commercial	1-2-story Structures	

## 2. Existing Zoning



The current zoning of the subject property is E-MU-2.5 and E-SU-Dx. The E-SU-Dx zone district allows either a Suburban or Urban House building form on a minimum 6,000 square foot zone lot. Maximum building height for the Suburban House building form is 30-35 feet and 2.5 stories. Maximum height for the Urban House building form is 30-35 feet and 2.5 stories for the front 65% of the zone lot, and 17 feet and 1-story for the rear 35% of the zone lot depth.

In the E-MU-2.5 zone district all the allowed Primary residential building forms may attain a maximum height of 35 feet with increased lot widths. All Primary building forms allow up to 2.5 stories, which is 3 stories with a reduced gross floor area on the 3<sup>rd</sup> story, except the Apartment form. The Apartment building form in the E-MU-2.5 zone district allows the same maximum height in feet, but only 2 stories. Minimum zone lot sizes are 4,500 square feet for Urban House, Duplex and Tandem House building forms, and 6,000 square feet for Suburban House, Town House, Garden Court and Apartment building forms. As shown in the table below, the Urban Edge building forms have a lower building height in the rear 35% of the zone lot depth, except the Suburban House, which trades off a higher maximum building height in the rear for a lower, more restrictive bulk plane than the Urban House.

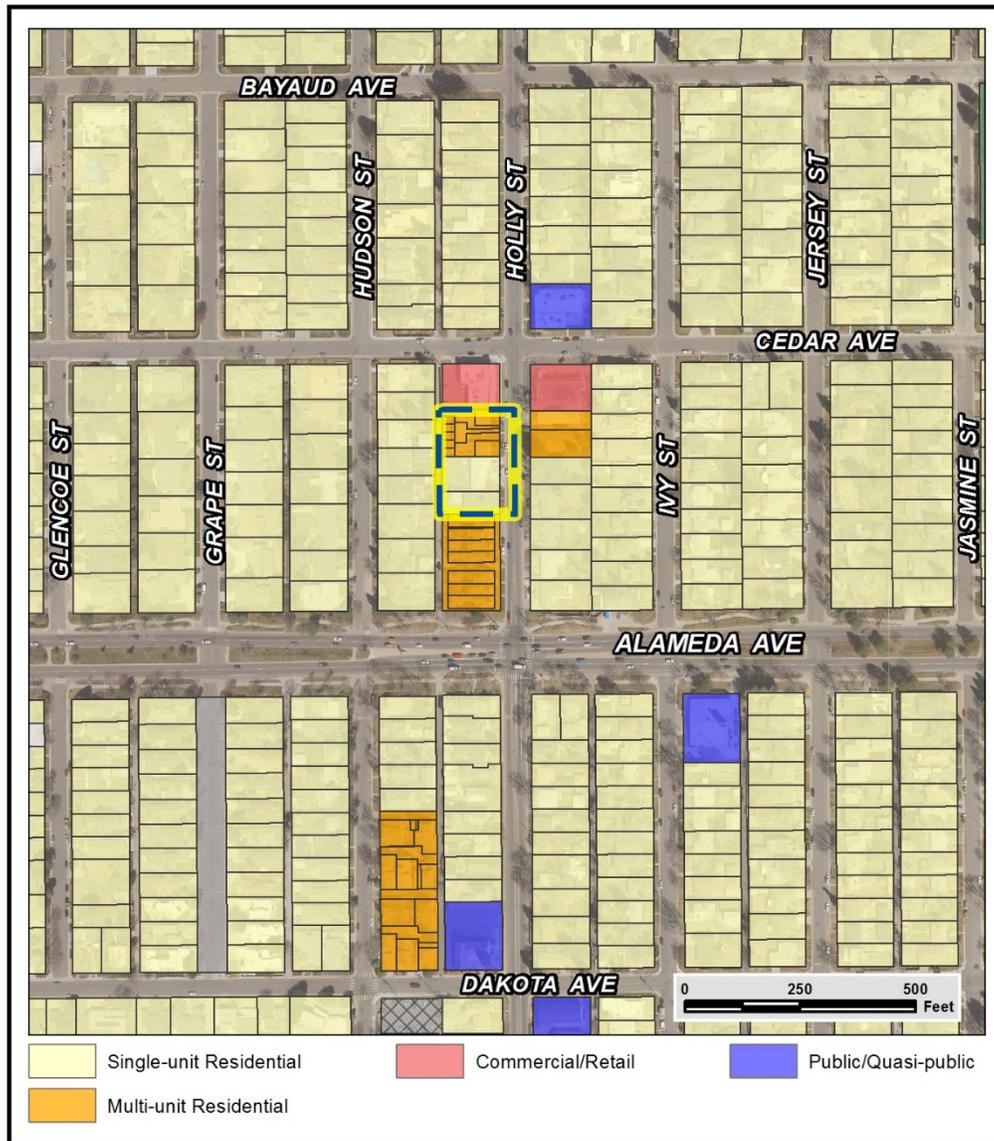
E-MU-2.5 Maximum Height	Front 65%	Rear 35%
Suburban House	30-35 feet/ 2.5 stories (limited by a more restrictive bulk plane than Urban House)	
Urban House	30-35 feet/ 2.5 stories	17 feet/ 1-story
Duplex	30-35 feet/ 2.5 stories	17 feet/1-story
Tandem House	30-35 feet/ 2.5 stories	24 feet
Town House	30-35 feet/ 2.5 stories	19 feet/1-story
Garden Court	30-35 feet/ 2.5 stories	19 feet/1-story
Apartment	30-35 feet/ 2 stories	19 feet/1-story

In the E-MU-2.5 zone district the Apartment building form requires an upper story side setback of 15 feet above 25 feet for structures with low-slope roofs. In addition, the Apartment form requires an upper story stepback of 10 feet for any portion of structure with a low-slope roof above 25 feet on the Primary Street side of the structure.

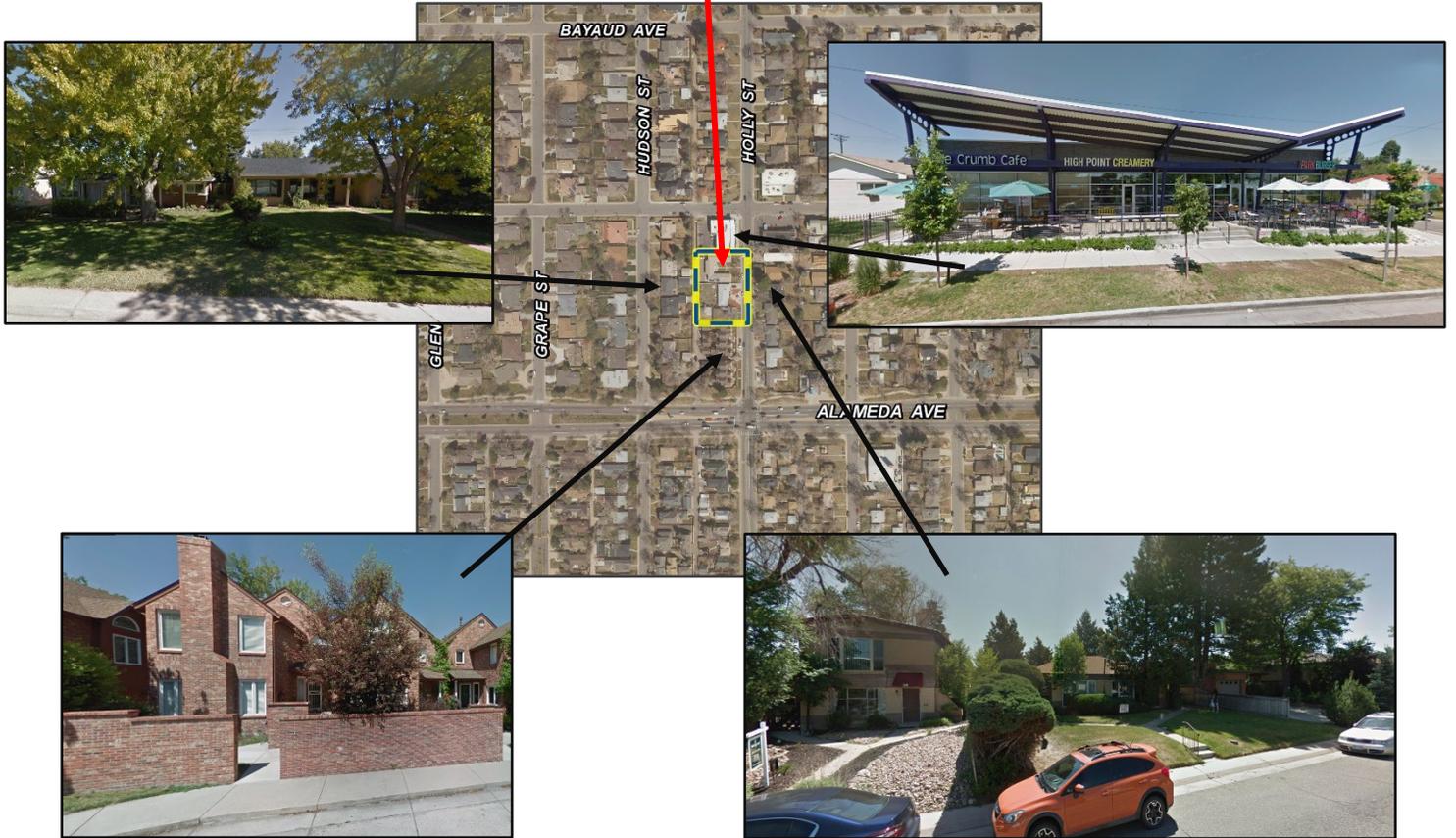
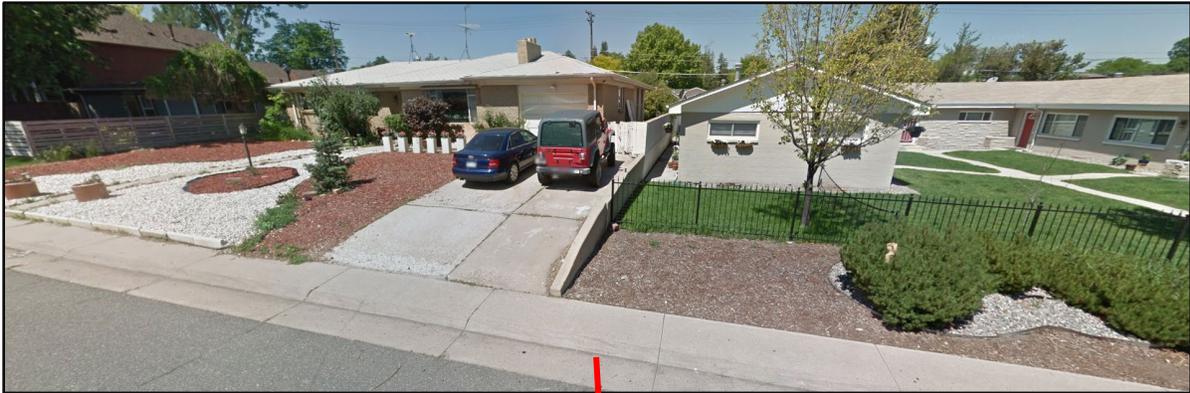
South of the subject property, PUD #101 was approved in 1983 and allows seven townhomes with a maximum height of 30 feet in the front of the lot. According to the PUD District Plan, the rear (western most) 24 feet of the PUD is restricted to a maximum height of 20 feet for garages.

North of the subject property, the E-MX-2x zone district allows a maximum building height of 2 stories and 30 feet in the General and Shopfront building forms.

### 3. Existing Land Use



#### 4. Existing Building Form and Scale



***Summary of City Agency Referral Comments***

As part of the Denver Zoning Code review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

**Assessor:** No comments.

**Asset Management:** No comments.

**Denver Public Schools:** No comments.

**GIS:** No comments.

**Department of Environmental Health:** No comments.

**Parks and Recreation:** No comments.

**Plan Implementation:**

1. Continue to participate in mediation and update me on your progress.
2. Submit the site plan for your proposed building to Development Services for a Concept Review. This will identify any unforeseen issues with obtaining zoning and building permits. If your site plan is an issue being mediated, your site plan should be reviewed by Development Service prior to finalizing the mediated agreement.

**Public Works – ROW - City Surveyor:** Approved – No comments.

**Development Services - Transportation:** No comments.

**Development Services – Wastewater:** Approved – see comments below. DS Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. 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.

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

**Development Services – Fire Prevention:** No comments.

**Public Review Process**

	<b>Date</b>
CPD informational notice of receipt of the initial rezoning application to all affected members of City Council and Registered Neighborhood Organizations:	<b>01/11/18</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:	<b>02/19/18</b>
Planning Board public hearing at which this case was postponed at the applicant's request:	<b>03/07/18</b>
Planning Board public hearing on initial rezoning application where the Planning Board voted 6-1 with 1 abstention to recommend denial to City Council:	<b>04/04/18</b>
CPD informational notice of receipt of the amended rezoning application to all affected members of City Council and Registered Neighborhood Organizations:	<b>04/23/18</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 within 200 feet of the subject property:	<b>10/22/18</b>
Planning Board Public Hearing and recommendation of approval by a vote of 9-0 with 1 abstention:	<b>11/07/18</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>11/13/18</b>

Land Use, Transportation and Infrastructure Committee of the City Council:	<b>11/27/18</b>
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:	<b>12/16/18 (tentative)</b>
City Council Public Hearing:	<b>01/07/19 (tentative)</b>

**Mediation**

After the April 4, 2018, Planning Board hearing, the applicant and developer participated in two mediated discussions with representatives from the Cranmer Park – Hilltop Civic Association, the Crestmoor Park Neighborhood Association, and a representative of adjacent neighbors. The final report from the mediator lists eleven points of discussion including a reduction of the unit count, rooftop decks, rear setbacks, garages, parking, additional landscaping, lighting, traffic, parking of construction workers, the formation of a HOA to not allow short term rentals and impacts to existing property values. Per the report, as of the date of the final report the Cranmer Park – Hilltop Civic Association would not oppose the rezoning pending covenants that follow the mediated agreement, the immediate neighbors opposed the rezoning based upon density, and the Crestmoor Park Neighborhood Association opposed the rezoning based upon density, parking and safety issues. See the attached final mediation report.

**Registered Neighborhood Organizations**

To date, staff has received three comment letters from Registered Neighborhood Organizations. The Cranmer Park – Hilltop Civic Association has negotiated a covenant with the property owners and is not opposing the rezoning. The covenants include a limitation of the number of units to 23, a limitation of the height of the structure to 35 feet, on-site parking for 36 cars and several other structural and site considerations (see the attached covenants).

The Crestmoor Park Neighborhood Association is opposing the rezoning after surveying their members citing “*concerns about traffic, safety and development in general*” (see the attached letter). The Crestmoor Park (2<sup>nd</sup> Filing) Homes Association is also opposing after surveying their members citing traffic and “already too many multi-family exceptions in the neighborhood”, density, neighborhood character, area already over-crowded, parking, and pedestrian safety. The boundaries of this association are not within 200 feet of the proposed rezoning and the association was not officially notified of the proposed rezoning.

**Other Public Comment**

To date, 20 other public comment letters have been received. Two from owners within the subject property supporting the application and citing the desire to stay in the neighborhood, the moderate price of the proposed units and the energy efficiency of the new structure. Four other support letters cite the need for affordable housing in the city, housing costs outpacing income growth, city residents leaving the city for housing, reduced kindergarten classes due to families leaving the city, the appropriate location of the project in a mixed use area. Thirteen other comment letters oppose the proposed rezoning citing Holly Street traffic congestion and safety concerns,

lack of parking in the area, the belief that increased density is detrimental to the area, concerns about the mediation process, the proposed building does not fit into the neighborhood, and concern about granting a waiver. One letter states no position and asks if a traffic impact study was completed. See the attached letters for the full text of the comments.

### **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 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 criteria for review of this rezoning application include conformance with adopted regulations, and with the Comprehensive Plan and applicable supplements. Applicable documents are:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*

### **Denver Comprehensive Plan 2000**

The proposal is consistent with and positively addresses many Denver Comprehensive Plan strategies, including:

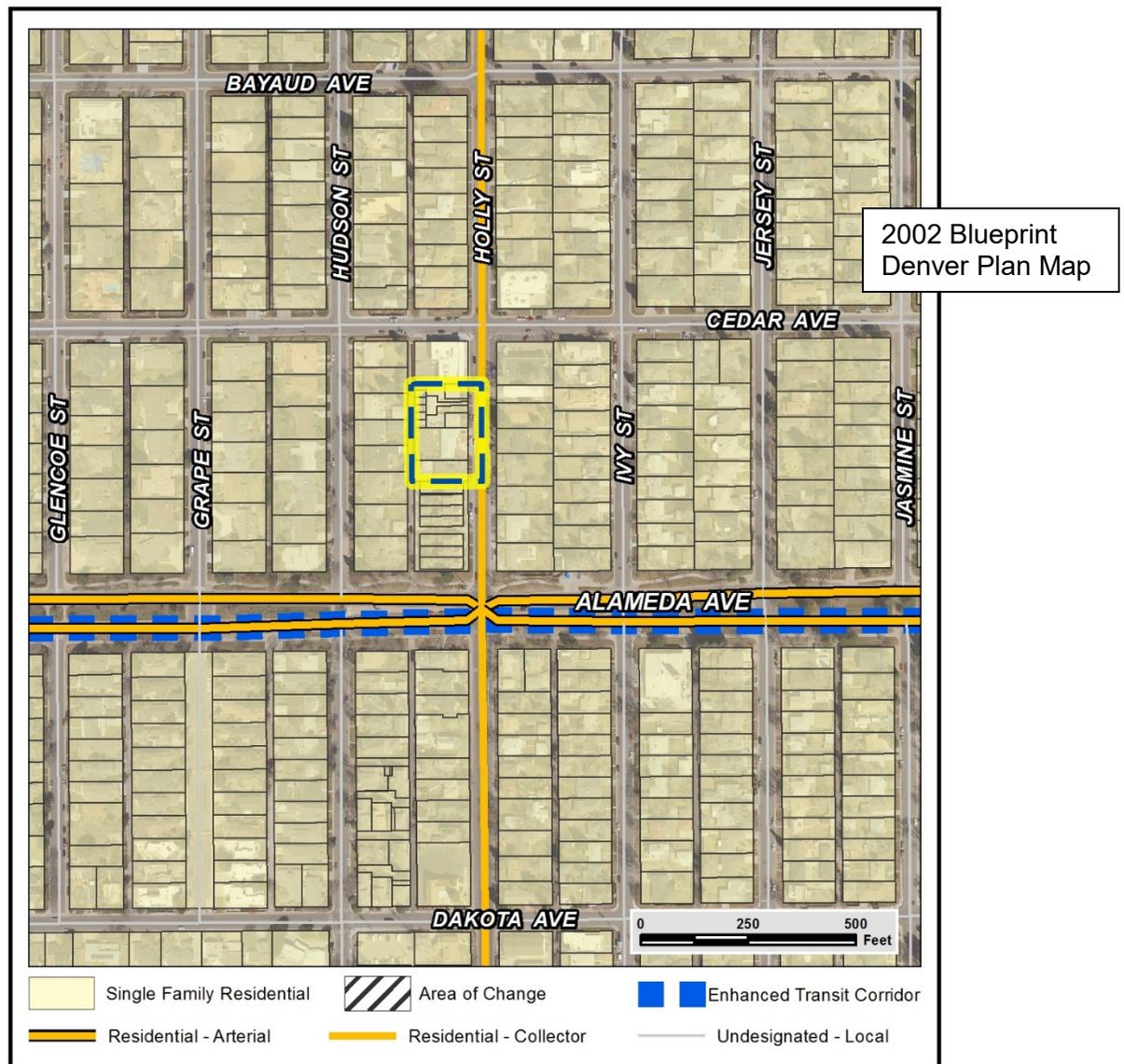
- Environmental Sustainability Strategy 2-F to “**Conserve land by promoting infill development within Denver where services and infrastructure are already in place**” (p. 39).
- Land Use Strategy 1-H to “**Encourage development of housing that meets the increasingly diverse needs of Denver’s present and future residents in the Citywide Land Use and Transportation Plan**” (p. 58).
- Land Use Strategy 3-B to “**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).
- Legacies Strategy 2-A “**Establish development standards to encourage positive change and diversity while protecting Denver’s traditional character**” (p. 98).
- Legacies Strategy 3-A to “**Identify areas in which increased density and new uses are desirable and can be accommodated**” (p. 99)
- Housing Objective 1 “**Support Housing Development. Ensure that City policies and procedures promote housing development and do not add unnecessary costs**” (p. 113).
- Housing Objective 2 “**Preserve and Expand Existing Housing. Encourage preservation and modernization of Denver’s existing housing stock and established neighborhoods. Support addition of housing in expansion and infill development**” (p. 114).

- Housing Objective 4 “*Middle-Income Households. Attract and retain middle-income households*” (p. 116).

The proposed zone district will enable the development of a 2.5-story multi-unit residential structure in the Apartment building form. Under the proposed E-MU-2.5 zone district, the proposed structures would allow additional housing units in the area and promote infill where infrastructure already is in place. New units would diversify the housing choices in the area and increase density with a building form and scale compatible with the existing zoning entitlement in the area. Building heights allowed in the proposed E-MU-2.5 zone district are the same as those allowed in the surrounding E-SU-Dx zone district, up to 35 feet. The E-MU-2.5 zone district also reduces building mass in the rear 35% of the zone lot (as is the case in the surrounding E-SU-Dx zone district) and requires further reductions of the building mass with upper story side setbacks and upper story front setbacks. Extending the E-MU-2.5 zone district to the south could result in an increase in density at a scale compatible with the entitled scale of the surrounding neighborhood. This approach also would be consistent with Comprehensive Plan policies that emphasize encouraging development that is consistent with the character of the neighborhood but offers increased opportunity for housing development and density.

***Blueprint Denver***

Blueprint Denver, the City’s Land Use and Transportation Plan, identifies the subject property as being within an Area of Stability with a land use recommendation of Single Family Residential.



### **Future Land Use**

The Single Family Residential land use concept is described in Blueprint Denver as areas where “single-family homes are the predominate residential type... and the employment base is significantly smaller than the housing base” (p. 42). “A city should contain neighborhoods that offer a variety of housing types, as well as complementary land-use types such as stores, parks and schools that provide the basic needs of nearby residents...Neighborhoods are primarily residential but vary in density, size and adjacency of non-residential uses...There are several different types of residential areas, and neighborhoods often have more than one type within them” (p. 41). The existing land uses adjacent to the subject property to the north are commercial and to the south and east are low-scale multi-unit residential land uses. The proposed E-MU-2.5 zone district will allow the addition of multi-family development to add to the variety of housing types available on

the block and in the neighborhood. The E-MU-2.5 zone district will allow building heights in the redevelopment that are already allowed by the surrounding E-SU-Dx zone district and with the extension of the existing E-MU-2.5 district south, will introduce low-scale multi-unit development to the area at a level that is compatible with the existing block.

### **Area of Change / Area of Stability**

As noted, the subject site is in an Area of Stability. These are areas where *“preserving and revitalizing neighborhood character is the prevailing concern...Limiting overall development in the Areas of Stability helps achieve many growth management goals, while preserving the valued quality of life that is characteristic of Denver’s neighborhoods”* (p. 23-25). The zoning standards within the E-MU-2.5 zone district will allow reinvestment in the property and they will keep new development to a compatible scale with the zoning entitlement of surrounding properties and the existing land uses on the block. Per Blueprint Denver *“limiting overall development in the Areas of Stability helps to achieve many growth management goals, while preserving the valued quality of life that is characteristic of Denver neighborhoods”* (p. 25). Some of the strategies for Areas of Stability include: Compatibility between existing and new development, and Diversity of housing types, size and cost.

### **Street Classifications**

The subject property is on South Holly Street, a Residential Collector Street. These street types *“provide balance between mobility and land access”* (p. 51). The E-MU-2.5 zone district standards are geared toward lower-scaled, less intense single and multi-unit residential land uses within neighborhoods. This is consistent with the street types surrounding the subject property.

### **Use of Waivers and Conditions**

Blueprint Denver provides the following policy guidance regarding the use of Waivers and conditions, or customized zoning (p. 82):

*“The unsatisfactory performance of the current regulations has led to the use of unique conditions and waivers applied to rezonings. These waivers and conditions, which are not organized in the zoning code, further complicate Denver’s zoning situation. In addition, these conditions are written to address the construction of buildings and are not crafted broadly enough to address the ongoing regulation of the land after construction is completed. They remain enforceable for decades after, regardless of their effectiveness and applicability.*

*The result is that the regulatory system does not deliver effective land use regulation, but its administration absorbs a large amount of resources. It is difficult to envision how Blueprint Denver will be implemented by simply adding another layer of regulation on top of the current code. In fact, if the reforms mentioned in this chapter are instituted, it may be appropriate to eliminate the practice of rezoning with conditions and waivers.”*

To implement this plan recommendation, CPD policy supports the use of waivers only in situations where the waiver helps to solve an issue that CPD is committed to resolve through a future text amendment to the Denver Zoning Code. The waiver request included in this application is consistent with this waiver policy because the department is committed to revising the 2 story maximum height for the Apartment building form in the E-MU-2.5 zone district. The current 2-story maximum height is confusing, and it is inconsistent with the

allowed heights of all other allowed residential building forms in the Urban Edge Context. A similar waiver to increase the building height in stories for the Apartment building form in the E-MU-2.5 zone district has been previously approved in another rezoning.

The proposed waiver is consistent with a future Zoning Code text amendment that will bring the Apartment building form maximum height into agreement with all other multi-unit building forms in the Urban Edge Context. This use of a waiver is consistent with this Blueprint Denver plan direction.

**2. Uniformity of District Regulations and Restrictions:** Rezoning the site to E-MU-2.5 will further the uniform application of district regulations in the City. The same regulations will apply to the subject site as to all other areas zoned E-MU-2.5 in the city.

**3. Public Health, Safety and General Welfare:** The proposed official map amendment further the public health, safety, and general welfare of the City primarily by allowing the re-development of the property that is in character with the neighborhood in scale and design, and by supporting reinvestment that increases the variety of housing types in the existing neighborhood.

**4. Justifying Circumstances**

The applicable justifying circumstance is that 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. The applicant cites the changing character of the neighborhood and states that homes like hers are now out of character with the neighborhood as larger homes are replacing smaller homes. In addition to recognizing that the area is seeing some redevelopment under the Single Unit zone districts, recent new commercial and mixed-use development along Leetsdale Drive and in Lowry also has changed the character of the wider area with new civic, residential and commercial land uses. Recognizing the changed character of the area is an appropriate changed circumstance.

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

The fifth review criterion in the Denver Zoning Code is that the proposed official map amendment must be consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district. Overall, the proposed map amendment is consistent with the Urban Edge Neighborhood Context.

The Denver Zoning Code describes the Urban Edge Context as a mix of elements from both the Urban and Suburban Neighborhood Contexts with primarily single and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are also embedded in residential areas. Multi-unit building forms are typically the Row House, Garden Court, Town House or Apartment forms. Multi-unit residential and commercial uses are located along local streets, arterials and main streets. Street and block patterns consist of a regular pattern of block shapes surrounded by a grid or modified grid street system, and a mixed presence of alleys. Block sizes are consistent and include attached, detached and non-existent sidewalks. The Urban Edge Context is characterized by low scale buildings except for some mid-rise commercial and mixed-use structures, particularly at nodes or

along arterial streets. There is typically reliance on automobiles with low to medium access to the multi-modal transportation system. (Division 4.1)

The Urban Edge residential zone districts are intended to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context. They 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 zoning standards recognize common residential characteristics within the Urban Edge Neighborhood Context but accommodate variation by providing a variety of Residential Zone Districts. The regulations provide certainty to property owners, developers, and neighborhoods about the limits of what is allowed in a residentially-zoned area. These regulations are also intended to reinforce desired development patterns in existing neighborhoods while accommodating reinvestment. (Division 4.2)

The E-MU-2.5 zone district is a multi-unit zone district and allows the Suburban House, Urban House, Duplex, Tandem House, Garden Court, Town House and Apartment building forms are allowed primary building forms with maximum building heights up to 3 stories and up to 35 feet. With proposed waiver and the E-MU-2.5 zone district the maximum allowed height for the proposed Apartment is 35 feet and 3 stories in the front 65% of the zone lot depth.

This neighborhood contains an orthogonal grid of streets with a consistent block pattern, which are characteristic of the Urban Edge Neighborhood Context. By allowing a higher maximum building height that is the same as the entitlement in surrounding residential zone districts, by having reduced rear building heights that are characteristic of the surrounding residential zone districts, and by sculpting the top story with side and front setbacks the proposed rezoning will allow a scale of development that is compatible with the existing neighborhood. The E-MU-2.5 zone district is consistent with both the general and specific purpose and intent of the Urban Edge Context and the E-MU-2.5 zone district description.

**Attachments:**

1. Application
2. Legal Description
3. Comment letters (23)
4. Mediation Report