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**TO:** Land Use, Transportation & Infrastructure Committee of the Denver City Council  
**FROM:** Scott Robinson, Senior City Planner  
**DATE:** May 4, 2017  
**RE:** Official Zoning Map Amendment Application #2015I-00165

## Staff Report and Recommendation

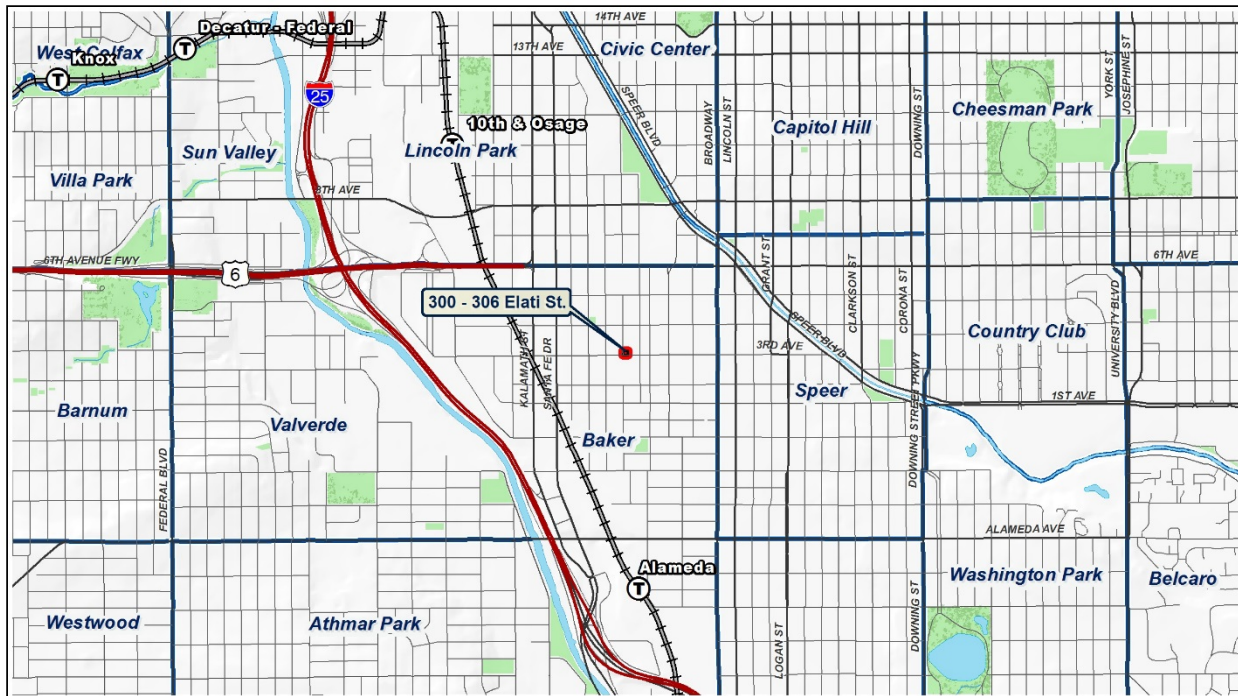
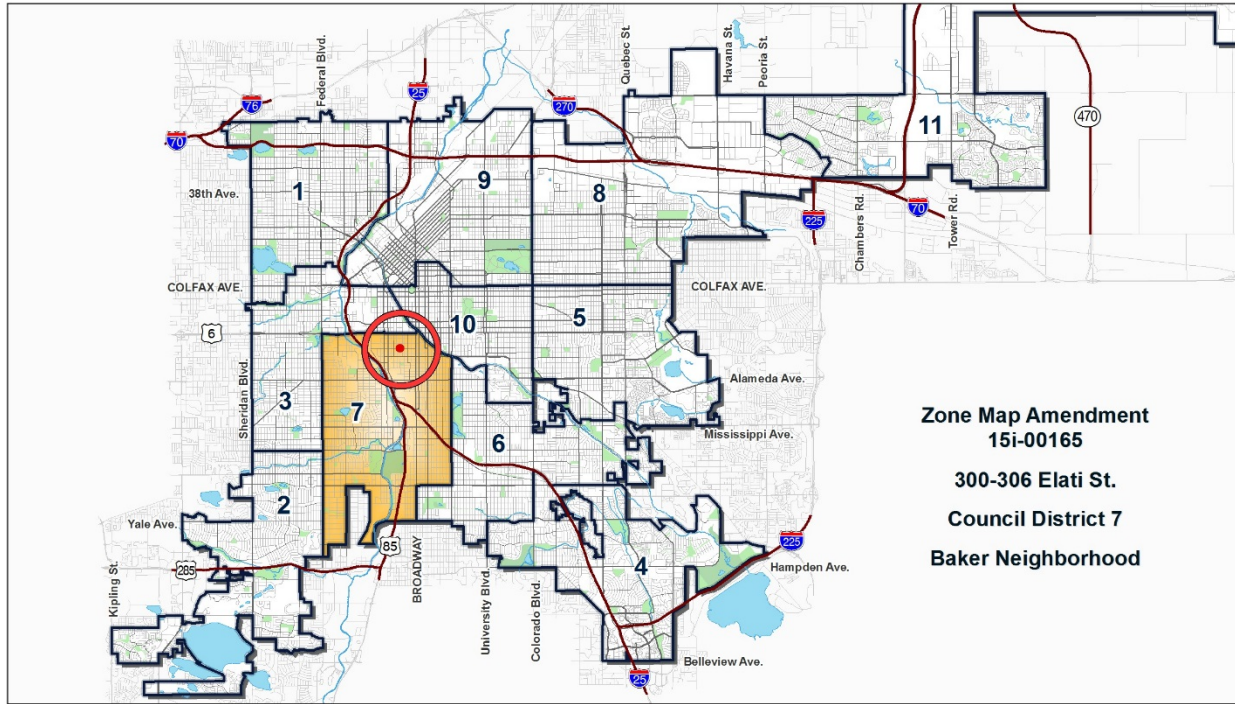
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2015I-00165.

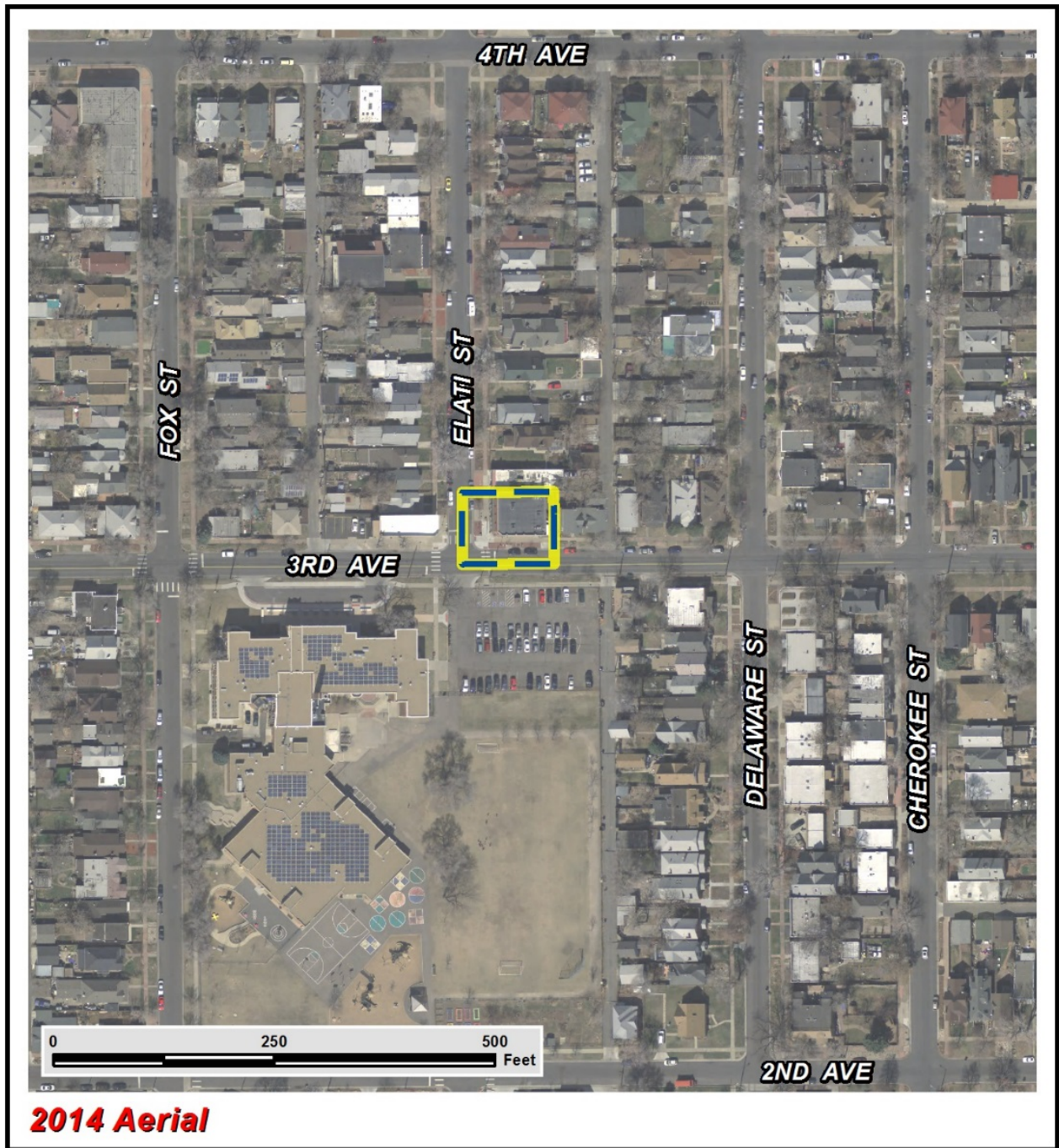
## Request for Rezoning

Address:	300-306 N Elati Street
Neighborhood/Council District:	Baker / Council District 7
RNOs:	Baker Historic Neighborhood Association, Santa Fe Drive Redevelopment Corporation, Inter-Neighborhood Cooperation, Denver Neighborhood Association, Inc.
Area of Property:	3,652 square feet
Current Zoning:	U-RH-2.5
Proposed Zoning:	U-MX-2
Property Owner(s):	Rose Cottage, LLC
Owner Representative:	Allison Altaras, Esq.

## Summary of Rezoning Request

- The property is located in the Baker neighborhood at the corner of 3<sup>rd</sup> Avenue and Elati Street, across from Denver Center for International Studies (DCIS) at Fairmont.
- There is currently a two-story brick building on the site, containing a restaurant and art gallery on the first floor and offices on the second floor, which are allowed as “Nonresidential Uses in Existing Business Structures in Residential Zones” through the Zoning Permit with Informational Notice (ZPIN) process. Importantly, the ZPIN does not run with the land and must be applied for anew when tenants change.
- The applicant is requesting the map amendment to allow the existing structure to continue to be used for commercial purposes without the above exception and the additional procedure it entails.
- The **U-MX-2** (Urban Neighborhood, Mixed Use, 2 story) zone district is intended to provide safe, active, and pedestrian-scaled diverse areas in established residential neighborhoods. Further details of the zone district can be found in Article 5 of the Denver Zoning Code (DZC).





### Existing Context

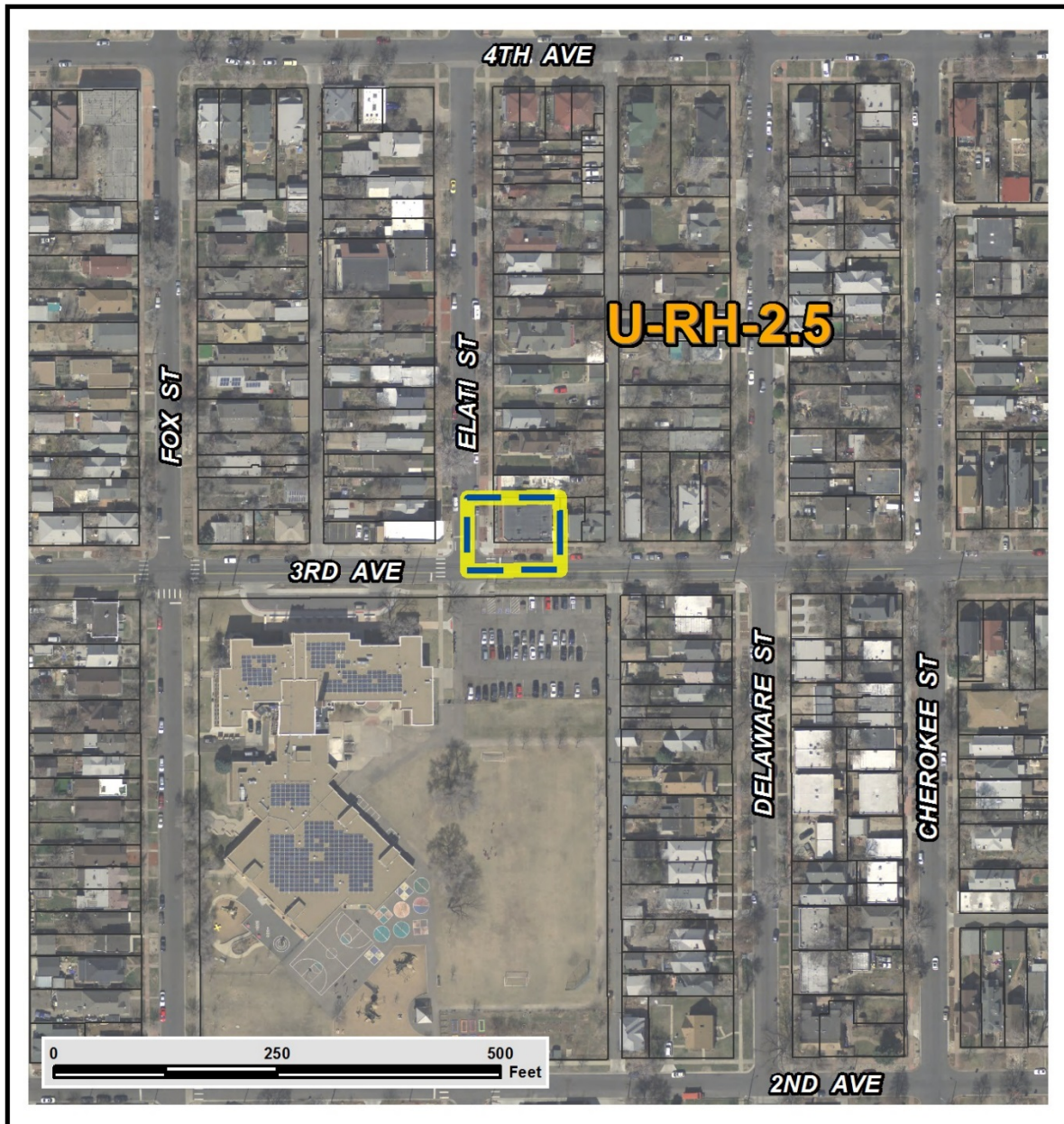
The subject property is one of several commercial structures scattered through the residential portion of the Baker neighborhood. Some of these commercial properties were zoned U-MX-2 with the adoption of the Denver Zoning Code in 2010, while others, including the subject property, were zoned U-RH-2.5. The surrounding area is a mix of single-family and multi-family residential with a few non-residential

uses between the commercial corridor along Broadway and the industrial uses along Santa Fe and Kalamath. DCIS at Fairmont takes up the block to the south of the site and Flores Park and the Denver Center for International Studies magnet middle and high school are a few blocks to the north. Bus service is provided on Galapago and Bannock Streets.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-RH-2.5	Restaurant, art gallery, office	2-story brick commercial building oriented toward Elati St. with a chamfered corner and minimal setbacks	Generally regular grid of streets; Elati Street is cut off by the school south of 3 <sup>rd</sup> Avenue. Block sizes and shapes are consistent and rectangular. Vehicle parking to the side or rear of buildings (alley access).
North	U-RH-2.5	Residential	1-story brick commercial style building with minimal setbacks and traditional single-family structures further north	
South	U-RH-2.5	Fairmont Elementary School	Parking lot for the school with the 2-story brick school building to the west	
East	U-RH-2.5	Residential	2-story single-family residential structures with front gables and dormers	
West	U-RH-2.5	Office, residential	2-story brick commercial building at the corner and 1-story single-family residential structure to the north	

### 1. Existing Zoning



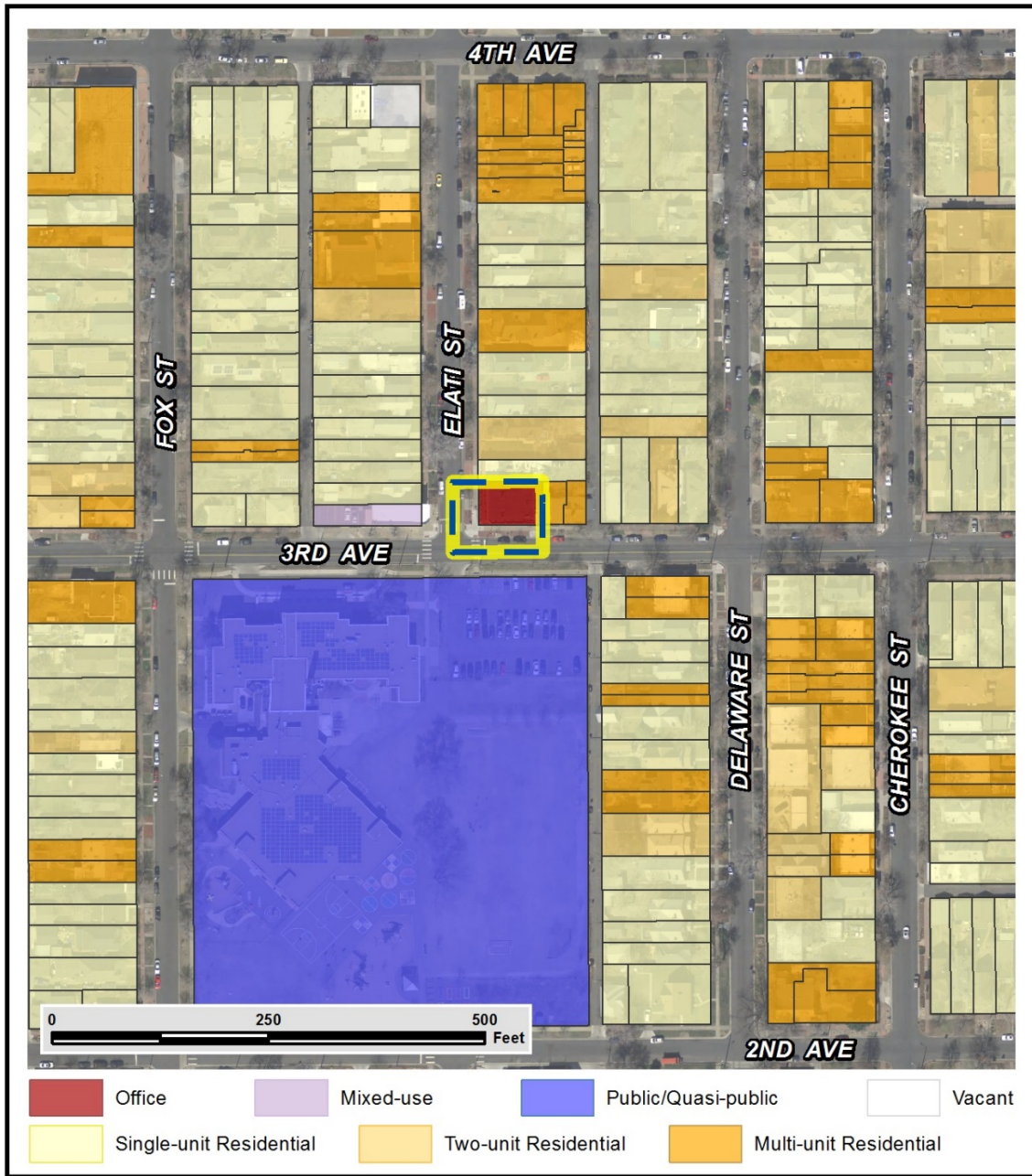
The U-RH-2.5 zone district allows residential structures in a variety of building forms up to two-and-a-half stories and 35 feet tall. Structures are generally required to have 20 foot primary street setbacks and five foot side interior and side street setbacks. Allowed uses are mostly limited to civic uses and single unit, two unit, and multi-unit dwellings with one parking space required per unit. However, existing commercial structures are allowed to have non-residential uses that would be allowed in the U-MS-2x zone district if approved through the Zoning Permit with Informational Notice (ZPIN) process and any additional review process that would be required for the use in the U-

MS-2x zone district. See DZC Section 11.4.5. For additional details of the zone district, see DZC Section 5.2.2.

## **2. Historic District**

The subject property is located in the Baker Neighborhood Historic District, which covers the residential core of the Baker neighborhood. Under the city's historic district regulations, any exterior changes to the building that require a permit must first be approved through the historic design review process in order to preserve the historic character of the district.

### 3. Existing Land Use Map



**4. Existing Building Form and Scale**



**Site** – at 3<sup>rd</sup> Ave and Elati St



**East** – from 3<sup>rd</sup> Ave



**North** – from Elati St



**South** – at 3<sup>rd</sup> Ave and Elati St



**West** – at 3<sup>rd</sup> Ave and Elati St



## 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:

**Asset Management:** Approve – No comments.

**Environmental Health:** Approve

- **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.

**Development Services** – Approve. Note: the U-MX-2 Zone District requires a 10-foot side interior setback for properties adjacent to Protected Districts when using the General Building Form. The

existing structure located at 300-306 N Elati Street currently has a 0-foot side interior setback from the structure located at 310 N Elati Street.

*Note: Because the existing structure does not meet setbacks, it would be considered a compliant structure under both the current and proposed zone districts.*

**Public Works – City Surveyor:** Approve – No comments.

### Public Review Process

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	<b>2/7/17</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 and registered neighborhood organizations:	<b>4/4/17</b>
Planning Board voted 9 to 0 at the public hearing to recommend approval to City Council	<b>4/19/17</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>4/24/17</b>
Land Use, Transportation and Infrastructure Committee of the City Council review:	<b>5/9/17</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 (tentative):	<b>5/29/17</b>
City Council Public Hearing (tentative):	<b>6/19/17</b>

- Summary of Other Public Outreach and Input
  - **Registered Neighborhood Organizations (RNOs)**
    - Baker Historic Neighborhood Association, a registered neighborhood organization, submitted a letter recommending support of the application.
  - **Other Public Comment**

- To date, no other comment letters have been received.

## 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)
- Baker Neighborhood Plan (2003)

### **Denver Comprehensive Plan 2000**

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

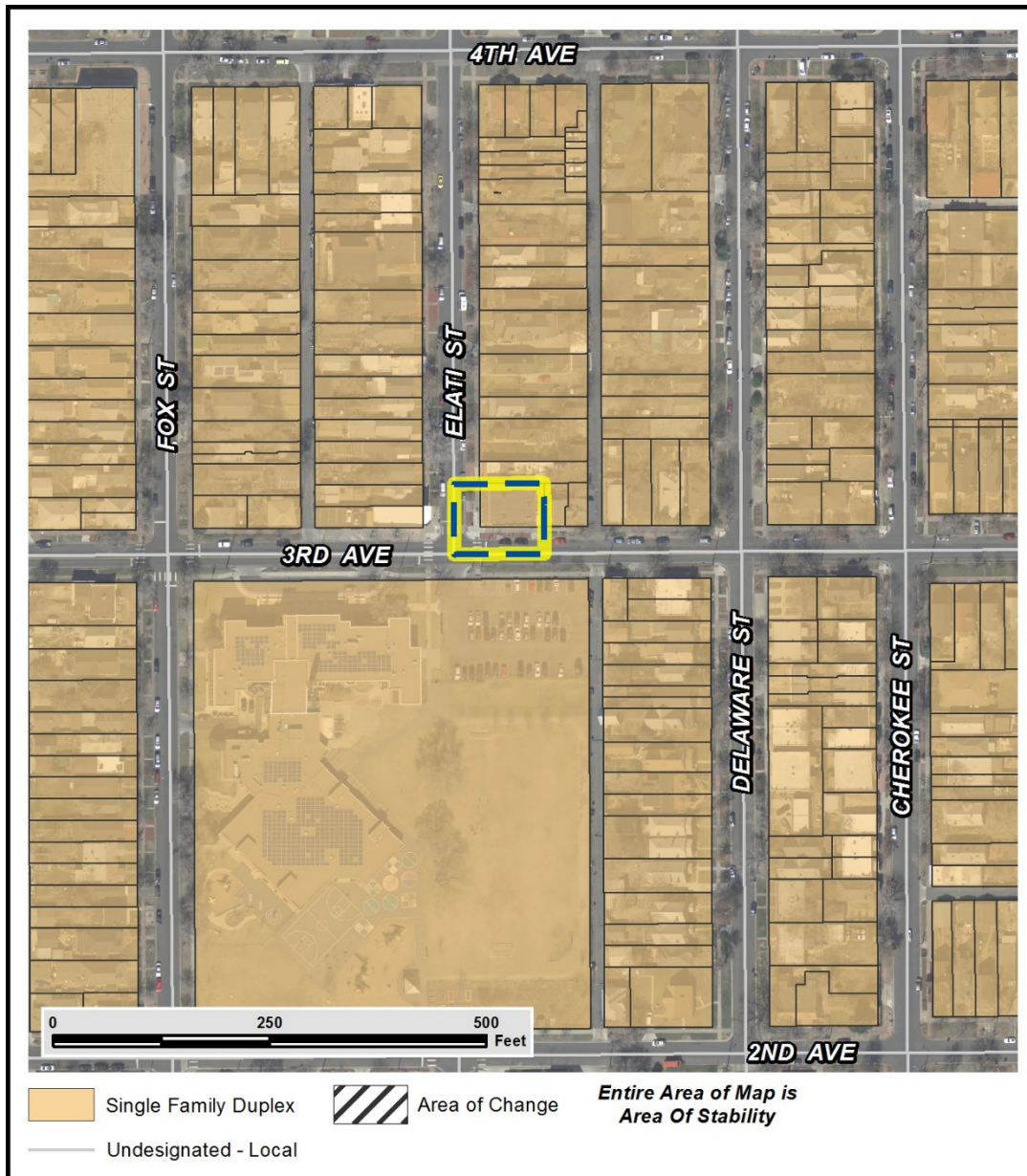
- Environmental Sustainability Strategy 2-F – *Conserve land by promoting infill development within Denver at sites where services and infrastructure are already in place; designing mixed use communities and reducing sprawl so that residents can live, work and play within their own neighborhoods.* (p. 39)
- Land Use Strategy 3-D – *Identify and enhance existing focal points in neighborhoods, and encourage the development of such focal points where none exist.* (p. 60)
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.* (p. 78)
- Economic Activity Strategy 5-A – *Support development of neighborhood business centers that serve adjacent residential areas in existing neighborhoods and new neighborhoods within development areas.* (p. 136)
- Neighborhoods Strategy 1-A – *Respect the intrinsic character and assets of individual neighborhoods.* (p. 149)

The proposed U-MX-2 zoning would allow the existing commercial structure to continue to be used for commercial purposes, providing neighborhood-scale services in a mixed-use environment. The commercial structures scattered throughout the Baker neighborhood are important elements of the neighborhood's character and provide focal points. The U-MX-2 zone district would support maintaining this character, consistent with the recommendations of Denver Comprehensive Plan 2000.

### Blueprint Denver

According to the 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of Single Family Duplex and is located in an Area of Stability.

### Future Land Use



Blueprint Denver defines Single Family Duplex areas as “moderately dense areas that are primarily residential but with some complementary, small-scale commercial uses. However, the employment base is minor compared to the housing base” (p. 42). The plan also says the area should be

“primarily residential with periodic small-scale commercial uses” (p. 65). The proposed U-MX-2 zone district would allow the continuation of the existing neighborhood-scale commercial uses on the property, which is embedded in the larger residential area. The map amendment would preserve the existing pattern of commercial uses and structures scattered throughout the neighborhood, consistent with Blueprint Denver’s future land use recommendations.

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

Blueprint Denver designates the subject property as in 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). Additionally, “in some cases, it may be appropriate to change the zoning in an area to create a better match between existing land uses and the zoning” (p. 124).

The proposed map amendment would create better alignment between the existing land use and building form on the site and the zoning. It would help maintain the existing character of the Baker neighborhood, with its scattered commercial structures, which is consistent with the Area of Stability goals of Blueprint Denver.

#### **Street Classifications**

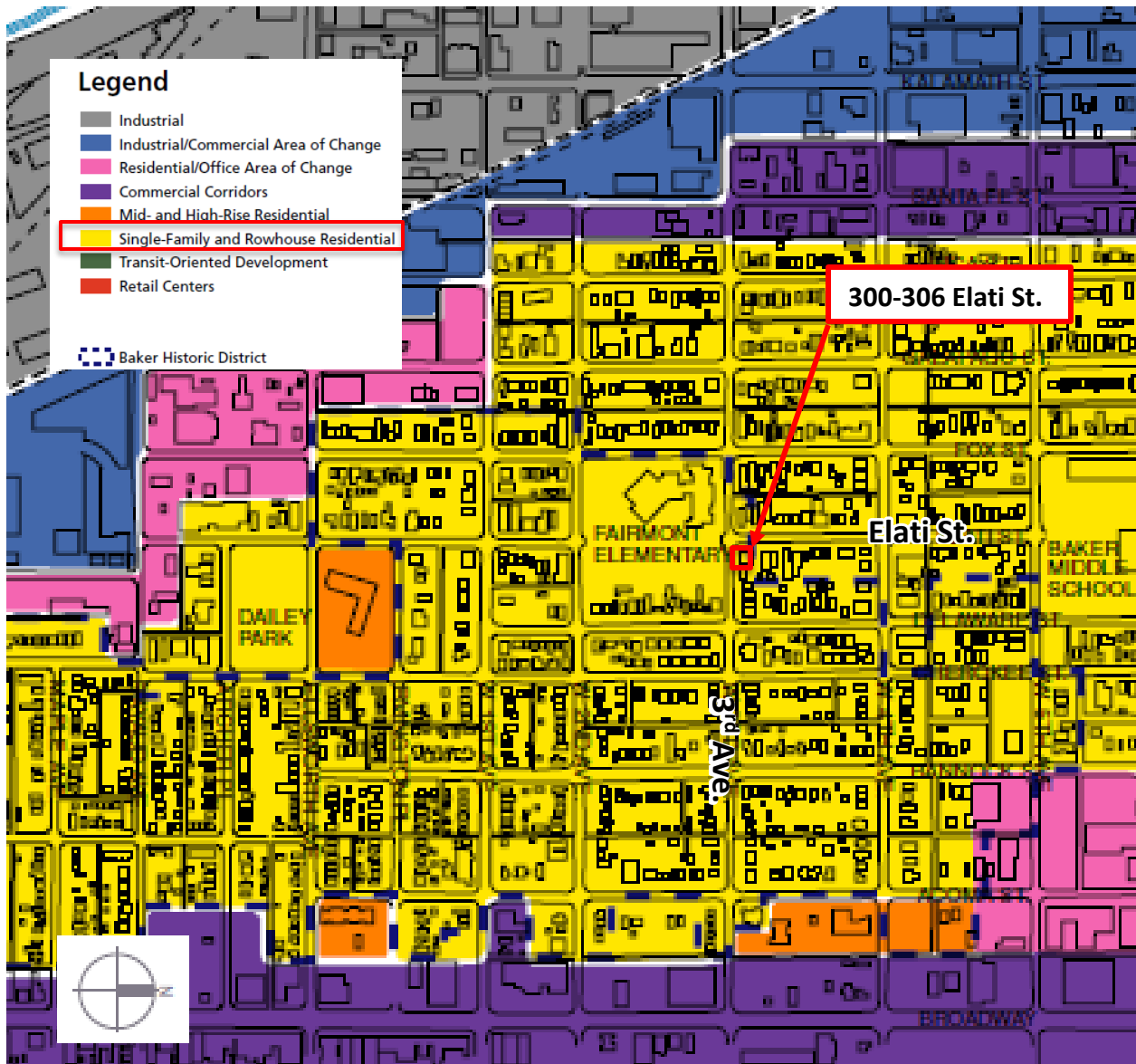
Both 3<sup>rd</sup> Avenue and Elati Street are classified as Undesignated Local streets. Blueprint Denver states “the design features of local streets are influenced less by traffic volumes and are tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51). The proposed U-MX-2 zone district is intended for embedded commercial areas served by local streets, consistent with the street classifications of Blueprint Denver.

The proposed rezoning to U-MX-2 would allow uses consistent with those established and with the existing neighborhood character, as recommended by Blueprint Denver.

#### **Baker Neighborhood Plan**

The Baker Neighborhood Plan was adopted by City Council in 2003, and applies to the subject property. The plan includes framework recommendations that apply throughout the planning area and specific recommendations that apply in smaller subareas.

Among the framework goals, the Baker Neighborhood Plan recommends “encouraging a mixture of uses that assure the availability of neighborhood services and amenities that reinforce the role, identity, and needs of the neighborhood, as appropriate to the subarea” (p. 25) and continuing “Denver’s physical character, including mixed-use development, parks and parkways, tree-lined streets, detached sidewalks, interconnected street networks, and convenient access to parks, open space, and transit” (p. 26). The proposed U-MX-2 zone district would allow the existing commercial uses on the property to continue, maintaining the neighborhood’s mix of uses in a form consistent with the established character of the neighborhood.



*Baker Neighborhood Plan subarea map*

The Single-Family and Rowhouse Residential subarea identified in the plan includes the subject property. Within the subarea, the plan identifies issues and opportunities including “vacant and underutilized commercial buildings offer opportunities for services and retail at an appropriate neighborhood scale” and “existing non-conforming industrial uses undermine the integrity and pedestrian friendliness of the residential area” (p. 42). Related to these, the plan includes goals for the subarea to “protect the integrity of the residential area by prohibiting industrial and new commercial infill or encroachment,” “rehabilitate and reuse existing commercial structures for neighborhood scale commerce,” and “remove existing non-conforming uses in the residential area” (p. 42).

The goals of reusing commercial structures for neighborhood commerce and eliminating non-conforming uses appear to be in conflict, but given the distinction between non-conforming industrial and commercial uses raised in the issues and opportunities for the subarea, staff interprets the goal of removing non-conforming uses to be aimed at industrial properties. Given this interpretation, the continuation of the existing commercial uses on the property, which the proposed map amendment would allow, is consistent with these goals.

The plan also recommends to “limit site rezonings to those that enhance the residential character. Community Planning and Development Agency and neighborhood associations should oppose inappropriate zoning applications to City Council” (p. 43). The identified residential character includes the continued commercial use of existing commercial structures, as described above, and the proposed U-MX-2 zone district would enhance that character.

Urban design goals for the subarea include “reinforce the existing neighborhood character through streetscape and building design” and “design infill construction and changes to existing structures to compliment and be compatible with the desired neighborhood character” (p. 44). If the existing building were to be modified or removed, the proposed U-MX-2 zone district would allow pedestrian scale commercial and mixed-use development compatible with the neighborhood. The design review associated with the historic district described above would provide additional controls to ensure compatible development. Considering all the goals and recommendations of the Baker Neighborhood Plan, the proposed map amendment is consistent with the intent of the plan.

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

The proposed rezoning to U-MX-2 will result in the uniform application of zone district building form, use, and design regulations.

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

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the city’s adopted land use plan. The U-MX-2 zone district would allow easier continued commercial use of the existing structure, which would likely encourage further investment in the maintenance and upkeep of the building, advancing the health, safety, and welfare of the building’s owners and occupants and the surrounding community.

## **4. Justifying Circumstance**

The applicant argues the map amendment is justified under either DZC Section 12.4.10.8.A.1, “the existing zoning of the land was the result of an error,” or DZC Section 12.4.10.8.A.2, “the existing zoning of the land was based on a mistake of fact.” Prior to the 2010 adoption of the Denver Zoning Code and associated citywide rezoning, the residential core of the Baker neighborhood was zoned R-2-A. As part of the 2010 rezoning, some of the embedded commercial structures in the neighborhood were zoned U-MX-2, while others, including the subject property, were zoned U-RH-2.5 along with the residential structures.

According to the applicant's letter, it was the city's intention to zone all of the commercial structures in Baker U-MX-2. Therefore, the applicant argues, there must have been some sort of error or mistake of fact that resulted in the subject property being zoned U-RH-2.5 instead. In support of this claim, that applicant has submitted a 2016 letter from the Baker Historic Neighborhood Association stating it was the association's intention in 2010 that all commercial structures receive the U-MX-2 zoning, and the subject property was missed in the review. The applicant also submitted notes from the association dated 2009 related to BHNA's review of the proposed 2010 rezoning. The notes indicate the association desired the U-MX-2 zoning for "a limited set of specific areas to be determined," but it is not clear that the subject property was one of the selected areas, nor is there any indication that the city agreed the subject property should be U-MX-2.

Staff reviewed the city's remaining notes and documentation from the 2010 rezoning and found no direct evidence that it was the city's intention to zone either the subject property specifically, or all commercial structures in Baker generally, U-MX-2. Without such direct evidence, staff cannot support the argument that the U-RH-2.5 zoning is the result of an error or mistake of fact. It may have been the city's intent to promote the retention of some commercial uses in Baker by rezoning certain properties U-MX-2, while encouraging other commercial properties, including the subject property, to convert to residential uses over time by zoning them U-RH-2.5.

The error criterion is applicable in circumstances where it was the city's intent to apply a zone district to a property, but through a typographical or mapping error, a different zone district was applied. For example, if the city had accidentally zoned the property next to the subject property U-MX-2, the error criterion would justify a rezoning to correct the error. The mistake of fact criterion applies when the city would have applied a different zone district but for incorrect information about a property. For example, if it had been the city's stated intent to zone all commercial structures U-MX-2, but the city was unaware the subject property had a commercial structure, then the mistake of fact criterion would justify a rezoning. Based on staff's review of the record, there is not enough evidence to clearly indicate either of the above situations has occurred. Thus staff does not find the current zoning is the result of an error or mistake of fact and the proposed map amendment is not justified under those criteria.

The applicant also argues the rezoning is justified under DZC Section 12.4.10.8.A.4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." There has been some redevelopment in the Baker neighborhood and significant redevelopment around the edges of the neighborhood, particularly on Broadway. There has also been investment in the improvement of the subject property. This increase in the intensity of land use in the area has created additional need for neighborhood-serving commercial services of the type that would be allowed in the U-MX-2 zone district. So, while the proposed rezoning would not necessarily facilitate a redevelopment of the property – instead allowing the existing uses to continue – it will facilitate reinvestment in the property and is justified by the changed character of the area because the recent changes in and around the area now make continued commercial uses appropriate. Therefore, the proposed map amendment is justified in order to recognize the changed character of the area.



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

The requested U-MX-2 zone district is within the Urban Neighborhood Context, which generally consists of single-unit and two-unit residential uses with small-scale multiunit residential uses and commercial areas embedded in neighborhoods (DZC, Division 5.1). The current zone district, U-RH-2.5, is also within the Urban Neighborhood Context. The Baker neighborhood matches well with the Urban Neighborhood context description with its mix of uses, building forms, and regular street and block pattern. The proposed U-MX-2 zone district is consistent with the neighborhood context description.

The intent of the U-MX-2 zone district, according to DZC Section 5.2.3.2.A, is to facilitate “areas or intersections served primarily by local streets embedded within an existing or proposed neighborhood where a building scale of 1 to 2 stories is desired.” The subject property is at an intersection of two local streets embedded within an established neighborhood. The existing building on the property is two stories. The proposed map amendment is consistent with the Urban Neighborhood Context and the purpose and intent of the U-MX-2 zone district.

### **Attachments**

1. Application
2. RNO comment letter



## Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	Rose Cottage LLC	Representative Name	Allison Altaras, Esq.
Address	c/o Heidi Martin, 302 Elati Street	Address	c/o Otten Johnson, 950 17th Street, Suite 1600
City, State, Zip	Denver, CO 80223	City, State, Zip	Denver, CO 80202
Telephone	303.668.3546	Telephone	303.575.7516
Email	heidimartin@i3mortgage.com	Email	aaltaras@ottenjohnson.com
<p><b>*If More Than One Property Owner:</b> All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p><b>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</b></p>	
Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	300-306 Elati Street		
Assessor's Parcel Numbers:	05102-21-028-000		
Area in Acres or Square Feet:	3,652 sq. feet		
Current Zone District(s):	U-RH-2.5		
PROPOSAL			
Proposed Zone District:	U-MX-2		
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

Last updated: November 4, 2016

Return completed form to [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

For Office Use Only:

Date \_\_\_\_\_ Fee \_\_\_\_\_

201 W. Colfax Ave., Dept. 205

Denver, CO 80202

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REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria</p> <p>DZC Sec. 12.4.10.7</p>	<p><input checked="" type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan.</p> <p>Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input checked="" type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria</p> <p>DZC Sec. 12.4.10.8</p>	<p><b>Justifying Circumstances - One of the following circumstances exists:</b></p> <p><input checked="" type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
REQUIRED ATTACHMENTS	
Please ensure the following required attachments are submitted with this application:	
<p><input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format)</p> <p><input checked="" type="checkbox"/> Proof of Ownership Document(s)</p> <p><input checked="" type="checkbox"/> Review Criteria</p>	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<p><input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s)</p>	
Please list any additional attachments:	
<p><b>Letter of Support from Baker Historic Neighborhood Association</b></p>	

**PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION**

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement (must sign in the exact same manner as title to the property is held)	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Property owner representative written authorization? (YES/NO)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith Josie Q. Smith</i>	01/01/12	(A)	NO
Rose Cottage LLC  Heidi Martin	302 Elati Street Denver, CO 80223	100%	<i>Heidi Martin</i>	1/11/17	(A)	No

Last updated: November 4, 2016

Return completed form to rezoning@denvergov.org

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720-865-2974 • rezoning@denvergov.org

### **300-306 Elati Street Legal Description**

THAT PART OF LOTS 14, 15 AND THE SOUTH 4 INCHES OF LOT 13, BLOCK 2, FAIRMONT, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 15 AND RUNNING NORTHERLY ALONG THE WEST LINE OF SAID LOTS 13, 14 AND 15 A DISTANCE OF 50.33 FEET TO A POINT WHICH IS 0.33 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 13; THENCE EASTERLY PARALLEL WITH THE SAID SOUTH LINE OF LOT 13 A DISTANCE OF 72.56 FEET; THENCE SOUTHERLY PARALLEL WITH THE SAID WEST LINE OF LOTS 13, 14 AND 15 A DISTANCE OF 50.33 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 15; THENCE WESTERLY ALONG SAID SOUTH LINE A DISTANCE OF 72.56 FEET TO THE POINT OF BEGINNING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.



Real Property Records

Date last updated: Friday, February 3, 2017

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If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

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**The property description shown is data from the Assessor's active, in-progress 2016 file. The "current year" values are from the 2016 tax year for real property tax due in 2017. These values are based on the property's physical status as of January 1, 2016.**

PROPERTY INFORMATION

Property Type: COMMERCIAL - OFFICE BUILDING

Parcel: 0510221028000

Name and Address Information

Legal Description

ROSE COTTAGE LLC

302 ELATI ST

DENVER, CO 80223-1110

Property Address: 300 ELATI ST -306

FAIRMONT B2 L13 TO 15 DIF RCP #0043248 RCD 11-16-84

Tax District DENV

Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	117800	34160		
Improvements	408800	118550		
Total	526600	152710	0	152710
Prior Year				
Land	117800	34160		
Improvements	408800	118550		
Total	526600	152710	0	152710

Style: Other

Year Built: 1936

Building Sqr. Foot: 5,531

Bedrooms:

Reception No.: 0000101061

Recording Date: 05/06/04

Document Type: Warranty

Sale Price: 258000

Baths Full/Half: 0/0  
Basement/Finished: 0/0

Mill Levy: 81.547

Lot Size: 3,650

[Click here for current zoning](#)

Zoning Used for Valuation: URH

*Note: Valuation zoning maybe different from City's new zoning code.*

 [Print](#)

City and County of Denver  
 TREASURY DIVISION  
 PO BOX 17420  
 DENVER CO 80217-0420

# PROPERTY TAX STATEMENT

IMPORTANT: SEE REVERSE SIDE

TEL 720-913-9300 WWW.DENVERGOV.ORG/TREASURY  
 THIS STATEMENT IS FOR PROPERTY TAX ON THE PROPERTY SHOWN BELOW TO BE COLLECTED ON BEHALF OF THE DENVER PUBLIC SCHOOLS AND THE CITY AND COUNTY OF DENVER.

SITE ADDRESS <b>300 ELATI ST UNIT -306</b>		PARCEL ID <b>05102-21-028-000</b>	
LEGAL DESCRIPTION or PERSONAL PROPERTY LOCATION <b>FAIRMONT B2 L13 TO 15 DIF RCP #0043248 RCD 11-16-84</b>		CODE <b>2016007</b>	TYPE <b>DC</b>
		SEQUENCE NUMBER <b>44,593</b>	
		MORT CODE	LOAN NUMBER
<b>05102-21-028-000</b> <b>ROSE COTTAGE LLC</b> <b>C/O HEIDI MARTIN PRESIDENT</b> <b>302 ELATI ST</b> <b>DENVER CO 80223-1110</b>		NOTE <b>2015 REAL ESTATE TAX DUE IN 2016.</b> <b>FIGURES GOOD UNTIL: 02/29/2016</b>	
TAXING ENTITY	MILL LEVY (\$ PER THOUSAND OF ASSESSED VALUE)	TAX AMOUNT	
SCHOOL GENERAL FUND	37.147000	5,672.72	
SCHOOL BOND FUND	10.250000	1,565.28	
CAPITAL MAINTENANCE	2.534000	386.97	
SOCIAL SERVICES *	3.849000	587.78	
CITY BOND FUND *	8.433000	1,287.80	
POLICE PENSION *	1.610000	245.86	
FIRE PENSION *	1.350000	206.16	
URBAN DRAINAGE/FLOOD CONTROL *	0.611000	93.31	
DEVELOPMENTALLY DISABLED	1.012000	154.54	
GENERAL FUND, DENVER *	11.331000	1,730.36	
TOTAL LEVY	78.127000		
* NOTE: INCLUDES TEMPORARY MILL LEVY RATE REDUCTION.		NOTE: 61% OF THESE TAXES ARE DETERMINED BY AND COLLECTED FOR THE DENVER PUBLIC SCHOOLS. Your School District No. 1 General Fund Mill Levy would have been <b>54.420</b> mills without State aid.	
Make Check Payable to: Manager of Finance		ACTUAL VALUATION <b>526,600</b> ASSESSED VALUATION <b>152,710</b> EXEMPTIONS <b>0</b> NET VALUATION <b>152,710</b>	
DUE APRIL 30 TOTAL TAX \$		DUE FEB 29 FIRST HALF TAX AND FEES	DUE JUNE 15 SECOND HALF TAX AND FEES
		<b>11,930.78</b>	<b>5,965.39</b>
		\$	\$ <b>5,965.39</b>

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# PROPERTY TAX STATEMENT

2015 REAL ESTATE TAX DUE IN 2016.

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 TREASURY DIVISION  
 PO BOX 17420  
 DENVER CO 80217-0420

Make payment for only one of the exact amounts. No partial payments may be made.  
 Please include PARCEL ID Number on face of check and/or any correspondence.

**2**

Check here if receipt other than the cancelled check is desired.

<b>PAYABLE</b> ONLINE AT: <a href="http://WWW.DENVERGOV.ORG/TREASURY">WWW.DENVERGOV.ORG/TREASURY</a> BY CHECK TO: <b>MANAGER OF FINANCE</b>	PARCEL ID <b>05102-21-028-000</b>	ALT KEY <b>1239079</b>
	If paid after due date contact us for correct amounts due	Due June 15 <b>SECOND HALF TAX AND FEES</b> <b>\$ 5,965.39</b>

ROSE COTTAGE LLC

RE 2015 DC 00 1239079 00 0000000000 00000000 02 0000596539 20160624 4



January 11, 2017

RE: Rezoning Application for 300-306 Elati Street


I, Heidi Martin, owner of the property located at 300-306 Elati Street, Denver, Colorado 80223 and applicant for a rezoning of said property, authorize Allison Altaras, Esq. of Otten Johnson Robinson Neff & Ragonetti P.C. to represent me and act on my behalf with respect to such rezoning.

Please address all communications to both Allison and me as follows:

Heidi Martin  
c/o Rose Cottage LLC  
302 Elati Street  
Denver, Colorado 80223  
(303) 668-3546  
heidimartin@i3mortgage.com

Allison Altaras  
c/o Otten Johnson Robinson Neff & Ragonetti, P.C.  
950 17<sup>th</sup> Street, Suite 1600  
Denver, Colorado 80202  
(303) 575-7516  
aaltaras@ottenjohnson.com

Sincerely,



Heidi Martin



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FAQs, Glossary and Information

## Summary

Details			
<b>Name</b>	ROSE COTTAGE, LLC		
<b>Status</b>	Good Standing	<b>Formation date</b>	02/12/2004
<b>ID number</b>	20041052209	<b>Form</b>	Limited Liability Company
<b>Periodic report month</b>	February	<b>Jurisdiction</b>	Colorado
<b>Principal office street address</b>	302 Elati St, Denver, CO 80223, United States		
<b>Principal office mailing address</b>	302 Elati St, Denver, CO 80223, United States		

Registered Agent	
<b>Name</b>	Heidi Martin
<b>Street address</b>	302 Elati Street, Denver, CO 80223, United States
<b>Mailing address</b>	302 Elati Street, Denver, CO 80223, United States

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## Memorandum

TO: City and County of Denver  
Community Planning & Development

FROM: Allison P. Altaras, Esq.  
Otten Johnson Robinson Neff & Ragonetti P.C.

CC: Heidi Martin  
Rose Cottage, LLC

DATE: March 10, 2017

RE: Application for Rezoning, 300-306 Elati Street

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This Memorandum is respectfully submitted in support of the Application for a Zone Map Amendment (the “Application”) for 300-306 Elati Street, Denver, Colorado (the “Property”) from the U-RH-2.5 Zone District to the U-MX-2 Zone District under the Denver Zoning Code (the “Code”).

The Property is located in the heart of the Baker Historic Neighborhood at the northeast corner of W. 3<sup>rd</sup> Avenue and Elati Street, immediately to the north of the Fairmont Grade School. There is a two-story brick commercial building situated on the Property that was originally built in 1936 and painstakingly renovated by its current owner in 2004. The renovations were completed using a construction loan from the City’s Office of Economic Development. This loan was repaid in full in 2014. The current street-level tenants are Waffle Up! (a breakfast restaurant) and Black Book Gallery (an art gallery), and the second-floor tenant is Intelligent Investments, Inc. (a mortgage company). These tenants provide quality, in-demand amenities to Baker Historic Neighborhood residents.

The two-story brick structure on the Property has always been used for commercial purposes; its history includes uses as pharmacy, feed store, sewing shop, retail shop, and office. However, it was rezoned in 2010 into the U-RH-2.5 Zone District, a residential Zone District. This has rendered the Property’s tenants compliant/non-conforming uses, requiring the Property owner to undergo a burdensome permitting process each time a new tenant wishes to occupy the building. Given the history, location, character, and use of the Property, a mixed-use Zone District that allows low-impact commercial uses would be more appropriate for the Property, and is consistent with the zoning of other similarly situated properties in the immediate vicinity.

### **General Review Criteria per Code § 12.4.10.7**

The Application satisfies all of the General Review Criteria for a Zone Map Amendment, as described below.

### A. *Consistency with Adopted Plans*

There are several adopted plans that cover the Property, including *Blueprint Denver*, the *Denver Comprehensive Plan 2000*, and the *Baker Historic Neighborhood Plan*. The Application is consistent with the goals and policies of each of these plans.

Per *Blueprint Denver*, the Property is designated in an Area of Stability. The goal for Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment. *Blueprint* p. 120. “In some cases, it may be appropriate to change the zoning in an area to create a better match between existing land uses and zoning.” *Blueprint* p. 124. The Application proposes to change the zoning on the Property to create a better match between its historic and current land uses (retail, office, restaurant, art, and other small-scale commercial uses) and its zoning classification. Per *Blueprint Denver*, the Property’s designated Land Use Concept is Single Family/Duplex Residential, which includes moderately dense, primarily residential uses with complementary, small-scale commercial uses. The Application is consistent with this Land Use Concept as the U-MX-2 District allows for small-scale commercial uses alongside single and multi-family residential uses.

The Application is also consistent with numerous *Denver Comprehensive Plan 2000* strategies, including:

- *Environmental Protection Strategy 2-F – Conserve land by designing mixed-use communities and reducing sprawl, so that residents can live, work, and play within their own neighborhoods.* The Application would establish the existing retail and commercial uses as conforming uses, facilitating retention of existing tenants and approval of new tenants, creating opportunities for Baker Historic Neighborhood residents to work and play within their own neighborhood.
- *Land Use Strategy 4-A – Encourage mixed-use, transit-oriented development that . . . encourages vibrant urban centers and neighborhoods.* The Application proposes to rezone the Property to a mixed-use district that encourages a vibrant urban neighborhood with a mix of residential and pedestrian-friendly commercial uses.
- *Mobility Strategy 4-E – Continue to promote mixed-use development, which enables people to live near work, retail, and services.* The Application would better support small-scale commercial uses that are already embedded, desired, and walkable/bikeable in an established urban neighborhood.
- *Denver Legacies Strategies 7-B and 7-C – Support historic preservation in neighborhoods; explore the preservation and rehabilitation of post-World War II neighborhoods.* The Application supports historic preservation in the Baker Historic Neighborhood by maintaining the historic character and use of the Property and its building.
- *Housing Strategy 6-A – Support mixed-use development consistent with the goals of the Comprehensive Plan’s land-use and mobility strategies.* The Application facilitates pedestrian-scale commercial use of the Property on a street (West 3<sup>rd</sup> Avenue) that links commercial corridors on Santa Fe Drive and Broadway. The Property is easily accessed on foot, by bike, or by public transit.
- *Economic Activity Strategy 3-B – Support retention and expansion of businesses in industries historically important to Denver, including small business . . . .* The size and orientation of the structure on the Property makes it an ideal location to house small businesses that serve the local community. Rezoning the Property to a mixed-use District facilitates occupancy by small businesses.

- *Neighborhoods Strategy 1-A – Respect the intrinsic character and assets of individual neighborhoods.* The Property, a beautifully renovated historic structure, contributes character to the neighborhood. Facilitation of small-scale commercial use of the Property is consistent with the Property’s historic use and is an asset to the neighborhood.

Finally, the Application is consistent with the goals and policies of the *Baker Historic Neighborhood Plan*. The Property is acknowledged as an existing business/retail use within a residential district per the *Plan*’s neighborhood map. P. 98. One of the Guiding Principles of the *Plan* is to protect and enhance a vital business community by recognizing the importance of existing businesses in building and maintaining the neighborhood. P. 20. Another Guiding Principle is creating a walkable neighborhood by providing active pedestrian-oriented uses on the ground floors of buildings. P. 20.

Specific *Plan* goals include:

- Creating and maintaining an appropriate balance of land uses that preserves the stability of the residential, business, and industrial sectors, while allowing for flexibility over time. P. 24
- Encouraging a mixture of uses that assures the availability of neighborhood services and amenities that reinforce the role, identity, and needs of the neighborhood. P. 25
- Rehabilitate and reuse existing commercial structures for neighborhood-scale commerce. P. 42
- Remove nonconforming uses in residential districts. P. 42

The Application furthers each of these goals.

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

The Application results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification. Several other properties within several blocks of the Property are zoned U-MX-2, including the northeast corner of W. 2nd Avenue and Galapago Street, the northwest corner of W. 1st Avenue and Elati Street, the northwest corner of W. 1st Avenue and Cherokee Street, and the southeast corner of W. 3rd Avenue and Galapago Street. These properties are similarly situated to the Property and the Application would ensure uniform treatment of these small-scale commercial properties embedded in the Baker Historic Neighborhood.

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

The Application furthers the public health, safety, and general welfare of the City in several ways. The Application poses no health, safety, crime, or environmental-related hazards. The Application will facilitate keeping existing tenants on the Property and assist the Property’s owner in securing new tenants. The Property’s owner will be able to utilize a streamlined zoning permitting process once the existing uses become conforming uses. This will reduce the risk of vacancies on the property, and by extension, the risk of the appearance of blight and associated crime. The Application also promotes the general welfare of the City and neighborhood by ensuring consistency in zoning across the small-scale commercial properties in that portion of the Baker Historic Neighborhood.

## **Additional Review Criteria per Code § 12.4.10.8**

### **A. *Justifying Circumstances***

The existing zoning of the Property was likely the result of an error. It appears the existing commercial use of the Property was inadvertently overlooked when the Property was rezoned into a residential zone district in 2010. The Property was identified as an existing commercial use in the *Baker Neighborhood Plan* (p. 98). The Baker Historic Neighborhood Association intended for then-existing commercial uses to be appropriately rezoned (*see* attached letter from the Baker Historic Neighborhood Association). In fact, the Baker Historic Neighborhood Association officially requested that the City rezone the Property into the U-MX-2 Zone District (*see* attached BHNA Zoning Committee documents). There is no reference in any adopted plan or policy to the City's desire to limit the use of the Property to primarily residential use only.

The City's support for commercial use of the Property is further evidenced by the fact that the Property's owner obtained a construction loan from the City to rehabilitate the Property for commercial use. In the absence of any published plan or policy determining that the Property should be limited to residential use, it can be inferred that the Property's current zoning was the result of an error or mistake of fact. The Application will eliminate the Property's compliant/non-conforming uses and harmonize the zoning of the Property with other similarly-situated properties in the immediate vicinity, as was the neighborhood's intent in 2010.

The proposed rezoning is also justified by changed circumstances in the Baker Neighborhood. The Property's surrounding environs have changed to a degree that it is in the public interest to recognize the changed character of the area. In the past several years, residential development along the South Broadway corridor has increased demand for neighborhood-scale commercial amenities. In addition, both South Broadway and South Santa Fe Drive have seen considerable investment and redevelopment of historic properties. Commercial zoning for the Property will enable it to continue offering neighborhood-scale commercial amenities consistent with both the influx of residential units and the small-business-friendly climate of the nearby commercial corridors.

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

The proposed rezoning is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district. Per Code § 5.1.1, the Urban Neighborhood Context is characterized by single-unit and two-unit residential uses, along with small-scale commercial areas embedded in residential areas. The Property is a small-scale commercial building embedded in a residential area and is currently zoned within the Urban Neighborhood Context. Per Code § 5.2.3.1, a general purpose of the mixed-use districts is to support embedded neighborhood businesses such as those on the Property. The specific intent of the U-MX-2 Zone District is application to areas or intersections served primarily by local streets embedded within an existing or proposed neighborhood where a building scale of one to two stories is desired. Code § 5.2.3.2.A. The Property is situated at an intersection and is embedded within an existing neighborhood. Elati Street is a local street and E. 3<sup>rd</sup> Avenue is a collector street and the existing building is 2 stories. This makes the U-MX-2 Zone District an appropriate Zone District for the Property.

In sum, the Application satisfies all of the General Review Criteria and Additional Review Criteria for a Zone Map Amendment.

**From BHNA Zoning Committee meeting of 20 Oct 2009**

A motion and second was made to recommend that the Board of Directors adopt the following list of changes as a set of requests to be made for response by CPD (Denver Community Planning and Development). Caryn Wenzara, CPD lead on New Code Denver, has already taken these concerns under advisement, and with prompt action by the BoD, we may see many of them addressed on the Draft 3 map to be released at the end of October. The motion passed 4-0-1.

In the list below, the numbers correspond to the numbered issues on the map presented at the 13 October General membership meeting, also summarized below; brackets show the zone currently proposed on draft 2 of the New Code Denver map.

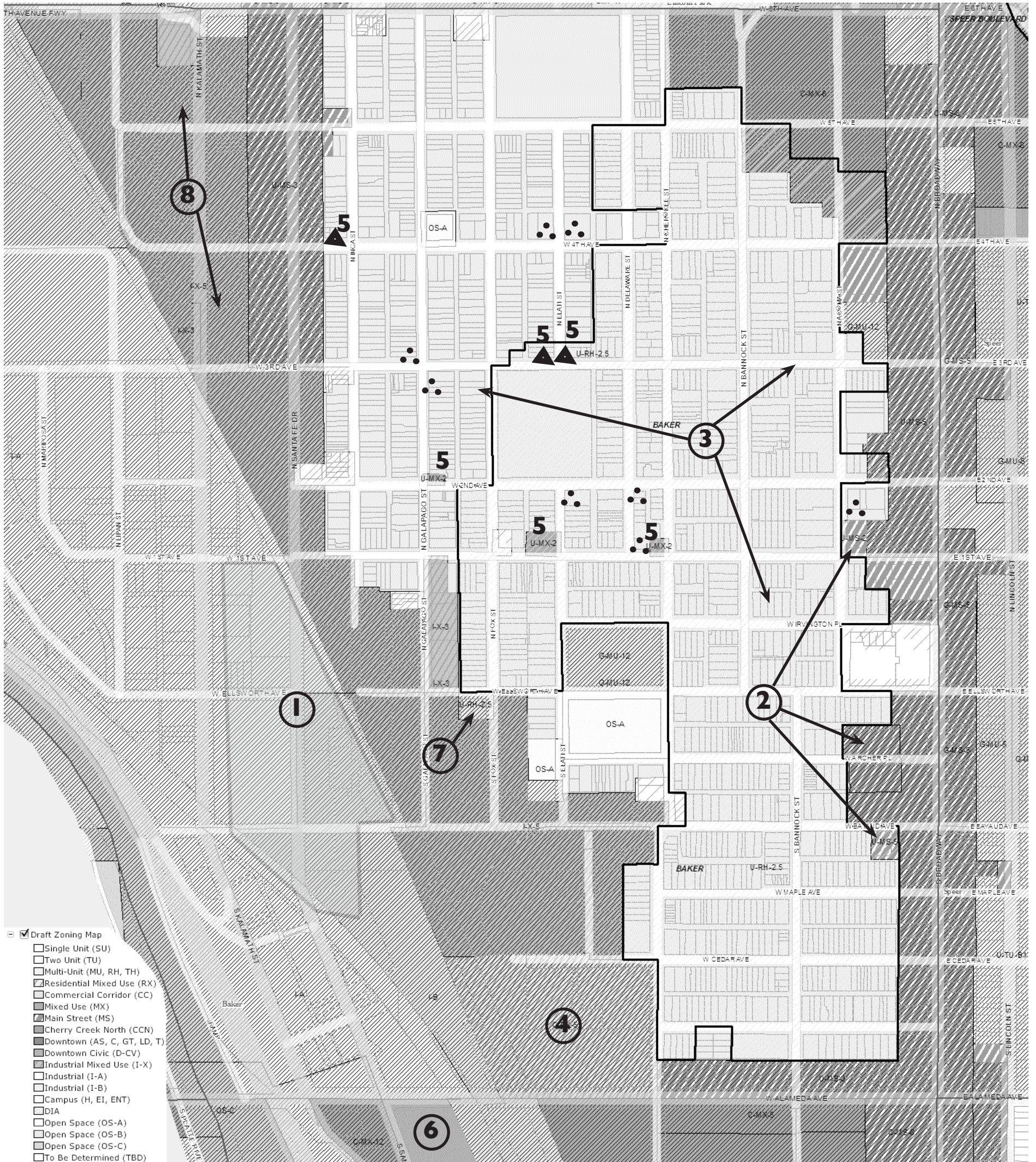
- (1) Change to C-IX-5 on both sides of Kalamath from 3rd Ave. to south of 1st Ave. [I-A] **(unnumbered)** (now numbered **(8)** on annotations of Draft 3 map) Recommend C-MX-5 for both sides of Kalamath, and possibly Lipan, from 6th Ave. to 3rd Ave.
- (2) Change to U-MS-2 for the current B-1 zone at 1st Ave. and Acoma; change to U-MS-3 for the current R-3 zones behind Goodwill and Security Service Credit Union (north and south of Archer); change to U-MS-3 for the historic telephone exchange building currently zoned B-1 on Bayaud just west of Broadway. [MS-5]
- (3) Choose U-RH-2.5 for the entire area currently zoned R-2-A. [U-TU-B1 or U-RH-2.5]
- (4) At the NW corner of Alameda and Cherokee, the committee felt that the proposed C-RX-5 zone sufficiently addresses the concerns that led to BHNA's previous opposition of the R-MU-30 rezoning in this location. The committee does not recommend that BHNA request any change to the New Code Denver map here.
- (5) Change to U-MX-2 for a selection of existing retail/commercial buildings that serve the neighborhood. The selection to be made by BHNA, starting with a list to be supplied by Caryn Wenzara of CPD. [U-TU-B1 or U-RH-2.5]

The committee, having drawn Caryn Wenzara's attention to items (6) and (7), did not feel a further recommendation was necessary.

#	description
1	Santa Fe/Kalamath corridor south of light rail tracks and north of heavy rail tracks; exact area to be determined
2	dental office at 1st & Acoma; parking lots on Archer (behind Goodwill and credit union); empty lot at Bayaud & Broadway
3	all of Baker's residential core
4	NW corner Alameda & Cherokee
5	triangles show some of the areas with non-conforming retail or service businesses
6	SE corner Alameda & Santa Fe (RTD Bus Barn site)
7	SW corner Ellsworth & Fox

# New Code Denver zoning map for Baker, draft 3

annotated 2009-11-10 based on BHNA position, revised 2009-11-17



**updated areas of concern,** with position adopted by BHNA Board of Directors (highlight indicates unresolved items)

#	description	issues	New Code Denver draft 3	BHNA position
1	Santa Fe/Kalamath corridor south of light rail tracks and north of heavy rail tracks; exact area to be determined	zoned industrial, but there is much commercial, retail and some housing here; these uses are growing; IX zone would allow industrial uses to continue while supporting current trend	<b>C-IX-5</b> per letter from Caryn Wenzara, exact area not stated	<b>C-IX-5</b> (now called I-X-5, industrial mixed use, 5 story)
2	dental office at 1st & Acoma; parking lots on Archer (behind Goodwill and credit union); empty lot at Bayaud & Broadway	in these three locations, higher density is proposed in areas set back from Broadway, radically changing current zoning of <b>R-3</b> or <b>B-I</b> , or overzoning a small lot	now <b>U-MS-2</b> except southernmost, <b>U-MS-5</b>	<b>U-MS-2</b> for all
3	all of Baker's residential core	Currently zoned <b>R-2-A</b> , but with many non-conforming multi-unit buildings and some retail buildings	<b>U-RH-2.5</b> (rowhouse)	<b>U-RH-2.5</b>
4	NW corner Alameda & Cherokee	Recent proposals in this area led BHNA to oppose rezoning to <b>R-MU-30</b> partly based on traffic problems this might create	<b>C-RX-5</b> (residential mixed use, 5 story)	<b>C-RX-5</b>
5	triangles show some of the areas with non-conforming retail or service businesses	these shops serve the neighborhood, often from old storefronts, yet are not supported by current or proposed zoning, will eventually be forced out; dotted triangles show additional locations possibly eligible due to form or use, most identified by Doug Pimple	some <b>U-MX-2</b> , others still <b>U-RH-2.5</b>	<b>U-MX-2</b> for a limited set of specific areas to be determined
6	SE corner Alameda & Santa Fe (RTD Bus Barn site)	This area was recently rezoned to <b>C-MU-10</b> to promote development; originally proposed as <b>C-MU-30</b>	<b>C-MX-16</b>	no formal position, city will consider change
7	SW corner Ellsworth & Fox	currently zoned <b>R-3</b> ; new zone is more restrictive than current zone	<b>U-RH-2.5</b> (rowhouse)	no formal position, city will consider change
8	Kalamath from 6th to 3rd	Recent proposals in this area led BHNA to oppose rezoning to R-MU-30 on the basis that access issues should be resolved before adding density here	<b>I-X-5</b> (small portion <b>I-X-3</b> )	<b>C-MX-5</b>





Baker Historic Neighborhood  
Association  
P.O. Box 9171  
Denver, CO 80223  
board@bakerneighborhood.org

## Officers

### *President*

**Mathew Wasserburger**

### *Vice-President*

**Maggie Sellars**

### *Secretary*

**Frank Matapuile**

### *Treasurer*

**Richard Parker**

### *Members-at-Large*

**David Ford**

**Felix Herzog**

**Noah Wallis**

### *Zoning Chair*

**Steve Harley**

October 31, 2016

To Whom it May Concern:

The Baker Historic Neighborhood Association (BHNA) supports the rezoning of 300-306 Elati St. to the U-MX-2 zone district.

BHNA is a Registered Neighborhood Organization in the City of Denver with boundaries 6th Ave., Lincoln St., Mississippi Ave. and the South Platte River. Membership in BHNA is open to all residents and property owners within these boundaries. The following summarizes the process by which BHNA arrived at its position of support:

1) BHNA, as well as Baker residents individually, participated in the lead-up to New Code Denver during 2009-2010, and requested that, as a general principle, established and historical commercial corners within the residential core of Baker should be zoned to support their active commercial use. These uses had persisted as grandfathered/non-conforming despite the current R-2A zoning.

The city planners guiding community input on New Code Denver suggested that MX zoning would be appropriate at these locations and eventually produced maps with U-MX-2 zoning on four such corners in Baker: 2nd & Galapago (NE Corner), 1st & Elati (NW Corner), 1st & Cherokee (NW Corner), and 3rd & Galapago (SE Corner). There was never any explanation about which corners were included or excluded. BHNA was also grappling with other New Code Denver issues and did not pick up on the omission of 300-306 Elati until after the adoption of New Code Denver.

2) Several times since the passage of New Code Denver, Heidi Martin, the owner of 300-306 Elati, has appeared at BHNA meetings requesting support for the use permits required when new tenants occupied portions of the building. BHNA has supported these use permits, and in the process has also become familiar with the procedural burdens associated with non-compliant uses.

3) At the regularly scheduled BHNA General Membership meeting on 10 November 2015, Ms. Martin announced her intent to pursue a rezoning of the property and asked for BHNA Support.

4) Ms. Martin provided to the BHNA Zoning Committee a prospectus listing options for U-MX-2 and U-MX-2X zone districts. On 28 September 2016, at its regularly scheduled meeting, the committee held a detailed discussion with Ms. Martin of the prospective rezoning, including reviewing the zoning code procedures for different uses under the two zoning types. It was noted that U-MX-2X requires ZPIN and ZPSE procedures for two current uses at the location — Art Gallery and Eating/Drinking — while U-MX-2 requires the much less burdensome ZP review. In effect, only U-MX-2 zoning would substantially reduce the use permit burden compared to the current U-RH-2.5 zoning.

A committee motion to "recommend that BHNA should support rezoning to U-MX-2, which it should have been all along" passed two in favor, none opposed, one abstaining.

5) The committee's recommendation was reported to the BHNA general membership at its regularly scheduled 11 October 2016 meeting with approximately 18 members attending. During discussion the membership heard explanations of the distinction between U-MX-2 and U-MX-2X zoning, particularly with regard to the use permitting process, as well as a review of how U-MX-2 had been applied to some corners by New Code Denver, and how 300-306 Elati had been overlooked. The membership voted 17 in favor, 1 opposed, and 0 abstaining to support the rezoning of 300-306 Elati to U-MX-2, which it should have been all along.

Sincerely,

Mathew Wasserburger  
BHNA President