



**TO:** Land Use, Transportation, and Infrastructure Committee of the Denver City Council  
**FROM:** Scott Robinson, Senior City Planner  
**DATE:** September 10, 2020  
**RE:** Official Zoning Map Amendment Application #2018I-00142

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2018I-00142, as evaluated under the East Central Area Plan.

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2018I-00142, as evaluated under the Capitol Hill/Cheesman Park Neighborhood Plan.

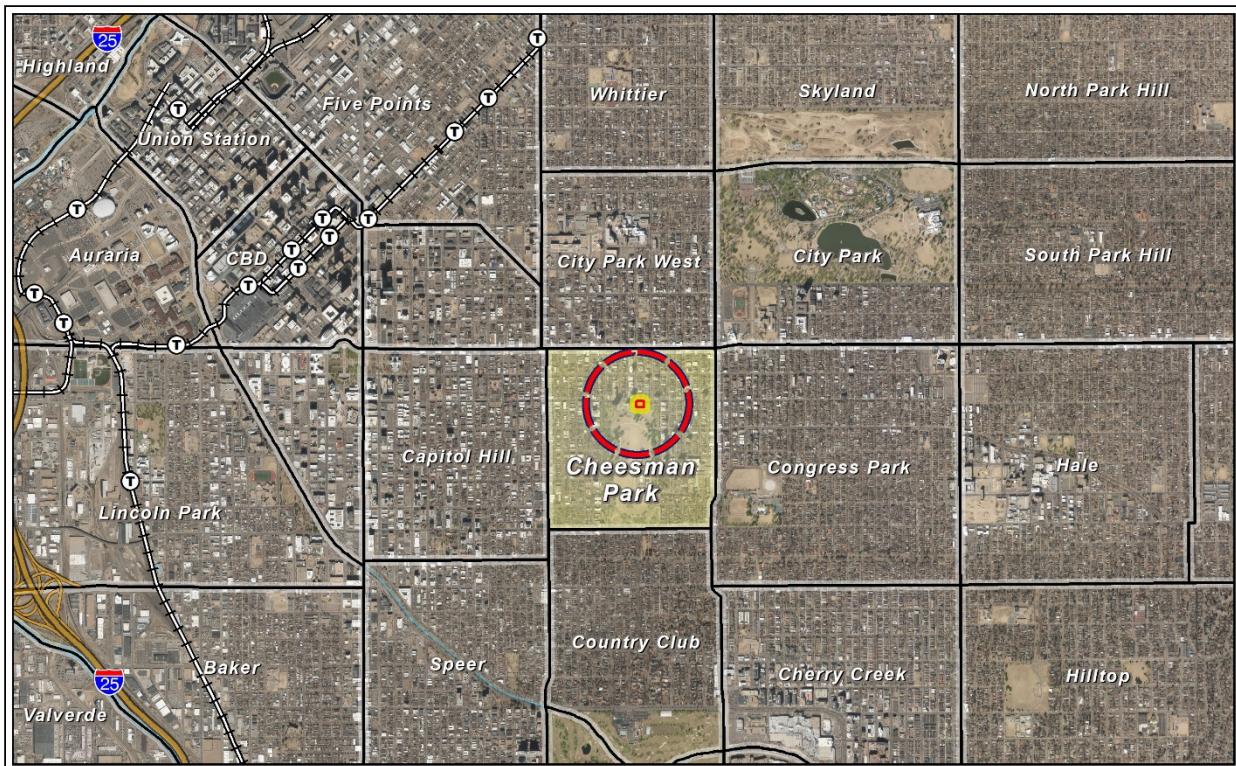
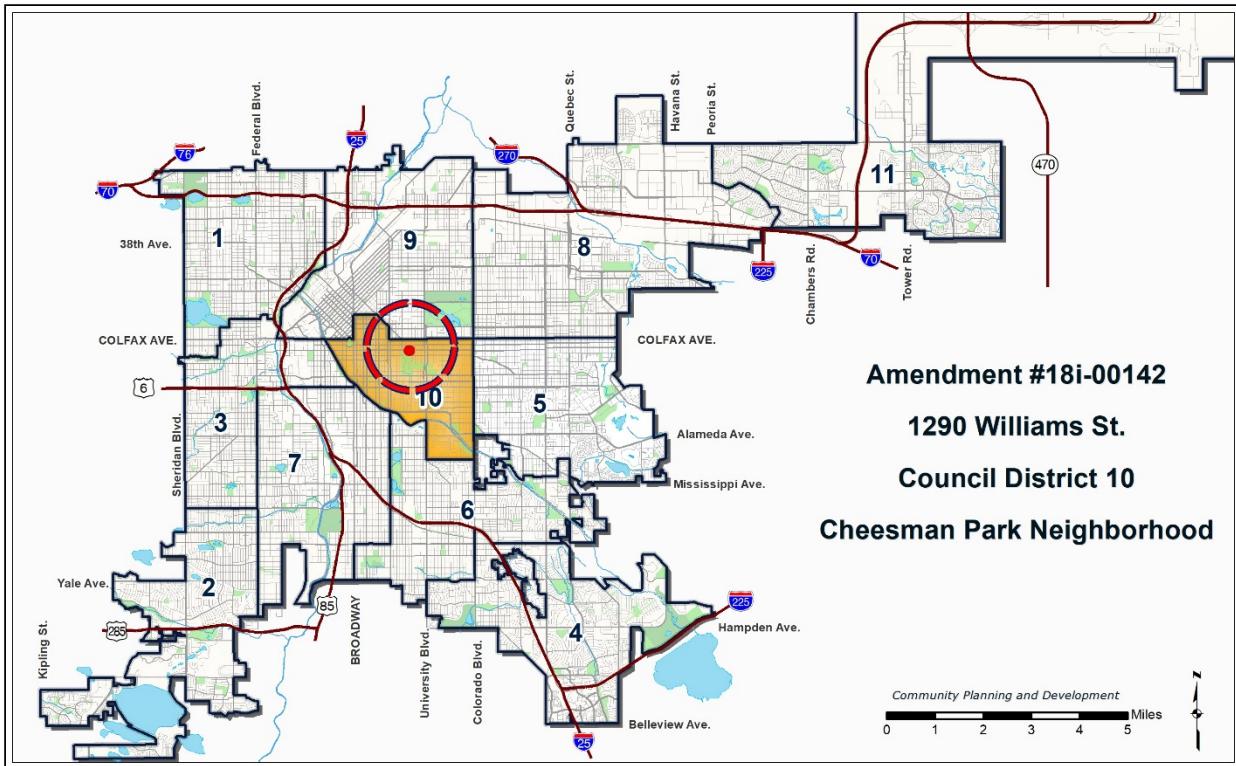
### Request for Rezoning

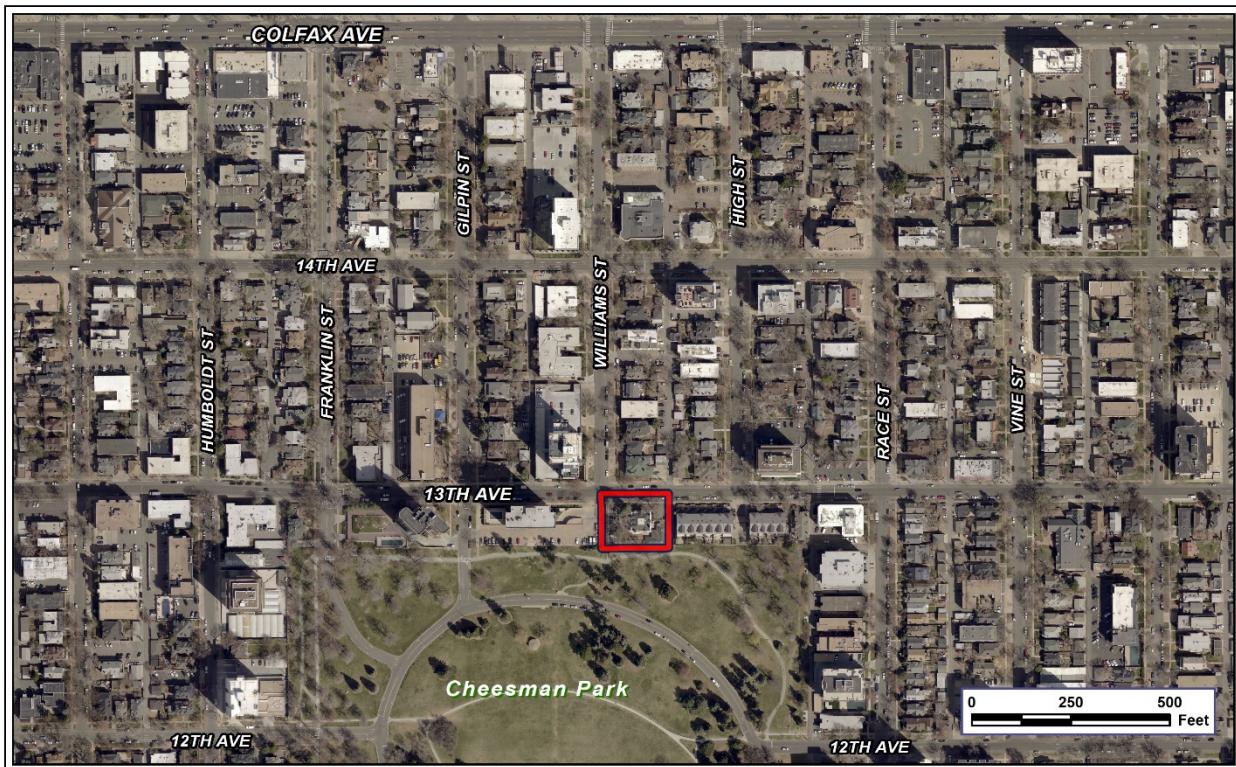
Address:	1290 Williams Street
Neighborhood/Council District:	Cheesman Park / Council District 10
RNOs:	Inter-Neighborhood Cooperation (INC); City Park Friends and Neighbors; Neighbors for Greater Capitol Hill; East Side RNO; Friends & Neighbors for Cheesman Park; Capitol Hill United Neighborhoods, Inc.; Informed and Concerned Community Gardeners
Area of Property:	17,127 square feet
Current Zoning:	G-MU-20 UO-3
Proposed Zoning:	PUD-G #23
Property Owner(s):	Capitol Hill United Neighborhoods, Inc.
Owner Representative:	Bruce O'Donnell, Starboard Realty, LLC

### Summary of Rezoning Request

- The subject property is in the Cheesman Park neighborhood, immediately north of Cheesman Park, at the southeast corner of 13<sup>th</sup> Avenue and Williams Street.
- The site is home to the Tears-McFarlane House, a landmarked three-story house built in 1899, as well as a 1,500 square foot annex building.
- The applicant is requesting the rezoning to allow for redevelopment of the annex building and for more allowed commercial uses.
- The applicant is requesting a Planned Unit Development (PUD) based on the G-MU-3 zone district, with variations that address the site's unique site configuration with a landmarked structure and adjacency to the park.

## Existing Context



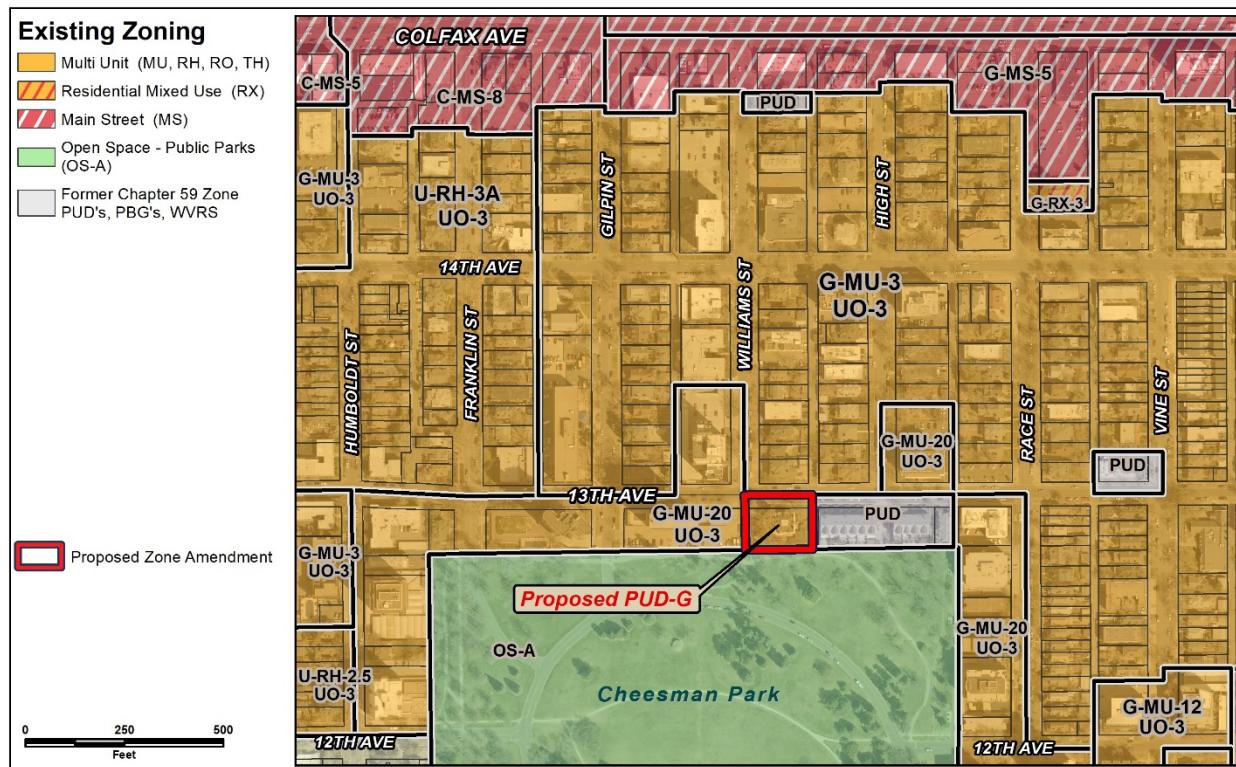


The subject property is in the Cheesman Park neighborhood, at the southeast corner of 13<sup>th</sup> Avenue and Williams Street, though Williams Street is vacated south of 13<sup>th</sup> Avenue. The property abuts Cheesman Park to the south. The Colfax Avenue commercial corridor is two blocks to the north, and there are small commercial nodes a few blocks east and west on 13<sup>th</sup> Avenue. There is RTD bus service on 12<sup>th</sup> Avenue in the park and along Colfax Avenue.

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	G-MU-20 UO-3	Office	3-story house, 1-story annex building	
North	G-MU-3 UO-3	Single-unit and multi-unit residential	3-story house, 15-story apartment building	
South	OS-A	Park	N/A	
East	PUD 323	Multi-unit residential	3-story townhomes	
West	G-MU-20 UO-3	Multi-unit residential	20-story apartment building	Generally regular grid of streets interrupted to the south by Cheesman Park. Block sizes and shapes are consistent and rectangular. Vehicle parking to the side or rear of buildings (alley access).

## 1. Existing Zoning



The current G-MU-20 UO-3 zone district allows multi-unit development up to 20 stories in the Urban House, Duplex, Town House, and Apartment building forms. The maximum allowed height in feet ranges from 35 feet to 230 feet depending on building form. Front setbacks range between 10 and

20 feet, side setbacks between five and 12.5 feet, and rear setbacks between 10 and 20 feet depending on building form and lot configuration. However, development on the site would be limited because of the landmark designation (see below). The G-MU-20 zone district allows single-unit, two-unit, and multi-unit residential uses, along with certain group living uses. The UO-3 Historic Structure Use Overlay allows additional non-residential uses in designated historic structures under certain conditions. Additional allowed uses include non-medical office, art studio, and bed and breakfast lodging.

## 2. Historic District or Structures

The Tears-McFarlane House was designated a Denver landmark in 1972. The annex building is not designated, however the landmark site encompasses the entire property, so all demolition or new construction on the property will require review and approval by the Landmark Preservation Commission to ensure changes are compatible with the character of the historic designation.

## 3. East Central Area Plan

The site is located in the planning area for the pending East Central Area Plan. The Planning Board is scheduled to hold a public hearing on the plan at the same September 2 meeting as this rezoning is scheduled to have a public hearing. City Council is tentatively scheduled to hold a public hearing on the plan on October 5, before the tentative date of October 26 for the hearing on this rezoning. As such, this staff report includes analysis evaluating the proposed rezoning against both the plans adopted as of the date of this report, and the latest draft of the East Central Area Plan.

## 4. Existing Land Use Map



## 5. Existing Building Form and Scale



Site – from 13<sup>th</sup> Ave. & Williams St.



North – from 13<sup>th</sup> Ave. & Williams St.



East – from 13<sup>th</sup> Ave.



West – from 13<sup>th</sup> Ave. & Williams St.



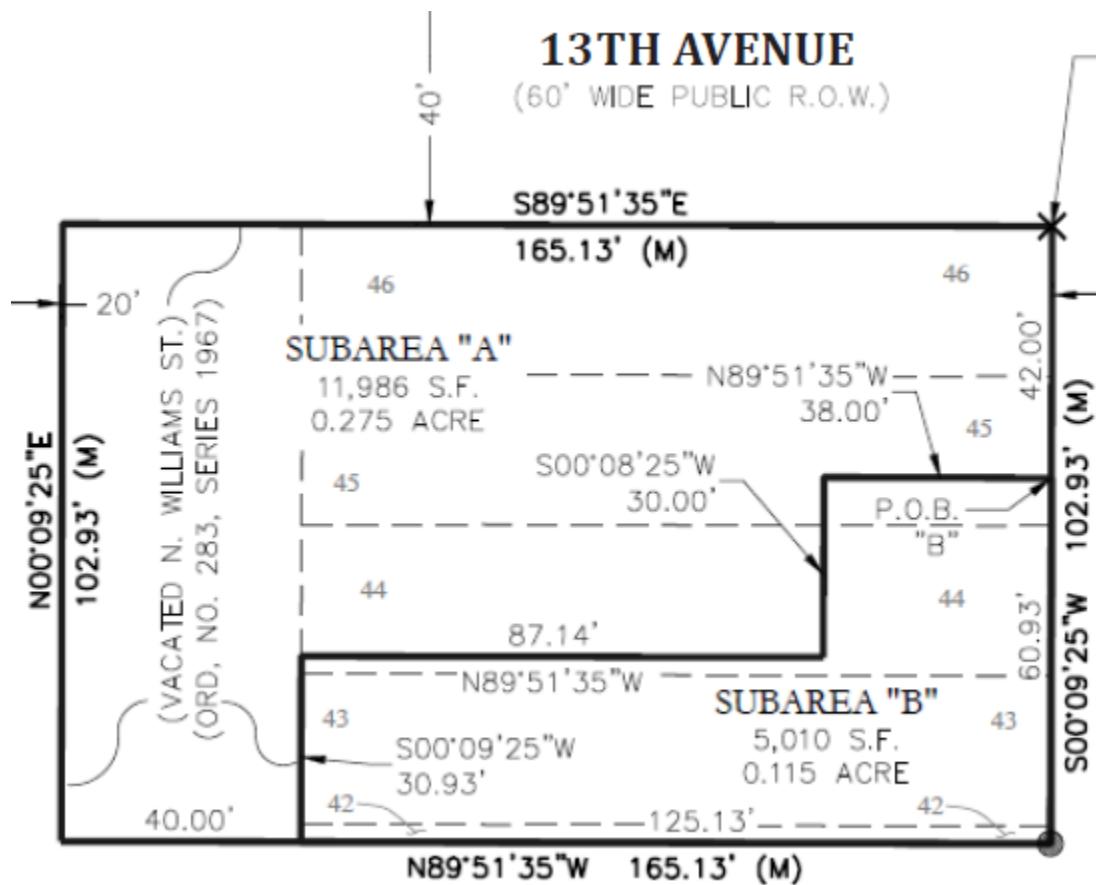
**South – from 12<sup>th</sup> Ave. in Cheesman Park**

Source: Google Maps

## **Proposed Zoning**

The applicant requests to rezone to PUD-G #23 per DZC Section 9.6.1. The purpose of a PUD district is to provide an alternative to conventional land use regulations, combining use, density, site plan, and building form considerations into a single process, and substituting procedural protections for the more prescriptive requirements in the Code. The PUD District is intended to respond to unique and extraordinary circumstances, where more flexible zoning than what is achievable through a standard zone district is desirable and multiple variances, waivers, and conditions can be avoided. The proposed PUD-G #23 is intended to facilitate the preservation of the Tears-McFarlane housing by allowing a broader range of commercial uses on the property, including restaurants, and allowing for the replacement of the annex building with a new structure in roughly the same location.

The proposed PUD-G #23 is based on the G-MU-3 zone district, with modifications to allow for additional commercial uses and two primary structures on a zone lot. Only the Urban House primary building form is allowed. The PUD divides the subject property into two subareas, with Subarea A containing the Tears-McFarlane House and Subarea B the annex building. Within Subarea A, the building form standards follow those of the underlying G-MU-3 zone district for the Urban House form, except the maximum allowed height in feet is increased from 35 to 45 to accommodate the height of the existing structure. Within Subarea B, the Urban House building form standards of the underlying G-MU-3 zone district are modified to limit height to one story and 20 feet, establish the primary street setback as 10 feet; the side street, side interior, rear alley, and rear no alley setbacks as one foot; and limit building coverage within the subarea to 3,500 square feet.



The primary building forms allowed in the existing zone district and the proposed zone district are summarized below.

Design Standards	G-MU-20 UO-3	PUD-G #23 Subarea A	PUD-G #23 Subarea B
Primary Building Forms Allowed	Urban House, Duplex, Town House, Apartment	Urban House	Urban House
Stories/Heights (max)	3-20*/35'-230'*	3/45'	1/20'
Primary Build-To Percentages (min)	N/A-70%*	N/A	N/A
Primary Build-To Ranges	N/A to 10'/20'*	N/A	N/A
Minimum Zone Lot Size/Width	3,000 SF - 6,000 SF*/25'-50'*	3,000 SF/25'	3,000 SF/25'
Primary Setbacks (min)	10'-20'*	Block sensitive	10'
Building Coverages	50%-N/A*	50%	3,500 SF within the subarea

\*Standard varies between building forms

The uses of the G-MU-3 UO-3 zone district are allowed in both subareas of the PUD, with the following additional uses also allowed with certain limitations:

- Arts, Recreation, and Entertainment Services, Indoor
- Arts, Recreation, and Entertainment Services, Outdoor
- Eating & Drinking Establishments
- Dental/Medical Office or Clinic
- Food Sales or Market
- Retail Sales, Services & Repair, All Others
- Outdoor Eating and Serving Area Accessory to Eating/Drinking Establishment Use
- Outdoor Entertainment Accessory to an Eating/Drinking Establishment Use
- Outdoor Retail Sale and Display
- Outdoor Retail Sales
- Outdoor Sales, Seasonal
- Retail Food Establishment, Mobile

PUD-G #23 requires minimum vehicle parking of nine spaces regardless of the uses established. Signage on the property shall follow the requirements of the G-RX-3 zone district, with a few minor modifications.

### **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:** Approved – See comments:

- Notes. EQ concurs with the request and is not aware of environmental concerns that should be considered for this 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.

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

**Public Works – R.O.W. - City Surveyor:** Approved – No Comments

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

**Development Services – Wastewater:** Approved – No Response

**Development Services – Project Coordination:** Approve rezoning only – Will require additional information at site plan review:

- Per Section 9.6.1.3.A.1, a detailed SDP application will be needed and need to be approved because this is a General PUD. An SDP, zoning permits, and building permits will be needed for new uses and site modifications.

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

## **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:	1/23/20
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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:	7/13/20
Planning Board recommended approval by an 8-0 vote:	9/2/20
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:	9/1/20
Land Use, Transportation and Infrastructure Committee of the City Council:	9/15/20
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 (tentative):	10/5/20
City Council Public Hearing (tentative):	10/26/20

- **Planning Board Condition**
  - At the September 2, 2020 Planning Board hearing, the applicant requested, and the Board approved, a condition on the recommendation of approval that the Retail Food Establishment, Mobile temporary use be removed as an allowed use from PUD-G #23. The draft PUD has been updated to remove the use.
- **Registered Neighborhood Organizations (RNOs)**
  - As of the date of this staff report, two letters of support from RNOs have been received. The Uptown on the Hill RNO supports the application because it will contribute to the vibrancy of the neighborhood and is supported by city plans. The Colfax Avenue Business Improvement District, which is also registered as an RNO, supports the application because it creates certainty around development outcomes and will enable the renovation of the Tears-McFarlane House.
- **General Public Comment**
  - As of the date of this staff report, 124 letters were received expressing support for the application, and 132 letters were received expressing opposition. The letters of support generally cite consistency with adopted plans, compatibility with the neighborhood and location, and the community engagement done by the applicant. The letters of opposition generally cite impacts on the

neighborhood from the proposed new uses, incompatibility with the adjacent park, and inconsistency with adopted plans. See the attached correspondence for the full text of all of these public comments.

- **Good Neighbor Agreement**

- The applicant has submitted a signed good neighbor agreement negotiated with the homeowner's associations of the immediately to the east and west of subject property. See the attached agreement.

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

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7, 12.4.10.8, and 12.4.10.9 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

### **DZC Section 12.4.10.9**

1. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code;
2. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
3. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;
4. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and
5. The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design).

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

The following adopted plans apply to this property:

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

The following adopted plan currently applies to this property if the rezoning is approved prior to the anticipated adoption of the East Central Area Plan (October 5, 2020)

- *Capitol Hill/Cheesman Park Neighborhood Plan (1993)*

If the proposed map amendment is approved by City Council after the adoption of the East Central Area Plan (anticipated October 5, 2020), the following plan would apply instead:

- *East Central Area Plan (2020)*

### **Denver Comprehensive Plan 2040**

The proposed rezoning is consistent with many of the adopted Denver Comprehensive Plan 2040 strategies, which are organized by vision element.

The proposed rezoning would allow for improved access to amenities within an established neighborhood by allowing a broader range of uses adjacent to an existing park, consistent with the following strategy in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy C – *Improve equitable access to resources that improve quality of life, including cultural and natural amenities, health care, education, parks, recreation, nutritious food and the arts* (p. 28).

The proposed rezoning would allow infill development appropriate for the surrounding neighborhood that allows more community-serving uses while promoting the preservation and reuse of an existing historic building, consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- 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).
- Strong and Authentic Neighborhoods Goal 3, Strategy C – *Ensure city policies and regulations support historic preservation and eliminate barriers in city processes to help all neighborhoods preserve what matters most* (p. 34).
- Strong and Authentic Neighborhoods Goal 3, Strategy E – *Support the stewardship and reuse of existing buildings, including city properties* (p. 34).
- Strong and Authentic Neighborhoods Goal 4, Strategy A – *Grow and support neighborhood-serving businesses* (p. 35).

The proposed rezoning would allow additional commercial uses, promoting business growth and capitalizing on the proximity to Cheesman Park, consistent with the following strategies in the Economically Diverse and Vibrant vision element:

- Economically Diverse and Vibrant Goal 2, Strategy C – *Leverage Denver's community assets, outdoor lifestyle, quality parks and recreation amenities and natural environment to attract a wide range of talent, entrepreneurs and businesses* (p. 46).
- Economically Diverse and Vibrant Goal 3, Strategy A – *Promote small, locally-owned businesses and restaurants that reflect the unique character of Denver* (p. 46).

The proposed rezoning would allow for compatible infill development in an established neighborhood, consistent with the following strategies from the Environmentally Resilient vision element:

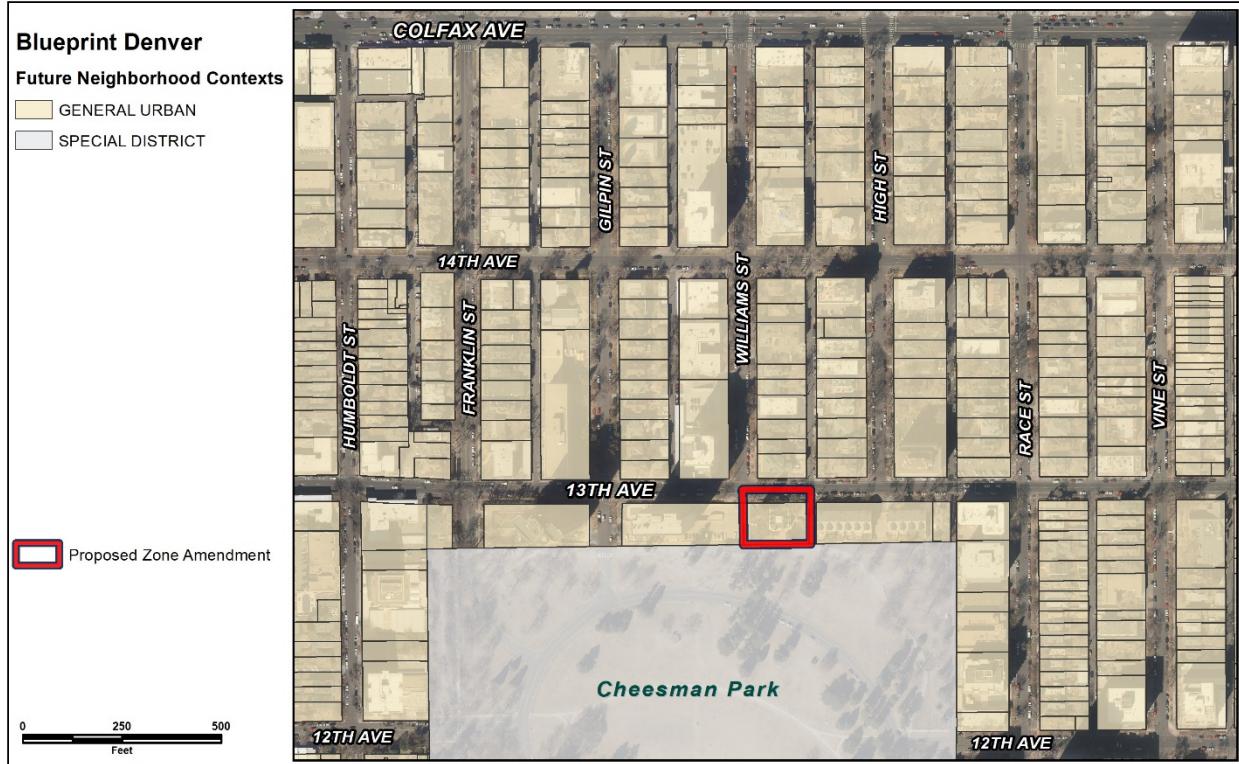
- Environmentally Resilient Goal 8, Strategy A- *Promote infill development where infrastructure and services are already in place* (p.54).
- Environmentally Resilient Goal 8, Strategy B- *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).

The proposed PUD-G #23 would allow for additional compatible commercial uses adjacent to a park in an established neighborhood while preserving a historic building, consistent with the goals of Comprehensive Plan 2040.

### Blueprint Denver

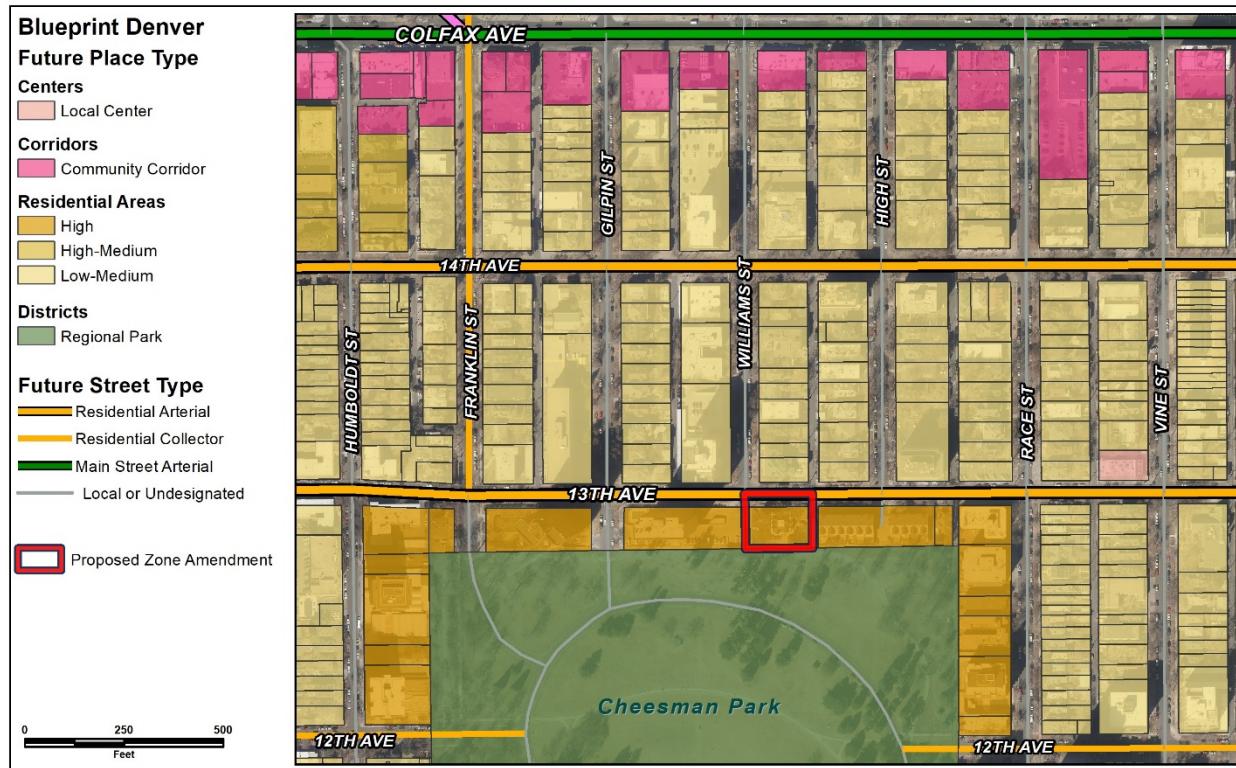
Blueprint Denver was adopted in 2019 as a supplement to Comprehensive Plan 2040 and establishes an integrated framework for the city's land use and transportation decisions. Blueprint Denver identifies the subject property as part of a High Residential place within the General Urban Neighborhood Context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

#### Blueprint Denver Future Neighborhood Context



In Blueprint Denver, future neighborhood contexts are used to help understand differences in things like land use and built form and mobility options at a higher scale between neighborhoods. The subject property is shown on the context map as General Urban neighborhood context. The neighborhood context map and description help guide appropriate zone districts (p. 66). The General Urban neighborhood context is described as a place where “development should be sensitive to the existing neighborhood character and offer residents a mix of uses, with good street activation and connectivity. Residents are well served by transit and enjoy access to daily needs, amenities and entertainment options.” (p. 238). In addition, in the General Urban context “multi-unit residential is the most common with some single-unit and two-unit residential, commercial and mixed-use embedded” (p. 238). The proposed PUD-G #23 is based on the G-MU-3 zone district, which is part of the General Urban context where “low-scale commercial areas are embedded within residential areas. Commercial uses occur in a variety of building forms that may contain a mixture of uses within the same structure” (DZC 6.1.1). The proposed PUD would allow compatible commercial uses in an appropriate building form embedded in the neighborhood, consistent with the Blueprint Denver description of the General Urban neighborhood context.

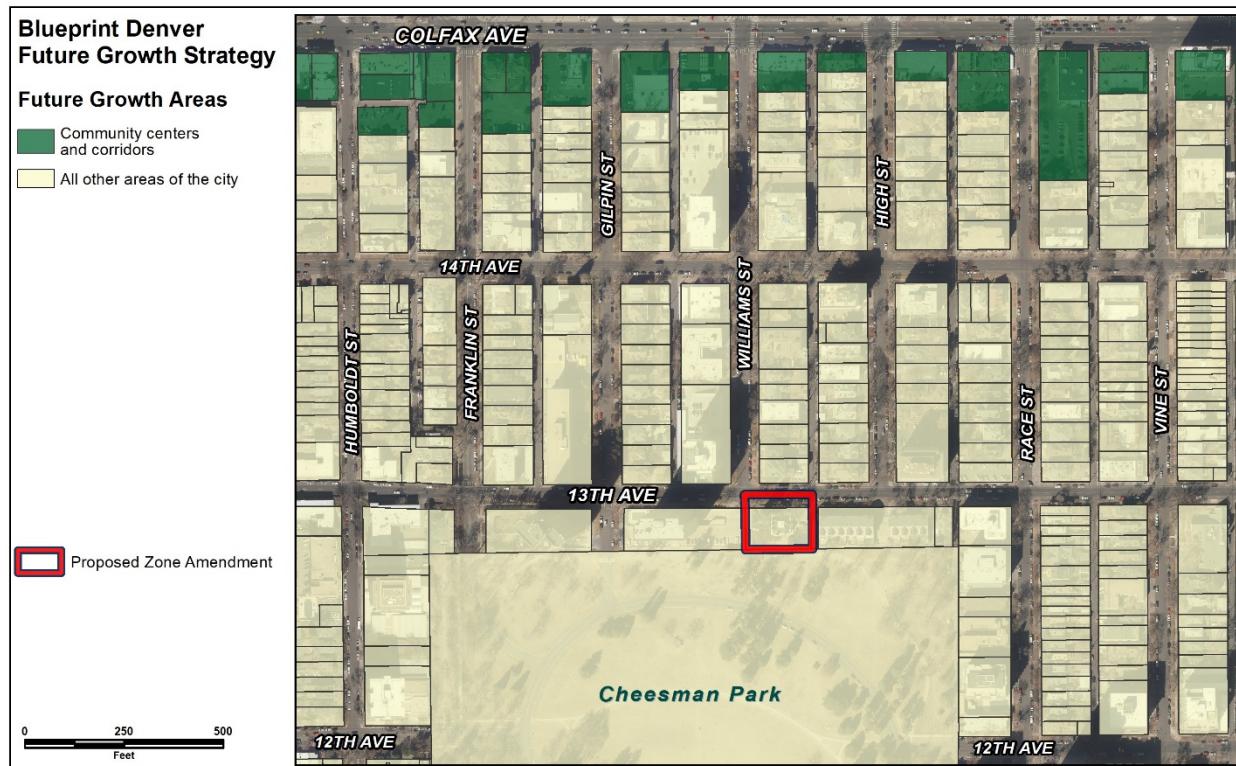
### **Blueprint Denver Future Places**



The neighborhood context of General Urban provides nuance to the aspirations of the individual places shown on the map. The Future Places Map shows the subject property as part of a High Residential place. Blueprint Denver describes the aspirational characteristics of High Residential places in the General Urban context as “predominately multi-unit residential, though compatible commercial uses

should be interspersed throughout. Buildings are generally the tallest of the residential places in this context" (p. 246). The proposed PUD would allow residential and commercial uses embedded in the neighborhood, consistent with the Blueprint Denver place type description. The proposed maximum allowed height of 45 feet is less than that typically seen in General Urban High Residential places but is appropriate considering the historic status of the property.

### **Growth Strategy**



The subject property is designated as High Residential and mapped in "all other areas of the city" in the Blueprint Denver Growth Strategy, which are anticipated to see around 20% of new housing growth and 10% of new employment growth citywide by 2040 (p.51). This is "a smaller amount of growth intended to strengthen the existing character of our neighborhoods" (p. 49). The proposed PUD would allow low-scale residential and commercial uses, appropriate in these areas intended to capture the anticipated growth. The proposed map amendment is consistent with the recommendations of Blueprint Denver.

### **Street Types**

In Blueprint Denver, street types work in concert with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). Blueprint Denver classifies 13<sup>th</sup> Avenue as a Residential Arterial. Blueprint Denver describes Arterial streets as "designed for the highest amount of through movement and the lowest degree of property access" (p.154). The use and built form characteristics of Residential streets is described as, "primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modest setback. The depth of the setback varies by neighborhood context" (p.160). The

proposed PUD would allow low-scale commercial uses with an appropriate setback, consistent with the Blueprint Denver street type descriptions.

### **Strategies**

Blueprint Denver provides recommendations related to preserving historic structures. Land Use and Built Form: General Policy 2, Strategy E says “in historic areas, balance efficiency with preservation through strategies that encourage the reuse of structures” (p. 72). In addition, Land Use and Built Form: Design Quality and Preservation Policy 2, Strategy A says “continue the city’s commitment to existing historic districts and landmarks and use historic designation to preserve the character of an individual structure or district or where there is historic, architectural, cultural, and/or geographic significance” and Strategy I says “promote incentives to preserve the reuse of historic buildings and the unique historic features of Denver’s neighborhoods” (p. 99). The proposed PUD would promote the preservation of the Tears-McFarlane House and facilitate its continued use, consistent with these recommendations from Blueprint Denver.

### **Custom Zoning**

Blueprint Denver provides the following direction on how to limit the use of custom zoning including PUDs: “Limit the use of site-specific, customized zoning tools—such as Planned Unit Developments (PUDs) and waivers/conditions—to unique and extraordinary circumstances. The zoning code offers a wide variety of zone districts that cover the diverse contexts and places of Denver. Custom zoning tools are most effective when a standard zone district does not exist to implement the adopted plans for an area” (p. 73). More detail on the challenges of custom zoning is provided on page 73 of the plan. Due to the specific challenges of the property, with the landmarked structure in the center and adjacency to Cheesman Park, there is no standard zone district that can address this site’s unique and extraordinary circumstances. Therefore, the use of a PUD is consistent with the recommendations of Blueprint Denver.

### **Capitol Hill/Cheesman Park Neighborhood Plan**

The Capitol Hill/Cheesman Park Neighborhood Plan was adopted by City Council in 1993 and applies to the subject property. The subject property is in the Cheesman North district in the plan, which is intended to be a “medium density residential area” where “the historic character of the neighborhood will be preserved” (p. 110). The plan recommends continuing to allow commercial uses where they exist in this district (p. 111). The plan also includes recommendations by topic, including Business Recommendation 2: Encourage a Diversity of Businesses which says to “support building designs and land use patterns which encourage small, pedestrian-oriented businesses” (p. 29). In addition, Historic Preservation Recommendation 1b: Emphasize Historic Preservation says to “give top priority to the preservation of historic and architecturally interesting buildings and the historic fabric of the neighborhood when reviewing development proposals” (p. 44).

The proposed PUD would allow additional commercial uses on a property that is currently used for commercial/non-profit uses and has been for decades. The proposed uses are consistent with the character of a medium-density residential area in this part of the city. The PUD would also facilitate the continued preservation of the historic structure on the property. The proposed rezoning is consistent with the overall intent and recommendations of the Capitol Hill/Cheesman Park Neighborhood Plan.

### **East Central Area Plan**

Although not yet adopted by City Council, the East Central Area Plan is anticipated to be adopted by City Council by the time this map amendment will be at council for public hearing, therefore it is relevant to this request. The proposed rezoning was reviewed for consistency with the August 26 Planning Board review draft of the East Central Area Plan.

The East Central Area Plan designates the subject property General Urban future neighborhood context and High Residential future place, the definitions of which are consistent with Blueprint Denver described above (p. 29). The recommended maximum building height for the property is 20 stories (p. 35). The plan also includes several relevant recommendations, including Policy L4: "Encourage renovations and additions instead of demolition in residential areas" (p. 39). In addition, Strategy L6.A.1 says to "facilitate adaptive reuse of historic structures by allowing a broader range of uses, including compatible commercial uses, and appropriate additions" (p. 42). Within the Cheesman Park Neighborhood section of the plan, Strategy CHP-L2.C says to "preserve existing multi-unit and mixed-use buildings that contribute to neighborhood character and ensure new buildings are designed to be compatible" (p. 228).

The proposed PUD would allow for development and uses consistent with the General Urban future neighborhood context and High Residential future place, as described above. The PUD would also facilitate preservation of the historic structure by allowing for an appropriate addition to the property and a broader range of compatible uses. The proposed rezoning would contribute to the preservation of the neighborhood's existing character while allowing compatible new construction and uses, consistent with the recommendations of the East Central Area Plan.

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

The proposed rezoning to PUD-G will result in the uniform application of zone district building form, use and design regulations within the unique zone district.

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

The proposed official map amendment furthers the public health, safety, and general welfare of the City through implementation of the city's adopted plans and facilitating the continued preservation and reuse of a landmarked structure.

### **4. Justifying Circumstance**

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include: Changed or changing conditions in a particular area, or in the city generally...." The application cites new development and residential growth in the area increasing the demand for community-serving uses such as those that would be allowed by the proposed PUD. New residential developments within a few blocks of the subject property include those at 14<sup>th</sup> Avenue and Vine Street, 13<sup>th</sup> Avenue and Ogden

Street, 16<sup>th</sup> Avenue and Humboldt Street, and 11<sup>th</sup> Avenue and Vine Street, among others. In addition, the maintenance needs of the historic Tears-McFarlane House and the way the property is used have changed over the last few years and adaptation is limited by the way the existing zoning interacts with the Landmark restrictions. The proposed PUD would allow the flexibility to facilitate investment and continued active use while preserving the historic elements. These changed and changing conditions justify the rezoning to allow additional uses and reinvestment in the public interest.

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

The proposed PUD is based on the General Urban neighborhood context. This context generally consists of “multi-unit residential uses in a variety of building forms. Single-unit and two-unit residential uses are also found in a mix of residential building forms. Low-scale commercial areas are embedded within residential areas. Commercial uses occur in a variety of building forms that may contain a mixture of uses within the same structure” (DZC, Division 6.1). The proposed map amendment would allow low-scale commercial uses embedded in a neighborhood in a residential building form, consistent with the General Urban context description. For further analysis of consistency with PUD zone district purpose and intent, see section 6.A of this staff report, below.

## **6. Additional review criteria for rezoning to PUD district**

- A. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code;
  - The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code to respond to “Unique and extraordinary circumstances where more flexible zoning than what is achievable through a standard zone district is desirable and multiple variances, waivers, and conditions can be avoided.”
    - Under DZC 9.6.1.1.B.2, one example of a unique and extraordinary circumstance is “where a customized zoning approach is necessary to protect and preserve the character of a Historic Structure or historic district.” The site cannot be redeveloped under the existing zoning, or any standard zone district without significant waivers and conditions, while maintaining the historic integrity of the landmarked Tears-McFarlane House in the center of the property. The modifications in the proposed PUD-G #23 are necessary to allow the continued successful use of the property while preserving the historic structure and character.
    - Section 9.6.1.1.C states “A PUD District is not intended as either a vehicle to develop a site inconsistent with the applicable neighborhood context and character, or solely as a vehicle to enhance a proposed development’s economic feasibility.” The proposed PUD would allow development on the subject property that is consistent with the General Urban neighborhood context and that furthers the public health, safety, and general welfare of the city, as described above.
    - According to Section 9.6.1.1.D., “in return for the flexibility in site design a PUD District should provide significant public benefit not achievable through application of a

standard zone district, including but not limited to diversification in the use of land; innovation in development; more efficient use of land and energy; exemplary pedestrian connections, amenities, and considerations; and development patterns compatible in character and design with nearby areas and with the goals and objectives of the Comprehensive Plan.” The PUD District provides significant public benefit including:

- The proposed PUD provides for development patterns compatible in character and design with nearby areas by allowing for development of a compatible scale with appropriate setbacks and relationship to Cheesman Park while preserving the historic Tears-McFarlane house. Further, the expanded allowed use list will diversity the allowed uses while providing the historic structure more flexibility to adapt to new uses over time. The proposed PUD is compatible with the goals and objectives of the Comprehensive Plan as described above.

B. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;

- The proposed PUD District and PUD District Plan comply with the standards and criteria stated in Division 9.6, including those described above and the form and content standards in Section 9.6.1.3.

C. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;

- As described above, the site would require several variances or waivers to the standard G-MU-3 zone district to accommodate the development, most notably the location and scale of the allowed development in Subarea B, and the wider range of uses allowed. There is no other zone district which would accommodate the development without variances or waivers.

D. The PUD District establishes permitted uses that are compatible with existing land uses adjacent to the subject property;

- The PUD District proposes uses consistent with those allowed in G-MU-3 UO-3, with additions and modifications described above. These uses are appropriate to apply to a site currently used for commercial/non-profit uses in a General Urban neighborhood that has commercial areas and uses mixed throughout.

E. The PUD District establishes permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan.

- The PUD District allows building heights and building forms that are compatible with the surrounding neighborhoods. The required setback and building form restrictions ensure appropriate relationships to adjacent properties, the historic Tears-McFarlane House, and Cheesman Park.

## **Attachments**

1. PUD-G #23

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2. Application and Good Neighbor Agreement
3. RNO and public comment letters