



**TO:** Denver City Council  
**FROM:** Courtney Levingston, AICP, Senior City Planner  
**DATE:** March 14, 2019  
**RE:** Official Zoning Map Amendment Application #2018I-00067

### **Staff Report and Recommendation**

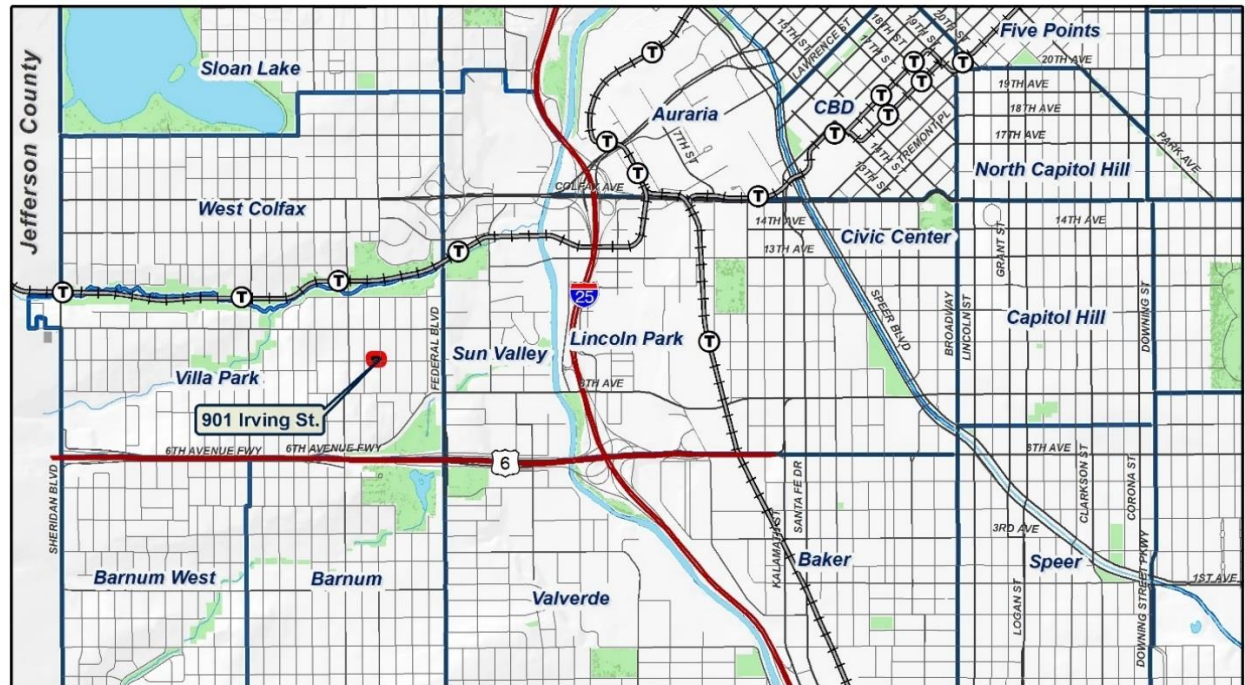
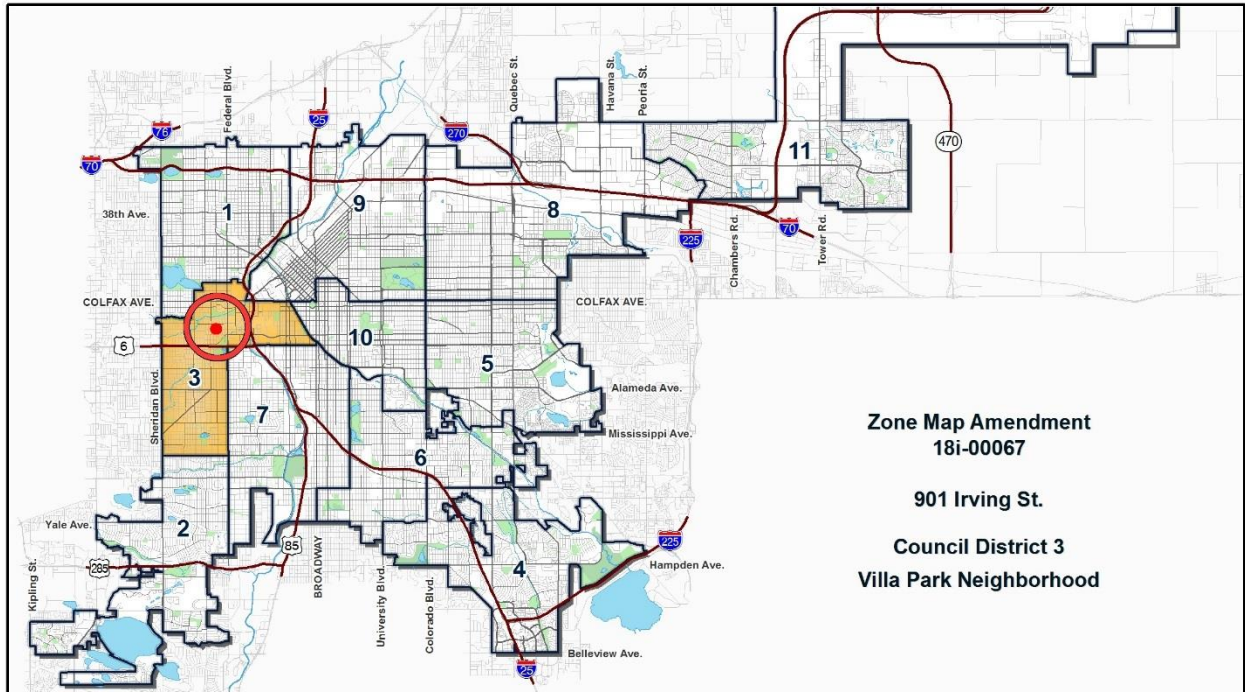
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** Application #2018I-00067.

### **Request for Rezoning**

Address:	901 Irving Street
Neighborhood/Council District:	Villa Park Neighborhood/Council District 3
RNOs:	Villa Park Neighborhood Association, West Denver United, Inter-Neighborhood Cooperation (INC)
Area of Property:	6,250 square feet (0.14 acres)
Current Zoning:	E-SU-D
Proposed Zoning:	E-SU-D1
Property Owner(s):	Ryan Brisch and Nicole Brisch
Owner Representative:	N/A

### **Summary of Rezoning Request**

- The subject property is in the Villa Park statistical neighborhood on Irving Street between W. 9<sup>th</sup> Avenue and W. 10<sup>th</sup> Avenue
- There is currently a single-unit residence and two detached garages on the property.
- The property owners are requesting a zoning map amendment to allow an accessory dwelling unit to replace the existing garage structure.
- The requested E-SU-D1 zone district (Urban Edge Neighborhood Context, Single Unit, minimum 6,000 SF zone lot) allows an accessory dwelling unit as part of the primary structure or within a detached accessory dwelling unit. Setbacks and lot coverage standards accommodate a front and side yard similar to the current zone district of E-SU-D. The Urban Edge context is primarily single-unit and two-unit residential uses. Further details of the zone districts can be found in Article 4 of the Denver Zoning Code (DZC).



## Existing Context



The subject property is located within a primarily residential area of the Villa Park statistical neighborhood, which consists of single-unit residential dwellings and a few two-unit and multi-unit residential uses. Eagleton Elementary School is a block to the southeast across W. 9<sup>th</sup> Ave. Commercial uses are prominent along Federal Boulevard four blocks to the east. The subject property is a little more than a quarter mile south of the new “Re-Imagine Play” adventure playground at Paco Sanchez Park.

In terms of transportation options, the Knox and Decatur-Federal Stations on the W Line are both approximately .5 mile from the subject property. The site is a block away from local bus service via route 9 on W. 10<sup>th</sup> Ave., route 1 is less than 2 blocks west on Knox Court, and the 30, 31 and 36L bus routes are about 4 blocks east along Federal Boulevard.

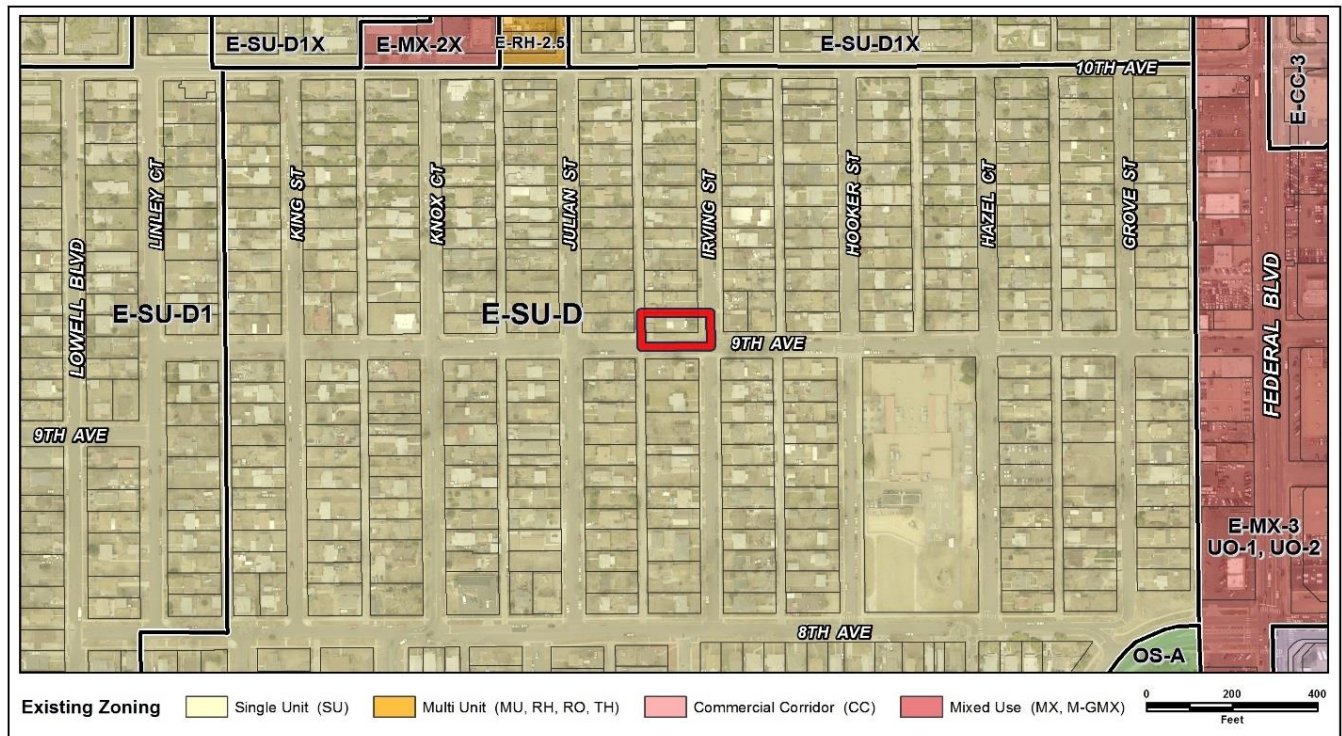
The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-SU-D	Single-unit residential	1 story single-unit residential dwelling and 2 detached garages	Generally regular orthogonal street grid with lots served by alleys between local streets. Block sizes and shapes are consistent and rectangular.
North	E-SU-D	Single-unit residential	1 story single-unit residential dwelling and 1 detached garage; large setback from Irving Street	
South	E-SU-D	Single-unit residential	1 story single-unit residential dwelling	



	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	E-SU-D	Single-unit residential	1 story single-unit residential dwelling, oriented to W. 9 <sup>th</sup> Avenue	Generally, vehicle parking to the rear of buildings (alley access); some vehicle parking to the side of residential dwellings interspersed.
West	E-SU-D	Single-unit residential	1 story single-unit residential dwelling and 1 detached garage	

### 1. Existing Zoning



The current E-SU-D zone district allows only the urban house building form with up to 2.5 stories. A maximum height of up to 35' is allowed in the front 65% of the lot, with 17' allowed in the rear 35%. Block-sensitive front setbacks are required, with a minimum of 20 feet where block-sensitive setbacks do not apply. Five-foot side setbacks and 12-foot rear setbacks are also required. Single-unit dwelling and certain civic, public, and institutional primary uses are allowed. For additional details of the E-SU-D zone district, please see DZC Article 4.







View of the subject property from Irving Street, looking west.



View of the subject property from W. 9<sup>th</sup> Ave. looking north.

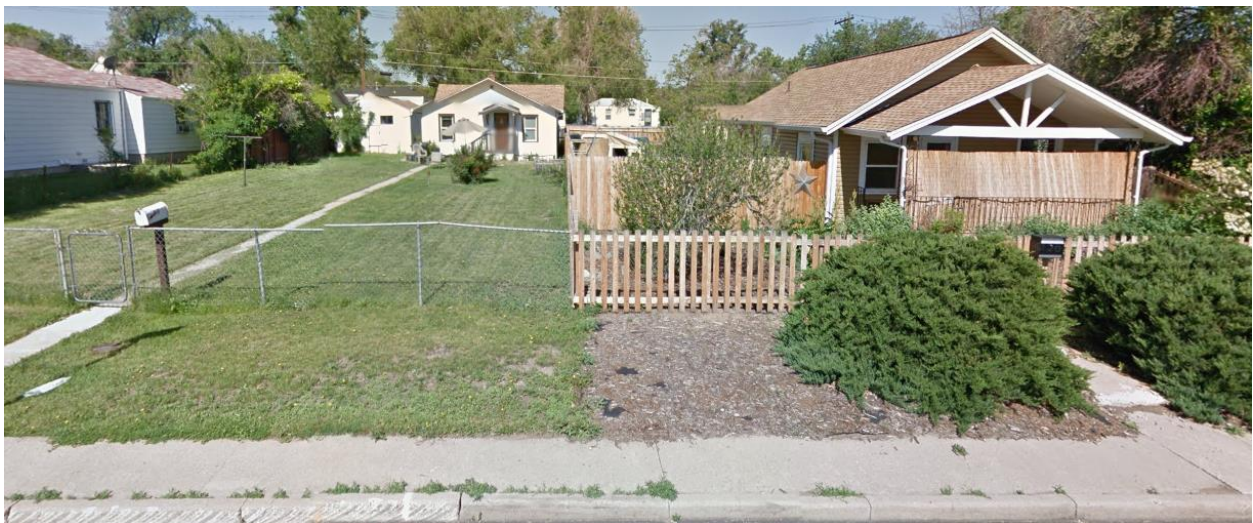


View of the property to the west across the alley from the subject property, looking north.





View of the properties to the east, across Irving St. from the subject property, looking north (taken from W. 9<sup>th</sup> Ave.).



View of the property to the north of the subject property from Irving Street, looking west.

### **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

**Real Estate:** Approved – No Comments

**Denver Public Schools:** Approved – No Response

**Environmental Health:** Approved – See Comments Below

Denver Department of Public Health and Environment (DDPHE) concurs with the rezoning and is not aware of historical environmental concerns on the Property. General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human

occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

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: DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

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

**Public Works – R.O.W. - City Surveyor:** Approved - Legal is approved.

**Development Services – Transportation:** Approved – See Comments Below

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

**Public Works – Wastewater:** Approved – No Response

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

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



## Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>9/26/2018</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>1/07/2019</b>
Planning Board Public Hearing voted unanimously (7-0) to recommend approval:	<b>1/23/2019</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>1/18/2019</b>
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward:	<b>2/5/2019</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>2/26/2019</b>
City Council Public Hearing:	<b>3/18/2019</b>

- **Public outreach**
  - The applicants contacted the Villa Park RNO and attended two RNO meetings. At the meetings, the applicants shared their plans for rezoning to allow an accessory dwelling unit and discussed implications with the community.
  - The Villa Park RNO provided an official position statement on the proposed rezoning (attached). At the December 12, 2018 Villa Park RNO meeting, the RNO voted to approve the rezoning with 17 members in favor, 1 opposed and 1 abstained.
- **Public Comment**
  - As of the date of this staff report, no other public comments have been received.
- **Planning Board**
  - On January 23, 2019 the Planning Board hearing, the Board voted (7-0) to recommend approval of the rezoning application.

## Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

**DZC Section 12.4.10.7**

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

**DZC Section 12.4.10.8**

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

## 1. Consistency with Adopted Plans

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*
- *Villa Park Plan (1991)*
- *Housing an Inclusive Denver (2018)*

### **Denver Comprehensive Plan 2000**

The proposal is consistent with many Denver Comprehensive Plan 2000 objectives and strategies, including:

- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.* (p. 60)
- *Legacies Strategy 3-A: Identify areas in which increased density and new uses are desirable and can be accommodated.* (p. 99)
- Housing Objective 2: *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 Strategy 2-E: *Adjust codes and policies regarding accessory residential units, such as granny flats, mother-in-law apartments and carriage units.* (p.114)

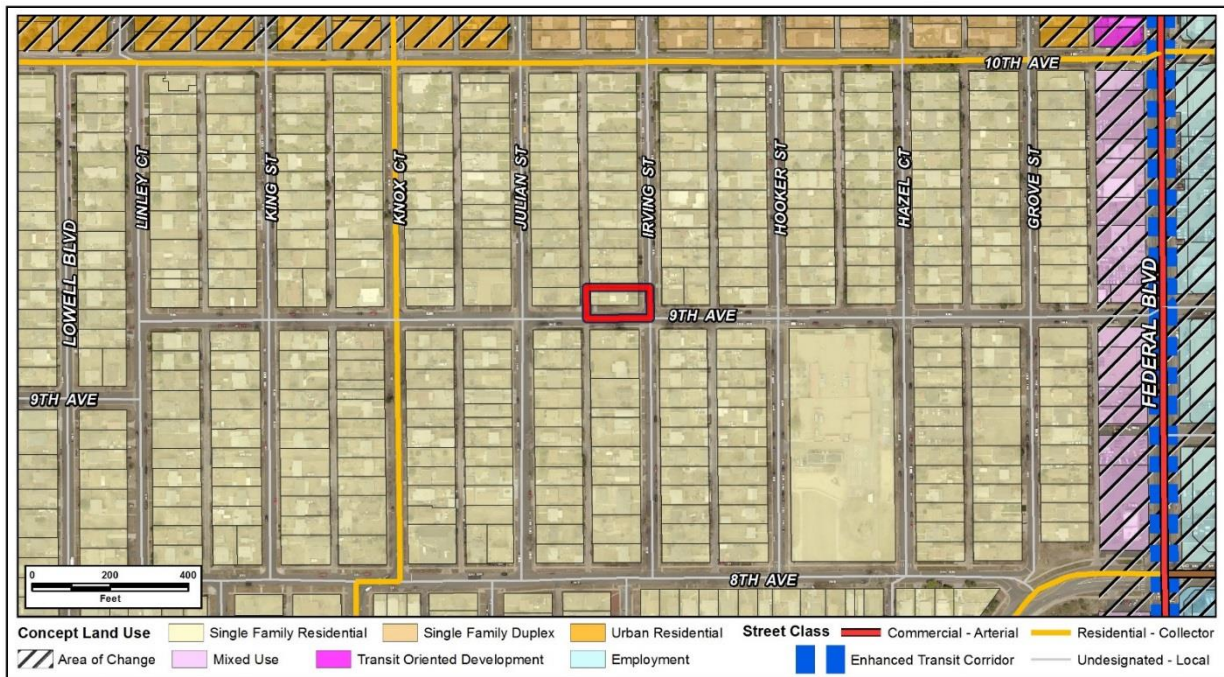
The proposed map amendment will enable addition of an accessory dwelling unit use on an existing single-unit lot in a residential neighborhood. The E-SU-D1 reinforces compatible low-intensity infill development patterns while accommodating small-scale reinvestment in the form of an additional dwelling unit. As such, the proposed rezoning to E-SU-D1 furthers *Comprehensive Plan 2000* policies for increasing compatible infill density and is consistent with the plan recommendations.

### **Blueprint Denver 2002**

According to the 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of single family residential and is in an Area of Stability.



**Future Land Use**



The Blueprint Denver 2002 Concept Land Use Map shows this area as Single Family Residential. The Plan defines Single Family Residential as “Neighborhoods of single family houses represent the majority of Denver’s residential areas, particularly those developed after 1900 and especially those built after 1940. Densities are fewer than 10 units per acre, often less than six units per acre neighborhood-wide, and the employment base is significantly smaller than the housing base. Single-family homes are the predominant residential type” (p. 42). According to Blueprint Denver’s recommended development standards, accessory units are encouraged in single family residential areas (p. 68-69). The proposed rezoning to E-SU-D1 would continue to allow single-unit residential with an accessory dwelling unit, keeping with the character of the area. While the density on the subject property could be greater than 10 units per acre, because the area-wide density would not exceed the recommended range with this rezoning it can be considered consistent with the Single-Family Residential future land use map of *Blueprint Denver 2002*.

**Area of Change / Area of Stability**

The subject property is designated as an Area of Stability. According to the Plan, “the goal for Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment” (p.120). The Plan goes on to state that, “each area in the city can be thought of as located on a continuum from change to stability. Second, in stable residential neighborhoods there often are areas that would benefit from change” (p 121).

The rezoning application is consistent with the Blueprint Denver Area of Stability recommendations as the addition of an accessory dwelling unit (as allowed with the proposed zone district) provides for small-scale, compatible infill improvement and density that maintains the overall character of the neighborhood.

### **Street Classifications**

Both W. 9<sup>th</sup> Avenue and Irving Street are shown as undesignated local streets, characteristic of many Denver's single-unit residential neighborhoods. According to *Blueprint Denver 2002*, these streets are "influenced less by traffic volumes and tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets" (p. 51). The application of the proposed E-SU-D1 district is consistent with the undesignated local street classification as it is a low density residential district with low impacts on the surrounding neighborhood.

### **Small Area Plan: *Villa Park Neighborhood Plan (1991)***

The Villa Park Neighborhood Plan was adopted in 1991 and applies to the subject property. The plan describes six types of development in Villa Park and goes on to describe the zoning at the time (p. 14,16).

The land use and zoning vision expressed in the Plan is:

- *Compatibility of zoning to land use*
- *Protection of residential character of the neighborhood*
- *Compatibility between residential and business land uses (p. 18)*

Land Use and Zoning Plan Recommendations include:

Strategy LZ-2: *Discourage development that is incompatible with the scale and quality of the neighborhood.*

The proposed E-SU-D1 zone district complies with the land use and zoning vision of the Villa Park Neighborhood Plan in terms of protecting the residential character of the neighborhood because the proposed zone district is a compatible low scale residential district. The E-SU-D1 zone district is a district that both respects the character of the existing neighborhood in terms of building height, accessory structure pattern and residential land use and allows for a reasonable, small-scale increase in density.

The housing vision expressed in the Plan is:

- *A strong and vital residential neighborhood*
- *Increase the rate of home ownership*
- *Sound management and a mix of income levels in rental single-family homes and apartments*
- *Renovate and maintain housing (p. 21)*

Housing strategies include:

Strategy H-1a: *Enhance the appearance and quality of neighborhood housing (p.21).*

As the proposed E-SU-D1 zone district will add an additional housing unit to the Villa Park neighborhood, creating additional quality housing stock in the area while supporting affordability and contributing to a mix of income levels. The rezoning is thus consistent with the Villa Park Neighborhood Plan housing vision and strategies.



### **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. *Housing an Inclusive Denver* includes guidance for using Blueprint Denver to reduce regulatory barriers to development of accessory dwelling units; however, some of its recommendations can be applied to an individual map amendment that newly allows 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 E-SU-D1 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.

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

The proposed rezoning to E-SU-D1 will result in the uniform application of zone district building form, use and design regulations. The same regulations will apply to the subject site as to other areas zoned E-SU-D1 in the city.

## **3. Public Health, Safety and General Welfare**

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the city’s adopted plans which recommends preserving the character of Denver’s existing neighborhoods while allowing for small-scale reinvestment. The proposed rezoning would also provide the benefit of an additional housing unit that is compatibly integrated into the surrounding neighborhood.

## **4. Justifying Circumstance**

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, “Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include: a. Changed or changing conditions in a particular area, or in the city generally; or b. A City adopted plan; or c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.”

Since the Denver Zoning Code was adopted in 2010 and the subject property was rezoned to E-SU-D, Denver has seen a rapid rise in housing costs. In early 2018, the city adopted *Housing an Inclusive Denver*, a five-year housing plan to guide housing policy, strategy and investment priorities. As noted in *Housing an Inclusive Denver*, the rise of home prices and rents have outpaced the increase in household incomes, resulting in a shortage of affordable housing (p 25). Additionally, *Housing an Inclusive Denver* notes, “While stagnant as recently as 2011, assessed property values have increased by about 30% over the past two assessment cycles. Some of the highest concentrations of higher assessed values during the 2017 assessment cycle are in adjacent neighborhoods in western Denver like Villa Park, Ruby Hill, and Mar Lee” (p. 37). Housing affordability is a citywide challenge that impacts the Villa Park Neighborhood and there is documentation of property value increases in the area since 2010, so it could be asserted that this changing condition helps justify rezoning to allow for an accessory dwelling unit, which can be a strategy for affordability.

Additionally, the application notes other physical changes in this area. In terms of transportation infrastructure, two new light rail stations on the W Line, Knox and Decatur Stations which are less than 0.4 and 0.5 miles away respectively, have come online since 2010. Moreover, the application notes that the city has invested in the “Federal Blvd. Improvement Project” just 4 blocks to the east, which will greatly improve pedestrian safety as well as make bus travel along Federal Blvd. more efficient (application, p. 5). Lastly, the 2018 opening of a major Denver Parks and Recreation investment in the Re-Imagine Play playground at Paco Sanchez park, less than 0.4 mile from the subject property is another justifying circumstance for the proposed rezoning. The applicant asserts, “it [Re-imagine Play playground] will make the area more attractive to families with young children, thus increasing the demand for more housing in the neighborhood.” These changes have increased the demand for housing in the area and these are suitable justifying circumstances to allow an additional residential unit via the application of the E-SU-D1 zone district.

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

The requested E-SU-D1 district is within the Urban Edge Neighborhood Context, which is primarily single-unit and two-unit residential uses with small-scale multi-unit residential uses and commercial areas embedded in residential areas. Buildings are generally low in scale, and residential buildings typically have consistent moderate to deep front setbacks. There typically is a regular pattern of block shapes surrounded by orthogonal streets within a grid (DZC 4.1). The subject site is in an area that reflects these characteristics and therefore the proposed rezoning to E-SU-D1 is consistent with the neighborhood context description.

The general purpose of the Urban Edge residential districts is to “promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context...The building form standards, design standards, and uses work together to promote desirable residential areas. The standards of the single unit districts accommodate the varied patterns of suburban and urban house forms” (DZC 4.2.2.1). The proposed E-SU-D1 district would allow for compatible infill development fitting with the character of the surrounding residential neighborhood and thus is consistent with the Urban Edge Residential District purpose statement.



The specific intent of the E-SU-D1 district is “single unit district allowing only urban houses and detached accessory dwelling units with a minimum zone lot area of 6,000 square feet” (DZC 4.2.2.2.E). The subject site is 6,250 square feet in size and an accessory dwelling unit is indented to be constructed; as such the proposed map amendment is consistent with the specific intent of the E-SU-D1 zone district. Furthermore, there is a pattern in the immediate area of detached accessory structures in the rear taking access from the alley.

### **Attachments**

1. Application
2. RNO Position Statement/Form